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Virginia Code Commission

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THE VIRGINIA REGISTER INFORMATION PAGE

THE VIRGINIA REGISTER OF REGULATIONS is an official state publication issued every other week throughout the year. Indexes are published quarterly, and are cumulative for the year. The *Virginia Register* has several functions. The new and amended sections of regulations, both as proposed and as finally adopted, are required by law to be published in the *Virginia Register*. In addition, the *Virginia Register* is a source of other information about state government, including petitions for rulemaking, emergency regulations, executive orders issued by the Governor, and notices of public hearings on regulations.

ADOPTION, AMENDMENT, AND REPEAL OF REGULATIONS

Unless exempted by law, an agency wishing to adopt, amend, or repeal regulations must follow the procedures in the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia). Typically, this includes first publishing in the *Virginia Register* a notice of intended regulatory action; a basis, purpose, substance and issues statement; an economic impact analysis prepared by the Department of Planning and Budget; the agency's response to the economic impact analysis; a summary; a notice giving the public an opportunity to comment on the proposal; and the text of the proposed regulation.

Following publication of the proposed regulation in the *Virginia Register*, the promulgating agency receives public comments for a minimum of 60 days. The Governor reviews the proposed regulation to determine if it is necessary to protect the public health, safety, and welfare, and if it is clearly written and easily understandable. If the Governor chooses to comment on the proposed regulation, his comments must be transmitted to the agency and the Registrar of Regulations no later than 15 days following the completion of the 60-day public comment period. The Governor's comments, if any, will be published in the *Virginia Register*. Not less than 15 days following the completion of the 60-day public comment period, the agency may adopt the proposed regulation.

The Joint Commission on Administrative Rules or the appropriate standing committee of each house of the General Assembly may meet during the promulgation or final adoption process and file an objection with the Registrar and the promulgating agency. The objection will be published in the *Virginia Register*. Within 21 days after receipt by the agency of a legislative objection, the agency shall file a response with the Registrar, the objecting legislative body, and the Governor.

When final action is taken, the agency again publishes the text of the regulation as adopted, highlighting all changes made to the proposed regulation and explaining any substantial changes made since publication of the proposal. A 30-day final adoption period begins upon final publication in the *Virginia Register*.

The Governor may review the final regulation during this time and, if he objects, forward his objection to the Registrar and the agency. In addition to or in lieu of filing a formal objection, the Governor may suspend the effective date of a portion or all of a regulation until the end of the next regular General Assembly session by issuing a directive signed by a majority of the members of the appropriate legislative body and the Governor. The Governor's objection or suspension of the regulation, or both, will be published in the *Virginia Register*.

If the Governor finds that the final regulation contains changes made after publication of the proposed regulation that have substantial impact, he may require the agency to provide an additional 30-day public comment period on the changes. Notice of the additional public comment period required by the Governor will be published in the *Virginia Register*. Pursuant to § 2.2-4007.06 of the Code of Virginia, any person may request that the agency solicit additional public comment on certain changes made after publication of the proposed regulation. The agency shall suspend the regulatory process for 30 days upon such request from 25 or more individuals, unless the agency determines that the changes have minor or inconsequential impact.

A regulation becomes effective at the conclusion of the 30-day final adoption period, or at any other later date specified by the promulgating agency, unless (i) a legislative objection has been filed, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the 21-day objection period; (ii) the Governor exercises his authority to require the agency to provide for additional public comment, in

which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the period for which the Governor has provided for additional public comment; (iii) the Governor and the General Assembly exercise their authority to suspend the effective date of a regulation until the end of the next regular legislative session; or (iv) the agency suspends the regulatory process, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the 30-day public comment period and no earlier than 15 days from publication of the readopted action.

A regulatory action may be withdrawn by the promulgating agency at any time before the regulation becomes final.

FAST-TRACK RULEMAKING PROCESS

Section 2.2-4012.1 of the Code of Virginia provides an alternative to the standard process set forth in the Administrative Process Act for regulations deemed by the Governor to be noncontroversial. To use this process, the Governor's concurrence is required and advance notice must be provided to certain legislative committees. Fast-track regulations become effective on the date noted in the regulatory action if fewer than 10 persons object to using the process in accordance with § 2.2-4012.1.

EMERGENCY REGULATIONS

Pursuant to § 2.2-4011 of the Code of Virginia, an agency may adopt emergency regulations if necessitated by an emergency situation or when Virginia statutory law or the appropriation act or federal law or federal regulation requires that a regulation be effective in 280 days or fewer from its enactment. In either situation, approval of the Governor is required. The emergency regulation is effective upon its filing with the Registrar of Regulations, unless a later date is specified per § 2.2-4012 of the Code of Virginia. Emergency regulations are limited to no more than 18 months in duration; however, may be extended for six months under the circumstances noted in § 2.2-4011 D. Emergency regulations are published as soon as possible in the *Virginia Register* and are on the Register of Regulations website at register.dls.virginia.gov.

During the time the emergency regulation is in effect, the agency may proceed with the adoption of permanent regulations in accordance with the Administrative Process Act. If the agency chooses not to adopt the regulations, the emergency status ends when the prescribed time limit expires.

STATEMENT

The foregoing constitutes a generalized statement of the procedures to be followed. For specific statutory language, it is suggested that Article 2 (§ 2.2-4006 et seq.) of Chapter 40 of Title 2.2 of the Code of Virginia be examined carefully.

CITATION TO THE VIRGINIA REGISTER

The *Virginia Register* is cited by volume, issue, page number, and date. **34:8 V.A.R. 763-832 December 11, 2017**, refers to Volume 34, Issue 8, pages 763 through 832 of the *Virginia Register* issued on December 11, 2017.

The *Virginia Register of Regulations* is published pursuant to Article 6 (§ 2.2-4031 et seq.) of Chapter 40 of Title 2.2 of the Code of Virginia.

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PUBLICATION SCHEDULE AND DEADLINES

This schedule is available on [the Virginia Register of Regulations website \(http://register.dls.virginia.gov\)](http://register.dls.virginia.gov).

July 2023 through July 2024

<u>Volume: Issue</u>	<u>Material Submitted By Noon*</u>	<u>Will Be Published On</u>
39:23	June 14, 2023	July 3, 2023
39:24	June 28, 2023	July 17, 2023
39:25	July 12, 2023	July 31, 2023
39:26	July 26, 2023	August 14, 2023
40:1	August 9, 2023	August 28, 2023
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40:4	September 20, 2023	October 9, 2023
40:5	October 4, 2023	October 23, 2023
40:6	October 18, 2023	November 6, 2023
40:7	November 1, 2023	November 20, 2023
40:8	November 14, 2023 (Tuesday)	December 4, 2023
40:9	November 29, 2023	December 18, 2023
40:10	December 13, 2023	January 1, 2024
40:11	December 27, 2023	January 15, 2024
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40:19	April 17, 2024	May 6, 2024
40:20	May 1, 2024	May 20, 2024
40:21	May 15, 2024	June 3, 2024
40:22	May 29, 2024	June 17, 2024
40:23	June 12, 2024	July 1, 2024
40:24	June 26, 2024	July 15, 2024

*Filing deadlines are Wednesdays unless otherwise specified.

PETITIONS FOR RULEMAKING

TITLE 1. ADMINISTRATION

STATE BOARD OF ELECTIONS

Initial Agency Notice

Title of Regulation: 1VAC20-40. Voter Registration.

Statutory Authority: § 24.2-103 of the Code of Virginia.

Name of Petitioner: Ann Grigorian.

Nature of Petitioner's Request: The petitioner requests a process be established that allows jury commissioners to relay, from lists of registered voters obtained from the Department of Elections under § 24.2-405 of the Code of Virginia, the information obtained from those persons not qualified to serve as jurors as a result of (i) not being a citizen of the United States, (ii) no longer being a resident of the Commonwealth, (iii) being a resident of another county or city in the Commonwealth, (iv) having been convicted of a felony and not having had voting rights restored, or (v) having been adjudicated incapacitated and disqualified to vote and not having had voting rights restored. The rule provides a process whereby the sheriff, clerk of court, or other official responsible for maintaining such information provided by the commissioners may enter into an agreement with the general registrar for the locality to make that information available to that general registrar. The general registrar shall utilize the information received pursuant to this policy to identify registered voters who are no longer qualified to vote and to initiate list maintenance procedures pursuant to current law.

Agency Plan for Disposition of Request: The Department of Elections is continuing to review whether the State Board of Elections has the statutory authority to utilize a juror questionnaire for the petitioner's requested purpose. The request may conflict with statute.

Public Comment Deadline: July 10, 2023.

Agency Contact: Franchelle Tyson, Administrative Program Specialist, Department of Elections, 1100 Bank Street, First Floor, Richmond, VA 23219, telephone (804) 864-8919, or email franchelle.tyson@elections.virginia.gov.

VA.R. Doc. No. PFR23-33; Filed May 26, 2023, 10:07 a.m.

PERIODIC REVIEWS AND SMALL BUSINESS IMPACT REVIEWS

TITLE 17. LIBRARIES AND CULTURAL RESOURCES

DEPARTMENT OF HISTORIC RESOURCES

Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of **the** Code of Virginia, **the** Department of Historic Resources conducted a periodic review and a small business impact review of **17VAC10-20, Evaluation Criteria and Procedures for Nominations of Property to the National Register or for Designation as a National Historic Landmark**, and determined that this regulation should be retained as is. **The** department is publishing its report of findings dated May 22, 2023, to support this decision.

This regulation is necessary for **the** protection of public health, safety, and welfare and is clearly written and easily understandable. This regulation satisfies **the** provisions of **the** law and legally binding state requirements and is effective in meeting its goals. Therefore, **the** regulation is being retained without amendment. This regulation continues to be needed to meet **the** requirements of state law and regulations concerning **the** National Register and National Historic Landmark designation, including setting out **the** state requirements for listing. No complaints or comments have been received concerning **the** content of **the** regulation or its complexity. **The** regulation does not overlap, duplicate, or conflict with other state laws or regulations.

Contact Information: Stephanie Williams, Deputy Director, Department of Historic Resources, 2801 Kensington Avenue, Richmond, VA 23221, telephone (804) 482-6085.

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD FOR ARCHITECTS, PROFESSIONAL ENGINEERS, LAND SURVEYORS, CERTIFIED INTERIOR DESIGNERS AND LANDSCAPE ARCHITECTS

Agency Notice

Pursuant to Executive Order 19 (2022) and §§ 2.2-4007.1 and 2.2-4017 of **the** Code of Virginia, **the** following regulations are undergoing a periodic review and a small business impact review: **18VAC10-11, Public Participation Guidelines**; and **18VAC10-20, Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects Regulations**. **The** review of each regulation will be guided by **the** principles in Executive Order 19 (2022). **The** purpose of a periodic review is to determine whether each regulation should be repealed, amended, or retained in its current form. Public comment is sought on **the** review of any issue relating to these regulations, including whether each regulation (i) is necessary for **the** protection of public health, safety, and welfare

or for **the** economical performance of important governmental functions; (ii) minimizes **the** economic impact on small businesses in a manner consistent with **the** stated objectives of applicable law; and (iii) is clearly written and easily understandable.

Public comment period begins June 19, 2023, and ends July 10, 2023.

Comments must include **the** commenter's name and address (physical or email) information in order to receive a response to **the** comment from **the** agency. Following **the** close of **the** public comment period, a report of both reviews will be posted on **the** Virginia Regulatory Town Hall and published in **the** Virginia Register of Regulations.

Contact Information: Kathleen R. Nosbisch, Executive Director, Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-8514.

BOARD FOR HEARING AID SPECIALISTS AND OPTICIANS

Agency Notice

Pursuant to Executive Order 19 (2022) and §§ 2.2-4007.1 and 2.2-4017 of **the** Code of Virginia, **the** following regulations are undergoing a periodic review and a small business impact review: **18VAC80-11, Public Participation Guidelines**; **18VAC80-20, Hearing Aid Specialists Regulations**; and **18VAC80-30, Opticians Regulations**. **The** review of each regulation will be guided by **the** principles in Executive Order 19 (2022). **The** purpose of a periodic review is to determine whether each regulation should be repealed, amended, or retained in its current form. Public comment is sought on **the** review of any issue relating to these regulations, including whether each regulation (i) is necessary for **the** protection of public health, safety, and welfare or for **the** economical performance of important governmental functions; (ii) minimizes **the** economic impact on small businesses in a manner consistent with **the** stated objectives of applicable law; and (iii) is clearly written and easily understandable.

Public comment period begins June 19, 2023, and ends July 10, 2023.

Comments must include **the** commenter's name and address (physical or email) information in order to receive a response to **the** comment from **the** agency. Following **the** close of **the** public comment period, a report of both reviews will be posted on **the** Virginia Regulatory Town Hall and published in **the** Virginia Register of Regulations.

Contact Information: Kelley Smith, Executive Director, Board for Hearing Aid Specialists and Opticians, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-8590.

REGULATIONS

For information concerning the different types of regulations, see the Information Page.

Symbol Key

Roman type indicates existing text of regulations. Underscored language indicates proposed new text.
Language that has been stricken indicates proposed text for deletion. Brackets are used in final regulations to indicate changes from the proposed regulation.

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD FOR BARBERS AND COSMETOLOGY

Fast-Track Regulation

Titles of Regulations: 18VAC41-20. Barbering and Cosmetology Regulations (amending 18VAC41-20-180).

18VAC41-50. Tattooing Regulations (amending 18VAC41-50-180).

18VAC41-60. Body-Piercing Regulations (amending 18VAC41-60-140).

18VAC41-70. Esthetics Regulations (amending 18VAC41-70-160).

Statutory Authority: § 54.1-201 of the Code of Virginia.

Public Hearing Information: No public hearing is currently scheduled.

Public Comment Deadline: July 19, 2023.

Effective Date: October 1, 2023.

Agency Contact: Kelley Smith, Executive Director, Board for Barbers and Cosmetology, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-8590, FAX (866) 245-9693, or email barbercosmo@dpor.virginia.gov.

Basis: Section 54.1-201 of the Code of Virginia gives authority to the Board for Barbers and Cosmetology to promulgate regulations.

Purpose: The purpose of this action is to allow practitioners who obtained an initial license through a grandfathering provision, but have allowed their licenses to expire, the ability to be eligible for a new license based on the original grandfathering provision, five years of licensed experience, and passing required examinations. Currently, individuals initially licensed under grandfathering provisions whose licenses expire are required to repeat Virginia training, even when they have been successfully been practicing in that field for years. The board reviewed these regulations in response to requests from the public in order to ensure best practices and minimally burdensome regulations.

The board determined that practitioners with expired licenses, originally licensed under grandfathering provisions, comply with the regulatory requirements of initial licensure. The board decided that prior licensed individuals with five years of work experience and who have passed the required examinations are equivalent to those who must meet the current entry requirements. The board found that five years of experience

adequately protected the health, safety, and welfare of the public, without the overly burdensome requirement of forcing grandfathered licensees to complete unnecessary training.

The existing regulations are limited by restricting grandfathered practitioners with expired licenses from applying for a new license without acquiring additional training. Few individuals receiving their initial license during grandfathering provisions are eligible to qualify for a new license after the reinstatement period. To obtain licensure, the practitioner must complete additional training or education.

Rationale for Using Fast-Track Rulemaking Process: The proposed amendments are expected to be noncontroversial as they would resolve many of the complaints from practitioners licensed by grandfathered clauses. Currently, individuals who were originally licensed under a grandfathering provision are required to meet entry requirements if their license expires. Meeting current entry requirements would require additional training in a school or an apprenticeship in order to qualify for the license examination. As a result, the practitioner would be required to take numerous hours of training they may have already received. However, non-grandfathered license holders who hold expired licenses are permitted to retake the examination without acquiring additional training, which in effect puts a greater burden on individuals who have been practicing longer. The amendments are also expected to be noncontroversial because they reduce the regulatory burden for applicants without disrupting the protection of the health, safety, and welfare of the public. The amendments accomplish this by enabling those licensed under a grandfather clause who have expired to retake the examination after demonstrating five years of work experience. These individuals can swiftly reenter the profession without completing additional training.

Substance: 18VAC41-20-180 B is amended to provide that an individual who was initially licensed as a barber, registered professional hair dresser (cosmetologist), or wax technician under an applicable examination exemption whose license is expired and no longer eligible for reinstatement may resume practice by submitting a new application showing the individual met the grandfathering provision, demonstrating five years of experience as a licensee, and passing the required examination. Similarly, an individual who was initially licensed as a nail technician under an applicable exemption from training requirements may resume practice by submitting a new application showing the individual met the grandfathering provision, demonstrating five years of experience as a licensee, and passing the required examination.

Section 54.1-703.1 of the Code of Virginia provides the grandfathering provision for a wax technician. The

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grandfathering provisions for barbers, cosmetologists, and nail technicians are no longer in either the Code of Virginia or Virginia Administrative Code. The amendment reflects the substance of the grandfathering provisions for these occupations.

18VAC41-50-180 B is amended to provide that an individual who was granted initial licensure under the examination exemption in 18VAC41-50-20 A 6 whose license is expired and no longer eligible for reinstatement may resume practice by submitting a new application showing the individual met the grandfathering provision, demonstrating five years of experience as a licensee, and passing the required examination.

18VAC 41-60-140 B is amended to provide that an individual who was granted initial licensure under the examination exemption in 18VAC41-60-20 A 6 whose license is expired and no longer eligible for reinstatement may resume practice by submitting a new application showing the individual met the grandfathering provision, demonstrating five years of experience as a licensee, and passing the required examination.

18VAC 41-70-160 B is amended to provide that an individual who was granted initial licensure under the examination exemption in § 54.1-703.3 of the Code of Virginia whose license is expired and no longer eligible for reinstatement may resume practice by submitting a new application showing the individual met the grandfathering provision, demonstrating five years of experience as a licensee, and passing the required examination.

Issues: The primary advantage to the public is the economic opportunity it provides by allowing grandfathered practitioners with lapsed licenses to retake the examination after providing documentation of five years of work experience. Currently, most grandfathered individuals with lapsed licenses have to restart their training, which results in an economic loss from tuition and lost earnings due to the extra time spent repeating completed training. The modified regulations protect the health, safety, and welfare of the public while expanding economic benefits to individuals granted licensure under grandfathered provisions. Small businesses can benefit from hiring licensees returning to the workplace after fulfilling board requirements. There are no disadvantages to businesses and the public. There are no advantages or disadvantages to the agency or Commonwealth.

Department of Planning and Budget's Economic Impact Analysis:

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007.04 of the Code of Virginia (Code) and Executive Order 19. The analysis presented represents DPB's best estimate of these economic impacts.¹

Summary of the Proposed Amendments to Regulation. Individuals who are licensed by the Board for Barbers and Cosmetology (Board) under a grandfathering provision, and who fail to renew their license within two years of its expiration, must apply for a new license and meet all current

licensure requirements. The Board seeks to amend these requirements to let grandfathered licensees obtain a new license by demonstrating five years of experience instead of obtaining additional training.

Background. Four of the Board's regulations contain the requirements for licensees who fail to renew their license within 30 days following its expiration date (i.e., 18VAC41-20-180, 18VAC41-50-180, 18VAC41-60-140, and 18VAC41-70-160, all titled "Failure to renew").² These regulations state that licensees may apply to have their license "reinstated" within two years following the expiration date. To do so, they must submit a reinstatement application and renewal fee and reinstatement fee to the Department of Professional and Occupational Regulation (DPOR). However, all four regulations also state that reinstatement is no longer possible if the licensee "fails to renew the license within two years following the expiration date." Once the license has lapsed, the former licensee must apply for licensure (or certification) as a new applicant and meet all current entry requirements for each respective license (or certificate), including training and taking any necessary examinations.

As new training requirements have been added over the years, some licensees have been "grandfathered" to exempt them from the new requirements and thereby prevent them from having to incur additional training costs; these grandfathering provisions are intended to reduce barriers to entry into the profession. However, as stated above, these licensees would have to meet current entry requirements if they wish to re-activate a lapsed license. DPOR reports that, "Meeting entry requirements requires additional training in a school or an apprenticeship. As a result, the practitioner is required to repeat numerous hours of training material they have already received training on."³ At the same time, non-grandfathered license holders who wish to re-activate a lapsed license are permitted to simply pay the application fees and retake the examination without acquiring additional training. This implicitly places a greater burden on individuals who have been practicing longer. Thus, the Board seeks to ease the requirements for individuals licensed under grandfathering provisions who wish to re-activate a lapsed license. In doing so, the Board would be addressing several complaints received from grandfathered practitioners who, after allowing their licenses to lapse, sought to re-activate their license but were told they first had to receive training. The proposed changes would allow individuals licensed under a grandfathering provision to submit a new application showing that they meet the requirements based on the grandfathering provisions, demonstrate five years of licensed experience, and pass required examinations. Thus, individuals licensed under a grandfathering agreement would be able to avoid undertaking additional training hours and/or apprenticeships by instead demonstrating that they have five years of work experience. The specific grandfathering provisions that would be covered under each chapter are listed.

