



Richard Hedges, Public Member,
President

Ken Williams, Industry Member
Vice-President

Deedee Crossett, Industry
Member

Marie Lemelle, Public
Member

Frank Lloyd, Public
Member

Ted Nelson, Industry
Member

David Rabago, D.C., Public
Member

Christie Truc Tran, Industry
Member

Kristy Underwood
Executive Officer

Arnold Schwarzenegger, Governor
State of California

Department of Consumer Affairs
Board of Barbering and Cosmetology

Telephone: (916) 575-7100

Website: www.barbercosmo.ca.gov

2420 Del Paso Road, Suite 100
Sacramento, CA 95834

California State Board of Barbering and Cosmetology

Board Meeting Agenda

Monday, October 25, 2010

10:00 A.M. – 5:00 P.M.

Or until completion of business

Department of Consumer Affairs

1625 N. Market Blvd.

Hearing Room, 1st Floor

Sacramento, CA 95834

ALL TIMES ARE APPROXIMATE AND SUBJECT TO CHANGE

OPEN SESSION:

1. **Call to Order/Roll Call (Richard Hedges)**
2. **Public Comment on Items not on the Agenda**
Note: the Board may not discuss or take action on any matter raised during this public comment section, except to decide whether to place the matter on the agenda of a future meeting. [Government Code Sections 11125, 11125.7(a)]
3. **Board President's Report (Richard Hedges)**
4. **Executive Officer's Report (Kristy Underwood)**
 - Licensing Statistics
 - Examinations Statistics
 - Disciplinary Review Statistics
 - Enforcement Statistics
 - Inspections Statistics
 - Budget Update
 - Outreach Update
5. **DCA Director's Report**
6. **Review of Open Meetings Act and Board Member Ethics**
7. **Approval of Board Meeting Minutes (Richard Hedges)**
 - July 28, 2010
8. **Review and Approval of Business Plan (Kristy Underwood)**
 - Discussion on Future Strategic Plan

A quorum of the Board will be present. Meetings of the Board of Barbering and Cosmetology are open to the public except when specifically noticed otherwise in accordance with the Open Meeting Act. The audience will be given appropriate opportunities to comment on any issue before the Board, but the Chair may apportion available time among those who wish to speak.

The meeting is accessible to the physically disabled. A person who needs disability-related accommodation or modification in order to participate in the meeting shall make a request no later than five (5) working days before the meeting to the Board by contacting Theresa Rister at (916) 575-7101 or sending a written request to that person at the address noted above.

California State Board of Barbering and Cosmetology

9. Status of Pending Legislation (**Kristy Underwood**)

a. Review of Proposed Legislation

- AB 978 State Chief Information Officer: duties
- AB 1659 Joint Sunset Review Committee
- AB 1787 Administrative Procedure: regulations: narrative description
- AB 1889 Private Postsecondary Education: CA Private Postsecondary Act of 2009
- AB 1899 State agencies: Information on Web site
- AB 1957 Administrative Procedure Act: notice of proposed actions: local government
- AB 1993 State government reports: declarations
- AB 2091 Public Records: information security
- AB 2130 Professions and Vocations: Sunset Review
- AB 2393 Private Postsecondary Education: fair business practices
- AB 2466 Regulations: legislative validation
- AB 2738 Regulations: statement of reasons
- SB 942 State Auditor: Analysis of Regulations
- SB 1171 Sunset Review
- SB 1491 Department of Consumer Affairs Omnibus

10. Regulations Update (**Kristy Underwood**)

- Curriculum Regulations Update
- Administrative Fines-Review and Approval of Modified Language for Section 974 of the California Code of Regulations

11. Advanced Esthetician License (**Deedee Crossett**)

- Most Common Esthetician Violations –

12. Scoring Methods for Examination – Regulatory Action (**Ken Williams**)

- Possible Action: Amendment to Section 932 of Article 4, Title 16, Division 9 of the California Code of Regulations

13. Discussion on Un-Regulated Services Offered in Licensed Establishments (**Kristy Underwood**)

14. Discussion on Continuing Education (**Ken Williams**)

15. Discussion on Booth Rental (**Richard Hedges**)

- Establishment of Working Group

16. Review and Approval of Disciplinary Guidelines (**Kristy Underwood**)

17. 2011 Board Meeting Schedule (**Richard Hedges**)

18. Public Comment

Note: the Board may not discuss or take action on any matter raised during this public comment section, except to decide whether to place the matter on the agenda of a future meeting. [Government Code Sections 11125, 11125.7(a)]

19. Agenda Items for Next Meeting

20. Closed Session to Discuss Enforcement Case

- Discussion on Reconsideration and Disciplinary Cases (Closed Pursuant to Government Code Section 11126(c) (3)).

21. Adjournment

No Inserts for Items 1-3

Quarterly Barbering and Cosmetology Licensing Statistics Fiscal Year 10/11

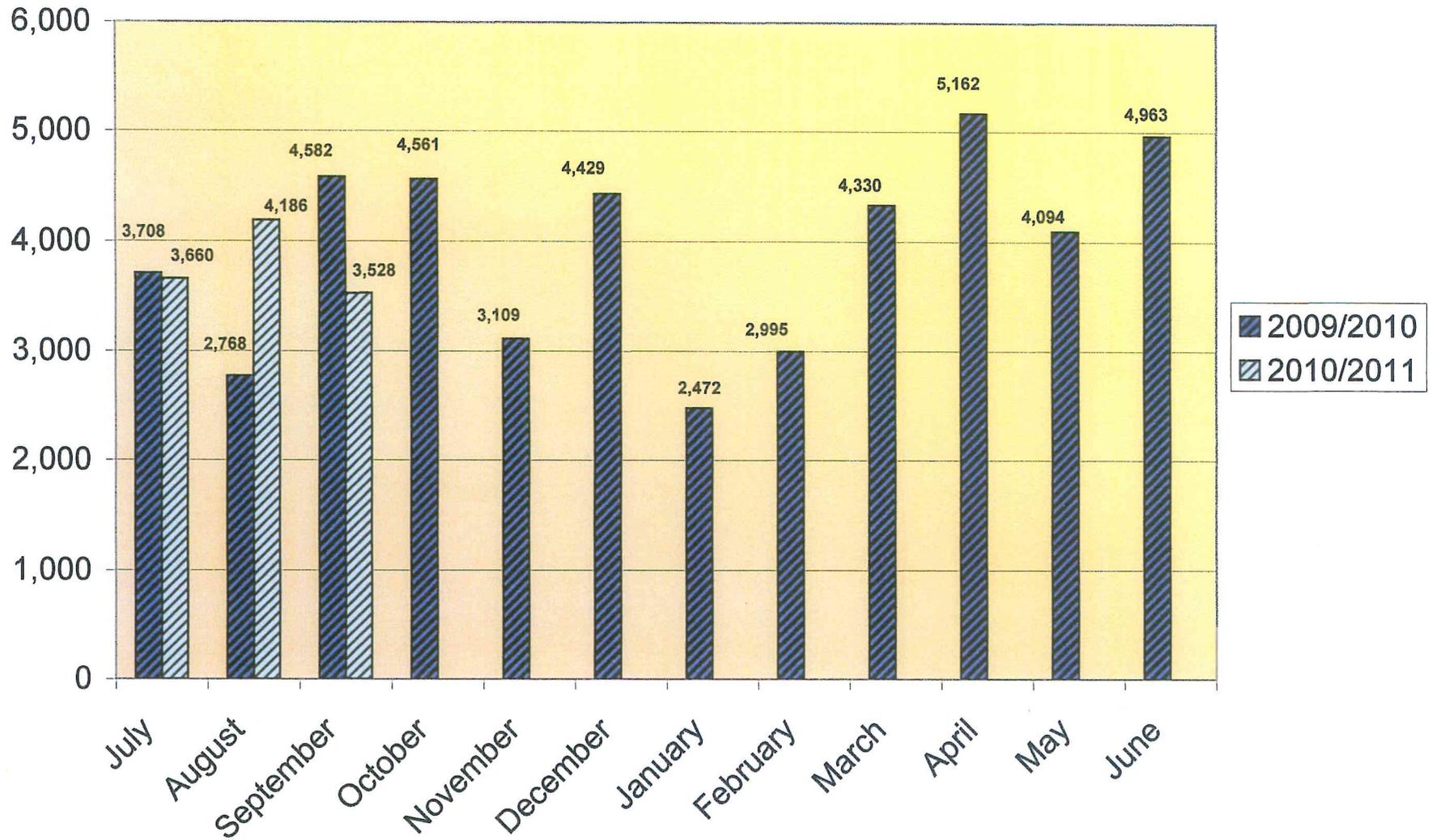
Applications Received

	Jul-Sept	Oct-Dec	Jan- Mar	Apr-Jun	YTD*
Establishment	1,467				1,467
Barber	435				435
Barber Apprentice	63				63
Cosmetology	5,519				5,519
Cosmetology Apprentice	102				102
Electrology	7				7
Manicuring	1,980				1,980
Esthetician	1,801				1,801
Total	7,622	0	0	0	11,374