(i) 18VAC41-20-180: The proposed changes would add grandfathering provisions as found in section 54.1-703.1 of the Code of Virginia (Code), which contains provisions for wax technicians.⁴ The proposed changes would also add three references to grandfathering provisions that no longer exist in the Code and are cited incorrectly. They currently appear in the text as "§ 54-83.2.b of the Code of Virginia (1987), § 54-112.15 of the Code of Virginia (1970), § 54.1-2.3 B of the Code of Virginia (1992)." The agency reports that it is working with the Registrar to update and correct the citations to the grandfathering provisions.

(ii) 18VAC41-50-180: The proposed changes would add grandfathering provisions as found in 18VAC41-50-20 A 6.⁵

(iii) 18VAC41-60-140: The proposed changes would add grandfathering provisions as found in 18VAC41-60-20 A 6.⁶

(iv) 18VAC41-70-140: The proposed changes would add grandfathering provisions as found in § 54.1-703.3 of the Code of Virginia.⁷

Estimated Benefits and Costs. DPOR reports that as of September 1, 2022, there are 798 licensees who obtained their license under a grandfathering provision, whose licenses have lapsed, and who would not be eligible for reinstatement. Although some of these individuals may have retired or left the profession permanently, any of them who seek to re-activate their license would benefit from the proposed changes by not having to undertake additional training. DPOR estimates that additional training fees could range from \$500 to \$5,000. The proposed amendments would allow individuals with lapsed licenses who were originally licensed under a grandfathering provision to avoid these costs if they wish to re-activate their license.

The proposed amendments would also benefit individuals who currently hold active licenses that were obtained under a grandfathering provision, who may, in the future, let their license lapse and subsequently seek to re-activate their license. Those individuals would also benefit from not having to incur additional training costs, which may have increased over time. Lastly, DPOR also reports that there are approximately 1,145 salons, shops, and spas that would indirectly benefit from the proposed changes by being able to hire licensees returning to the workplace. This would be especially helpful if these businesses are currently experiencing difficulty hiring licensed professionals.

Businesses and Other Entities Affected. As mentioned previously, the proposed amendments would benefit individuals licensed under a grandfathering provision whose licenses have lapsed as well as those who may later let their license lapse. The proposed amendments would also indirectly benefit the roughly 1,145 salons, shops, and spas that may seek to employ these individuals.

The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.⁸ An adverse impact is indicated if there is any increase in net cost

or reduction in net revenue for any entity, even if the benefits exceed the costs for all entities combined. Since the proposed amendments would not result in an increase in net costs for any entity, an adverse impact is not indicated.

Small Businesses⁹ Affected.¹⁰

Types and Estimated Number of Small Businesses Affected. DPOR reports that all 1,145 salons, shops, and spas that may employ individuals impacted by the proposed changes are likely to be small businesses.

Costs and Other Effects. The proposed amendments would not create any new costs for small businesses. These businesses would benefit to the extent that the proposed changes would make it easier for them to hire experienced licensed professionals.

Alternative Method that Minimizes Adverse Impact. No adverse impact is indicated; thus, no alternatives are necessary.

Localities¹¹ Affected.¹² The proposed amendments do not disproportionately affect any particular localities or create costs for local governments.

Projected Impact on Employment. The proposed amendments are intended to reduce barriers to re-entry for certain professionals with lapsed licenses. Thus, to the extent that individuals who were licensed under a grandfathering provision choose to re-activate their license, employment in barbering, cosmetology, tattooing, body-piercing, and esthetics may increase. However, the proposed amendments are unlikely to significantly affect total employment.

Effects on the Use and Value of Private Property. The proposed amendments are unlikely to affect the value of private property. Real estate development costs would not be affected.

⁴Section 2.2-4007.04 of the Code of Virginia requires that such economic impact analyses determine the public benefits and costs of the proposed amendments. Further the analysis should include but not be limited to: (1) the projected number of businesses or other entities to whom the proposed regulatory action would apply, (2) the identity of any localities and types of businesses or other entities particularly affected, (3) the projected number of persons and employment positions to be affected, (4) the projected costs to affected businesses or entities to implement or comply with the regulation, and (5) the impact on the use and value of private property.

²"Licensee" as used here includes "licensed or certified individual or business entity" in the Barbering and Cosmetology Regulations, licensed professionals or certified instructors (individuals) in the Esthetics Regulations, and licensed individuals in the other two chapters.

³See the Agency Background Document (ABD), page 3: https://townhall.virginia.gov/1/GetFile.cfm?File=134/6199/9946/AgencyState ment_DPOR_9946_v3.pdf.

⁴See <https://law.lis.virginia.gov/vacode/title54.1/chapter7/section54.1-703.1/>, which states that, "The Board shall waive the examination requirements for licensure as a wax technician for any individual who (i) makes application for licensure between July 1, 2002, and July 1, 2003; (ii) otherwise complies with Board regulations relating to moral turpitude; and (iii) meets any of the following conditions: 1. Has at least three years of documented work experience as a wax technician that is deemed satisfactory by the Board; 2. Has completed a training program that is deemed satisfactory by the Board; or 3. Holds an unexpired certificate of registration, certification, or license as a wax technician issued to him on the basis of comparable requirements by a proper

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authority of a state, territory, or possession of **the** United States or **the** District of Columbia."

⁵<https://law.lis.virginia.gov/admincode/title18/agency41/chapter50/section20/> which states that, "6. Persons who (i) make application for licensure between October 1, 2006, and September 30, 2007; (ii) have completed three years of documented work experience within **the** preceding five years as a tattooer; and (iii) have completed a minimum of five hours of health education to include but not limited to bloodborne disease, sterilization, and aseptic techniques related to tattooing and first aid and CPR that is acceptable to **the** board are not required to complete subdivision 5 of this subsection."

⁶<https://law.lis.virginia.gov/admincode/title18/agency41/chapter60/section20/> which states that, "6. Persons who (i) make application between April 1, 2007, and March 31, 2008; (ii) have completed three years of documented work experience within **the** preceding five years as a body piercer; and (iii) have completed a minimum of five hours of health education including but not limited to blood borne disease, sterilization, and aseptic techniques related to body piercing and first aid and CPR that is acceptable to **the** board are not required to complete subdivision 5 of this subsection."

⁷<https://law.lis.virginia.gov/vacode/title54.1/chapter7/section54.1-703.3/> which states that, **The** Board shall waive **the** examination requirements for licensure as an esthetician or master esthetician for any individual who (i) makes application for licensure by July 31, 2009; (ii) otherwise complies with Board regulations relating to moral turpitude; and (iii) meets any of **the** following conditions: 1. Has at least three years of documented work experience as an esthetician or a master esthetician completed prior to July 1, 2008, that is deemed satisfactory by **the** Board; 2. Has completed a training program prior to July 1, 2008, that is deemed satisfactory by **the** Board; or 3. Holds an unexpired certificate of registration, certification, or license as an esthetician or a master esthetician issued to him prior to July 1, 2008, on **the** basis of comparable requirements by a proper authority of a state, territory, or possession of **the** United States, or **the** District of Columbia."

⁸Pursuant to § 2.2-4007.04 D: In **the** event this economic impact analysis reveals that **the** proposed regulation would have an adverse economic impact on businesses or would impose a significant adverse economic impact on a locality, business, or entity particularly affected, **the** Department of Planning and Budget shall advise **the** Joint Commission on Administrative Rules, **the** House Committee on Appropriations, and **the** Senate Committee on Finance. Statute does not define "adverse impact," state whether only Virginia entities should be considered, nor indicate whether an adverse impact results from regulatory requirements mandated by legislation.

⁹Pursuant to § 2.2-4007.04, small business is defined as "a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million."

¹⁰If **the** proposed regulatory action may have an adverse effect on small businesses, § 2.2-4007.04 requires that such economic impact analyses include: (1) an identification and estimate of **the** number of small businesses subject to **the** proposed regulation, (2) **the** projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with **the** proposed regulation, including **the** type of professional skills necessary for preparing required reports and other documents, (3) a statement of **the** probable effect of **the** proposed regulation on affected small businesses, and (4) a description of any less intrusive or less costly alternative methods of achieving **the** purpose of **the** proposed regulation. Additionally, pursuant to § 2.2-4007.1 of **the** Code of Virginia, if there is a finding that a proposed regulation may have an adverse impact on small business, **the** Joint Commission on Administrative Rules shall be notified.

¹¹"Locality" can refer to either local governments or **the** locations in **the** Commonwealth where **the** activities relevant to **the** regulatory change are most likely to occur.

¹²Section 2.2-4007.04 defines "particularly affected" as bearing disproportionate material impact.

Agency's Response to Economic Impact Analysis: **The** Board for Barbers and Cosmetology concurs with **the** results of **the** economic impact analysis prepared by **the** Department of Planning and Budget.

Summary:

***The** amendments allow individuals initially granted licensure under certain examination exemptions, known as grandfathering, to apply for re-licensure after allowing **the** license to expire by (i) submitting a new application showing **the** individual met **the** requirements of **the** applicable examination waiver provision, (ii) demonstrating five years of licensed experience, and (iii) passing **the** required examination.*

18VAC41-20-180. Failure to renew.

A. When a licensed or certified individual or business entity fails to renew its license or certificate within 30 days following its expiration date, **the** licensee or certificate holder shall apply for reinstatement of **the** license or certificate by submitting to **the** Department of Professional and Occupational Regulation a reinstatement application and renewal fee and reinstatement fee.

B. When a licensed or certified individual or business entity fails to renew its license within two years following **the** expiration date, reinstatement is no longer possible. To resume practice, **the**:

1. **The** former licensee or certificate holder shall apply for licensure or certification as a new applicant and shall meet all current entry requirements for each respective license or certificate.

2. An individual initially granted licensure under any of **the** following examination or training waiver provisions, known as grandfathering, shall submit a new application showing **the** individual met **the** requirements of **the** applicable examination or training waiver provision, demonstrate five years of licensed experience, and pass **the** required examination:

a. Any person who was exempted from examination for licensure as a barber, as such person was engaged in **the** practice of barbering on or before July 1, 1966, in any establishment or place of business within which **the** practice of barbering was carried on by only one barber, and such person filed an application with **the** board on or before January 1, 1967.

b. Any person exempted from examination as a registered professional hair dresser, as such person was substantially engaged as a hairdresser in Virginia for at least nine months prior to June 29, 1962, and such person filed an application satisfactory to **the** board on or before July 1, 1963.

c. Any person exempted from training requirements for licensure as a nail technician, as such person had experience or training as a nail technician, and such person applied to **the** board for examination by October 1, 1991.

d. Any person exempted from examination as a wax technician pursuant to § 54.1-703.1 of **the** Code of Virginia.

C. The application for reinstatement for a school shall provide (i) the reasons for failing to renew prior to the expiration date and (ii) a notarized statement that all students currently enrolled or seeking to enroll at the school have been notified in writing that the school's license has expired. All of these materials shall be called the application package. Reinstatement will be considered by the board if the school consents to and satisfactorily passes an inspection of the school and if the school's records are maintained in accordance with 18VAC41-20-240 and 18VAC41-20-250 by the Department of Professional and Occupational Regulation. Pursuant to 18VAC41-20-130, upon receipt of the reinstatement fee, application package, and inspection results, the board may reinstate the school's license or require requalification or both. If the reinstatement application package and reinstatement fee are not received by the board within six months following the expiration date of the school's license, the board will notify the testing service that prospective graduates of the unlicensed school are not acceptable candidates for the examination. Such notification will be sent to the school and must be displayed in a conspicuous manner by the school in an area that is accessible to the public. No student shall be disqualified from taking the examination because the school was not licensed for a portion of the time the student attended if the school license is reinstated by the board.

D. The date a renewal fee is received by the Department of Professional and Occupational Regulation, or its agent, will be used to determine whether the requirement for reinstatement of a license or certificate is applicable.

E. When a license or certificate is reinstated, the licensee or certificate holder shall be assigned an expiration date two years from the date of the last day of the month of reinstatement.

F. A licensee or certificate holder that reinstates its license or certificate shall be regarded as having been continuously licensed or certified without interruption. Therefore, a licensee or certificate holder shall be subject to the authority of the board for activities performed prior to reinstatement.

G. A licensee or certificate holder that fails to reinstate its license or certificate shall be regarded as unlicensed or uncertified from the expiration date of the license or certificate forward. Nothing in this chapter shall divest the board of its authority to discipline a licensee or certificate holder for a violation of the law or regulations during the period of time for which the individual was licensed or certified.

18VAC41-50-180. Failure to renew.

A. When a tattooer, permanent cosmetic tattooer, or master permanent cosmetic tattooer fails to renew his license within 30 days following its expiration date, the licensee shall meet the renewal requirements and apply for reinstatement of the license by submitting to the Department of Professional and Occupational Regulation a reinstatement application along with the required renewal and reinstatement fees.

B. When a tattooer, permanent cosmetic tattooer, or master permanent cosmetic tattooer fails to renew his license within two years following the expiration date, reinstatement is no longer possible. To resume practice, the

1. The former licensee shall apply for licensure as a new applicant, shall meet all current application requirements, shall pass the board's current examination, and shall receive a new license.

2. An individual initially granted licensure under an examination exemption, known as grandfathering, pursuant to 18VAC41-50-20 A 6, shall submit a new application showing the individual met the requirements of the applicable examination waiver provision, demonstrate five years of licensed experience, and pass the required examination.

C. When a tattoo parlor or permanent cosmetic tattoo salon fails to renew its license within 30 days following the expiration date, it shall be required to apply for reinstatement of the license by submitting to the Department of Professional and Occupational Regulation a reinstatement application along with the required renewal and reinstatement fees.

D. When a tattoo parlor or permanent cosmetic tattoo salon fails to renew its license within two years following the expiration date, reinstatement is no longer possible. To resume practice, the former licensee shall apply for licensure as a new applicant and shall meet all current application requirements.

E. When a tattooing school or permanent cosmetic tattooing school fails to renew its license within 30 days following the expiration date, the licensee shall be required to apply for reinstatement of the license by submitting to the Department of Professional and Occupational Regulation a reinstatement application along with the required renewal and reinstatement fees.

F. When a tattooing school or permanent cosmetic tattooing school fails to renew its license within two years following the expiration date, reinstatement is no longer possible. To resume practice, the former licensee shall apply for licensure as a new applicant and shall meet all current application requirements.

G. The date a renewal fee is received by the Department of Professional and Occupational Regulation, or its agent, will be used to determine whether the requirement for reinstatement of a license is applicable and an additional fee is required.

H. When a license is reinstated, the licensee shall have the same license number and shall be assigned an expiration date two years from the previous expiration date of the license.

I. A licensee who reinstates his license shall be regarded as having been continuously licensed without interruption. Therefore, a licensee shall be subject to the authority of the board for activities performed prior to reinstatement.

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J. A licensee who fails to reinstate his license shall be regarded as unlicensed from the expiration date of the license forward. Nothing in this chapter shall divest the board of its authority to discipline a licensee for a violation of the law or regulations during the period of time for which the individual was licensed.

18VAC41-60-140. Failure to renew.

A. When a body piercer or body piercer ear only fails to renew their license within 30 days following its expiration date, the licensee shall meet the renewal requirements prescribed in 18VAC41-60-130 and apply for reinstatement of the license by submitting to the Department of Professional and Occupational Regulation a reinstatement application along with the required renewal and reinstatement fees.

B. When a body piercer or body piercer ear only fails to renew his license within two years following the expiration date, reinstatement is no longer possible. To resume practice, the:

1. The former body-piercer licensee shall apply for licensure as a new applicant, shall meet all current application requirements, shall pass the board's current examination, and shall receive a new license. ~~To resume practice, the former body piercer ear only licensee shall apply for licensure as a new applicant, shall meet all current application requirements, and shall receive a new license.~~

2. An individual initially granted licensure under an examination exemption, known as grandfathering, pursuant to 18VAC41-60-20 A 6 shall submit a new application showing the individual met the requirements of the applicable examination waiver provision, demonstrate five years of licensed experience, and pass the required examination.

C. When a body-piercing salon or body-piercing ear only salon fails to renew its license within 30 days following the expiration date, it shall be required to apply for reinstatement of the license by submitting to the Department of Professional and Occupational Regulation a reinstatement application along with the required renewal and reinstatement fees.

D. When a body-piercing salon or body-piercing ear only salon fails to renew its license within two years following the expiration date, reinstatement is no longer possible. To resume practice, the former licensee shall apply for licensure as a new applicant and shall meet all current application requirements.

E. The date a renewal fee is received by the Department of Professional and Occupational Regulation, or its agent, will be used to determine whether the requirement for reinstatement of a license is applicable and an additional fee is required.

F. When a license is reinstated, the licensee shall have the same license number and shall be assigned an expiration date two years from the previous expiration date of the license.

G. A licensee who reinstates his license shall be regarded as having been continuously licensed without interruption. Therefore, a licensee shall be subject to the authority of the board for activities performed prior to reinstatement.

H. A licensee who fails to reinstate his license shall be regarded as unlicensed from the expiration date of the license forward. Nothing in this chapter shall divest the board of its authority to discipline a licensee for a violation of the law or regulations during the period of time for which the individual was licensed.

18VAC41-70-160. Failure to renew.

A. When a licensee fails to renew its license within 30 days following its expiration date, the licensee shall apply for reinstatement of the license by submitting to the Department of Professional and Occupational Regulation a reinstatement application and renewal fee and reinstatement fee.

B. When a licensee fails to renew its license within two years following the expiration date, reinstatement is no longer possible. To resume practice, the:

1. The former licensee or certificate holder shall apply for licensure or certification as a new applicant and shall meet all current entry requirements for each respective license or certificate. Individuals applying for licensure under this section shall be eligible to apply for a temporary license from the board under 18VAC41-70-70.

2. An individual initially granted licensure under an examination exemption, known as grandfathering, pursuant to § 54.1-703.3 of the Code of Virginia shall submit a new application showing the individual met the requirements of the applicable examination waiver provision, demonstrate five years of licensed experience, and pass the required examination.

C. The application for reinstatement for a school shall provide (i) the reasons for failing to renew prior to the expiration date and (ii) a notarized statement that all students currently enrolled or seeking to enroll at the school have been notified in writing that the school's license has expired. All of these materials shall be called the application package. Reinstatement will be considered by the board if the school consents to and satisfactorily passes an inspection of the school and if the school's records are maintained in accordance with 18VAC41-70-230 and 18VAC41-70-240. Upon receipt of the reinstatement fee, application package, and inspection results, the board may reinstate the school's license ~~or~~ require requalification, or both. If the reinstatement application package and reinstatement fee are not received by the board within six months following the expiration date of the school's license, the board will notify the testing service that prospective graduates of the unlicensed school are not acceptable candidates for the examination. Such notification will be sent to the school and must be displayed in a conspicuous manner by the school in an area that is accessible

to the public. No student shall be disqualified from taking the examination because the school was not licensed for a portion of the time the student attended if the school license is reinstated by the board.

D. The date a renewal fee is received by the Department of Professional and Occupational Regulation, or its agent, will be used to determine whether the requirement for reinstatement of a license is applicable and an additional fee is required.

E. When a license is reinstated, the licensee shall have the same license number and shall be assigned an expiration date two years from the previous expiration date of the license.

F. A licensee that reinstates its license shall be regarded as having been continuously licensed without interruption. Therefore, a licensee shall be subject to the authority of the board for activities performed prior to reinstatement.

G. A licensee that fails to reinstate its license shall be regarded as unlicensed from the expiration date of the license forward. Nothing in this chapter shall divest the board of its authority to discipline a licensee for a violation of the law or regulations during the period of time for which the individual or business entity was licensed.

V.A.R. Doc. No. R23-7515; Filed May 30, 2023, 4:21 p.m.

Final Regulation

Titles of Regulations: 18VAC41-50. **Tattooing Regulations (amending 18VAC41-50-10 through 18VAC41-50-40, 18VAC41-50-80, 18VAC41-50-100 through 18VAC41-50-130, 18VAC41-50-150, 18VAC41-50-160, 18VAC41-50-180, 18VAC41-50-210, 18VAC41-50-230, 18VAC41-50-250, 18VAC41-50-280, 18VAC41-50-290, 18VAC41-50-310, 18VAC41-50-360 through 18VAC41-50-420; adding 18VAC41-50-91, 18VAC41-50-92, 18VAC41-50-93; repealing 18VAC41-50-50, 18VAC41-50-60, 18VAC41-50-90, 18VAC41-50-240, 18VAC41-50-260, 18VAC41-50-270, 18VAC41-50-320, 18VAC41-50-340, 18VAC41-50-350).**

18VAC41-60. Body-Piercing Regulations (amending 18VAC41-60-10 through 18VAC41-60-40, 18VAC41-60-80, 18VAC41-60-110, 18VAC41-60-120, 18VAC41-60-140, 18VAC41-60-190, 18VAC41-60-200, 18VAC41-60-220; repealing 18VAC41-60-50, 18VAC41-60-60).

Statutory Authority: § 54.1-201 of the Code of Virginia.

Effective Date: September 1, 2023.

Agency Contact: Kelley Smith, Executive Director, Board for Barbers and Cosmetology, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-8590, FAX (866) 245-9693, or email barbercosmo@dpor.virginia.gov.

Summary:

The amendments make several changes, including (i) adding the definition for "responsible management," (ii) repealing the limited-term tattooer license, (iii) adding a two-week guest tattooer license; (iv) updating the training

requirements for tattoo schools and tattoo instructors; and (v) establishing a curriculum for master permanent cosmetic tattooing instruction.