Licenses Issued

	Jul-Sept	Oct-Dec	Jan- Mar	Apr-Jun	YTD*
Establishment	1,667				1,667
Barber	367				367
Barber Apprentice	69				69
Cosmetology	3,107				3,107
Cosmetology Apprentice	103				103
Electrology	2				2
Manicuring	1,038				1,038
Esthetician	1,269				1,269
Total	7,622	0	0	0	7,622

Number of Applications Received



Examination Results (July 1, 2010- September 30, 2010)

Practical Examinations

Administered	Passed	Failed	Total	Pass Rate	*DNA
Barber	345	78	423	82%	95
Cosmetologist	3,067	1,323	4,390	70%	584
Esthetician	1,270	220	1,490	85%	175
Electrologist	4	1	5	80%	1
Manicurist	1,008	317	1,325	76%	123
TOTAL	5,694	1,939	7,633	75%	978

* Did Not Attend

Written Examinations

Barber	Passed	Failed	Total	Pass Rate
English	303	73	376	81%
Spanish	22	2	24	92%
Vietnamese	20	3	23	87%
TOTAL	345	78	423	82%

Cosmetologist	Passed	Failed	Total	Pass Rate
English	3,074	1,051	4,125	75%
Spanish	154	294	448	34%
Vietnamese	76	181	257	30%
TOTAL	3,304	1,526	4,830	68%

Manicurist	Passed	Failed	Total	Pass Rate
English	335	175	510	66%
Spanish	3	9	12	25%
Vietnamese	666	592	1,258	53%
TOTAL	1,004	776	1,780	56%

Esthetician	Passed	Failed	Total	Pass Rate
English	912	258	1,170	78%
Spanish	3	6	9	33%
Vietnamese	779	812	1,591	49%
TOTAL	1,694	1,076	2,770	61%

Electrologist	Passed	Failed	Total	Pass Rate
English	2	2	4	50%
Spanish	0	0	0	0%
Vietnamese	0	0	0	0%
TOTAL	2	2	4	50%

WRITTEN EXAMINATION STATISTICS

EXAM TYPE	ENGLISH					SPANISH					VIETNAMESE					Overall Pass/Fail Rates					
	PASSED	FAILED	TOTAL	% PASSED	% FAILED	PASSED	FAILED	TOTAL	% PASSED	% FAILED	PASSED	FAILED	TOTAL	% PASSED	% FAILED	p	f	t			
Jul-10	110	24	134	82%	18%	9	0	9	100%	0%	6	1	7	86%	14%	Eng	303	73	376		
Aug-10	105	30	135	78%	22%	9	1	10	90%	10%	10	1	11	91%	9%	Span	22	2	24		
Sep-10	88	19	107	82%	18%	4	1	5	80%	20%	4	1	5	80%	20%	Viet	20	3	23		
Oct-10																					
Nov-10																					
Dec-10																					
Jan-11																					
Feb-11																					
TOTAL	303	73	376	81%	19%	22	2	24	92%	8%	20	3	23	87%	13%				82%	18%	
Jul-10	974	363	1,337	73%	27%	40	87	127	31%	69%	24	71	95	25%	75%	Eng	3,074	1,051	4,125		
Aug-10	1,085	368	1,453	75%	25%	60	106	166	36%	64%	27	55	82	33%	67%	Span	154	294	448		
Sep-10	1,015	320	1,335	76%	24%	54	101	155	35%	65%	25	55	80	31%	69%	Viet	76	181	257		
Oct-10																					
Nov-10																					
Dec-10																					
Jan-11																					
Feb-11																					
TOTAL	3,074	1,051	4,125	75%	25%	154	294	448	34%	66%	76	181	257	30%	70%				68%	32%	
Jul-10	115	54	169	68%	32%	1	4	5	20%	80%	213	175	388	55%	45%	Eng	335	175	510		
Aug-10	130	61	191	68%	32%	1	3	4	25%	75%	224	239	463	48%	52%	Span	3	9	12		
Sep-10	90	60	150	60%	40%	1	2	3	33%	67%	229	178	407	56%	44%	Viet	666	592	1,258		
Oct-10																					
Nov-10																					
Dec-10																					
Jan-11																					
Feb-11																					
TOTAL	335	175	510	66%	34%	3	9	12	25%	75%	666	592	1,258	53%	47%				56%	44%	
Jul-10	343	95	438	78%	22%	1	1	2	50%	50%	84	101	185	45%	55%	Eng	912	258	1,170		
Aug-10	309	82	391	79%	21%	2	1	3	67%	33%	125	135	260	48%	52%	Span	3	6	9		
Sep-10	260	81	341	76%	24%	0	4	4	0%	100%	118	129	247	48%	52%	Viet	779	812	1,591		
Oct-10																					
Nov-10																					
Dec-10																					
Jan-11																					
Feb-11																					
TOTAL	912	258	1,170	78%	22%	3	6	9	33%	67%	779	812	1,591	49%	51%				61%	39%	
Jul-10	0	0	0	0%	0%	0	0	0	0%	0%	0	0	0	0%	0%	Eng	2	2	4		
Aug-10	2	1	3	67%	33%	0	0	0	0%	0%	0	0	0	0%	0%	Span	0	0	0		
Sep-10	0	1	1	0%	100%	0	0	0	0%	0%	0	0	0	0%	0%	Viet	0	0	0		
Oct-10																					
Nov-10																					
Dec-10																					
Jan-11																					
Feb-11																					
TOTAL	2	2	4	50%	50%	0	0	0				50%	50%								



State and Consumer Services Agency – Arnold Schwarzenegger, Governor
BOARD OF BARBERING AND COSMETOLOGY
 P.O. Box 944226, Sacramento, CA 94244-2260
 P (800) 952-5210 F (916) 575-7281 www.barbercosmo.ca.gov



**QUARTERLY BARBERING AND COSMETOLOGY
 DISCIPLINARY REVIEW COMMITTEE STATISTICS
 Fiscal Year 10-11
 Report Date: September 30, 2010**