Summary of Public Comments and Agency's Response: A summary of comments made by the public and the agency's response may be obtained from the promulgating agency or viewed at the office of the Registrar of Regulations.

18VAC41-50-10. Definitions.

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise. All terms defined in Chapter 7 (§ 54.1-700 et seq.) of Title 54.1 of the Code of Virginia are incorporated in this chapter.

"Apprenticeship program" means an approved tattooing training program conducted by an approved apprenticeship sponsor.

"Apprenticeship sponsor" means an individual approved to conduct tattooing apprenticeship training who meets the qualifications in 18VAC41-50-70.

"Aseptic technique" means a hygienic practice that prevents and hinders the direct transfer of microorganisms, regardless of pathogenicity, from one person or place to another person or place.

"Business entity" means a sole proprietorship, partnership, corporation, limited liability company, limited liability partnership, or any other form of organization permitted by law.

~~"Convention tattooer" means a tattooer residing outside Virginia who is licensed to work only at a tattoo convention located in Virginia.~~

"Direct supervision" means (i) that a Virginia licensed tattooer shall be present in the tattoo parlor at all times when services are being performed by an apprentice [;] (ii) that a Virginia licensed [and certified] tattooing instructor shall be present in the tattooing school at all times when services are being performed by a student [; or] (iii) that a Virginia licensed [and certified] permanent cosmetic tattooing instructor shall be present in the permanent cosmetic tattooing school at all times when services are being performed by a student [; (iv) that a Virginia licensed and certified master permanent cosmetic tattooer instructor shall be present in the permanent cosmetic tattooing school at all times when master permanent cosmetic tattooer services are being performed by a student; or (v) that a Virginia licensed tattooer shall be present in the tattoo parlor at all times when services are being performed by a guest tattooer].

"Endorsement" means a method of obtaining a license by a person who is currently licensed in another state [or jurisdiction of the United States].

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"Event tattoo parlor" means a tattoo parlor temporary location licensed to operate for a maximum of five consecutive days.

"Firm" means any business entity recognized under the laws of the Commonwealth of Virginia.

"Gratuitous services" as used in § 54.1-701.5 of the Code Virginia means providing tattooing services without receiving compensation or reward, or obligation. Gratuitous services do not include services provided at no charge when goods are purchased.

~~"Licensee" means any person, partnership, association, limited liability company, or corporation holding a license issued by the Board for Barbers and Cosmetology as defined in § 54.1-700 of the Code of Virginia.~~

"Guest tattooer" means a tattooer [~~or~~] permanent cosmetic tattooer [, or master permanent cosmetic tattooer] residing outside of Virginia who is licensed only to work for a two-week period at a specified tattoo parlor or permanent cosmetic tattoo salon.

"Guest tattooer sponsor" means a licensed tattoo parlor or permanent cosmetic tattooing salon that is sponsoring and providing direct supervision of a guest tattooer.

"Licensee" means any person, sole proprietorship, partnership, association, corporation, limited liability company, ~~or corporation~~ limited liability partnership, or any other form of organization permitted by law holding a license issued by the Board for Barbers and Cosmetology, as defined in § 54.1-700 of the Code of Virginia.

~~"Limited term tattooer" means a tattooer licensed to perform tattooing for a maximum of five consecutive days in an organized event or in a Virginia licensed tattoo parlor.~~

~~"Limited term tattoo parlor" means a tattoo parlor temporary location licensed to operate for a maximum of five consecutive days.~~

"Master permanent cosmetic tattooer" means any person who for compensation practices permanent cosmetic tattooing known in the industry as advanced permanent cosmetic tattooing, including ~~but not limited to~~ eyebrows, microblading, [scalp micropigmentation,] eye shadow [,] and breast and scar repigmentation or camouflage.

"Permanent cosmetic tattoo salon" means any place in which permanent cosmetic tattooing is offered or practiced for compensation.

"Permanent cosmetic tattooer" means any person who for compensation practices permanent cosmetic tattooing known in the industry as basic permanent cosmetic tattooing, including ~~but not limited to~~ eyebrows, microblading, [scalp micropigmentation,] eyeliner, lip coloring, lip liner, or full lips.

"Permanent cosmetic tattooing" means placing marks upon or under the skin of any person with ink or any other substance, resulting in the permanent coloration of the skin on the face, including ~~but not limited to~~ eyebrows, eyeliner, lip coloring, lip liner, full lips, cheek blush, eye shadow, forehead and scalp micropigmentation, and on the body for breast and scar repigmentation or camouflage; also known as permanent ~~make-up~~ makeup or micropigmentation.

"Permanent cosmetic tattooing instructor" means a person who has been certified by the board who meets the competency standards of the board as an instructor of permanent cosmetic tattooing.

"Permanent cosmetic tattooing school" means a place or establishment licensed by the board to accept and train students and offers a permanent cosmetic tattooing curriculum approved by the board.

"Pigments" means tattooing ink designed for use on human skin.

"Post-secondary educational level" means an accredited college or university that is approved or accredited by an accrediting agency [~~that is~~] recognized by the U.S. Department of Education.

"Reinstatement" means having a license restored to effectiveness after the expiration date has passed.

"Renewal" means continuing the effectiveness of a license for another period of time.

"Responsible management" means the following individuals:

1. The sole proprietor of a sole proprietorship;
2. The partners of a general partnership;
3. The managing partners of a limited partnership;
4. The officers of a corporation;
5. The managers of a limited liability company;
6. The officers or directors of an association or both; and
7. Individuals in other business entities recognized under the laws of the Commonwealth as having a fiduciary responsibility to the firm.

"Sole proprietor" means any individual, not a corporation, who is trading under [~~his~~ that individual's] own name or under an assumed or fictitious name pursuant to the provisions of §§ 59.1-69 through 59.1-76 of the Code of Virginia.

"Sterilization area" means a separate room or area separate from workstations with restricted client access in which tattooing instruments are cleaned, disinfected, and sterilized.

"Tattoo convention" means an event where Virginia and out-of-state tattooers gather for no more than five consecutive days to offer tattooing services to the public.

"Tattooing instructor" means a person who has been certified by the board who meets the competency standards of the board as an instructor of tattooing.

"Temporary location" means a fixed location at which tattooing is performed for a specified length of time of not more than five days in conjunction with a single event or celebration [convention].

18VAC41-50-20. General requirements for tattooer, ~~limited term tattooer, convention guest tattooer,~~ permanent cosmetic tattooer, or master permanent cosmetic tattooer.

A. In order to receive a license as a tattooer, ~~limited term tattooer, permanent cosmetic tattooer, or master permanent cosmetic tattooer~~ Any individual wishing to engage in tattooing, ~~limited term~~ guest tattooing, permanent cosmetic tattooing, or master permanent cosmetic tattooing shall obtain a license in compliance with § 54.1-703 of the Code of Virginia, ~~an applicant must and~~ meet the following qualifications:

1. The applicant must be in good standing as a tattooer, ~~limited term tattooer, convention guest tattooer,~~ permanent cosmetic tattooer, or master permanent cosmetic tattooer in every jurisdiction where licensed, certified, or registered. The applicant shall disclose to the board at the time of application for licensure any disciplinary action taken in another Virginia or any other jurisdiction in connection with the applicant's practice as a tattooer, ~~limited term~~ guest tattooer, permanent cosmetic tattooer, or master permanent cosmetic tattooer. This disclosure includes monetary penalties, fines, suspensions, revocations, surrender of a license in connection with a disciplinary action, or voluntary termination of a license. The applicant shall disclose to the board at the time of application for licensure whether if [he the applicant] has been previously licensed in Virginia as a tattooer, ~~limited term~~ guest tattooer, permanent cosmetic tattooer, or master permanent cosmetic tattooer.

Upon review of the applicant's prior disciplinary action, the board, in its discretion, may deny licensure to any applicant wherein the board deems the applicant is unfit or unsuited to engage in tattooing, ~~convention tattooing,~~ guest tattooing, permanent cosmetic tattooing, or master permanent cosmetic tattooing. The board will decide each case by taking into account the totality of the circumstances. Any plea of nolo contendere or comparable plea shall be considered a disciplinary action for the purposes of this subdivision. The applicant shall provide a certified copy of a final order, decree, or case decision by a court, regulatory agency, or board with the lawful authority to issue such order, decree, or case decision, and such copy shall be admissible as prima facie evidence of such disciplinary action.

2. The applicant shall disclose the applicant's physical address. A post office box is not acceptable.

3. The applicant shall sign, as part of the application, a statement certifying that the applicant has read and understands the Virginia tattooing license laws and the board's tattooing regulations this chapter.

4. In accordance with § 54.1-204 of the Code of Virginia, ~~the each applicant must not have been convicted in any jurisdiction of a felony or non-marijuana misdemeanor that directly relates to the profession of tattooing. The board shall have the authority to determine, based upon all the information available, including the applicant's record of prior convictions, if the applicant is unfit or unsuited to engage in the profession of tattooing. The board will decide each case by taking into account the totality of the circumstances. Any plea of nolo contendere shall be considered a conviction for the purposes of this section. The applicant shall provide a certified copy of a final order, decree or case decision by a court or regulatory agency with the lawful authority to issue such order, decree or case decision, and such copy shall be admissible as prima facie evidence of such conviction. This record shall be forwarded by the applicant to the board within 10 days after all appeal rights have expired. shall disclose the following information regarding criminal convictions in Virginia and all other jurisdictions:~~
 - a. All misdemeanor convictions involving moral turpitude, sexual offense, [non-marijuana] drug distribution, or physical injury within two years of the date of the application; and
 - b. All felony convictions within 20 years of the date of application.

Any plea of nolo contendere shall be considered a conviction for purposes of this subdivision. The record of a conviction received from a court shall be accepted as prima facie evidence of a conviction or finding of guilt. The board, in its discretion, may deny licensure to any applicant in accordance with § 54.1-204 of the Code of Virginia.

5. The applicant shall provide evidence satisfactory to the board that the applicant has passed the board approved examination, administered either by the board or by a designated testing service.

6. Persons who (i) make application for licensure between October 1, 2006, and September 30, 2007; (ii) have completed three years of documented work experience within the preceding five years as a tattooer; and (iii) have completed a minimum of five hours of health education to include but not limited to bloodborne disease, sterilization, and aseptic techniques related to tattooing and first aid and CPR that is acceptable to the board are not required to complete subdivision 5 of this subsection.

B. Eligibility to sit for board-approved examination.

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1. Training in the Commonwealth of Virginia. ~~a. Any person completing an approved tattooing apprenticeship program in a Virginia licensed tattoo parlor or completing an approved tattooing training program in a Virginia licensed school of tattooing, [tattoo school] or completing a permanent cosmetic tattooing or master permanent cosmetic tattooing training program in a Virginia licensed permanent cosmetic tattooing school shall be eligible to sit for the applicable examination.~~

~~b. Any person completing master permanent cosmetic tattooing training that is acceptable to the board shall be eligible to sit for the examination. Training should be conducted in a permanent facility.~~

2. Training outside of the Commonwealth of Virginia, but within the United States [or jurisdiction of the United States] ~~and its territories.~~ ~~a. Any person completing a tattooing, or permanent cosmetic tattooing training, [or] master permanent cosmetic tattooing training program, or tattooing apprenticeship program, that is substantially equivalent to the Virginia program but is outside of the Commonwealth of Virginia must submit to the board documentation of the successful completion of training or apprenticeship to be eligible for examination. If less than the required hours of tattooing or permanent cosmetic tattooing training or tattooing apprenticeship was were completed, an applicant must submit (i) documentation acceptable to the board verifying the completion of a substantially equivalent tattooing training [or,] tattooing apprenticeship [or,] permanent cosmetic tattooing training [, or master permanent cosmetic tattooing] or documentation of three years of work experience within the preceding five years as a tattooer, and (ii) documentation of completion of a minimum of five hours of health education to include but not limited to blood borne disease (a) bloodborne pathogens, sterilization, and aseptic techniques related to tattooing and; (b) first aid; and (c) CPR that is acceptable to the board in order to be eligible for examination.~~

~~b. Any person completing master permanent cosmetic tattooing training that is acceptable to the board shall be eligible to sit for the examination. Training should be conducted in a permanent facility.~~

18VAC41-50-30. License by endorsement.

Upon proper application to the board, any person currently licensed to practice as a tattooer, permanent cosmetic tattooer, or master permanent cosmetic tattooer in any other state or jurisdiction of the United States and who has completed a training or apprenticeship program and an examination that is substantially equivalent to that required by this chapter may be issued a tattooer license, permanent cosmetic tattooer license, or master permanent cosmetic tattooer license, respectively, without an examination. The applicant must also meet the requirements set forth in 18VAC41-50-20 A 1 through A 4.

18VAC41-50-40. Examination requirements and fees.

A. Applicants for initial licensure shall pass an examination approved by the board. The examinations may be administered by the board or by a designated testing service.

B. Any candidate failing to appear as scheduled for examination shall forfeit the examination fee.

C. The applicant shall follow all procedures established by the board with regard to conduct at the examination. Such procedures shall include any written instructions communicated prior to the examination date and any instructions communicated at the site, either written or oral, on the date of the examination. Failure to comply with all procedures established by the board and the testing service with regard to conduct at the examination may be grounds for denial of application.

D. Any applicant who does not pass a reexamination within one year of the initial examination date shall be required to submit a new application.

E. The fee for examination or reexamination 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 per candidate.

F. Any candidate failing to apply for initial licensure within five years of passing the written examination shall be required to retake the examination. Records of examinations shall be maintained for a maximum of five years.

18VAC41-50-50. Reexamination requirements. (Repealed.)

~~Any applicant who does not pass a reexamination within one year of the initial examination date shall be required to submit a new application and examination fee.~~

18VAC41-50-60. Examination administration. (Repealed.)

~~A. The examinations may be administered by the board or the designated testing service.~~

~~B. The applicant shall follow all procedures established by the board with regard to conduct at the examination. Such procedures shall include any written instructions communicated prior to the examination date and any instructions communicated at the site, either written or oral, on the date of the examination. Failure to comply with all procedures established by the board and the testing service with regard to conduct at the examination may be grounds for denial of application.~~

~~C. The fee for examination or reexamination 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 per candidate.

18VAC41-50-80. Tattoo parlor, ~~limited term event~~ tattoo parlor, or permanent cosmetic tattoo salon license.

A. Any individual firm wishing to operate a tattoo parlor, ~~limited term event~~ tattoo parlor, or permanent cosmetic tattoo salon shall obtain a tattoo parlor license, ~~limited term event~~ tattoo parlor license, or permanent cosmetic tattoo salon license in compliance with § 54.1-704.1 of the Code of Virginia, and shall meet the following qualifications in order to receive a license:

1. The applicant and all members of the responsible management shall be in good standing as a licensed parlor or salon in Virginia and all other jurisdictions where licensed. The applicant and all members of the responsible management shall disclose to the board at the time of application for licensure any disciplinary action taken in Virginia and all other jurisdictions in connection with the applicant's operation of any tattoo parlor, ~~limited term event~~ tattoo parlor, or permanent cosmetic tattoo salon or practice of the profession. This disclosure includes monetary penalties, fines, suspensions, revocations, surrender of a license in connection with a disciplinary action, or voluntary termination of a license. The applicant shall disclose to the board at the time of application for licensure if the applicant or any member of the responsible management has been previously licensed in Virginia as a tattoo parlor, ~~limited term event~~ tattoo parlor, or permanent cosmetic tattoo salon.

Upon review of the applicant's and all members of the responsible management's prior disciplinary action, the board, in its discretion, may deny licensure to any applicant wherein it deems the applicant is unfit or unsuited to engage in the operation of a tattoo parlor, ~~limited term event~~ tattoo parlor, or permanent cosmetic tattoo salon. The board will decide each case by taking into account the totality of the circumstances. Any plea of nolo contendere or comparable plea shall be considered a disciplinary action for the purposes of this subdivision. The applicant shall provide a certified copy of a final order, decree, or case decision by a court, regulatory agency, or board with the lawful authority to issue such order, decree, or case decision, and such copy shall be admissible as prima facie evidence of such disciplinary action.

2. The applicant shall disclose [his the applicant's] physical address. A post office box is not acceptable.

3. The applicant shall sign, as part of the application, a statement certifying that the applicant has read and understands the Virginia tattooing license laws and this chapter.

4. In accordance with § 54.1-204 of the Code of Virginia, each applicant shall disclose the following information about the firm and all members of the responsible management regarding criminal convictions in Virginia and all other jurisdictions:

- a. All misdemeanor convictions involving moral turpitude, sexual offense, [non-marijuana] drug distribution, or physical injury within two years of the date of the application; and
- b. All felony convictions within 20 years of the date of application.

Any plea of nolo contendere shall be considered a conviction for purposes of this subdivision. The record of a conviction received from a court shall be accepted as prima facie evidence of a conviction or finding of guilt. The board, in its discretion, may deny licensure to any applicant in accordance with § 54.1-204 of the Code of Virginia.

5. The applicant shall disclose the firm's responsible management.

B. A tattoo parlor license, ~~limited term event~~ tattoo parlor license, or permanent cosmetic tattoo salon license shall not be transferable and shall bear the same name and address of the business. Any changes in the name, or address, or ownership of the parlor or salon shall be reported to the board in writing within 30 days of such changes. [New owners The new responsible management] shall be responsible for reporting such changes in writing to the board applying for a new license within 30 days of the changes.

C. In the event of a closing of a tattoo parlor or permanent cosmetic tattoo salon, the board must be notified by the owners in writing within 30 days of the closing, and the license must be returned by the owners to the board. Whenever the legal business entity holding the license is dissolved or altered to form a new business entity, the original license becomes void and shall be returned to the board within 30 days of the change. Additionally, the firm shall apply for a new license within 30 days of the change in the business entity. Such changes include:

1. Death of a sole proprietor;
2. Death or withdrawal of a general partner in a general partnership or the managing partner in a limited partnership; and
3. Conversion, formation, or dissolution of a corporation, a limited liability company, an association, or any other business entity recognized under the laws of the Commonwealth of Virginia.

D. Any change in the officers of a corporation, managers of a limited liability company, or officers or directors of an association shall be reported to the board in writing within 30 days of the change.

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E. Any tattoo parlor or permanent cosmetic tattoo salon wishing to host a guest tattooer must identify itself as **the** guest tattooer sponsor and must provide direct supervision of any tattooing by **the** guest tattooer.

~~D. F. Any individual firm wishing to operate a tattoo parlor in a temporary location must have a tattoo parlor license or limited term event tattoo parlor license issued by **the** board.~~

~~E. G. A limited term An event tattoo parlor license is effective for five consecutive days [prior to **the** expiration date].~~

~~F. H. A person or entity firm may obtain a maximum of five limited term event tattoo parlor licenses within a calendar year.~~

~~G. I. A person or entity firm may obtain a maximum of two limited term tattoo parlor licenses within a 30 consecutive days time period.~~

18VAC41-50-90. Limited term tattooer license. (Repealed.)

~~A. A limited term tattooer license is effective for five consecutive days prior to **the** expiration date.~~

~~B. A person may obtain a maximum of five limited term tattooer licenses within a calendar year.~~

~~C. A person may obtain a maximum of two limited term tattooer licenses within a 30 consecutive days time period.~~

~~D. A limited term tattooer applicant must meet **the** following qualifications:~~

~~1. Requirements set forth in 18VAC41-50-20 A 1 through A 4.~~

~~2. Documentation of health education knowledge to include but not limited to blood borne disease, sterilization, and aseptic techniques related to tattooing, and first aid and CPR that is acceptable to **the** board.~~

~~E. A limited term tattooer applicant is not required to complete 18VAC41-50-20 A 5.~~

18VAC41-50-91. Convention Guest tattooer license.

~~A. A convention tattooer license shall expire one year from **the** last day of **the** month in which it was issued.~~

~~B. A convention tattooer applicant must meet **the** following qualifications:~~

~~1. Requirements set forth in 18VAC41-50-20 A 1 through A 4.~~

~~2. Present documentation showing out of state residency.~~

~~3. Documentation of health education knowledge to include (i) bloodborne disease, sterilization, and aseptic techniques related to tattooing; (ii) first aid; and (iii) CPR that is acceptable to **the** board.~~

~~C. A convention tattooer applicant is not required to complete 18VAC41-50-20 A 5.~~

A. A guest tattooer license is effective for 14 days prior to **the** expiration date.

B. An out-of-state resident may obtain up to five guest tattooer licenses per calendar year.

C. A guest tattooer applicant must meet **the** following qualifications:

1. Requirements set forth in 18VAC41-50-20 A 1 through A 4.

2. Present documentation showing out-of-state residency.

3. Documentation of health education knowledge to include (i) bloodborne disease, sterilization, and aseptic techniques related to tattooing; (ii) first aid; and (iii) CPR that is acceptable to **the** board.

4. Documentation showing guest tattooer sponsor, including signature of sponsor parlor's responsible management.

D. A guest tattooer must provide **the** name and license number of **the** guest tattooer's sponsor and **the** duration of **the** guest tattooer's tattooing for all guest tattooer locations.

E. A guest tattooer applicant is not required to complete 18VAC41-50-20 A 5.

18VAC41-50-92. Guest tattooer sponsor.