	July - September	YTD
--	------------------	-----

SOUTHERN

Heard	275	275
Received	450	450
Pending ¹	809	809 ²

NORTHERN

Heard	351	351
Received	269	269
Pending ¹	312	312 ²

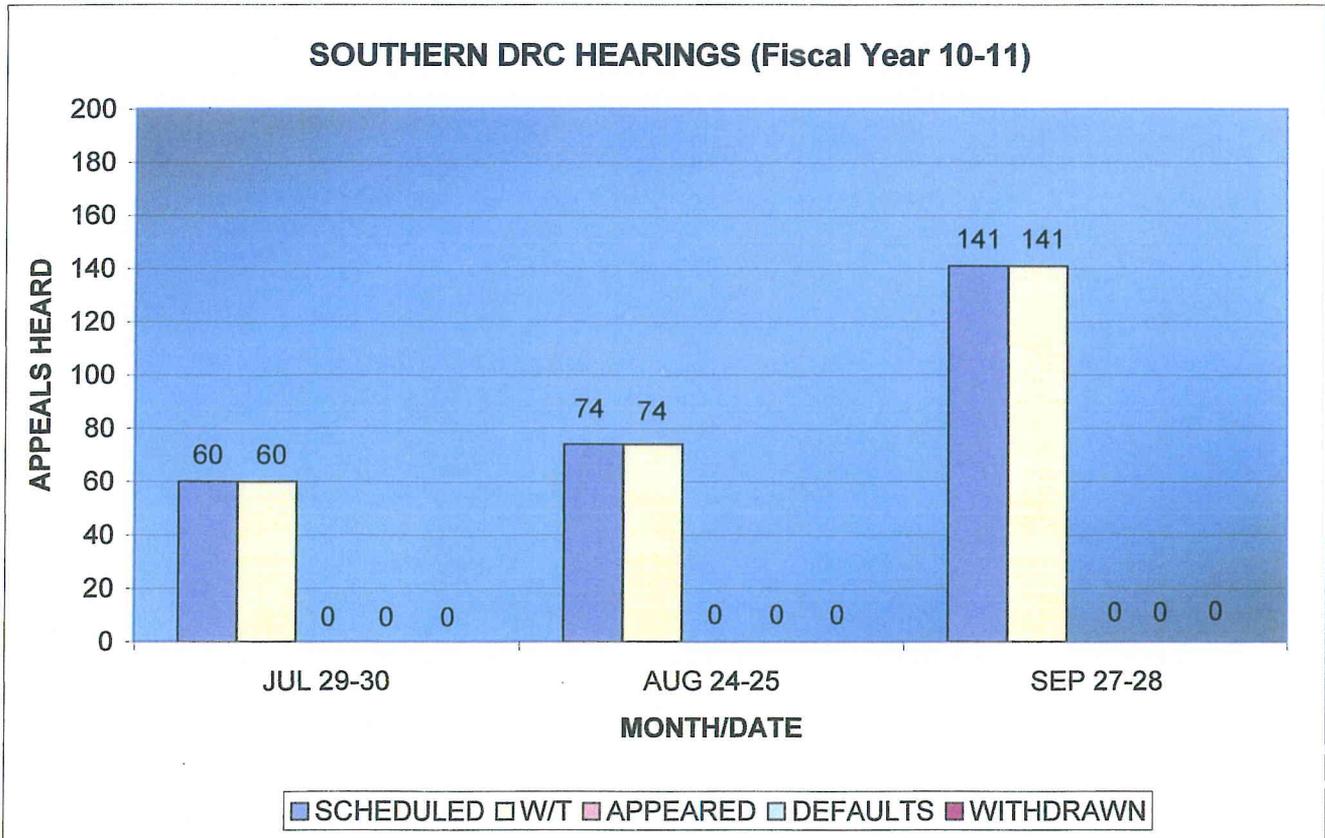
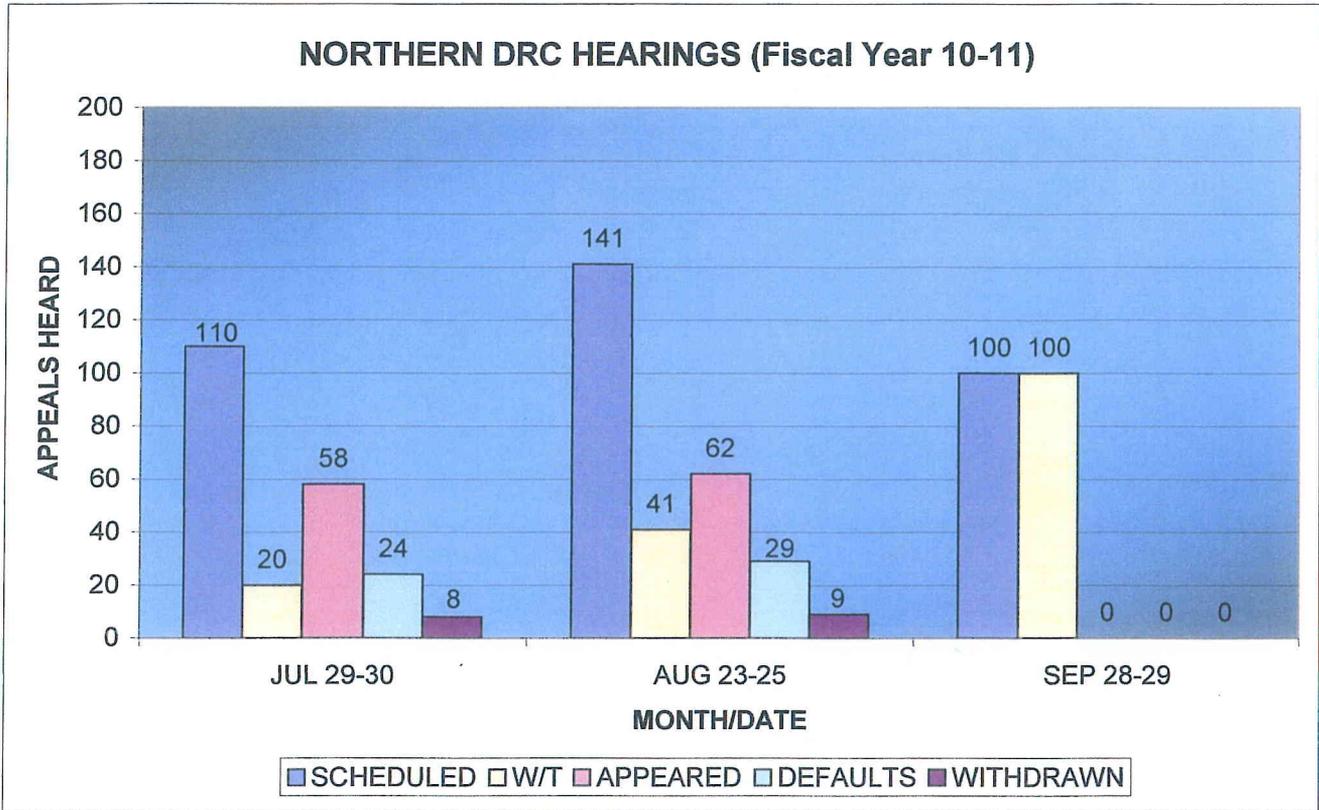
¹ Pending refers to the number of appeals received but not yet heard by DRC.