~~A. A guest tattooer license is effective for 14 days prior to **the** expiration date.~~

~~B. An out of state resident may obtain up to three guest tattooer licenses per calendar year.~~

~~C. A guest tattooer applicant must meet **the** following qualifications:~~

~~1. Requirements set forth in 18VAC41-50-20 A 1 through A 4.~~

~~2. Present documentation showing out of state residency.~~

~~3. Documentation of health education knowledge to include (i) bloodborne disease, sterilization, and aseptic techniques related to tattooing; (ii) first aid; and (iii) CPR that is acceptable to **the** board.~~

~~4. Documentation showing guest tattooer sponsor including signature of sponsor parlor's responsible management.~~

~~D. A guest tattooer applicant is not required to complete 18VAC41-50-20 A 5.~~

A. **The** licensed tattoo parlor [**that** agrees to sponsor sponsoring] a guest tattooer shall ensure that **the** guest tattooer:

1. Has a valid, current guest tattooer license for **the** entire duration of [**his** **the** guest tattooer] tattooing at **the** parlor.

2. Is directly supervised by a licensed tattooer.

3. Complies with all Virginia regulations relating to health, sanitation, client qualifications, and standards of practice.

B. ~~The~~ licensed permanent cosmetic [~~tattooing~~ tattoo salon that agrees to sponsor sponsoring] a guest tattooer shall ensure that ~~the~~ guest tattooer:

1. Has a valid, current guest tattooer licensed for ~~the~~ entire duration of [~~his~~ ~~the~~ guest tattooer's] ~~tattooing~~ at ~~the~~ salon.
2. Is directly supervised by a licensed tattooer or permanent cosmetic tattooer.
3. Complies with all Virginia regulations relating to health, sanitation, client qualifications, and standards of practice.

C. With ~~the~~ exception of tattoo conventions, a member of ~~the~~ guest tattooer sponsor's responsible management must sign ~~the~~ guest tattooer application certifying ~~the~~ sponsor will ensure ~~the~~ requirements of subsections A and B of this section.

D. ~~The~~ guest tattooer sponsor shall be responsible for ~~the~~ acts or omissions of ~~the~~ guest tattooer in ~~the~~ performance of ~~tattooing~~ or permanent cosmetic ~~tattooing~~.

18VAC41-50-93. Guest tattooer sponsor.

A. ~~The~~ licensed tattoo parlor that agrees to sponsor a guest tattooer shall ensure that ~~the~~ guest tattooer:

1. Has a valid, current guest tattooer license for ~~the~~ entire duration of his ~~tattooing~~ at ~~the~~ parlor.
2. Is directly supervised by a licensed tattooer.
3. Complies with all Virginia regulations relating to health, sanitation, client qualifications, and standards of practice.

B. ~~The~~ licensed permanent cosmetic ~~tattooing~~ salon that agrees to sponsor a guest tattooer shall ensure that ~~the~~ guest tattooer:

1. Has a valid, current guest tattooer licensed for ~~the~~ entire duration of his ~~tattooing~~ at ~~the~~ salon.
2. Is directly supervised by a licensed tattooer or permanent cosmetic tattooer.
3. Complies with all Virginia regulations relating to health, sanitation, client qualifications, and standards of practice.

C. ~~The~~ guest tattooer sponsor's responsible management must sign ~~the~~ guest tattooer application certifying ~~the~~ sponsor will ensure ~~the~~ requirements of subsections A and B of this section.

D. ~~The~~ guest tattooer sponsor shall be responsible for ~~the~~ acts or omissions of ~~the~~ guest tattooer in ~~the~~ performance of ~~tattooing~~ or permanent cosmetic ~~tattooing~~.

18VAC41-50-100. School license.

A. Any ~~individual~~ firm wishing to operate a ~~tattooing~~ school or permanent cosmetic ~~tattooing~~ school shall obtain a school license in compliance with § 54.1-704.2 of ~~the~~ Code of Virginia and shall meet ~~the~~ following qualifications in order to receive a license:

1. ~~The~~ applicant and all members of ~~the~~ responsible management shall be in good standing as a licensed parlor or salon in Virginia and all other jurisdictions where licensed. ~~The~~ applicant and all members of ~~the~~ responsible management shall disclose to ~~the~~ board at ~~the~~ time of application for licensure any disciplinary action taken in Virginia and all other jurisdictions in connection with ~~the~~ applicant's operation of any tattoo parlor, event tattoo parlor, or permanent cosmetic tattoo salon or practice of ~~the~~ profession. This disclosure includes monetary penalties, fines, suspensions, revocations, surrender of a license in connection with a disciplinary action, or voluntary termination of a license. ~~The~~ applicant shall disclose to ~~the~~ board at ~~the~~ time of application for licensure if ~~the~~ applicant or any member of ~~the~~ responsible management has been previously licensed in Virginia as a tattoo parlor, event tattoo parlor, or permanent cosmetic tattoo salon.

Upon review of ~~the~~ applicant's and all members of ~~the~~ responsible management's prior disciplinary action, ~~the~~ board, in its discretion, may deny licensure to any applicant wherein it deems ~~the~~ applicant is unfit or unsuited to engage in ~~the~~ operation of a tattoo parlor, event tattoo parlor, or permanent cosmetic tattoo salon. ~~The~~ board will decide each case by taking into account ~~the~~ totality of ~~the~~ circumstances. Any plea of nolo contendere or comparable plea shall be considered a disciplinary action for ~~the~~ purposes of this subdivision. ~~The~~ applicant shall provide a certified copy of a final order, decree, or case decision by a court, regulatory agency, or board with ~~the~~ lawful authority to issue such order, decree, or case decision, and such copy shall be admissible as prima facie evidence of such disciplinary action.

2. ~~The~~ applicant shall disclose [~~his~~ ~~the~~ applicant's] physical address. A post office box is not acceptable.

3. ~~The~~ applicant shall sign, as part of ~~the~~ application, a statement certifying that ~~the~~ applicant has read and understands ~~the~~ Virginia ~~tattooing~~ license laws and this chapter.

4. In accordance with § 54.1-204 of ~~the~~ Code of Virginia, each applicant shall disclose ~~the~~ following information about ~~the~~ firm and all members of ~~the~~ responsible management regarding criminal convictions in Virginia and all other jurisdictions:

- a. All misdemeanor convictions involving moral turpitude, sexual offense, [non-marijuana] drug distribution, or physical injury within two years of ~~the~~ date of ~~the~~ application; and
- b. All felony convictions within 20 years of ~~the~~ date of application.

Any plea of nolo contendere shall be considered a conviction for purposes of this subdivision. ~~The~~ record of a conviction received from a court shall be accepted as prima facie

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evidence of a conviction or finding of guilt. The board, in its discretion, may deny licensure to any applicant in accordance with § 54.1-204 of the Code of Virginia.

5. The applicant shall disclose the firm's responsible management.

B. A tattooing school license or permanent cosmetic tattooing school license shall not be transferable and shall bear the same name and address as the school. Any changes in the name or address of the school shall be reported to the board in writing within 30 days of such change. The name of the school must indicate that it is an educational institution. All signs or other advertisements must reflect the name as indicated on the license issued by the board and contain language indicating it is an educational institution.

C. In the event of a change of ownership of a school, the new owners shall be responsible for reporting such changes in writing to the board within 30 days of the changes. Whenever the legal business entity holding the license is dissolved or altered to form a new business entity, the original license becomes void and shall be returned to the board within 30 days of the change. Additionally, the firm shall apply for a new license within 30 days of the change in the business entity. Such changes include:

1. Death of a sole proprietor;
2. Death or withdrawal of a general partner in a general partnership or the managing partner in a limited partnership; and
3. Conversion, formation, or dissolution of a corporation, a limited liability company, an association, or any other business entity recognized under the laws of the Commonwealth of Virginia.

D. In the event of a school closing, the board must be notified by the owners in writing within 30 days of the closing, and the license must be returned. Within 30 days of the closing, the school shall return the license to the board and provide a

written report to the board on performances and hours of each student who has not completed the program.

E. Any change in the officers of a corporation, managers of a limited liability company, or officers or directors of an association shall be reported to the board in writing within 30 days of the change.

18VAC41-50-110. Tattooing instructor certificate.

A. Upon filing an application with the Board for Barbers and Cosmetology, any person meeting the qualifications set forth in this section shall be eligible for a tattooing instructor certificate if the person:

1. Holds a current Virginia tattooer license; ~~and~~
2. Provides documentation of ~~three years of work experience within the past~~ legally tattooing for at least five years; ~~and~~
3. Passes a course on teaching techniques in a post-secondary education level.

B. Tattooing instructors shall be required to maintain a tattooer license.

18VAC41-50-120. Permanent cosmetic tattooing instructor certificate.

A. Upon filing an application with the Board for Barbers and Cosmetology, any person meeting the qualifications set forth in this section shall be eligible for a permanent cosmetic tattooing instructor certificate if the person:

1. Holds a current Virginia permanent cosmetic tattooer license or master permanent cosmetic tattooer license; ~~and~~
2. Provides documentation of ~~three years of work experience within the past~~ legally tattooing for at least five years; ~~and~~
3. Passes a course on teaching techniques at the post-secondary education level.

B. Permanent cosmetic tattooing instructors shall be required to maintain a permanent cosmetic tattooer license or master permanent cosmetic tattooer license.

18VAC41-50-130. Fees.

The following fees apply:

FEE TYPE	AMOUNT DUE September 1, 2022, through August 31, 2024	AMOUNT DUE September 1, 2024, and after	WHEN DUE
Individuals:			
Application	\$90	\$105	With application
License by Endorsement	\$90	\$105	With application

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Renewal	\$90	\$105	With renewal card prior to expiration date
Reinstatement	\$180* *includes \$90 renewal fee and \$90 reinstatement fee	\$210* *includes \$105 renewal fee and \$105 reinstatement fee	With reinstatement application
Instructors:			
Application	\$110	\$125	With application
License by Endorsement	\$110	\$125	With application
Renewal	\$110	\$150	With renewal card prior to expiration date
Reinstatement	\$220* *includes \$110 renewal fee and \$110 reinstatement fee	\$300* *includes \$150 renewal fee and \$150 reinstatement fee	With reinstatement application
Parlors or salons:			
Application	\$165	\$190	With application
Renewal	\$165	\$190	With renewal card prior to expiration date
Reinstatement	\$330* *includes \$165 renewal fee and \$165 reinstatement fee	\$380* *includes \$190 renewal fee and \$190 reinstatement fee	With reinstatement application
Schools:			
Application	\$185	\$220	With application
Renewal	\$185	\$220	With renewal card prior to expiration date
Reinstatement	\$370* *includes \$185 renewal fee and \$185 reinstatement fee	\$440* *includes \$220 renewal fee and \$220 reinstatement fee	With reinstatement application

Part IV

~~Renewal/Reinstatement~~ Renewal and Reinstatement

18VAC41-50-150. License renewal required.

~~All tattooer~~ 1. A. Tattooer licenses, tattoo parlor licenses, tattooing instructors [licenses certificates], tattooing schools licenses, permanent cosmetic tattooer licenses, master permanent cosmetic tattooer licenses, permanent cosmetic

tattoo salon licenses, [permanent cosmetic tattooing instructor certificate,] and permanent cosmetic tattooing schools licenses shall expire two years from the last day of the month in which they were issued.

2. Convention tattooer licenses shall expire one year from the last day of the month in which it was issued.

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~~3.~~ B. Guest tattooer licenses will expire 14 days after the effective date of the license and may not be renewed.

18VAC41-50-160. Continuing education requirement.

All licensed tattooers, permanent cosmetic tattooers, and master permanent cosmetic tattooers shall be required to satisfactorily complete ~~a minimum of five hours of~~ health education to include ~~but not limited to~~ (i) bloodborne disease, sterilization, and aseptic techniques related to tattooing; [;] (ii) first aid; and (iii) CPR during their licensed term. Documentation of training completion shall be provided at the time of renewal along with the required fee.

18VAC41-50-180. Failure to renew.

A. When a ~~tattooer, permanent cosmetic tattooer, or master permanent cosmetic tattooer~~ licensed or certified individual or business entity fails to renew ~~his~~ its license within 30 days following ~~its~~ the expiration date of the license, the licensee shall meet the renewal requirements as prescribed in 18VAC41-50-170 and apply for reinstatement of the license by submitting to the Department of Professional and Occupational Regulation a reinstatement application along with the required renewal and reinstatement fees.

B. When a ~~tattooer, permanent cosmetic tattooer, or master permanent cosmetic tattooer~~ licensed or certified individual or business entity fails to renew ~~his~~ its license within two years following the expiration date, reinstatement is no longer possible. To resume practice, the former licensee shall apply for licensure as a new applicant, shall meet all current application requirements, shall pass the board's current examination, and shall receive a new license.

~~C. When a tattoo parlor or permanent cosmetic tattoo salon fails to renew its license within 30 days following the expiration date, it shall be required to apply for reinstatement of the license by submitting to the Department of Professional and Occupational Regulation a reinstatement application along with the required renewal and reinstatement fees.~~

D. When a ~~tattoo parlor or permanent cosmetic tattoo salon~~ fails to renew its license within two years following the expiration date, reinstatement is no longer possible. To resume practice, the former licensee shall apply for licensure as a new applicant and shall meet all current application requirements.

E. When a ~~tattooing school or permanent cosmetic tattooing school~~ fails to renew its license within 30 days following the expiration date, the licensee shall be required to apply for reinstatement of the license by submitting to the Department of Professional and Occupational Regulation a reinstatement application along with the required renewal and reinstatement fees.

F. When a ~~tattooing school or permanent cosmetic tattooing school~~ fails to renew its license within two years following the expiration date, reinstatement is no longer possible. To resume

~~practice, the former licensee shall apply for licensure as a new applicant and shall meet all current application requirements.~~

C. The application for reinstatement for a school [license] shall provide (i) the reasons for failing to renew prior to the expiration date, and (ii) a notarized statement that all students currently enrolled or seeking to enroll at the school have been notified in writing that the school's license has expired. All of these materials shall be called the application package. Reinstatement will be considered by the board if the school consents to and satisfactorily passes an inspection of the school and if the school's records are maintained in accordance with 18VAC41-50-250 and 18VAC41-50-330. Pursuant to 18VAC41-50-100, 18VAC41-50-230, and 18VAC41-50-310 upon receipt of the reinstatement fee, application package, and inspection results, the board may reinstate the school's license or require requalification or both. If the reinstatement application package and reinstatement fee are not received by the board within six months following the expiration date of the school's license, the board will notify the testing service that prospective graduates of the unlicensed school are not acceptable candidates for the examination. Such notification will be sent to the school and must be displayed in a conspicuous manner by the school in an area that is accessible to the public. No student shall be disqualified from taking the examination because the school was not licensed for a portion of the time the student attended if the school license is reinstated by the board.

G. D. The date a renewal fee is received by the Department of Professional and Occupational Regulation, or its agent, will be used to determine whether the requirement for reinstatement of a license is applicable and an additional fee is required.

H. E. When a license is reinstated, the licensee shall have the same license number and shall be assigned an expiration date two years from the previous expiration date of the license date of the last day of the month of reinstatement.

I. F. A licensee ~~who that~~ reinstates ~~his~~ its license shall be regarded as having been continuously licensed without interruption. Therefore, a licensee shall be subject to the authority of the board for activities performed prior to reinstatement.

J. G. A licensee ~~who that~~ fails to reinstate ~~his~~ its license shall be regarded as unlicensed from the expiration date of the license forward. Nothing in this chapter shall divest the board of its authority to discipline a licensee for a violation of the law or regulations during the period of time for which the individual was licensed.

18VAC41-50-210. Hours of instruction and performances.

A. Curriculum requirements specified in 18VAC41-50-200 shall be taught over a minimum of 1500 hours as follows:

1. 350 hours shall be devoted to theory pertaining to subdivisions 1, 2, 4, 5, 6, 8, and 9 of 18VAC41-50-200;

2. 150 hours shall be devoted to theory pertaining to subdivision 3 of 18VAC41-50-200; and

3. **The** remaining 1000 hours shall be devoted to practical training to include [~~but not limited to~~] apprenticeship curriculum requirements and a ~~total~~ minimum of 100 performances pertaining to subdivision 7 of 18VAC41-50-200.

B. An approved tattooing apprenticeship program may conduct an assessment of an apprentice's competence in **the** theory and practical requirements for tattooing and, based on **the** assessment, give a maximum of 700 hours of credit [~~towards toward~~] **the** requirements in subdivisions A 1 and A 3 of this section. No credit shall be allowed for **the** 150 hours required in subdivision A 2 of this section.

18VAC41-50-230. General requirements.

A tattooing school shall:

1. Hold a tattooing school license for each and every location.
2. Hold a tattoo parlor license if **the** school receives compensation for services provided in **the** area where practical instruction is conducted and services are provided.
3. Employ a staff of [licensed and] certified tattooing instructors.
4. Develop individuals for entry-level competency in tattooing.
5. Submit its curricula for board approval. All changes to curricula must be resubmitted and approved by **the** board.
6. Inform **the** public that all services are performed by students if **the** tattooing school receives compensation for services provided in its clinic by posting a notice in **the** reception area of **the** shop or salon in plain view of **the** public.
7. Conduct classroom instruction in an area separate from **the** area where practical instruction is conducted and services are provided.
8. Conduct all instruction and training of [~~tattooers~~ students] under **the** direct supervision of a [licensed and] certified tattooing instructor.

18VAC41-50-240. School identification. (Repealed.)

~~Each tattooing school approved by **the** board shall identify itself to **the** public as a teaching institution.~~

18VAC41-50-250. Records.

A. Schools are required to keep upon graduation, termination, or withdrawal, written records of hours and performances showing what instruction a student has received for a period of five years after **the** student terminates or completes **the** curriculum of **the** school. These records shall be available for

inspection by **the** [~~department~~ Department of Professional and Occupation Regulation]. All records must be kept on **the** premises of each school.

B. For a period of five years after a student completes **the** curriculum, terminates, or withdraws from **the** school, schools are required to provide documentation of hours and performances completed by a student upon receipt of a written request from **the** student.

C. Schools shall within 21 days upon receipt of a written request from a student provide documentation of hours and performances completed by **the** student as required to be maintained by subsection A of this section.

D. Prior to a school changing ownership or a school closing, **the** schools are required to provide to current students documentation of hours and performances completed.

~~D.~~ E. For a period of one year after a school changes ownership, schools are required to provide documentation of hours and performances completed by a current student upon receipt of a written request from **the** student.

18VAC41-50-260. Hours reported. (Repealed.)

~~Within 30 days of **the** closing of a licensed tattooing school for any reason, **the** school shall provide a written report to **the** board on performances and hours of each of its students who has not completed **the** program.~~

18VAC41-50-270. Health education. (Repealed.)

~~Any person desiring to enroll in **the** tattooing school shall be required to provide documentation of satisfactory completion of a minimum of five hours of health education to include but not limited to blood borne disease, sterilization, and aseptic techniques related to tattooing, and first aid and CPR.~~

18VAC41-50-280. Tattooing school curriculum requirements.

A. Any person desiring to enroll in **the** tattooing school shall be required to provide documentation of satisfactory completion of a minimum of five hours of health education to include (i) bloodborne disease, sterilization, and aseptic techniques related to tattooing; (ii) first aid; and (iii) CPR.

B. Tattooing school curriculum requirements are as follows:

1. Microbiology.
 - a. Microorganisms, viruses, bacteria, fungus;
 - b. Transmission cycle of infectious diseases; and
 - c. Characteristics of antimicrobial agents.
2. Immunization.
 - a. Types of immunizations;
 - b. Hepatitis ~~A-G~~ A through G transmission and immunization;
 - c. HIV/AIDS;

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- d. Tetanus, streptococcal, zoonotic, tuberculosis, pneumococcal, and influenza;
 - e. Measles, mumps, and rubella;
 - f. Vaccines and immunization; and
 - g. General preventative measures to be taken to protect **the** tattooer and client.
3. Sanitation and disinfection.
- a. Definition of terms:
 - (1) Sterilization;
 - (2) Disinfection and disinfectant;
 - (3) Sterilizer or sterilant;
 - (4) Antiseptic;
 - (5) Germicide;
 - (6) Decontamination; and
 - (7) Sanitation.
 - b. **The** use of steam sterilization equipment and techniques;
 - c. **The** use of chemical agents, antiseptics, disinfectants, and fumigants;
 - d. **The** use of sanitation equipment;
 - e. Preservice sanitation procedure; and
 - f. Postservice sanitation procedure.
4. Safety.
- a. Proper needle handling and disposal;
 - b. How to avoid overexposure to chemicals;
 - c. **The** use of Material Safety Data Sheets;
 - d. Blood spill procedures;
 - e. Equipment and instrument storage; and
 - f. First aid and CPR.
5. ~~Blood-borne~~ Bloodborne pathogen standards.
- a. OSHA and CDC ~~blood-borne~~ bloodborne pathogen standards;
 - b. Control plan for ~~blood-borne~~ bloodborne pathogens;
 - c. Exposure control plan for tattooers;
 - d. Overview of compliance requirements; and
 - e. Disorders and when not to service a client.
6. Professional standards.
- a. History of tattooing;
 - b. Ethics;
 - c. Recordkeeping:
 - (1) Client health history;
 - (2) Consent forms; and
 - (3) HIPAA (Health Insurance Portability and Accountability Act of 1996 Privacy Rule) Standards;
 - d. Preparing station, making appointments, parlor ethics:
 - (1) Maintaining professional appearance, notifying clients of schedule changes; and
 - (2) Promoting services of **the** parlor and establishing clientele;
 - e. Parlor management.
 - (1) Licensing requirements; and
 - (2) Taxes; and
 - f. Supplies.
 - (1) Usages;
 - (2) Ordering; and
 - (3) Storage.
7. Tattooing.
- a. Client consultation;
 - b. Client health form;
 - c. Client disclosure form;
 - d. Client preparation;
 - e. Sanitation and safety precautions;
 - f. Implement selection and use;
 - g. Proper use of equipment;
 - h. Material selection and use;
 - i. Needles;
 - (1) Groupings;
 - (2) Properties; and
 - (3) Making;
 - j. Ink;
 - k. Machine:
 - (1) Construction;
 - (2) Adjustment; and
 - (3) Power supply;
 - l. Art, drawing; and
 - m. Portfolio.
8. Anatomy.
- a. Understanding of skin; and
 - b. Parts and functions of skin.
9. Virginia tattooing laws and regulations.
- C. A licensed tattoo school may conduct an assessment of a student's competence in **the** respective profession and, based on **the** assessment, give credit toward **the** hours requirements specified in this section and 18VAC41-50-290.
- The** school shall make **the** assessment based on a review of **the** student's transcript and **the** successful completion of a board-approved competency examination administered by **the** school. **The** school may also request a copy of a catalog or bulletin giving **the** full course description when making **the** evaluation. **The** number of credit hours awarded shall not

exceed the actual hours of instruction verified on the transcript or the number of hours specified in the board-approved curriculum for a specific topic. Credit may only be given for in-person training.