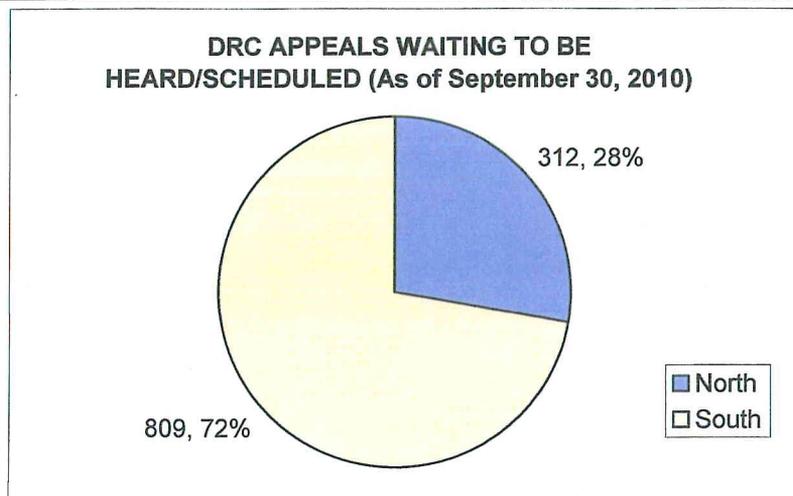
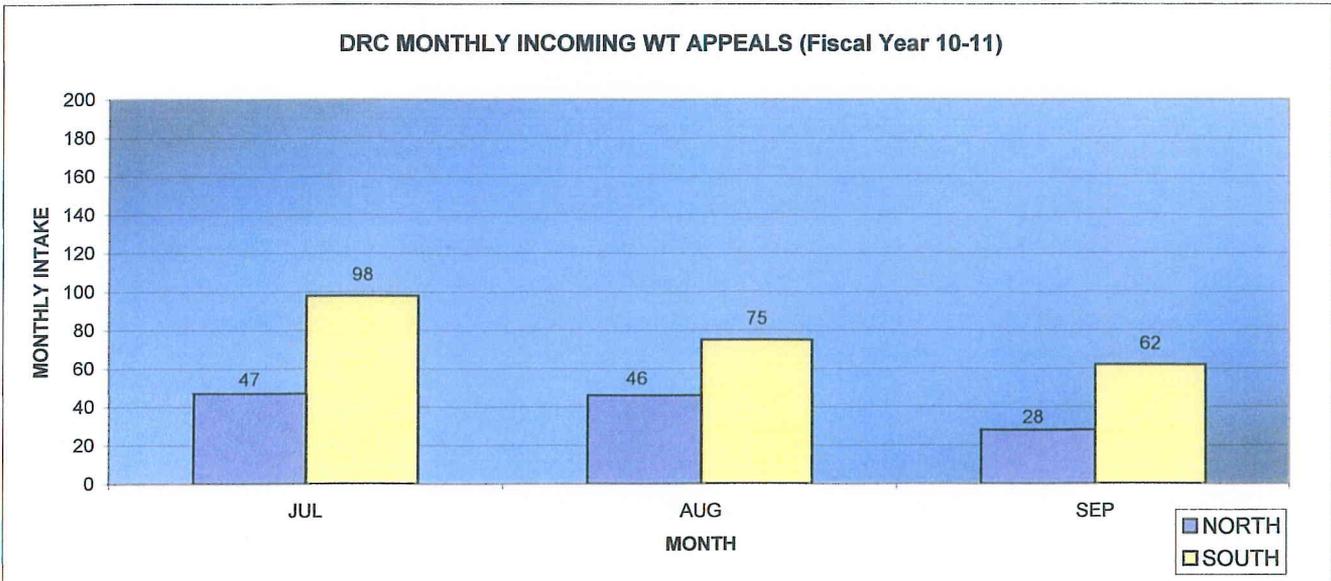
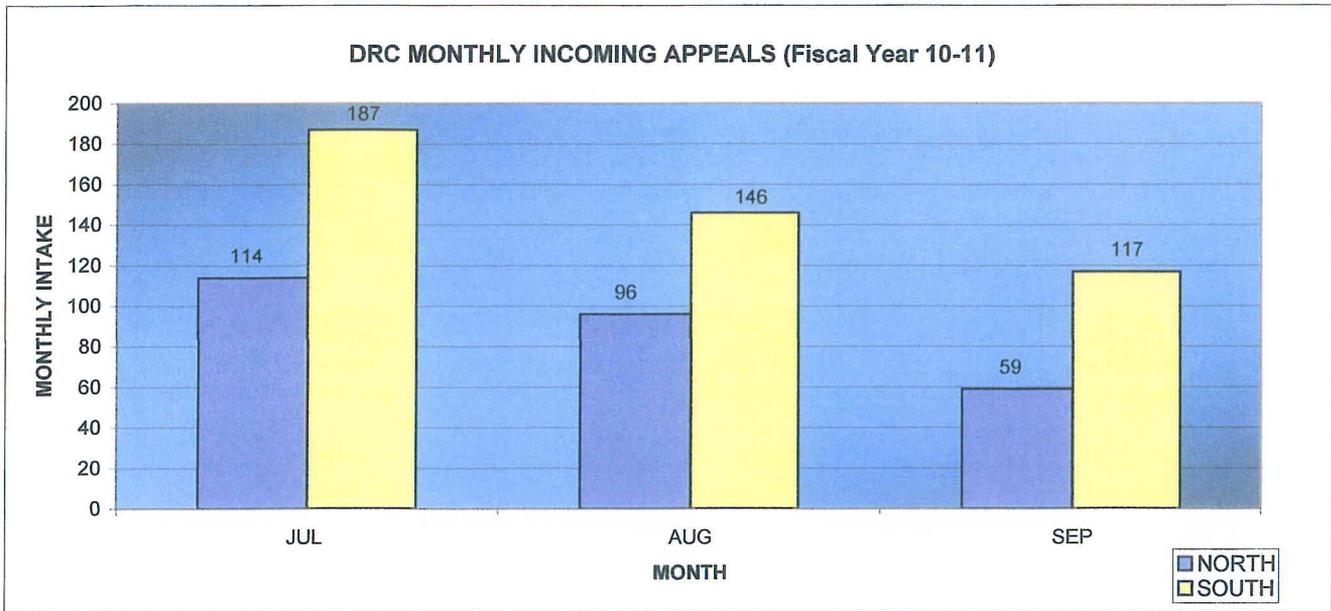
² Figure represents number of pending requests as of report date.

2010 SCHEDULED HEARINGS

Area	Location	Date
Northern	Sacramento	October 27-29, 2010
Southern	San Diego	November 16-18, 2010 ³
Southern	Los Angeles	December 14-16, 2010 ³

³Tentative hearing dates.





ENFORCEMENT STATISTICS Fiscal Year 10/11
Report Date October 11, 2010

Agenda Item #4

	Jul-Sept	Oct-Dec	Jan- Mar	Apr-Jun	YTD*
COMPLAINTS					
Complaints Received	751				751
Referred to DOI	14				14
Complaints Closed	1199				1199
Total Complaints Pending	929				917
APPLICATION INVESTIGATIONS					
Received	448				448
Pending	98				119
Closed	441				441
ATTORNEY GENERAL					
Referred	24				24
Accusations Filed	10				10
Statement of Issues Filed	1				1
Total Pending	98				73
DISCIPLINARY PROCESS					
Hearing	1				1
Default Decision	5				5
Stipulation	7				7
DISCIPLINARY OUTCOMES					
Revocation	9				9
Revoke, Stay, Probation	2				2
Revoke, Stay, Suspend/Prob	12				12
Revocation, Stay w/ Suspend	0				0
Probation Only	0				0
Suspension Only	0				0
Suspension & Probation	0				0
Suspension, Stay, Probation	4				4
Surrender of License	1				1
Public Reprimands	0				0
License Denied	1				1
Other	0				0
Total	29				29
PROBATION					
Active	267				267
	Jul-Sept	Oct-Dec	Jan- Mar	Apr-Jun	YTD
CITATIONS					
Establishments	2115				2115
Barber	143				143
Barber Apprentice	16				16
Cosmetologist	771				771
Cosmetologist Apprentice	2				2
Electrologist	1				1
Electrologist Apprentice	0				0
Manicurist	505				505
Esthetician	75				75
Unlicensed Est.	130				130
Unlicensed Individual	132				132
Total	3890				3890
INSPECTIONS*					
Establishments w/ violations	1480				1480
Establishments w/o violations	369				369
Total	1849				1849

*Reporting Inspections through August 31, 2010. Still inputting September data. □



State and Consumer Services Agency – Arnold Schwarzenegger, Governor

BOARD OF BARBERING AND COSMETOLOGY
P.O. Box 944226, Sacramento, CA 94244-2260
P (800) 952-5210 F (916) 575-7281 www.barbercosmo.ca.gov



Budget Updates

1. Budget 2010/11 Fiscal Year (July 2010 - June 2011):

Chart 1 displays the revenues received as of August 31, 2010.

Chart 2 displays the expenditures as of August 31, 2010.

Attachment 3 displays projected expenditures for end of the year.

0069 - Barbering and Cosmetology Analysis of Fund Condition

(Dollars in Thousands)