18VAC41-50-290. Hours of instruction and performances.

A. Curriculum requirements specified in 18VAC41-50-280 shall be taught over a minimum of ~~750~~ 1,000 hours as follows:

1. 350 hours shall be devoted to theory pertaining to ~~subdivisions 18VAC41-50-280 B 1, 2, 4, 5, 6, 8, and 9 of 18VAC41-50-280;~~
2. 150 hours shall be devoted to theory pertaining to ~~[subdivision 3 of]~~ 18VAC41-50-280 ~~[B 3]~~; and
3. The remaining ~~250~~ 500 hours shall be devoted to practical training to include ~~but not limited to~~ tattooing curriculum requirements and a ~~total~~ minimum of 100 performances pertaining to ~~subdivision 7 of~~ 18VAC41-50-280 B 7.

B. An approved tattooing school may conduct an assessment of a student's competence in the theory and practical requirements for tattooing and, based on the assessment, give a maximum of ~~350-700~~ hours of credit ~~towards~~ toward the requirements in subdivisions A 1 and A 3 of this section. No credit shall be allowed for the 150 hours required in subdivision A 2 of this section.

[C. Individuals enrolled in a program prior to July 1, 2022, may complete the program at the hours in effect at the time they enrolled.]

18VAC41-50-310. General requirements.

A permanent cosmetic tattooing school shall:

1. Hold a permanent cosmetic tattooing school license for each and every location.
2. Hold a permanent cosmetic tattoo salon license if the school receives compensation for services provided in the area where practical instruction is conducted and services are provided.
3. Employ a staff of [licensed and] certified permanent cosmetic tattooing instructors or [licensed and] certified master permanent cosmetic tattooing instructors.
4. Develop individuals for entry-level competency in permanent cosmetic tattooing or master permanent cosmetic tattooing.
5. Submit its curricula for board approval.
6. Inform the public that all services are performed by students if the permanent cosmetic tattooing school receives compensation for services provided in its clinic by posting a notice in the reception area of the shop or salon in plain view of the public.

7. Conduct classroom instruction in an area separate from the area where practical instruction is conducted and services are provided.

8. Conduct all instruction and training of permanent cosmetic tattooers under the direct supervision of a [licensed and] certified permanent cosmetic tattooing instructor or a [licensed and] certified master permanent cosmetic tattooing instructor.

~~9. Conduct all instruction and training of master permanent cosmetic tattooers under the direct supervision of a [licensed and] certified master permanent cosmetic tattooing instructor.~~

18VAC41-50-320. School identification. (Repealed.)

~~Each permanent cosmetic tattooing school approved by the board shall identify itself to the public as a teaching institution.~~

18VAC41-50-340. Hours reported. (Repealed.)

~~Within 30 days of the closing of a licensed permanent cosmetic tattooing school for any reason, the school shall provide a written report to the board on performances and hours of each of its students who have not completed the program.~~

18VAC41-50-350. Health education. (Repealed.)

~~Any person desiring to enroll in the permanent cosmetic tattooing school shall be required to provide documentation of satisfactory completion of health education on blood borne disease.~~

18VAC41-50-360. Permanent cosmetic tattooing school curriculum requirements.

A. Any person desiring to enroll in the permanent cosmetic tattooing school shall be required to provide documentation of satisfactory completion of health education on bloodborne disease.

B. Permanent cosmetic tattooing school curriculum requirements are as follows:

1. Virginia tattooing laws and regulations.
2. Machines and devices.
 - a. Coil machine;
 - b. Hand device; and
 - c. Others devices.
3. Needles.
 - a. Types;
 - b. Uses; and
 - c. Application.
4. Anatomy.
 - a. Layers of skin;
 - b. Parts and functions of skin; and

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- c. Diseases.
 - 5. Color theory.
 - a. Skin and pigment color; and
 - b. Handling and storage of pigments.
 - 6. Transmission cycle of infectious diseases.
 - 7. Immunization.
 - a. Types of immunizations; and
 - b. General preventative measures to be taken to protect **the** tattooer and client.
 - 8. Sanitation and disinfection.
 - a. Definition of terms:
 - (1) Sterilization;
 - (2) Disinfection and disinfectant;
 - (3) Sterilizer or sterilant;
 - (4) Antiseptic;
 - (5) Germicide;
 - (6) Decontamination; and
 - (7) Sanitation-;
 - b. **The** use of steam sterilization equipment and techniques;
 - c. **The** use of chemical agents, antiseptics, and disinfectants;
 - d. **The** use of sanitation equipment;
 - e. Preservice sanitation procedure; and
 - f. Postservice sanitation procedure.
 - 9. Safety.
 - a. Proper needle handling and disposal;
 - b. Blood spill procedures;
 - c. Equipment and instrument storage; and
 - d. First aid.
 - 10. ~~Blood-borne~~ Bloodborne pathogen standards.
 - a. OSHA and CDC ~~blood-borne~~ bloodborne pathogen standards;
 - b. Overview of compliance requirements; and
 - c. Disorders and when not to service a client.
 - 11. Anesthetics.
 - a. Use;
 - b. Types;
 - c. Application; and
 - d. Removal.
 - 12. Equipment.
 - a. Gloves;
 - b. Masks;
 - c. Apron;
 - d. Chair;
 - e. Lighting; and
 - f. Work table.
 - 13. Professional standards.
 - a. History of permanent cosmetic tattooing;
 - b. Ethics;
 - c. Recordkeeping:
 - (1) Client health history; and
 - (2) Consent forms-;
 - d. Preparing station, making appointments, salon ethics:
 - (1) Maintaining professional appearance, notifying clients of schedule changes; and
 - (2) Promoting services of **the** salon and establishing clientele-; and
 - e. Salon management:
 - (1) Licensing requirements; and
 - (2) Taxes.
 - 14. Permanent cosmetic tattooing.
 - a. Client consultation;
 - b. Client health form;
 - c. Client disclosure form;
 - d. Client preparation;
 - e. Drawing and mapping;
 - f. Sanitation and safety precautions;
 - ~~f. g.~~ Implement selection and use;
 - ~~g. h.~~ Proper use of equipment;
 - ~~h. i.~~ Material selection and use-;
 - ~~i. j.~~ Eyebrows;
 - ~~j. k.~~ Microblading;
 - l. Eyeliner;
 - ~~k. m.~~ Lip coloring; [~~and~~]
 - ~~l. n.~~ Lip liners [; and
 - o. Scalp micropigmentation].
- C. Master permanent cosmetic tattooing program curriculum requirements are as follows:
- 1. Virginia tattooing laws and regulations.
 - 2. Machines and devices:
 - a. Coil machine;
 - b. Hand device; and
 - c. Others devices.
 - 3. Needles:
 - a. Types;
 - b. Uses; and

- c. Application.
 - 4. Advanced practical clinical anatomy:
 - a. Eyelid anatomy;
 - b. Lip anatomy; and
 - c. Breast anatomy.
 - 5. Advanced color theory.
 - 6. Organic and inorganic pigment.
 - 7. Understanding the surgical process:
 - a. The latissimus dorsi flap procedure;
 - b. Abdominoplasty and breast reconstruction;
 - c. Other reconstruction procedures:
 - (1) Deep inferior epigastric artery perforator [Flap] (DIEP) [flap]; and
 - (2) Superior gluteal artery perforator [Flap] (DIEP) [flap];
 - d. Flap size versus areola size; and
 - e. Implant reconstruction:
 - (1) Tissue expansion;
 - (2) Placing the implant;
 - (3) Implant versus flap reconstruction;
 - (4) Saline versus silicone;
 - (5) Radiation therapy; and
 - (6) [Lymphedema Lymphedema].
 - 8. Client consultation.
 - 9. Breast areolar pigmentation:
 - a. Chart notes;
 - b. Health Insurance Portability and Accountability Act (HIPAA);
 - c. Room setup;
 - d. Anesthetic for breast procedures;
 - e. Color selection;
 - f. Needle selection;
 - g. Design and placement:
 - (1) Position of the areola/nipple complex;
 - (2) The Penn Triangle;
 - (3) Diameter of the areola; and
 - (4) Nipple reconstruction;
 - h. Creating three-dimensional nipple/areola:
 - (1) Understanding and creating a reflection of light; and
 - (2) The value of color;
 - i. Covering scar tissue and periareolar scar blending;
 - j. Aftercare:
 - (1) [Tegaderm Tegaderm] aftercare instructions; and
 - (2) Follow up; and
 - k. Precautions and contraindications.
 - 10. Skin cancer:
 - a. Basal cell carcinomas;
 - b. Squamous cell carcinomas; [and]
 - c. Melanoma.
 - 11. The art of camouflage:
 - a. Client/patient selection and handling;
 - b. Contraindications and when not to perform services;
 - c. Skin tones;
 - d. Color selection and skin tone matching;
 - e. Scars;
 - f. Burn scar; and
 - g. Common needle configurations used for camouflage.
 - 12. Side effects.
 - 13. Insurance.
 - 14. Master permanent cosmetic tattooing procedures:
 - a. Lip;
 - b. Areola;
 - [~~e.~~ Scalp;
 - ~~d.~~ c.] Blush;
 - [~~e.~~ d.] Camouflage; [and]
 - [~~f.~~ e.] Eyeshadow.
- D. A licensed school with an approved permanent cosmetic tattooing or master permanent cosmetic tattooing program may conduct an assessment of a student's competence in the respective profession and, based on the assessment, give credit [~~towards~~ toward] the hours requirements specified in the respective subsection of this section and 18VAC41-50-370.
- The school shall make the assessment based on a review of the student's transcript and the successful completion of a board-approved competency examination administered by the school. The school may also request a copy of a catalog or bulletin giving the full course description when making the evaluation. The number of credit hours awarded shall not exceed the actual hours of instruction verified on the transcript or diploma or the number of hours specified in the board-approved curriculum for a specific topic. Credit may only be given for in-person training.
- 18VAC41-50-370. Hours of instruction and performances.**
- A. Curriculum and performance requirements specified in 18VAC41-50-360 and this section shall be taught over a minimum of ~~90~~ 200 clock hours for permanent cosmetic tattooing [program] and 200 clock hours for a master permanent cosmetic tattooing [program].
- B. A minimum of 50 performances shall be completed as part of the required permanent cosmetic tattooing instruction.

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including two eyebrow, two microblading procedures, two lip liners, one lip color, and one full lips. ~~Completion of performances are determined as follows:~~

- ~~1. Two complete eyebrows constitutes one performance;~~
- ~~2. Two complete eye liners constitutes one performance; and~~
- ~~3. One complete lip liner constitutes one performance.~~

C. A minimum of [70 60] performances shall be completed as part of the master permanent cosmetic tattooing instruction, including:

Lip (cleft lip repigmentation)	<u>10</u>
Areola	<u>10</u>
[<u>Scalp Repigmentation</u>	<u>10</u>]
Blush application	<u>10</u>
Camouflage	<u>10</u>
Scar repigmentation	<u>10</u>
Eyeshadow	<u>10</u>

D. Completion of performances are determined as follows:

1. Two complete eyebrows constitutes one performance;
2. Two complete eye liners constitutes one performance; and
3. One complete lip liner constitutes one performance.

[E. Individuals enrolled in a program prior to July 1, 2022, may complete the program at the hours in effect at the time they enrolled.]

18VAC41-50-380. Display of license.

A. ~~[Each The responsible management for each]~~ tattoo parlor ~~[owner]~~ or permanent cosmetic tattoo salon ~~[owner]~~ shall ensure that all current licenses issued by the board shall be displayed in the reception area of the parlor or salon at the licensee's station or in plain view of the public. Duplicate licenses shall be posted in a like manner in every parlor or salon or location where the licensee provides services.

B. ~~[Each The responsible management for each tattoo]~~ parlor owner or permanent cosmetic tattoo salon ~~[owner]~~ shall ensure that no licensee, apprentice, or student performs any service beyond the scope of practice for the applicable license.

C. ~~[Each The responsible management for each]~~ tattoo parlor owner or permanent cosmetic tattoo salon owner shall offer to licensees the full series of Hepatitis B vaccine.

D. ~~[Each The responsible management for each]~~ tattoo parlor owner or permanent cosmetic tattoo salon owner shall maintain a record for each licensee of one of the following:

1. Proof of completion of the full series of Hepatitis B vaccine;

2. Proof of immunity by blood titer; or

3. Written declaration of refusal of the [owner's responsible management's] offer of a full series of Hepatitis B vaccine.

E. All licensees shall operate under the name in which the license is issued.

18VAC41-50-390. Physical facilities.

A. A parlor or salon must be in a permanent building or portion of a building, which must be in a location permissible under local zoning codes, if any. If applicable, the parlor or salon shall be separated from any living quarters by complete floor to ceiling partitioning and shall contain no access to living quarters.

B. The parlor, salon [,] or temporary location shall be maintained in a clean and orderly manner.

C. All facilities shall have a blood spill clean-up kit in the work area.

D. Work surfaces shall be cleaned with [~~an EPA~~ a U.S. Environmental Protection Agency (EPA)] registered, hospital grade disinfectant. Surfaces that come in contact with blood or other body fluids shall be immediately disinfected with an EPA registered germicide solution. Appropriate personal protective equipment shall be worn during cleaning and disinfecting procedures.

E. Cabinets for the storage of instruments, ~~dyes~~, pigments, single-use articles, ~~carbon~~ stencils and other utensils shall be provided for each operator and shall be maintained in a sanitary manner.

F. Bulk single-use articles shall be commercially packaged and handled in such a way as to protect them from contamination.

G. All materials applied to the human skin shall be from single-use articles or transferred from bulk containers to single-use containers and shall be disposed of after each use.

H. The walls, ceilings, and floors shall be kept in good repair. The tattooing area shall be constructed of smooth, hard surfaces that are nonporous, free of open holes or cracks, light colored, and easily cleaned. New parlors shall not include any dark-colored surfaces in the tattooing area. Existing parlors or salons with dark-colored surfaces in the tattooing area shall replace the dark-colored surfaces with light-colored surfaces whenever the facilities are extensively remodeled or upon relocation of the business.

I. Parlors, salons, or temporary locations shall have adequate lighting of at least 50-foot candles of illumination in the tattooing and sterilization areas.

J. Adequate mechanical ventilation shall be provided in the parlor.

K. Each parlor, salon, or temporary location shall be equipped with hand-cleaning facilities for its personnel with unobstructed access to the tattooing area such that the tattooer can return to the area without having to touch anything with [~~his~~ the tattooer's] hands. Hand-cleaning facilities shall be equipped either with hot and cold or tempered running water under pressure and liquid germicidal soap or with a sanitizing solution to clean hands. Hand-cleaning facilities shall be equipped with single-use towels or mechanical hand drying devices and a covered refuse container. Such facilities shall be kept clean and in good repair. All facilities must have running water and soap accessible for cleaning of hands contaminated by body fluids.

L. Animals are not permitted in the parlor, salon, or temporary location except for guide or service animals accompanying persons with disabilities, or nonmammalian animals in enclosed glass containers such as fish aquariums, which shall be outside of the tattooing or sterilization areas. No animals are allowed in the tattooing or sterilization areas.

M. Use of tobacco products and consumption of alcoholic beverages shall be prohibited in the tattooing or sterilization areas.

N. No food or drink will be stored or consumed in the tattooing or sterilization areas except for client's use in order to sustain optimal physical condition; such food and drink must be individually packaged.

O. If tattooing is performed where cosmetology services are provided, it shall be performed in an area that is separate and enclosed.

P. All steam sterilizers shall be biological spore tested at least monthly.

Q. Biological spore tests shall be verified through an independent laboratory.

R. Biological spore test records shall be retained for a period of three years and made available upon request.

S. Steam sterilizers shall be used only for instruments used by the parlor's employees.

18VAC41-50-400. Tattooer or permanent cosmetic tattooer or master permanent cosmetic tattooer responsibilities.

A. All tattooers shall provide to the ~~owner~~ responsible management [with] one of the following:

1. Proof of completion of the full series of Hepatitis B vaccine;
2. Proof of immunity by blood titer; or
3. Written declaration of refusal of the [owner's responsible management's] offer of a full series of Hepatitis B vaccine.

B. All tattooers shall wear clean outer garments, maintain a high degree of personal cleanliness, and conform to hygienic practices while on duty.

C. All tattooers shall clean their hands thoroughly using hot or tempered water with a liquid germicidal soap or use sanitizing solution to clean hands before and after tattooing and as necessary to remove contaminants.

D. All tattooers must wear single-use examination gloves while assembling tattooing instruments and while tattooing.

E. Each time there is an interruption in the service, ~~each time~~ the gloves become torn or perforated, or whenever the ability of the gloves to function as a barrier is compromised:

1. Gloves shall be removed and disposed of; and
2. Hands shall be cleaned and a fresh pair of gloves used.

F. Tattooers shall use standard precautions while tattooing. A tattooer diagnosed with a communicable disease shall provide to the [~~department~~ Department of Professional and Occupation Regulation] a written statement from a health care practitioner that the tattooer's condition no longer poses a threat to public health.

G. Tattooers with draining lesions on their hands or face will not be permitted to work until cleared by a [~~health-care~~ health care] professional.

H. The area of the client's skin to be tattooed shall be cleaned with an approved germicidal soap according to label directions.

I. Tattooing ~~inks and dyes~~ pigments shall be placed in a single-use disposable container for each client. Following the procedure, the unused contents and container will be properly disposed of.

J. If shaving is required, razors shall be single-use ~~and~~. After use, razors shall be recapped and properly disposed of in a puncture resistant container.

K. Each tattooer performing any tattooing procedures in the parlor or salon shall have the education, training, and experience, or any combination thereof, to practice aseptic technique and prevent the transmission of bloodborne pathogens. All procedures shall be performed using aseptic technique.

L. Multiuse instruments, equipment, furniture, and surfaces that may be contaminated during the tattooing process should be covered or wrapped in a nonporous disposable barrier. This barrier should be removed and disposed of after each service.

M. After the disposable barrier is removed, covered items should be wiped down with [~~an~~ a U.S.] Environmental Protection Agency [~~(EPA)~~] registered disinfectant that is bactericidal, virucidal, and fungicidal.

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~~L. N.~~ A set of individual, sterilized needles shall be used for each client. Single-use disposable instruments shall be disposed of in a puncture resistant container.

~~M. O.~~ Used, nondisposable instruments, such as stainless steel tubes, tips, and grips, shall be kept in a separate, puncture resistant container until brush scrubbed in hot water soap and then sterilized by autoclaving. Contaminated instruments shall be handled with disposable gloves.

~~N. P.~~ Used nondisposable instruments that are ultrasonically cleaned shall be rinsed under running hot water prior to being placed in the used instrument container;

~~O. Q.~~ Used nondisposable instruments that are not ultrasonically cleaned prior to being placed in the used instrument container shall be kept in a germicidal or soap solution until brush scrubbed in hot water and soap and sterilized by autoclaving.

~~P. R.~~ The ultrasonic unit shall be sanitized daily with a germicidal solution.

~~Q. S.~~ Nondisposable instruments shall be sterilized and shall be handled and stored in a manner to prevent contamination. Instruments to be sterilized shall be sealed in bags made specifically for the purpose of autoclave sterilization and shall include the date of sterilization. If nontransparent bags are utilized, the bag shall also list the contents.

~~R. T.~~ Autoclave sterilization bags with a color code indicator that changes color upon proper sterilization shall be utilized during the autoclave sterilization process.

~~S. Instruments~~ U. Nondisposable instruments shall be placed in the autoclave in a manner to allow live steam to circulate around them.

V. A Sealed, puncture proof dirty tube receptacle with cool, liquid sterilant should be maintained in the biohazard or cleanup room.

W. Sharps containers should be located within reach of the tattooing area.

~~T. X.~~ Contaminated disposable and single-use items shall be disposed of in accordance with federal and state regulations regarding disposal of biological hazardous materials.

~~U. Y.~~ The manufacturer's written instructions of the autoclave shall be followed.

18VAC41-50-410. Client qualifications, disclosures, and records.

A. Except as permitted in § 18.2-371.3 of the Code of Virginia, a client must be a minimum of 18 years of age and shall present at the time of the tattooing or permanent cosmetic tattooing a valid, government issued, positive identification card including [~~, but not limited to,~~] a driver's license, passport, or military identification. The identification must

contain a photograph of the individual and a printed date of birth.

B. The tattooer, permanent cosmetic tattooer, or master permanent cosmetic tattooer shall verify and document in the permanent client record the client's age, date of birth, and the type of identification provided.

C. No person may be tattooed or permanent cosmetic tattooed who appears to be under the influence of alcohol or drugs.

D. Tattooing or permanent cosmetic tattooing shall not be performed on any skin surface that manifests any evidence of unhealthy conditions, such as rashes, boils, infections, ~~or~~ abrasions, or on any asymmetrical, irregular, blurred, or multicolored mole.

E. Before receiving a tattoo or permanent cosmetic tattoo, each client and client's parent or guardian, if applicable, shall be informed verbally and in writing, using the client disclosure form prescribed by the board, about the possible risk and dangers associated with the application of each tattoo. Signatures of both the client and the tattooer shall be required on the client disclosure form to acknowledge receipt of both the verbal and written disclosures.

F. The tattoo parlor or temporary location or permanent cosmetic tattoo salon shall maintain proper records for each client. The information shall be permanently recorded and made available for examination by the [~~department~~ Department of Professional and Occupation Regulation] or authorized agent. Records shall be maintained at the tattoo parlor or permanent cosmetic tattoo salon for at least two years following the date of the last entry. The temporary location client records shall be maintained by the license holder. The permanent records shall include the following:

1. The name, address, and telephone number of the client;
2. The date tattooing or permanent cosmetic tattooing was performed;
3. The client's age, date of birth, and a copy of the positive identification provided to the tattooer, permanent cosmetic tattooer, or master permanent cosmetic tattooer;
4. The specific color or colors of the tattoo or permanent cosmetic tattoo and, when available, the manufacturer's catalogue or identification number of each color used;
5. The location on the body where the tattooing or permanent cosmetic tattooing was performed;
6. The name of the tattooer, permanent cosmetic tattooer, or master permanent cosmetic tattooer;
7. A statement that the client has received a copy of applicable written care instructions, and that the client has read and understands the instructions; and
8. The signature of the client and if applicable parent or guardian.

18VAC41-50-420. Grounds for license or certificate revocation, suspension or probation; denial of application, renew renewal, or reinstatement; or imposition of a monetary penalty.

A. The board may, in considering the totality of the circumstances, fine any licensee or certificate holder and suspend, place on probation, or revoke or refuse to renew or reinstate any license or certificate, or deny any application issued under the provisions of Chapter 7 (§ 54.1-700 et seq.) of Title 54.1 of the Code of Virginia and the regulations of the board this chapter if the board it finds that the licensee, certificate holder, or applicant:

1. The licensee, certificate holder, or applicant is Is incompetent, or negligent in practice tattooing, or incapable mentally or physically, as those terms are generally understood in the profession, to (i) practice as a tattooer, limited term tattooer, tattooer apprentice, permanent cosmetic tattooer, or master permanent cosmetic tattooer or (ii) operate a parlor, permanent cosmetic tattooing salon, or school;
2. The licensee, certificate holder, or applicant is Is convicted of fraud or deceit in the practice of tattooing or fails to teach the curriculum as provided for in this chapter;
3. The licensee, certificate holder, or applicant obtained Obtained, attempted to obtain, renewed, or reinstated a license by false or fraudulent representation;
4. The licensee, certificate holder, or applicant violates Violates or induces others to violate, or cooperates with others in violating, any of the provisions of this chapter or Chapter 7 (§ 54.1-700 et seq.) of Title 54.1 of the Code of Virginia or any local ordinance or regulation governing standards of health and sanitation of the establishment in which tattooers may practice or offer to practice;
5. Offers, gives, or promises anything of value or benefit to any federal, state, or local employee for the purpose of influencing that employee to circumvent, in the performance of [his that employee's] duties, any federal, state, or local law, regulation, or ordinance governing tattooing as defined in § 54.1-700 of the Code of Virginia;
6. Fails to respond to the board or any of its agents or provides false, misleading, or incomplete information to an inquiry by the board or any of its agents;
7. Fails or refuses to allow the board or any of its agents to inspect during reasonable hours any licensed parlor, salon, or school for compliance with provisions of Chapter 7 (§ 54.1-700 et seq.) or this chapter;
5. The licensee, certificate holder, or applicant fails 8. Fails to produce, upon request or demand of the board or any of its agents, any document, book, record, or copy thereof in a licensee's or [owner's responsible management's] possession or maintained in accordance with this chapter;

6. A licensee or certificate holder fails 9. Fails to notify the board of a change of name or address in writing within 30 days of the change for each and every license. The board shall not be responsible for the licensee's or certificate holder's failure to receive notices, communications and correspondence caused by the licensees' or certificate holder's failure to promptly notify the board in writing of any change of name or address or for any other reason beyond the control of the board;

7. The licensee, certificate holder, or applicant 10. Makes any misrepresentation or publishes or causes to be published any advertisement that is false, deceptive, or misleading;

8. The licensee, certificate holder, or applicant fails 11. Fails to notify the board in writing within 30 days of the suspension, revocation, or surrender of a license or certificate in connection with a disciplinary action in any other jurisdiction or of any license or certificate that has been the subject of disciplinary action in any other jurisdiction; or

9. In accordance with § 54.1-204 of the Code of Virginia, the licensee or certificate holder has been convicted in any jurisdiction of a felony or [non-marijuana] misdemeanor that directly relates to the profession of tattooing. The board shall have the authority to determine, based upon all the information available, including the regulant's record of prior convictions, if the regulant is unfit or unsuited to engage in the profession of tattooing or permanent cosmetic tattooing. The board will decide each case by taking into account the totality of the circumstances. Any plea of nolo contendere shall be considered a conviction for the purposes of this section. The applicant shall provide a certified copy of a final order, decree or case decision by a court or regulatory agency with the lawful authority to issue such order, decree or case decision, and such copy shall be admissible as prima facie evidence of such conviction. This record shall be forwarded by the applicant to the board within 10 days after all appeal rights have expired.

B. In addition to subsection A of this section, the board may, in considering the totality of the circumstances, revoke, suspend, place on probation or refuse to renew or reinstate the license of any tattoo parlor, limited term tattoo parlor, or permanent cosmetic tattoo salon or impose a fine as permitted by law, or both, if the board finds that:

1. The owner or operator of the tattoo parlor, limited term tattoo parlor, or permanent cosmetic tattoo salon fails to comply with the facility requirements of tattoo parlors, limited term tattoo parlors, or permanent cosmetic tattoo salons provided for in this chapter or in any local ordinances; or
2. The owner or operator allows a person who has not obtained a license to practice as a tattooer, limited term tattooer, permanent cosmetic tattooer, or master permanent

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cosmetic tattooer unless the person is duly enrolled as an apprentice.

C. In addition to subsection A of this section, the board may, in considering the totality of the circumstances, revoke, suspend, place on probation, or refuse to renew or reinstate the license of any school or impose a fine as permitted by law, or both, if the board finds that:

1. An instructor of the approved school fails to teach the curriculum as provided for in this chapter;
2. The owner or director of the approved school permits or allows a person to teach in the school without a current tattooing instructor certificate; or
3. The instructor, owner or director is guilty of fraud or deceit in the teaching of tattooing.

D. In addition to subsection A of this section, the board may, in considering the totality of the circumstances, revoke, suspend, place on probation, or refuse to renew or reinstate the license of any licensee or impose a fine as permitted by law, or both, if the board finds that the licensee fails to take sufficient measures to prevent transmission of communicable or infectious diseases or fails to comply with any local, state or federal law or regulation governing the standards of health and sanitation for the practice of tattooing.

12. Has been convicted or found guilty, regardless of the manner of adjudication in Virginia or any other jurisdiction of the United States, of a misdemeanor involving moral turpitude, sexual offense, [non-marijuana] drug distribution, or physical injury or any felony, there being no appeal pending therefrom or the time for appeal having elapsed. Review of convictions shall be subject to the requirements of § 54.1-204 of the Code of Virginia. Any plea of nolo contendere shall be considered a conviction for purposes of this subdivision. The record of a conviction certified or authenticated in such form as to be admissible in evidence under the laws of the jurisdiction where convicted shall be admissible as prima facie evidence of such conviction or guilt;

13. Fails to inform the board in writing within 30 days of pleading guilty or nolo contendere or being convicted or found guilty regardless of adjudication of any convictions as stated in subdivision 12 of this section;

14. Allows, as responsible management of a parlor, salon, or school, a person who has not obtained a license or guest tattooer license to practice as a tattooer [or,] permanent cosmetic tattooer [, or master permanent cosmetic tattooer,] unless the person is duly enrolled as an apprentice;

15. Allows, as responsible management of a school, a person who has not obtained an instructor certificate to practice as a tattooing or permanent cosmetic tattooing instructor;

16. Fails to take sufficient measures to prevent transmission of communicable or infectious diseases or fails to comply with sanitary requirements provided for in this chapter or any local, state, or federal law or regulation governing the standards of health and sanitation for the practice of tattooing, or the operation of tattoo parlors or permanent cosmetic tattooing salons; or

17. Fails to comply with all procedures established by the board and the testing service with regard to conduct at any board examination.

NOTICE: The following forms used in administering the regulation have been filed by the agency. Amended or added forms are reflected in the listing and are published following the listing. Online users of this issue of the Virginia Register of Regulations may also click on the name to access a form. The forms are also available from the agency contact or may be viewed at the Office of Registrar of Regulations, 900 East Main Street, 11th Floor, Richmond, Virginia 23219.

FORMS (18VAC41-50)

[[Tattooer Examination & License Application, A425-1231EXLIC](#) (eff. 9/2011)

[Tattoo Training & Experience Verification Form, A425-12TATREXP](#) (eff. 9/2011)]

[Tattooing Apprenticeship Sponsor Application, A425-12TATSPON](#) (eff. 9/2011)

[Tattooer Apprenticeship Certification Application, A425-1234TAC](#) (eff. 9/2011)

[Tattoo Apprenticeship Completion Form, A425-12TAC](#) (eff. 9/2011)

[[Tattoo Client Disclosure Form, A425-12DIS, A425-12TDIS](#) (eff. 9/2011)

[Limited Term Tattooer License Application, A450-1233LIC-v8](#) (rev. 9/2016)

[Limited Term Tattoo Parlor License Application, A450-1235LIC-v5](#) (rev. 9/2016)

[Permanent Cosmetic Tattooer Examination & License Application, A425-1236EXLIC](#) (eff. 9/2011)

[Master Permanent Cosmetic Tattooer Examination & License Application, A425-1237EXLIC](#) (eff. 9/2011)

[License by Endorsement Application, A450-1213END-v9](#) (rev. 9/2016)

[Training & Experience Verification Form, A425-1213TREXP](#) (eff. 9/2011)

[Salon, Shop, Spa & Parlor License/Reinstatement Application, A450-1213BUS-v8](#) (rev. 9/2016)

[Licensure Fee Notice, A450-1213FEE-v6](#) (rev. 9/2016)

Instructor Certification Application, A450-1213INST-v7 (rev. 9/2016)

Individuals - Reinstatement Application, A450-1213REI-v8 (rev. 9/2016)

School License Application, A450-1213SCHL-v9 (rev. 9/2016)

School Reinstatement Application, A450-1213SCH-REIN-v2 (rev. 9/2016)

~~Tattooer Examination & License Application, A450-1231EXLIC (rev. 7/2019)~~

~~Tattoo Client Disclosure Form, A450-12TDIS (rev. 4/2013)]~~

~~Limited Term [Event Tattoo Parlor License Application, A450-1235LIC v6 (rev.) 7/2019 [3/2020)~~

~~Permanent Cosmetic Tattooer Examination & License Application, A450-1236EXLIC v13 (rev. 7/2019)~~

~~Master Permanent Cosmetic Tattooer Examination & License Application, A450-1237EXLIC v11 (rev. 7/2019)~~

~~License by Endorsement Application, A450-1213END v10 (rev. 2/2017)~~

~~Training & Experience Verification Form, A450-1213TREXP v6 (eff. 2/2017)~~

~~Salon, Shop, Spa & Parlor License/Reinstatement Application, A450-1213BUS v12 (rev. 7/2019)~~

~~Licensure Fee Notice, A450-1213FEE v7 (rev. 4/2017)~~

~~Instructor Certification Application, A450-1213INST v11 (rev. 7/2019)~~

~~Individuals Reinstatement Application, A450-1213REI v9 (rev. 2/2017)~~

~~School License Application, A450-1213SCHL v11 (rev. 2/2017)~~

~~School Reinstatement Application, A450-1213SCH-REIN-v5 (rev. 3/2017)]~~

~~Convention Tattooer License Application, A450-1233COVLIC v1 (eff. 7/2019)~~

~~[Guest Tattooer License Application, A450-1233GLIC v1 (eff. 7/2019)]~~

18VAC41-60-10. Definitions.

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise. All terms defined in Chapter 7 (§ 54.1-700 et seq.) of Title 54.1 of the Code of Virginia are incorporated in this chapter.

"Apprenticeship program" means an approved body-piercing training program conducted by an approved apprenticeship sponsor.

"Apprenticeship sponsor" means an individual approved to conduct body-piercing apprenticeship training who meets the qualifications in 18VAC41-60-70.

"Aseptic technique" means a hygienic practice that prevents and hinders the direct transfer of microorganisms, regardless of pathogenicity, from one person or place to another person or place.

"Body piercer ear only" means any person who uses only a mechanized, presterilized ear-piercing system that penetrates the outer perimeter or lobe of the ear or both for compensation.

"Body piercing ear only" means the use of a mechanized, presterilized ear-piercing system that penetrates the outer perimeter or lobe of the ear or both.

"Body-piercing ear only salon" means any place in which a fee is charged for the act of using a mechanized, presterilized ear-piercing system that penetrates the outer perimeter or lobe of the ear or both.

"Business entity" means a sole proprietorship, partnership, corporation, limited liability company, limited liability partnership, or any other form of organization permitted by law.

"Endorsement" means a method of obtaining a license by a person who is currently licensed in another state [or jurisdiction of the United States].

"Firm" means any business entity recognized under the laws of the Commonwealth of Virginia.

"Gratuitous services" as used in § 54.1-701.5 of the Code of Virginia means providing body-piercing services without receiving compensation or reward, or obligation. Gratuitous services do not include services provided at no charge when goods are purchased.

"Licensee" means any person, partnership, association, corporation, limited liability company, or corporation sole proprietorship, limited liability partnership, or any other form of organization permitted by law holding a license issued by the Board for Barbers and Cosmetology as defined in § 54.1-700 of the Code of Virginia.

"Reinstatement" means having a license restored to effectiveness after the expiration date has passed.

"Renewal" means continuing the effectiveness of a license for another period of time.

"Responsible management" means the following individuals:

1. The sole proprietor of a sole proprietorship;
2. The partners of a general partnership;
3. The managing partners of a limited partnership;
4. The officers of a corporation;
5. The managers of a limited liability company;

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6. The officers or directors of an association or both; and
7. Individuals in other business entities recognized under the laws of the Commonwealth as having a fiduciary responsibility to the firm.

"Sole proprietor" means any individual, not a corporation, who is trading under [his that individual's] own name or under an assumed or fictitious name pursuant to the provisions of §§ 59.1-69 through 59.1-76 of the Code of Virginia.

"Sterilization area" means a separate room or area separate from workstations with restricted client access in which body-piercing instruments are cleaned, disinfected, and sterilized.

"Temporary location" means a fixed location at which body piercing is performed for a specified length of time of not more than seven days in conjunction with a single event or [celebration convention].

18VAC41-60-20. General requirements.

A. In order to receive a license as a body piercer in compliance with § 54.1-703 of the Code of Virginia, an applicant must Any individual wishing to engage in body piercing shall obtain a license in compliance with § 54.1-703 of the Code of Virginia and meet the following qualifications:

1. The applicant shall be in good standing as a body piercer in every jurisdiction where licensed, certified, or registered. The applicant shall disclose to the board at the time of application for licensure any disciplinary action taken in another Virginia or any other jurisdiction in connection with the applicant's practice as a body piercer. This disclosure includes monetary penalties, fines, suspensions, revocations, surrender of a license in connection with a disciplinary action, or voluntary termination of a license. The applicant shall disclose to the board at the time of application for licensure whether if [he the applicant] has been previously licensed in Virginia as a body piercer.

Upon review of the applicant's prior disciplinary action, the board, in its discretion, may deny licensure to any applicant wherein the board deems the applicant is unfit or unsuited to engage in body piercing and body piercing ear only. The board will decide each case by taking into account the totality of the circumstances. Any plea of nolo contendere or comparable plea shall be considered a disciplinary action for the purposes of this subdivision. The applicant shall provide a certified copy of a final order, decree, or case decision by a court, regulatory agency, or board with the lawful authority to issue such order, decree, or case decision, and such copy shall be admissible as prima facie evidence of such disciplinary action.

2. The applicant shall disclose the applicant's physical address. A post office box is not acceptable.
3. The applicant shall sign, as part of the application, a statement certifying that the applicant has read and

understands the Virginia body-piercing license laws and the board's body piercing regulations this chapter.

4. In accordance with § 54.1-204 of the Code of Virginia, each applicant shall disclose a conviction, in any jurisdiction, of any felony or non-marijuana misdemeanor. Any plea of nolo contendere shall be considered a conviction for this purpose of this section. The record of a conviction certified or authenticated in such form as to be admissible in evidence under the laws of the jurisdiction where convicted shall be admissible as prima facie evidence of such guilt. The board, at its discretion, may deny licensure or certification to any applicant in accordance with § 54.1-204 of the Code of Virginia. the following information regarding criminal convictions in Virginia and all other jurisdictions:

- a. All misdemeanor convictions involving moral turpitude, sexual offense, [non-marijuana] drug distribution, or physical injury within two years of the date of the application; and
- b. All felony convictions within 20 years of the date of application.

Any plea of nolo contendere shall be considered a conviction for purposes of this subdivision. The record of a conviction received from a court shall be accepted as prima facie evidence of a conviction or finding of guilt. The board, in its discretion, may deny licensure to any applicant in accordance with § 54.1-204 of the Code of Virginia.

5. The applicant shall provide evidence satisfactory to the board that the applicant has passed the board-approved examination, administered either by the board or by a designated testing service.

6. Persons who (i) make application between April 1, 2007, and March 31, 2008; (ii) have completed three years of documented work experience within the preceding five years as a body piercer; and (iii) have completed a minimum of five hours of health education including but not limited to blood borne disease, sterilization, and aseptic techniques related to body piercing and first aid and CPR that is acceptable to the board are not required to complete subdivision 5 of this subsection.

B. Eligibility to sit for board-approved body-piercer examination.

1. Training in the Commonwealth of Virginia. Any person completing an approved body-piercing apprenticeship program in a Virginia licensed body-piercing salon shall be eligible to sit for the examination.
2. Training outside of the Commonwealth of Virginia, but within the United States [and its territories or jurisdiction of the United States]. Any person completing a body-piercing training or apprenticeship program that is substantially equivalent to the Virginia program but is outside of the Commonwealth of Virginia must submit to the board

documentation of the successful completion of training or apprenticeship to be eligible for examination. If less than required hours of body-piercing training or body-piercing apprenticeship was completed, an applicant must submit (i) documentation acceptable to the board verifying the completion of a substantially equivalent body-piercing training or body-piercing apprenticeship or documentation of three years of work experience within the preceding five years as a body piercer and (ii) documentation of completion of a minimum of five hours of health education to include ~~but not limited to blood borne~~ (a) bloodborne disease, sterilization, and aseptic techniques related to body piercing ~~and;~~ (b) first aid; and (c) CPR that is acceptable to the board in order to be eligible for examination.