2010-11 Governor's Budget

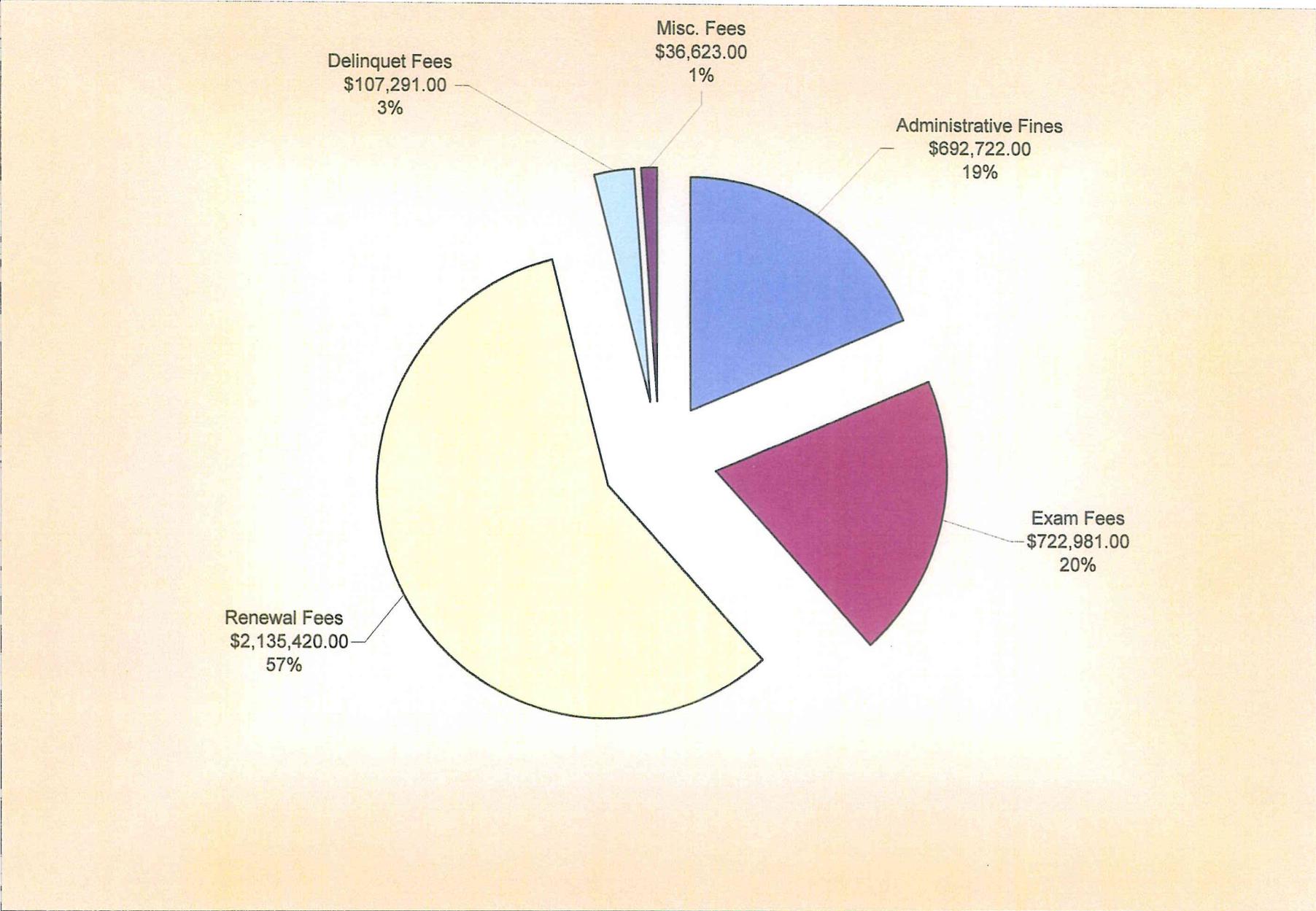
	ACTUAL 2002-03	ACTUAL 2003-04	ACTUAL 2004-05	Actual 2005-06	Actual 2006-07	Actual 2007-08	Actual 2008-09	Budget Act CY 2009-10	Governor's Budget 2010-11	BY+1 2011-12
BEGINNING BALANCE	\$ 12,528	\$ 3,824	\$ 3,332	\$ 2,671	\$ 6,428	\$ 9,353	\$ 11,590	\$ 6,066	\$ 9,139	\$ 11,642
Prior Year Adjustment	\$ 94	\$ 154	\$ 315	\$ 53	\$ 231	\$ 414	\$ 563	\$ -	\$ -	\$ -
Adjusted Beginning Balance	\$ 12,622	\$ 3,978	\$ 3,647	\$ 2,724	\$ 6,659	\$ 9,767	\$ 12,153	\$ 6,066	\$ 9,139	\$ 11,642
REVENUES AND TRANSFERS										
Revenues:										
125600 Other regulatory fees	\$ 1,469	\$ 1,298	\$ 1,765	\$ 1,811	\$ 3,438	\$ 5,684	\$ 4,409	\$ 5,045	\$ 5,145	\$ 5,145
125700 Other regulatory licenses and permits	\$ 2,170	\$ 2,280	\$ 2,436	\$ 2,340	\$ 2,394	\$ 3,499	\$ 4,398	\$ 4,814	\$ 5,202	\$ 5,202
125800 Renewal fees	\$ 6,535	\$ 6,731	\$ 6,881	\$ 7,034	\$ 7,488	\$ 8,038	\$ 9,801	\$ 9,661	\$ 10,086	\$ 10,086
125900 Delinquent fees	\$ 409	\$ 423	\$ 454	\$ 553	\$ 533	\$ 556	\$ 661	\$ 653	\$ 656	\$ 656
141200 Sales of documents	\$ 1	\$ -	\$ 1	\$ 2	\$ 1	\$ 3	\$ -	\$ 1	\$ 1	\$ 1
142500 Miscellaneous services to the public	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
150300 Income from surplus money investments	\$ 151	\$ 105	\$ 88	\$ 264	\$ 489	\$ 423	\$ 180	\$ 93	\$ 119	\$ 272
150500 Interest Income from Interfund Loans	\$ -	\$ -	\$ -	\$ 427	\$ 348	\$ -	\$ -	\$ -	\$ -	\$ -
160400 Sale of fixed assets	\$ -	\$ 6	\$ -	\$ -	\$ -	\$ -	\$ 2	\$ -	\$ -	\$ -
161000 Escheat of unclaimed checks and warrants	\$ 11	\$ 13	\$ 11	\$ 15	\$ 15	\$ 18	\$ 14	\$ 16	\$ 16	\$ 16
161400 Miscellaneous revenues	\$ 11	\$ 8	\$ 14	\$ 16	\$ 16	\$ 5	\$ 10	\$ 12	\$ 11	\$ 11
Totals, Revenues	\$ 10,757	\$ 10,864	\$ 11,650	\$ 12,462	\$ 14,722	\$ 18,226	\$ 19,475	\$ 20,295	\$ 21,236	\$ 21,389
Transfers from Other Funds										
\$9,000 GF loan repayment - principal	\$ -	\$ -	\$ -	\$ 5,500	\$ 3,500	\$ -	\$ -	\$ -	\$ -	\$ -
Transfers to Other Funds										
T00001 GF loan per Item 1111-011-0069, BA of 2008	\$ (9,000)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ (10,000)	\$ -	\$ -	\$ -
FO0683 Stephen P. Teale Data Center, Sec 15.00			\$ 48							
Totals, Revenues and Transfers	\$ 1,757	\$ 10,864	\$ 11,698	\$ 17,962	\$ 18,222	\$ 18,226	\$ 9,475	\$ 20,295	\$ 21,236	\$ 21,389
Totals, Resources	\$ 14,379	\$ 14,842	\$ 15,345	\$ 20,686	\$ 24,881	\$ 27,993	\$ 21,628	\$ 26,361	\$ 30,375	\$ 33,031
EXPENDITURES										
Disbursements:										
0840 State Controller (State Operations)			\$ -	\$ 8	\$ 8	\$ 12	\$ 6	\$ 11	\$ 27	\$ -
1110 Program Expenditures (State Operations)	\$ 4,949	\$ 11,508	\$ 12,674	\$ 14,249	\$ 15,520	\$ 16,391	\$ 8,035	\$ 17,211	\$ 18,245	\$ 18,610
1111 Program Expenditures (State Operations)							\$ 7,521		\$ 450	\$ 540
8880 Financial Information System for California (State Ops)							\$ -	\$ -	\$ 11	\$ -
9670 Equity Claims / Board of Control (State Operations)	\$ 1	\$ 2	\$ -	\$ 1	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Total Disbursements	\$ 4,950	\$ 11,510	\$ 12,674	\$ 14,258	\$ 15,528	\$ 16,403	\$ 15,562	\$ 17,222	\$ 18,733	\$ 19,150
FUND BALANCE										
Reserve for economic uncertainties	\$ 9,429	\$ 3,332	\$ 2,671	\$ 6,428	\$ 9,353	\$ 11,590	\$ 6,066	\$ 9,139	\$ 11,642	\$ 13,881
Months in Reserve	9.8	3.2	2.2	5.0	6.8	8.1	3.9	5.9	7.5	8.8

NOTES:

- A. ASSUMES WORKLOAD AND REVENUE PROJECTIONS ARE REALIZED
- B. EXPENDITURE GROWTH PROJECTED AT 2% BEGINNING FY 2011-12

Budget Report (10/11 FY)
Revenues
(As of 08/31/10)