C. In order to receive a license as a body piercer ear only, an applicant must meet the following qualifications:

1. The applicant shall have completed a minimum of three hours of health education to include ~~but not limited to blood borne~~ bloodborne disease and first aid that is acceptable to the board and provide verification of training on a mechanized, presterilized ear-piercing system that penetrates the outer perimeter or lobe of the ear or both and aftercare of piercing.
2. The applicant shall be in good standing in every jurisdiction where licensed, certified, or registered. The applicant shall disclose to the board at the time of application for licensure any disciplinary action taken in another jurisdiction in connection with the applicant's licensed, certified, or registered practice. The applicant shall disclose to the board at the time of application for licensure whether he has been previously licensed in Virginia in any profession regulated by the board.
3. The applicant shall disclose the applicant's physical address. A post office box is not acceptable.
4. The applicant shall sign, as part of the application, a statement certifying that the applicant has read and understands the Virginia body-piercing license laws and the board's body-piercing regulations.
5. In accordance with § 54.1-204 of the Code of Virginia, each applicant shall disclose ~~a conviction, in any jurisdiction, of any felony or non-marijuana misdemeanor. Any plea of nolo contendere shall be considered a conviction for this purpose of this section. The record of a conviction certified or authenticated in such form as to be admissible in evidence under the laws of the jurisdiction where convicted shall be admissible as prima facie evidence of such guilt. The board, at its discretion, may deny licensure or certification to any applicant in accordance with § 54.1-204 of the Code of Virginia.~~ the following information regarding criminal convictions in Virginia and all other jurisdictions:

a. All misdemeanor convictions involving moral turpitude, sexual offense, [non-marijuana] drug

distribution, or physical injury within two years of the date of the application; and

b. All felony convictions within 20 years of the date of application.

Any plea of nolo contendere shall be considered a conviction for purposes of this subdivision. The record of a conviction received from a court shall be accepted as prima facie evidence of a conviction or finding of guilt. The board, in its discretion, may deny licensure to any applicant in accordance with § 54.1-204 of the Code of Virginia.

18VAC41-60-30. License by endorsement.

Upon proper application to the board, any person currently licensed to practice as a body piercer in any other state or jurisdiction of the United States and who has completed a training or apprenticeship program and an examination that is substantially equivalent to that required by this chapter may be issued a ~~body piercer~~ body piercer license without an examination. The applicant must also meet the requirements set forth in 18VAC41-60-20 A 1 through A 4.

18VAC41-60-40. Examination requirements and fees.

A. Applicants for initial licensure shall pass an examination approved by the board. The examinations may be administered by the board or by a designated testing service.

B. Any candidate failing to appear as scheduled for examination shall forfeit the examination fee.

C. The applicant shall follow all procedures established by the board with regard to conduct at the examination. Such procedures shall include any written instructions communicated prior to the examination date and any instructions communicated at the site, either written or oral, on the date of the examination. Failure to comply with all procedures established by the board and the testing service with regard to conduct at the examination may be grounds for denial of application.

D. Any applicant who does not pass a reexamination within one year of the initial examination date shall be required to submit a new application.

E. The fee for examination or reexamination 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 per candidate.

F. Any candidate failing to apply for initial licensure within five years of passing the written examination shall be required to retake the examination. Records of examinations shall be maintained for a maximum of five years.

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18VAC41-60-50. ~~Reexamination requirements.~~ (Repealed.)

~~Any applicant who does not pass a reexamination within one year of the initial examination date shall be required to submit a new application and examination fee.~~

18VAC41-60-60. ~~Examination administration.~~ (Repealed.)

~~A. The examinations may be administered by the board or the designated testing service.~~

~~B. The applicant shall follow all procedures established by the board with regard to conduct at the examination. Such procedures shall include any written instructions communicated prior to the examination date and any instructions communicated at the site, either written or oral, on the date of the examination. Failure to comply with all procedures established by the board and the testing service with regard to conduct at the examination may be grounds for denial of application.~~

~~C. The fee for examination or reexamination 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 per candidate.~~

18VAC41-60-80. Salon license.

A. Any individual firm wishing to operate a body-piercing salon or body-piercing ear only salon shall obtain a salon license in compliance with § 54.1-704.1 of the Code of Virginia and shall meet the following qualifications in order to receive a license:

1. The applicant and all members of the responsible management shall be in good standing as a licensed salon in Virginia and all other jurisdictions where licensed. The applicant and all members of the responsible management shall disclose to the board at the time of application for licensure any disciplinary action taken in Virginia and all other jurisdictions in connection with the applicant's operation of any body-piercing salon or body-piercing ear only salon or practice of the profession. This disclosure includes monetary penalties, fines, suspensions, revocations, surrender of a license in connection with a disciplinary action, or voluntary termination of a license. The applicant shall disclose to the board at the time of application for licensure if the applicant or any member of the responsible management has been previously licensed in Virginia as a body-piercing salon or body-piercing ear only salon.

Upon review of the applicant's and all members of the responsible management's prior disciplinary action, the board, in its discretion, may deny licensure to any applicant wherein it deems the applicant is unfit or unsuited to engage in the operation of a body-piercing salon or body-piercing

ear only salon. The board will decide each case by taking into account the totality of the circumstances. Any plea of nolo contendere or comparable plea shall be considered a disciplinary action for the purposes of this subdivision. The applicant shall provide a certified copy of a final order, decree, or case decision by a court, regulatory agency, or board with the lawful authority to issue such order, decree, or case decision, and such copy shall be admissible as prima facie evidence of such disciplinary action.

2. The applicant shall disclose his physical address. A post office box is not acceptable.

3. The applicant shall sign, as part of the application, a statement certifying that the applicant has read and understands the Virginia body-piercing license laws and this chapter.

4. In accordance with § 54.1-204 of the Code of Virginia, each applicant shall disclose the following information about the firm and all members of the responsible management regarding criminal convictions in Virginia and all other jurisdictions:

a. All misdemeanor convictions involving moral turpitude, sexual offense, [non-marijuana] drug distribution, or physical injury within two years of the date of the application; and

b. All felony convictions within 20 years of the date of application.

Any plea of nolo contendere shall be considered a conviction for purposes of this subsection. The record of a conviction received from a court shall be accepted as prima facie evidence of a conviction or finding of guilt. The board, in its discretion, may deny licensure to any applicant in accordance with § 54.1-204 of the Code of Virginia.

5. The applicant shall disclose the firm's responsible management.

B. A body-piercing salon license or body-piercing ear only salon license shall not be transferable and shall bear the same name and address of the business [entity]. Any changes in the name, or address, or ownership of the salon shall be reported to the board in writing within 30 days of such changes. New [owners responsible management] shall be responsible for reporting such changes in writing to the board applying for a new license within 30 days of the changes.

C. In the event of a closing of a body-piercing salon or body-piercing ear only salon, the board must be notified by the owners in writing within 30 days of the closing, and the license must be returned by the owners to the board. Whenever the legal business entity holding the license is dissolved or altered to form a new business entity, the original license becomes void and shall be returned to the board within 30 days of the change. Additionally, the firm shall apply for a new license

within 30 days of the change in the business entity. Such changes include:

1. Death of a sole proprietor;
2. Death or withdrawal of a general partner in a general partnership or the managing partner in a limited partnership; and
3. Conversion, formation, or dissolution of a corporation, a limited liability company, an association, or any other business entity recognized under the laws of the Commonwealth of Virginia.

D. Any change in the officers of a corporation, managers of a limited liability company, or officers or directors of an association shall be reported to the board in writing within 30 days of the change.

D. E. Any individual firm wishing to operate a body-piercing salon in a temporary location must have a body-piercing salon license issued by the board.

Part IV

Renewal/Reinstatement ~~Renewal and Reinstatement~~

18VAC41-60-110. License renewal required.

All ~~body piercer~~ body piercer, body piercer ear only, body-piercing salon, and body-piercing ear only salon licenses shall expire two years from the last day of the month in which they were issued.

18VAC41-60-120. Continuing education requirement.

All licensed body piercers shall be required to satisfactorily complete a minimum of five hours of health education to include ~~but not limited to blood-borne~~ (i) bloodborne disease, sterilization, and aseptic techniques related to body piercing ~~and;~~ and; (ii) first aid; and (iii) CPR during their licensed term. All licensed body piercers ear only shall be required to satisfactorily complete a minimum of three hours of health education to include ~~but not limited to blood-borne~~ bloodborne disease and first aid during their licensed term. Documentation of training completion shall be provided at the time of renewal along with the required fee.

18VAC41-60-140. Failure to renew.

A. When ~~a body piercer~~ an individual or ~~body piercer ear only~~ business entity fails to renew [~~their~~ its] license within 30 days following its expiration date, the licensee shall meet the renewal requirements prescribed in 18VAC41-60-120 and 18VAC41-60-130 and apply for reinstatement of the license by submitting to the Department of Professional and Occupational Regulation a reinstatement application along with the required renewal and reinstatement fees.

B. When ~~a body piercer or body piercer ear only~~ an individual or business entity fails to renew ~~his~~ its license within two years following the expiration date, reinstatement is no longer possible. To resume practice, the former ~~body piercer~~ licensee

shall apply for licensure as a new applicant, shall meet all current application requirements, shall pass the board's current examination if applicable, and shall receive a new license. ~~To resume practice, the former body piercer ear only licensee shall apply for licensure as a new applicant, shall meet all current application requirements, and shall receive a new license.~~

~~C. When a body piercing salon or body piercing ear only salon fails to renew its license within 30 days following the expiration date, it shall be required to apply for reinstatement of the license by submitting to the Department of Professional and Occupational Regulation a reinstatement application along with the required renewal and reinstatement fees.~~

~~D. When a body piercing salon or body piercing ear only salon fails to renew its license within two years following the expiration date, reinstatement is no longer possible. To resume practice, the former licensee shall apply for licensure as a new applicant and shall meet all current application requirements.~~

~~E. C.~~ The date a renewal fee is received by the Department of Professional and Occupational Regulation, or its agent, will be used to determine whether the requirement for reinstatement of a license is applicable and an additional fee is required.

~~F. D.~~ When a license is reinstated, the licensee shall have the same license number and shall be assigned an expiration date two years from the ~~previous expiration date of the license~~ date of the last day of the month of reinstatement.

~~G. E.~~ A licensee ~~who that~~ reinstates his its license shall be regarded as having been continuously licensed without interruption. Therefore, a licensee shall be subject to the authority of the board for activities performed prior to reinstatement.

~~H. F.~~ A licensee ~~who that~~ fails to reinstate his its license shall be regarded as unlicensed from the expiration date of the license forward. Nothing in this chapter shall divest the board of its authority to discipline a licensee for a violation of the law or regulations during the period of time for which the individual was licensed.

18VAC41-60-190. Physical facilities.

A. A body-piercing salon or body-piercing ear only salon must be in a permanent building, which must be in a location permissible under local zoning codes, if any. If applicable, the body-piercing salon or body-piercing ear only salon shall be separated from any living quarters by complete floor to ceiling partitioning and shall contain no access to living quarters.

B. The body-piercing salon, body-piercing ear only salon, or temporary location shall be maintained in a clean and orderly manner.

C. A body-piercing salon, body-piercing ear only salon, or temporary location shall have a blood spill clean-up kit in the work area.

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D. Work surfaces in a body-piercing salon, body-piercing ear only salon, or temporary location shall be cleaned with [~~an~~ EPA-registered a U.S. Environmental Protection Agency (EPA) registered], hospital grade disinfectant. Surfaces that come in contact with blood or other body fluids shall be immediately disinfected with an EPA-registered germicide solution. Appropriate personal protective equipment shall be worn during cleaning and disinfecting procedures.

E. In a body-piercing salon, body-piercing ear only salon, or temporary location, cabinets or containers for the storage of instruments, single-use articles, and other utensils shall be provided for each operator and shall be maintained in a sanitary manner.

F. In a body-piercing salon, body-piercing ear only salon, or temporary location, bulk single-use articles shall be commercially packaged and handled in such a way as to protect ~~them~~ the articles from contamination.

G. In a body-piercing salon, body-piercing ear only salon, or temporary location, all materials applied to the human skin shall be from single-use articles or transferred from bulk containers to single use containers and shall be disposed of after each use.

H. In a body-piercing salon or body-piercing ear only salon, the walls, ceilings, and floors shall be kept in good repair. The body-piercing area shall be constructed of smooth, hard, surfaces that are nonporous, free of open holes or cracks, light colored, and easily cleaned. New physical facilities shall not include any dark-colored surfaces in the body-piercing area. Existing physical facilities with dark-colored surfaces in the body-piercing area shall replace the dark-colored surfaces with light-colored surfaces whenever the facilities are extensively remodeled or upon relocation of the business [entity].

I. A body-piercing salon, body-piercing ear only salon, or temporary location shall have adequate lighting of at least 50 foot-candles of illumination in the body-piercing and sterilization areas.

J. In a body-piercing salon, body-piercing ear only salon, or temporary location, adequate mechanical ventilation shall be provided.

K. A body-piercing salon, body-piercing ear only salon, or temporary location shall be equipped with hand-cleaning facilities for its personnel with unobstructed access to the body-piercing area or body-piercing ear only area such that the body piercer or body piercer ear only can return to the area without having to touch anything with his hands. Hand-cleaning facilities shall be equipped either with hot and cold or tempered running water under pressure and liquid germicidal soap or with a sanitizing solution to clean hands. Hand-cleaning facilities shall be equipped with single-use towels or mechanical hand drying devices and a covered refuse container. Such facilities shall be kept clean and in good repair.

All facilities must have running water and soap accessible for cleaning of hands contaminated by body fluids.

L. Animals are not permitted in the body-piercing salon, body-piercing ear only salon, or temporary location except for guide or service animals accompanying persons with disabilities or nonmammalian animals in enclosed glass containers such as fish aquariums, which shall be outside of the body-piercing area or sterilization ~~areas~~ area. No animals are allowed in the body-piercing area, body-piercing ear only area, or sterilization ~~areas~~ area.

M. In a body-piercing salon, body-piercing ear only salon, or temporary location, the use of tobacco products and consumption of alcoholic beverages shall be prohibited in the body-piercing area, body-piercing ear only area, or sterilization ~~areas~~ area.

N. In a body-piercing salon, body-piercing ear only salon, or temporary location, no food or drink will be stored or consumed in the body-piercing area, body-piercing ear only area, or sterilization ~~areas~~ area.

O. In a body-piercing salon, body-piercing ear only salon, or temporary location, if body-piercing or body-piercing ear only is performed where cosmetology services are provided, it shall be performed in an area that is separate and enclosed.

P. All steam sterilizers shall be biological spore tested at least monthly.

Q. Biological spore tests shall be verified through an independent laboratory.

R. Biological spore test records shall be retained for a period of three years and made available upon request.

S. Steam sterilizers shall be used only for instruments used by the salon's employees.

18VAC41-60-200. Body piercer and body piercer ear only responsibilities.

A. All body piercers and body piercers ear only shall provide to the [owner responsible management] one of the following:

1. Proof of completion of the full series of Hepatitis B vaccine;
2. Proof of immunity by blood titer; or
3. Written declaration of refusal of the [owner's responsible management] offer of a full series of Hepatitis B vaccine.

B. All body piercers and body piercers ear only shall wear clean outer garments, maintain a high degree of personal cleanliness, and conform to hygienic practices while on duty.

C. All body piercers and body piercers ear only shall clean their hands thoroughly using hot or tempered water with a liquid germicidal soap or use sanitizing solution to clean hands before and after body piercing and as necessary to remove contaminants.

D. All body piercers and body piercers ear only must wear single-use examination gloves while assembling instruments and another pair of single-use examination gloves while providing piercing services.

E. Each time there is an interruption in the service, each time the gloves become torn or perforated or become contaminated, or whenever the ability of the gloves to function as a barrier is compromised:

1. Gloves shall be removed and disposed of; and
2. Hands shall be cleaned and a fresh pair of gloves used.

F. Body piercers and body piercers ear only shall use standard precautions while providing piercing services. A body piercer or body piercer ear only diagnosed with a communicable disease shall provide to the [~~department~~ Department of Professional and Occupation Regulation] a written statement from a health care practitioner that the body piercer's condition no longer poses a threat to public health.

G. Body piercers and body piercers ear only with draining lesions on their hands or face will not be permitted to work until cleared by a health care professional.

H. The area of the client's skin to be pierced shall be cleaned with an approved germicidal soap or antiseptic product according to label directions.

I. The external skin of the client to be pierced shall be cleaned with an approved germicidal soap or antiseptic product according to the label directions. In the case of oral piercings, the operator shall provide the individual with antiseptic mouthwash in a single-use cup and shall ensure that the individual utilizes the mouthwash provided. In the case of a lip, labret [] or cheek piercing, procedures described in this subsection for both skin and oral piercings shall be followed.

J. If shaving is required, razors shall be single-use and disposed of in a puncture-resistant container.

K. Each body piercer or body piercer ear only performing any piercing procedures in the salon shall have the education, training and experience, or any combination thereof, to practice aseptic technique and prevent the transmission of [~~blood borne~~ bloodborne] pathogens. All procedures shall be performed using aseptic technique.

L. An individual, single-use, pre-sterilized piercing needle shall be used for each client. Single-use disposable instruments shall be disposed of in a puncture-resistant container.

M. Used, nondisposable instruments shall be kept in a separate, puncture-resistant container until brush scrubbed in hot water soap and then sterilized by autoclaving. Contaminated instruments shall be handled with disposable gloves.

N. Used nondisposable instruments that are ultrasonically cleaned shall be rinsed under running hot water prior to being placed in the used instrument container.

O. Used nondisposable instruments that are not ultrasonically cleaned prior to being placed in the used instrument container shall be kept in a germicidal or soap solution until brush scrubbed in hot water and soap and sterilized by autoclaving.

P. The ultrasonic unit shall be sanitized daily with a germicidal solution.

Q. Nondisposable instruments shall be sterilized and shall be handled and stored in a manner to prevent contamination. Instruments to be sterilized shall be sealed in bags made specifically for the purpose of autoclave sterilization and shall include the date of sterilization. If nontransparent bags are utilized, the bag shall also list the contents.

R. Autoclave sterilization bags with a color code indicator that changes color upon proper sterilization shall be utilized during the autoclave sterilization process.

S. ~~Instruments~~ Nondisposable instruments shall be placed in the autoclave in a manner to allow live steam to circulate around them.

T. Contaminated disposable and single-use items shall be disposed of in accordance with federal and state regulations regarding disposal of biological hazardous materials.

U. The manufacturer's written instruction of the autoclave shall be followed.

18VAC41-60-220. Grounds for license revocation or suspension or probation; denial of application, renewal, or reinstatement; or imposition of a monetary penalty.

~~A. The~~ The board may, in considering the totality of the circumstances, fine any licensee and suspend, place on probation, or revoke or refuse to renew or reinstate any license, or deny any application issued under the provisions of Chapter 7 (§ 54.1-700 et seq.) of Title 54.1 of the Code of Virginia and ~~the regulations of the board this chapter~~ if [the board ~~it~~] finds that the licensee or applicant:

1. ~~The licensee is~~ Is incompetent or negligent in practice, or incapable mentally or physically, as those terms are generally understood in the profession, to (i) practice as a body piercer or body piercer ear only, or (ii) operate a body piercing salon;
2. ~~The licensee or applicant is~~ Is convicted of fraud or deceit in the practice body piercing or body piercing ear only;
3. ~~The licensee or applicant attempted~~ Attempted to obtain, obtained, renewed, or reinstated a license by false or fraudulent representation;
4. ~~The licensee or applicant violates~~ Violates or induces others to violate, or cooperates with others in violating, any of the provisions of this chapter or Chapter 7 (§ 54.1-700 et

Regulations

seq.) of Title 54.1 of the Code of Virginia or any local ordinance or regulation governing standards of health and sanitation of the establishment in which body piercers or body piercers ear only may practice or offer to practice;

5. Offers, gives, or promises anything of value or benefit to any federal, state, or local employee for the purpose of influencing that employee to circumvent in the performance of [his the employee's] duties any federal, state, or local law, regulation, or ordinance governing body piercing as defined in § 54.1-700 of the Code of Virginia;

6. Fails to respond to the board or any of its agents or provides false, misleading, or incomplete information to an inquiry by the board or any of its agents;

7. Fails or refuses to allow the board or any of its agents to inspect during reasonable hours any licensed salon for compliance with provisions of Chapter 7 (§ 54.1-700 et seq.) or this chapter;

~~5. The licensee or applicant fails~~ 8. Fails to produce, upon request or demand of the board or any of its agents, any document, book, record, or copy thereof in a licensee's or [owner's responsible management] possession or maintained in accordance with this chapter;

~~6. A licensee fails~~ 9. Fails to notify the board of a change of name or address in writing within 30 days of the change for each and every license. ~~The board shall not be responsible for the licensee's failure to receive notices, communications and correspondence caused by the licensee's failure to promptly notify the board in writing of any change of name or address or for any other reason beyond the control of the board;~~

~~7. The licensee or applicant~~ 10. Makes any misrepresentation or publishes or causes to be published any advertisement that is false, deceptive, or misleading;

~~8. The licensee or applicant fails~~ 11. Fails to notify the board in writing within 30 days of the suspension, revocation, or surrender of a license, certificate, or permit in connection with a disciplinary action in any other jurisdiction or of any license, certificate, or permit which has been the subject of disciplinary action in any other jurisdiction;

~~9. The licensee or applicant has been convicted or found guilty in any jurisdiction of any felony or non-marijuana misdemeanor. Any plea of nolo contendere shall be considered a conviction for the purpose of this section. The record of a conviction certified or authenticated in such form as to be admissible in evidence under the laws of the jurisdiction where convicted shall be admissible as prima facie evidence of such guilt; or~~

10. The licensee, certificate holder, temporary license holder, or applicant fails to notify the board in writing within 30 days that the licensee, certificate holder, temporary license holder, or applicant has pleaded guilty or nolo

contendere or was convicted and found guilty of any felony or non-marijuana misdemeanor.