Chart 1

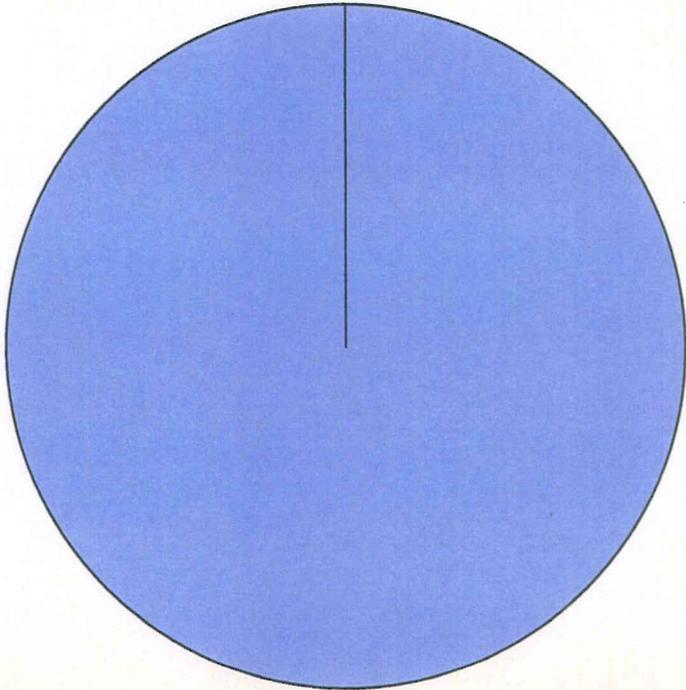


Revenues as of 08/31/10
\$3,695,038

Personnel Services

\$915,387

100%



Board of Barbering and Cosmetology

Fiscal Year 2010/2011

Projected Expenditures 08/31/10

Personnel Services	ALLOTMENT	BBC Projected Expenditures	Projected Year
Permanent	4,190,069	3,609,852	580,217
Expert Examiners	464,259	464,259	0
Temporary	0	58,224	(58,224)
Statutory-Exempt	103,608	103,608	0
Board Member Commission	0	15,000	(15,000)
Overtime	0	0	0
Total Salary & Wages	4,757,936	4,250,943	506,993
Salary Savings	(136,632)	0	(136,632)
Net Salary & Wages	4,621,304	4,250,943	877,354
Staff Benefits	1,820,941	1,576,704	244,237
Total of Personnel Servies	6,442,245	5,827,647	1,998,945
Operating Expenses & Equipment (OE&E)	Allotment	BBC Projected Expenditures	Projected Year End Balance
General Expense	226,875	226,875	0
Printing	241,995	241,995	0
Communication	105,722	50,000	55,722
Postage	337,384	337,384	0
Insurance	4,489	2,500	1,989
Travel In State	80,906	150,000	(69,094)
Travel, Out-of-State	883	883	0
Training	22,513	20,000	2,513
Facilities Operations	1,327,231	1,327,231	0
Consultant & Professional Svs. - Interdept.	125,781	0	125,781
Consultant & Professional Svs. - External	196,947	50,000	146,947
Depart. and Central Admin. Services	5,596,994	5,596,994	0
Consolidated Data Center	70,088	70,088	0
Data Processing	36,376	36,376	0
Examinations	1,394,177	1,394,177	0
Major Equipment	0	0	0
Minor Equipment	0	0	0
Other Items of Expense	7,288	2,500	4,788
Vehicle Operations	14,772	50,000	(35,228)
Enforcement	2,137,334	1,384,545	752,789
Special Items of Expenses	0	175,000	(175,000)
Required OE&OSavings		171,022	(171,022)
Total Operating Expenses & Equipment	11,927,755	11,287,570	640,185
Total reimbursements	(57,000)	0	(57,000)
Total	18,313,000	17,115,217	583,185



State and Consumer Services Agency – Arnold Schwarzenegger, Governor
BOARD OF BARBERING AND COSMETOLOGY
P.O. Box 944226, Sacramento, CA 94244-2260
P (800) 952-5210 F (916) 575-7281 www.barbercosmo.ca.gov



2010 Consumer Events

None Scheduled

2010 Industry Events

None Scheduled

No Inserts for Items 5-6



State and Consumer Services Agency – Arnold Schwarzenegger, Governor
Board of Barbering and Cosmetology-Department of Consumer Affairs
 PO Box 944226, Sacramento, CA 94244
 P (800) 952-7574 F (916) 574-7574 | www.barbercosmo.ca.gov



CALIFORNIA STATE BOARD OF BARBERING AND COSMETOLOGY

MINUTES OF JULY 28, 2010

**Department of Consumer Affairs
 2005 Evergreen Street
 Hearing Room, 1st Floor
 Sacramento, CA 95815**

BOARD MEMBERS PRESENT

Richard Hedges
 Frank Lloyd
 Ken Williams
 Christie Tran
 Deedee Crossett
 Maria Lemelle
 Dr. David Rabago
 Ted Nelson

STAFF MEMBERS PRESENT

Kristy Underwood, Executive Officer
 Hilda Youngblood, Assist. Executive Officer
 Diann Dobbs, Staff Counsel
 Theresa Rister, Board Analyst

1. Agenda Item #1, CALL TO ORDER/ROLL CALL

President Richard Hedges called the meeting to order. The board members and staff introduced themselves.

2. Agenda Item #2, PUBLIC COMMENT

A male audience member stated he attended the meeting to discuss the Board's opinion of online training in cosmetology. He saw it being integrated into the current school system and not as a replacement. Ms. Underwood noted current regulations outlined what can and can't be done online. He was advised on what steps to take to become more aware.

3. Agenda Item, #3, BOARD PRESIDENT'S REPORT

Mr. Hedges reported that he and Ms. Crossett attended a meeting with the Agency Secretary regarding manicuring curriculum hours. He believes it went very well and we should be able to move forward with increasing the manicuring hours by 100. He also reported that DRC is working very hard with moving forward with their cases, especially with not being able to travel due to the budget. He also stated he as well as other board members attended a meeting at DCA that discussed Board Member practices.

4. **Agenda Item #4, EXECUTIVE OFFICER'S REPORT**

- **Staffing Update:** Ms. Underwood introduced Hilda Youngblood, the new assistant executive officer to the board. She announced Liz Constancio was now the manager over the administration staff. Debra Brown was the new manager over the inspections division and will begin in August.
- **Update on Current Projects:** An important project currently underway is improvements in the Enforcement Division. The focus is to streamline the process and reduce the timeframes. Staff is working on developing a new program with the Division of Investigations. The Board is looking to use an outside collection agency to follow up on past due fines. The Department of Consumer Affairs has been supportive in helping the Board obtain new vehicles for the new inspector positions. Staff is researching options to optimize every inspector including partnering up. A meeting was held with all the inspectors on June 28-29 in Sacramento. Topics included customer service, professionalism, and foot spas. Staff has been researching options to be able to increase the inspectors' pay. An outside entity will be brought in to perform a job analysis. A new establishment renewal license has been created to include the ownership names and will be the same size as the initial license (8x10). No overtime has been authorized. The next meeting will be in October in San Diego if the budget permits. All will be kept apprised.

Mr. Williams asked about the vehicles for inspectors and if they could use their own vehicles. Ms. Underwood stated that the inspectors would need to carry their own insurance and this is not feasible with the distance they travel.

It was agreed it was important to get information to the licensees and clarify the role of the Board. Mr. Lloyd noted a lot of licensees come to the DRC very angry because of their citations. He agreed they need to be made aware that the citations are there to protect the public, their consumers.

PUBLIC COMMENT:

Fred Jones, PBFC, stated he was inappropriately quoted in a recent news article. He further stated that he was never interviewed and believes the quote was taken from an email that was forwarded by someone else. It was agreed it was not factual and inappropriate.

Mr. Hedges commented on the Inspectors salaries, he believes they are underpaid. He would like to see them receive a salary increase.

- **Update on Litigation Regarding ACLU vs. City of Moreno Valley and Other Agencies:** This case has been settled.

5. **Agenda Item #5, DCA DIRECTOR'S REPORT**

Brian Stiger, Acting Director for the DCA comments on several items. He spoke how the department is implementing a new Consumer Protection Enforcement Initiative to overhaul the enforcement and disciplinary processes of our healing arts Boards. The goal of this initiative is to reduce the average enforcement completion timeline for our healing arts boards from 36 months to between 12 and 18 month.

Another project the department is working on is BreZE, which will provide all DCA organizations with an enterprise system that supports all applicant tracking, licensing, renewal, enforcement, monitoring, cashiering, and data management capabilities.

BreZE will be web-enabled to allow application, renewal, and payment processing via the Internet for applicants and licensees.

Ms. Crossett addresses a few concerns to Mr. Stiger. She indicated she would like to see students licensed quicker, her concern was with students who had convictions and stated it takes longer for them to get approved. She also indicated that she would like to see aggregate scoring for all license types.

Members of the Board thanked Mr. Stiger for attending the meeting and stated they support him and have a positive outlook on his expectations.

6. Agenda Item #6, APPROVAL OF BOARD MEETING MINUTES

- **April 18, 2010**
- **April 19, 2010**

The following changes/corrections were noted: Pages 4 and 6, need correction. Upon a motion by Mr. Williams, seconded by Mr. Lloyd, the above minutes as amended were approved by a 8-0 vote.

7. Agenda Item #7, REVIEW OF BOARD STATISTICS

- **Licensing:** The number of applications increased in 2010 over 2009 and were processed with less staff and time due to furloughs.
- **Examinations:** Summary reviewed. The number of no-shows has remained consistent. Staff overbooks with caution. Using stand-by was discussed. 48 hours is needed to transmit data from the office to the test site. It would be difficult to keep the exam personnel at the test site apprised of who was on stand-by and could cause a delay. Mr. Hedges directed staff to research the possibility of the stand-by status. Some Board members requested the opportunity to visit the exam site. Ms. Underwood noted the security was very tight and to give her advance notice so she could let the examiners know to expect them, she also indicated under no circumstances could you go into the testing room. Ms. Underwood noted the Department uses various computer systems that are not connected and this impacts the ability to do a standby.
- **Disciplinary Review:** Mr. Lloyd reported more cases were heard than received for the quarter. He invited all Board members to attend the hearings.
- **Enforcement:** No discussion.
- **Inspections:** No discussion.

8. Agenda Item #8, BUDGET UPDATE

Ms. Underwood provided an overview of the latest budget projections. Mr. Hedges noted the Board has over 9 months in reserves so they may be asked to contribute to the state budget. The budget reflects the Governor's order of a 5% reduction in salaries. A monthly report is submitted to the state to show how this 5% reduction is met. This is being met by holding a couple of positions vacant. Background information was also provided. Fund conditions were noted which were used to build the budget for the Board by the Governor. In 2008/09, \$10 million was given to the State's general fund. Several pie charts were provided to reflect revenues and expenditures. A Board member noted the revenues increased in 2007/08. The various categories were

explained. Mr. Hedges requested a motion to request Ms. Underwood to put together a comprehensive plan to provide the budget projections for the coming years. It was requested Ms. Underwood prepare a report of daily operating funds per month. Ms. Underwood requested clarification between a business plan and a comprehensive plan. She stated she would be able to prepare a report of the budget in regards to licensing and enforcement. Ms. Crossett questioned if this was the best use of Ms. Underwood's time. Mr. Williams believed the available data needed to be put together differently. It was motioned by Mr. Nelson and seconded by Ms. Lemelle to have Ms. Underwood come up with a comprehensive plan to the Board Members on how she will operate the business of the Board. The motion was approved by an 8-0 vote.

9. Agenda Item #9, INDUSTRY/CONSUMER OUTREACH UPDATE

Mr. Hedges noted he sent Ms. Underwood a video regarding sanitation. Ms. Underwood noted outreach has been limited because of the budget. Staff will be attended a show on October 10th in Sacramento. Mr. Williams attended the meeting of the CCA, California Cosmetology Association in Hawthorne, CA. It was well attended and he participated in panel discussions to provide general information about the board. He also welcomed the internet audience via the webcam.

10. Agenda Item #10, LEGISLATIVE UPDATE

a. Review of Proposed Legislation: Essential bills were discussed.

- **AB 978 State Chief Information Officer Duties:**
- **AB 1659 Joint Sunset Review Committee**
- **AB 1787 Administrative Procedure: Regulations: Narrative Description**
- **AB 1889 Private Postsecondary Education: CA Private Postsecondary Act of 2009**
- **AB 1899 State Agencies: Information on Web Site**
- **AB 1957 Administrative Procedure Act: Notice of Proposed Actions: Local Government**
- **AB 1993 State Government Reports: Declarations**
- **AB 2091 Public Records: Information Security**
- **AB 2130 Professions and Vocations: Sunset Review**
- **AB 2393 Private Postsecondary Education: Fair Business Practices:**
- **AB 2466 Regulations: Legislation Validation**
- **AB 2738 Regulations: Statement of Reasons**
- **SB 942 State Auditor: Analysis of Regulations**
- **SB 1171 Sunset Review**
- **SB 1491 Department of Consumer Affairs Omnibus:**

11. Agenda Item #11, REGULATIONS UPDATE:

- **Review and Approval of Curriculum Regulations – Final Regulation Package:**
Upon a motion by Mr. Williams, seconded by Mr. Lloyd it was voted 8-0 to approval the final regular package.

Public Comment:

Fred Jones of the PBFC recommended changing curriculum to curricula.

The fine schedule with the changes was approved by an 8-0 vote. A 15 day notice will now be done.

- **Administrative Fine Schedule:**

The administrative fine regulations are moving through the process.

12. Agenda Item #12, DISCUSSION ON ADVANCED ESTHETICIAN LICENSE:

A representative of the National Coalition of Estheticians addressed the Board regarding the advanced Esthetician license.

Sherry Davis is an instructor and licensee for over 25 years. She stated it was very difficult to get the 600 hours but provided a base of understanding. She provided the background of other states' programs; most have a 1200 hour program for advanced. She believed it would be advantageous to provide options to move up the industrial ladder and be more professional.

Mr. Williams stated we tried to increase the hours before and we were declined, he believes a two tier system would work better.

Mr. Hedges believes that some items may fall within the Medical Board.

Public Comment

Patsy Kirby, Electrologist Association of California, stated laser is not legal in California.

Fred Jones with the PBFC, stated his Board would be concerned with a new license that would increase the backlog (be mindful of limited resources), and is it up to the Board to go to the next level. Is it a minimum standard for public safety? The change would require a statute and should it be a priority? He advised the board to be wary when dealing with the medical board.

Peter Westford from Riverside Community College, noted this issue has been discussed for years. He stated it was a growing trend and 600 will not cover the training needed. Numerous complaints have been received regarding scars and injuries from Estheticians. Advanced license would identify that extra training was received and protect the consumer.

Ms. Crossett believed the Board should be proactive to protect the consumer and not wait.

13. Agenda Item #13, OVERVIEW OF DISCIPLINARY PROCESS:

Staff counsel provided a brief overview of the disciplinary process.

14. Agenda Item #14, OVERVIEW OF RULEMAKING/REGULATORY PROCESS:

Staff counsel presented a flow chart and provided an overview of the rulemaking process.

15. Agenda Item #15, DISCUSSION ON UN-REGULATED SERVICES OFFERED IN LICENSED ESTABLISHMENTS:

Mr. Hedges requested a full discussion was needed for this item. Ms. Underwood who has been working with legal counsel, Gary Duke, was going to provide information to the Board, however Mr. Duke was not able to attend this meeting. It was agreed to keep on the agenda for the next Board Meeting.

Public Comment:

Jaime Schrabek of Precision Nails suggested when discussing we need to expand our concept to include all aspects of services.

16. Agenda Item #16, DISCUSSION ON SCHOOL OVERSIGHT (APPROVALS AND ENFORCEMENT):

Ms. Underwood reported an examiner reported odd smells while at a school site. Numerous cleaners were found upon inspection. It was found disciplinary action was not an option as the Board did not oversee the licensing, only curriculum. They were not able to act on complaints of health and safety other than issue citations. There are limited resources and jurisdiction over schools. The Board is providing this oversight for "free". Citations can be issued but if the fees are not paid, disciplinary action cannot be enforced. This problem is getting worse and authority needs to be established. Ms. Underwood believed there needs to be one regulatory program for the schools. The Board will always be involved in the schools. Dual oversight is not working and needs to be corrected. As a school owner, Mr. Williams agreed the Board needs to have full oversight.

Public Comment:

Fred Jones of PBFC, believed the Board should prepare to confront the legislature/Governor about this issue by December. He believed this is the time to send a message to the Director of DCA and Senator Pro Tem, possibly a consultant could be hired by the Board to replace the functions of the BPPE.

The Board took a break at this point. The meeting was readjourned.

17. Agenda Item #17, DISCUSSION ON STRENGTHENING ESTABLISHMENT REGULATIONS:

A staff report was presented. It was noted the requirements are minimal to obtain an establishment license. Ms. Underwood researched the requirements in other states and it was found most were very extensive. Very preliminary language was presented. Extensive discussion ensued about what should and should not be included. Questionable items included certification of equipment. It was agreed the floor plan should be included for safety reasons. Mr. Nelson believed the requirements were an overkill. Mr. Hedges noted this was a very serious problem. Mr. Hedges suggested a working group be set up for further discussion.

Public Comment

Jaime Schrabek of Precision Nails believes legitimate businesses are doing the correct way. The board should increase the application fee and renewal fees. She also suggested forwarding a new salon to Franchise Tax Board letting them know that a new business has opened, profits are always hidden. She would also like to see salon's advertise with their license number.