B. In addition to subsection A of this section, the board may, in considering the totality of the circumstances, revoke, suspend, place on probation, or refuse to renew or reinstate the license of any body piercing salon or body piercing ear only salon or impose a fine as permitted by law, or both, if the board finds that:

1. The owner or operator of the body piercing salon or body piercing ear only salon fails to comply with the facility requirements of body piercing salons or body piercing ear only salons provided for in this chapter or in any local ordinances; or

2. The owner or operator allows a person who has not obtained a license to practice as a body piercer or body piercer ear only unless the person is duly enrolled as an apprentice.

C. In addition to subsection A of this section, the board may, in considering the totality of the circumstances, revoke, suspend, place on probation, or refuse to renew or reinstate the license of any licensee or impose a fine as permitted by law, or both, if the board finds that the licensee fails to take sufficient measures to prevent transmission of communicable or infectious diseases or fails to comply with any local, state, or federal law or regulation governing the standards of health and sanitation for the practice of body piercing or body piercing ear only.

12. Has been convicted or found guilty, regardless of the manner of adjudication in Virginia or any other jurisdiction of the United States, of a misdemeanor involving moral turpitude, sexual offense, [non-marijuana] drug distribution, or physical injury or any felony, there being no appeal pending therefrom or the time for appeal having elapsed. Review of convictions shall be subject to the requirements of § 54.1-204 of the Code of Virginia. Any plea of nolo contendere shall be considered a conviction for purposes of this subdivision. The record of a conviction certified or authenticated in such form as to be admissible in evidence under the laws of the jurisdiction where convicted shall be admissible as prima facie evidence of such conviction or guilt;

13. Fails to inform the board in writing within 30 days of pleading guilty or nolo contendere or being convicted or found guilty regardless of adjudication of any convictions as stated in subdivision 12 of this section;

14. Allows, as responsible management of a salon, a person who has not obtained a license to practice as a body piercer or body piercer ear only unless the person is duly enrolled as an apprentice;

15. Fails to take sufficient measures to prevent transmission of communicable or infectious diseases or fails to comply

with sanitary requirements provided for in this chapter or any local, state, or federal law or regulation governing **the** standards of health and sanitation for **the** practice of body piercing, or **the** operation of body-piercing salon or body-piercing ear only salon; or

16. Fails to comply with all procedures established by **the** board and **the** testing service with regard to conduct at any board examination.

NOTICE: **The** following forms used in administering **the** regulation have been filed by **the** agency. Amended or added forms are reflected in **the** listing and are published following **the** listing. Online users of this issue of **the** Virginia Register of Regulations may also click on **the** name to access a form. **The** forms are also available from **the** agency contact or may be viewed at **the** Office of Registrar of Regulations, 900 East Main Street, 11th Floor, Richmond, Virginia 23219.

FORMS (18VAC41-60)

[[Body Piercer Examination & License Application, A425-1241EXLIC](#) (eff. 9/2011)

[Body-Piercing Training & Experience Verification Form, A425-12BPTREXP](#) (eff. 9/2011)

[Body-Piercing Apprenticeship Sponsor Application, A425-12BPSPON](#) (eff. 9/2011)

[Body-Piercing Apprentice Certification Application, A425-1244BPAC](#) (eff. 9/2011)

[Body-Piercing Apprenticeship Completion Form, A425-12BPAC](#) (eff. 9/2011)

[Body-Piercing Client Disclosure Form, A425-12BPDIS](#) (eff. 9/2011)

[Body Piercer Ear Only License Application, A450-1245LIC-v6](#) (rev. 9/2016)

[License by Endorsement Application, A450-1213END-v9](#) (rev. 9/2016)

[Training & Experience Verification Form, A425-1213TREXP](#) (eff. 9/2011)

[Salon, Shop, Spa & Parlor License/Reinstatement Application, A450-1213BUS-v8](#) (rev. 9/2016)

[Licensure Fee Notice, A450-1213FEE-v6](#) (rev. 9/2016)

[Individuals - Reinstatement Application, A450-1213REI-v8](#) (rev. 9/2016)

~~[Body Piercer Examination & License Application, A450-1241EXLIC v13](#) (rev. 7/2019)~~

~~[Body Piercing Client Disclosure Form, A450-12BPDIS v2](#) (rev. 4/2013)~~

~~[Body Piercer Ear Only License Application, A450-1245LIC-v7](#) (rev. 7/2019)~~

~~[License by Endorsement Application, A450-1213END-v10](#) (rev. 2/2017)~~

~~[Training & Experience Verification Form, A450-1213TREXP v6](#) (eff. 2/2017)~~

~~[Salon, Shop, Spa & Parlor License/Reinstatement Application, A450-1213BUS v12](#) (rev. 7/2019)~~

~~[Licensure Fee Notice, A450-1213FEE v7](#) (rev. 4/2017)~~

~~[Individuals - Reinstatement Application, A450-1213REI v9](#) (rev. 2/2017)~~]

VA.R. Doc. No. R18-5125; Filed April 21, 2023, 2:35 p.m.

GUIDANCE DOCUMENTS

PUBLIC COMMENT OPPORTUNITY

Pursuant to § 2.2-4002.1 of the Code of Virginia, a certified guidance document is subject to a 30-day public comment period after publication in the Virginia Register of Regulations and prior to the guidance document's effective date. During the public comment period, comments may be made through the Virginia Regulatory Town Hall website (<http://www.townhall.virginia.gov>) or sent to the agency contact. Under subsection C of § 2.2-4002.1, the effective date of the guidance document may be delayed for an additional period. The guidance document may also be withdrawn.

The following guidance documents have been submitted for publication by the listed agencies for a public comment period. Online users of this issue of the Virginia Register of Regulations may click on the name of a guidance document to access it. Guidance documents are also available on the Virginia Regulatory Town Hall (<http://www.townhall.virginia.gov>) or from the agency contact or may be viewed at the Office of the Registrar of Regulations, 900 East Main Street, Richmond, Virginia 23219.

DEPARTMENT FOR THE BLIND AND VISION IMPAIRED

Titles of Documents: Virginia Industries for the Blind Policy
and Procedure Manual Policy 6, Trainee Referral.

Department of the Blind and Vision Impaired Virginia
Industries for the Blind Trainee Referral Form.

Public Comment Deadline: July 19, 2023.

Effective Date: July 20, 2023.

Agency Contact: Susan K. Davis, Senior Policy Analyst,
Department for the Blind and Vision Impaired, 397 Azalea
Avenue, Richmond, VA 23227, telephone (804) 371-3184, or
email susan.davis@dbvi.virginia.gov.

GENERAL NOTICES

STATE AIR POLLUTION CONTROL BOARD

Public Comment Opportunity on a Proposed Revision to the State Air Quality Plan

Notice of action: The Department of Environmental Quality (DEQ) is announcing an opportunity for public comment on a proposed plan to attain and maintain the national ambient air quality standards (NAAQS). The Commonwealth intends to submit the plan as a revision to the Commonwealth of Virginia State Implementation Plan (SIP) in accordance with the requirements of § 110(a) of the federal Clean Air Act. The SIP is the plan developed by the Commonwealth in order to fulfill its responsibilities under the federal Clean Air Act to attain and maintain the NAAQS promulgated by the U.S. Environmental Protection Agency (EPA).

Purpose of notice: DEQ is seeking comment on the issue of whether a particular regulation amendment, which adds a new nonattainment area to the regulation listing nonattainment areas (Regulation Revision F22), should be submitted as a revision to the SIP.

Public comment period: June 19, 2023, through July 19, 2023.

Public hearing: A public hearing will be conducted if a request is made in writing to the contact listed in this notice. In order to be considered, the request must include the full name, address, and telephone number of the person requesting the hearing and be received by DEQ by the last day of the comment period. Notice of the date, time, and location of any requested public hearing will be announced in a separate notice, and another 30-day comment period will be conducted.

Public comment stage: The regulation amendment is exempt from the state administrative procedures for adoption of regulations by the provisions of § 2.2-4006 A 4 c of the Administrative Process Act because it is necessary to meet the requirements of the federal Clean Air Act and does not differ materially from the pertinent EPA regulations. The amendment has already been adopted and is exempt from administrative procedures for the adoption of regulations; therefore DEQ is accepting comment only on the issue cited under "purpose of notice" and not on the content of the regulation amendment.

Description of proposal: On March 26, 2021 (86 FR 16055), EPA promulgated air quality designations for the 2010 primary sulfur dioxide (SO₂) National Ambient Air Quality Standard (NAAQS). EPA has determined that a portion of Giles County, Virginia is not meeting the SO₂ NAAQS and has designated it as a nonattainment area at 40 CFR 81.347. In order to implement the standard, Virginia's list of nonattainment areas (9VAC5-20-204) was updated accordingly under Regulation Revision F22; more information is available from the Virginia Regulatory Town Hall at <https://townhall.virginia.gov/L/ViewStage.cfm?stageid=9857>.

Federal information: This notice is being given to satisfy the public participation requirements of federal regulations (40 CFR 51.102). The proposal will be submitted as a revision to the Commonwealth of Virginia SIP under § 110(a) of the federal Clean Air Act in accordance with 40 CFR 51.104.

How to comment: DEQ accepts written comments by email, fax, and postal mail. In order to be considered, comments must include the full name, address, and telephone number of the person commenting and be received by DEQ on the last day of the comment period. All faxes must have a cover page that lists the intended recipient. All materials received are part of the public record.

To review proposal: The proposal and any supporting documents are available on the DEQ Air Public Notices website at <https://www.deq.virginia.gov/permits-regulations/public-notices/air>. The documents may also be obtained by contacting the DEQ representative listed in this notice. The public may schedule an appointment to review the documents between 8:30 a.m. and 4:30 p.m. of each business day until the close of the public comment period at the following DEQ locations:

- 1) Main Street Office, 22nd Floor, 1111 East Main Street, Richmond, VA, telephone (804) 698-4000; and
- 2) Blue Ridge Regional Office, 3901 Russell Drive, Salem, VA, telephone (540) 562-6700.

Contact the agency staff listed for public comments, document requests, and additional information.

Contact Information: Karen Sabasteanski, Department of Environmental Quality, P.O. Box 1105, Richmond, VA 23218, telephone (804) 659-1973, FAX (804) 698-4178, or email karen.sabasteanski@deq.virginia.gov.

DEPARTMENT OF ENVIRONMENTAL QUALITY

Proposed Enforcement Action for C&D Tree Service Inc.

An enforcement action has been proposed for C&D Tree Service Inc. for violations of State Water Control Law, regulations, and the applicable permit at the C&D Tree Service facility located in Great Falls, Virginia. The proposed consent order is available from the Department of Environmental Quality (DEQ) contact or at www.deq.virginia.gov/permits-regulations/public-notices. The DEQ contact will accept written comments from June 20, 2023, through July 20, 2023.

Contact Information: Katherine Mann, Department of Environmental Quality, Northern Regional Office, 13901 Crown Court, Woodbridge, VA 22193, or email katherine.mann@deq.virginia.gov.

General Notices

Proposed Enforcement Action for Daniels Construction Corp.

An enforcement action has been proposed for Daniels Construction Corp for violations of State Water Control Law and regulations in Suffolk, Virginia. The proposed order is available from the Department of Environmental Quality (DEQ) contact or at <https://www.deq.virginia.gov/permitsregulations/public-notices/enforcement-orders>. The DEQ contact will accept written comments from June 19, 2023, through July 19, 2023.

Contact Information: John Brandt, Department of Environmental Quality, 5636 Southern Boulevard, Virginia Beach, VA 23462, FAX (804) 698-4178, or email john.brandt@deq.virginia.gov.

Proposed Enforcement Action for Dragados USA Inc.

An enforcement action has been proposed for Dragados USA Inc. for violations of State Water Control Law and regulations at the Parallel Thimble Shoals Tunnel located in Virginia Beach, Virginia. The proposed order is available from the Department of Environmental Quality contact or at <https://www.deq.virginia.gov/permits-regulations/public-notices/enforcement-orders>. The staff contact will accept written comments from June 19, 2023, through July 19, 2023.

Contact Information: Russell Deppe, Enforcement Specialist, Department of Environmental Quality, 5636 Southern Boulevard, Virginia Beach, VA 23462, FAX (804) 698-4178, or email russell.deppe@deq.virginia.gov.

Proposed Enforcement Action for Dragados USA Inc. DBA Chesapeake Tunnel Joint Venture

An enforcement action has been proposed for Dragados USA Inc. DBA Chesapeake Tunnel Joint Venture for violations of State Water Control Law and regulations at the Parallel Thimble Shoals Tunnel located in Virginia Beach, Virginia. The proposed order is available from the Department of Environmental Quality contact or at <https://www.deq.virginia.gov/permits-regulations/public-notices/enforcement-orders>. The staff contact will accept written comments from June 19, 2023, through July 19, 2023.

Contact Information: Russell Deppe, Enforcement Specialist, Department of Environmental Quality, 5636 Southern Boulevard, Virginia Beach, VA 23462, FAX (804) 698-4178, or email russell.deppe@deq.virginia.gov.

Proposed Enforcement Action for Foss Recycling of Virginia LLC

An enforcement action has been proposed for Foss Recycling of Virginia LLC for violations of State Water Control Law and regulations at the Foss Recycling Facility located in Chesapeake, Virginia. The proposed order is available from the

Department of Environmental Quality contact or at <https://www.deq.virginia.gov/permits-regulations/public-notices/enforcement-orders>. The staff contact will accept written comments from June 19, 2023, through July 19, 2023.

Contact Information: Russell Deppe, Enforcement Specialist, Department of Environmental Quality, 5636 Southern Boulevard, Virginia Beach, VA 23462, FAX (804) 698-4178, or email russell.deppe@deq.virginia.gov.

Proposed Enforcement Action for Greenlight Investment LLC

An enforcement action has been proposed for Greenlight Investment LLC for violations of State Water Control Law and regulations at the Old Cox Road Spoils Site located in Mecklenburg County, Virginia. The proposed order is available from the Department of Environmental Quality contact or at <https://www.deq.virginia.gov/permits-regulations/public-notices/enforcement-orders>. The staff contact will accept written comments from June 19, 2023, to July 20, 2023.

Contact Information: Matt Richardson, Enforcement Specialist, Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, VA 23060, or email matthew.richardson@deq.virginia.gov.

Proposed Enforcement Action for Noble Development of Virginia Corp.

An enforcement action has been proposed for Noble Development of Virginia Corp. for violations of State Water Control Law and regulations at 10920 Braxton Avenue, Henrico County, Virginia. The proposed order is available from the Department of Environmental Quality contact or at <https://www.deq.virginia.gov/permits-regulations/public-notices/enforcement-orders>. The staff contact will accept written comments from June 19, 2023, to July 20, 2023.

Contact Information: Matt Richardson, Enforcement Specialist, Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, VA 23060, or email matthew.richardson@deq.virginia.gov.

Proposed Enforcement Action for Prince William County

An enforcement action has been proposed for Prince William County for violations of State Water Control Law, regulations, and the applicable permit at the Prince William County Western District Police Station, Manassas, Virginia. The proposed consent order is available from the Department of Environmental Quality contact or at www.deq.virginia.gov/permits-regulations/public-notices. The DEQ contact will accept written comments from June 19, 2023, through July 19, 2023.

Contact Information: Holly Shupe, Department of Environmental Quality, Northern Regional Office, 13901 Crown Court, Woodbridge, VA 22193, or email holly.shupe@deq.virginia.gov.

Proposed Enforcement Action for Smith-Midland Corporation

An enforcement action has been proposed for Smith-Midland Corporation for violations of State Water Control Law, regulations, and the applicable permits at the Smith-Midland facility located in Midland, Virginia. The proposed consent order is available from the Department of Environmental Quality (DEQ) contact or at <https://www.deq.virginia.gov/permits-regulations/public-notices>. The DEQ contact will accept written comments from June 20, 2023, through July 20, 2023.

Contact Information: Jim Datko, Department of Environmental Quality, Northern Regional Office, 13901 Crown Court, Woodbridge, VA 22193, or email james.datko@deq.virginia.gov.

Proposed Enforcement Action for Soil Solutions Group LLC

An enforcement action has been proposed for Soil Solutions Group LLC for violations of State Water Control Law and regulations at the Soil Solutions Group facility located in Powhatan County, Virginia. The proposed order is available from the Department of Environmental Quality contact or at <https://www.deq.virginia.gov/permits-regulations/public-notices/enforcement-orders>. The staff contact will accept written comments from June 19, 2023, through July 20, 2023.

Contact Information: Matt Richardson, Enforcement Specialist, Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, VA 23060, or email matthew.richardson@deq.virginia.gov.

Proposed Enforcement Action for Walbridge Aldinger LLC

An enforcement action has been proposed for Walbridge Aldinger LLC for violations of State Water Control Law and regulations at the LVL Data Center 08 located in Mecklenburg County, Virginia. The proposed order is available from the Department of Environmental Quality contact or at <https://www.deq.virginia.gov/permits-regulations/public-notices/enforcement-orders>. The staff contact will accept written comments from June 19, 2023, through July 20, 2023.

Contact Information: Matt Richardson, Enforcement Specialist, Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, VA 23060, or email matthew.richardson@deq.virginia.gov.

Partridge Creek Solar LLC Notice of Intent for Small Renewable Energy Project (Solar) - Amherst County

Partridge Creek Solar LLC via Sun Tribe Development has provided the Department of Environmental Quality a notice of intent to submit the necessary documentation for a permit by rule for a small renewable energy project (solar) in Amherst County, Virginia. The proposed Partridge Creek Solar Project will be located on one 141-acre parcel with a project area estimated at 90 acres.

The parcel is accessible by Izaak Walton Road and lies east of North Coolwell Road, west of U.S. Route 29, and is intersected by Partridge Creek. The project centroid latitude and longitude coordinates are 37.512041, -79.072216. The proposed project has a rated capacity of 10 megawatts alternating current and will contain approximately 33,780 photovoltaic solar panels.

Contact Information: Amber Foster, Small Renewable Energy Permit by Rule Coordinator, Department of Environmental Quality, 1111 East Main Street, Richmond, VA 23219, telephone (804) 774-8474, or email amber.foster@deq.virginia.gov.

HCE Waterloo Solar LLC Update to Notice of Intent for Small Renewable Energy Project (Solar) - Prince William County

HCE Waterloo Solar LLC has provided the Department of Environmental Quality a notice of intent to submit the necessary documents for a permit by rule for a small renewable energy project (solar) in Prince William County, Virginia. Formerly known as Logmill Solar, the project name has been changed to Waterloo Solar; the project number, RE0000229, will remain unchanged. The proposed project is located near the intersection of Logmill Road and U.S. Route 15 with the latitude and longitude coordinates 38.904379, -77.640188.

The project is located on approximately 234 acres and will have a maximum capacity of 20 megawatts alternating current. The array will utilize approximately 47,300 solar modules mounted to a single-axis tracking system and will interconnect to the local distribution network. The project developer is Holocene Clean Energy.

Contact Information: Amber Foster, Small Renewable Energy Permit by Rule Coordinator, Department of Environmental Quality, 1111 East Main Street, Richmond, VA 23219, telephone (804) 774-8474, or email amber.foster@deq.virginia.gov.

General Notices

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Draft Virginia Medical Assistance Eligibility Manual Transmittal Available for Public Review and Comment

Draft Transmittal #DMAS-28 is available at <https://www.dmas.virginia.gov/media/5861/tn-dmas-28-7-01-2023.pdf>. Comments must be submitted by June 24, 2023.

Contact Information: Emily McClellan, Regulatory Manager, Division of Policy and Research, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 371-4300, FAX (804) 786-1680.

VIRGINIA CODE COMMISSION

Notice to State Agencies

Contact Information: *Mailing Address:* Virginia Code Commission, Pocahontas Building, 900 East Main Street, 8th Floor, Richmond, VA 23219; *Telephone:* (804) 698-1810; *Email:* varegs@dls.virginia.gov.

Meeting Notices: Section 2.2-3707 C of the Code of Virginia requires state agencies to post meeting notices on their websites and on the Commonwealth Calendar at <https://commonwealthcalendar.virginia.gov>.

Cumulative Table of Virginia Administrative Code Sections Adopted, Amended, or Repealed: A table listing regulation sections that have been amended, added, or repealed in the *Virginia Register of Regulations* since the regulations were originally published or last supplemented in the print version of the Virginia Administrative Code is available at <http://register.dls.virginia.gov/documents/cumultab.pdf>.

Filing Material for Publication in the *Virginia Register of Regulations*: Agencies use the Regulation Information System (RIS) to file regulations and related items for publication in the *Virginia Register of Regulations*. The Registrar's office works closely with the Department of Planning and Budget (DPB) to coordinate the system with the Virginia Regulatory Town Hall. RIS and Town Hall complement and enhance one another by sharing pertinent regulatory information.

ERRATA

BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

Title of Regulation: **13VAC5-63. Virginia Uniform
Statewide Building Code.**

Publication: 37:14 VA.R. 1880-2074 March 1, 2021.

Correction to Final Regulation:

Page 2073, DOCUMENTS INCORPORATED BY
REFERENCE (13VAC5-63), column 2, line 19, after "NFPA"

insert "[";

unstrike "~~258-12~~";

strike "~~258-17~~"; and

insert "]"

VA.R. Doc. No. R19-5887; Filed June 7, 2023, 11:24 a.m.