Fred Jones, PBFC, he also agreed with Mr. Hedges and would like to see a working group established. Decent law abiding citizens will have different opinions which may create more red tape, he suggested to include stakeholders and the Board can tailor to those specifics.

18. Agenda Item #18, STRATEGIC PLANNING – ESTABLISH DATE FOR PLANNING MEETING:

The Board agreed to hold until the next board meeting.

19. Agenda Item #19, PUBLIC COMMENT:

None

20. Agenda Item #20, AGENDA ITEMS FOR NEXT MEETING:

- Review the Board Business Plan
- Continuing Education
- Author a Bill to Govern Schools
- Most Common Esthetician Violations for Advanced Esthetician License

21. Agenda Item #21, CLOSED SESSION TO DISCUSS ENFORCEMENT CASE

- **Discussion on Reconsideration and Disciplinary Cases (Closed Pursuant to Government Code Section 11126(c)(3)).**

22. Agenda Item #22, ADJOURNMENT

The meeting was reopened to public session.

With no further business, the meeting was adjourned.



Board of Barbering and Cosmetology

PO Box 944226, Sacramento, CA 94244

P (800) 952-7574 F (916) 574-7574 | www.barbercosmo.ca.gov

MEMORANDUM

DATE: October 25, 2010

TO: Members, Board of Barbering and Cosmetology

FROM: Kristy Underwood, Executive Officer *KU*

SUBJECT: Draft Business Plan

To facilitate the discussion of the Board's Business Plan, the attached document is being provided in as a DRAFT plan. Also being provided is the Board's most recent strategic plan.

DRAFT



**Business Plan
Fiscal Year 2010/2011**

I. Board Overview

The Board was refashioned in 1992 after the passage of enabling legislation (AB 3008, Chapter 1672, Statutes of 1990) that merged the Board of Barber Examiners and the Board of Cosmetology, both of which were established in 1939. The merged Board consisted of five public members and four members representing the professions. The Governor appointed three of the public members and four professional members. The Senate Committee on Rules and the Speaker of the Assembly each appointed one public member.

In 1996, the then-named Joint Legislative Sunset Review Committee (Joint Committee) recommended that the Board be eliminated. Like all boards in the Department of Consumer Affairs (Department), the Board functioned semi-autonomously. Once the Board was sunsetted, all of its functions, duties and powers were transferred to the Director of the Department. The result was the creation of the Barbering and Cosmetology Program in 1997, which was led by a Program Administrator, appointed by the Department Director. The Program experienced another change in 1999, when Senate Bill 1306 (Senate Committee on Business and Professions), Chapter 656, Statutes of 1999, changed the Program's name to the Bureau, and required the Bureau be subject to sunset reviews. The Bureau was reviewed in 2002-03.

SB 1482 (Polanco), Chapter 1148, Statutes of 2002, recreated the Board of Barbering and Cosmetology. The Board is once again comprised of nine members, with the composition and appointing authority exactly as it was at its inception in 1992.

Strategic Plan

The Board's most recent strategic plan was implemented in 2006. Within the plan the Board adopted a mission and vision statement as well as values and core principles and 5 main goals.

Mission Statement:

To ensure the health and safety of California Consumers, by promoting ethical standards and by enforcing the laws of the beauty industry.

Vision Statement:

California will set and enforce the highest level of health and safety standards and provide an environment where consumers will obtain barbering and cosmetology services with the confidence and security that their health and safety will be protected.

Values and Goals:

The Board of Barbering and Cosmetology will exhibit:

- Vision
- Integrity

- Flexibility
- Commitment
- Loyalty to its Mission
- Relevance to important issues
- Compassion
- Open mindedness

Goals:

1. Increase the Boards enforcement activity to ensure safety of consumers.
2. Enhance the Board's inspection unit to improve effectiveness and ensure consumer safety.
3. Improve the Boards licensing and examination efficiency.
4. Fully educate consumers and industry on health and safety of barbering and cosmetology services.
5. Establish an excellent organization through proper Board governance and effective leadership.

Statutory Mandate

Business and Professions Code section 7303.1 states:

Protection of the public shall be the highest priority of the Board of Barbering and cosmetology in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

II. Industry Overview

The California Board of Barbering and Cosmetology is the largest Board of its kind in the nation. The Board currently has 518,915 licensees. In a review of statistical data for the last four years the following averages were determined:

Workload Description	Annual Average
Applications Received	48,071
Licenses Issued	28,124
Licenses Renewed	194,062
Exams Administered	61,264
Complaints Received	2,999
Inspections Conducted	9,163
Citations Issued	13,000

The number of applications received remains fairly consistent over the last four years, while the number of licenses issued has decreased. The best assumption for the decrease in licenses issued is the decrease in the number of examinations administered (65,736 in 2006/2007 compared to 56,991 in 2009/2010). This decrease is likely due to the state furlough program and the Board not conducting exams three days a month.

Regardless, the industry remains strong and the population of licensees remains consistent. The table below compares the active number of licenses from fiscal year 2006/2007 to 2009/2010:

License Type	FY 2006/2007	FY 2009/2010	Difference
Barber	21,075	21,767	+692
Barber Apprentice	395	476	+81
Cosmetologist	256,662	272,821	+16,159
Cosmetologist Apprentice	1,036	1,035	-1
Electrologist	2,700	2,310	-390
Electrologist Apprentice	0	0	0
Establishment	43,267	45,265	+1,998
Esthetician	39,852	54,805	+14,953
Manicurist	111,354	117,788	+6,434
Mobile Unit	11	18	+7

III. Operations and Management

The Board consists of 94.4 staff. The staff is sectioned into the following three units:

- Licensing and Examinations
- Enforcement
- Administration

Among the staff is the Leadership Team consisting of 6 supervisors, 4 Managers, 1 Deputy Executive Officer and one Executive Officer. The Leadership Team meets on a monthly basis to review each unit's progress, issues and to discuss strategies. Each manager and supervisor then disperses the pertinent information to their staff.

The managers of each unit have the responsibility to set unit goals, monitor workload, ensure staff training, and make recommendations on how to improve processes and performance.

Each manager submits a monthly report to the Executive Officer detailing their unit's workload. The data from the monthly reports is compiled into a quarterly report that is provided to the Board as well as the public.

IV. Budget

Allotment

The Board's budget is established by the Governor and the Legislature. Any changes made to the Board's budget must be proposed through the Budget Change Proposal (BCP) process. The Board's budget is divided into two distinct sections: Personnel Services and Operating Expenses and Equipment. Personnel Services includes all funding for staff salaries, benefits, board member per-diem, temporary help and overtime. Operating Expenses and Equipment is for all other expenses that the Board incurs. The Board's 2010/2011 budget as proposed in the Governor's budget is as follows:

Personnel Services	\$6,442,245
Operating Expenses and Equipment	\$11,927,755
(scheduled reimbursement)	(\$57,000)
Total Allotment	\$18,313,000

The Department of Consumer Affairs works with Board staff to establish line items within each of the two sections of the Board's budget. A detailed budget for 2010/2011 is attached.

It should be noted that each line item within the budget can not be changed, unless the BCP process is followed. In summary the BCP process is as follows:

- A concept (idea) paper is submitted to the DCA
- Upon approval of the concept, the final BCP is prepared and submitted to the DCA.
- The BCP is submitted by the DCA to the Department of Finance (DOF).
- If approved by the DOF, the BCP is submitted as part of the Governor's Budget.
- Various hearings are held in the Senate and Assembly as the budget moves through the process.

Expenditures

Board staff works with the DCA in order to project the amount of expenditures that the Board will have in a given year. The expenditures are always based on the prior year's actual expenditures. A higher projection may be included if staff are aware of a significant cost that will be made in the current year (e.g. mass mailing of a new regulation). The Board's 2010/2011 projected expenditures are as follows:

Personnel Services	\$6,056,884
Operating Expenses and Equipment	\$11,635,306
Total Projected Expenditures	\$17,692,190

V. Operational Plan for Fiscal Year 2010/2011

Attached is the operation plan that will be followed for the current fiscal year.

2010-2011 BUDGET

OBJECT DESCRIPTION	BUDGET ALLOTMENT
PERSONAL SERVICES	
Salaries and Wages:	
Civil Service-Perm	4,190,069
Expert Examiners (903)	464,259
Temp Help (907)	0
Statutory-Exempt (EO)	103,608
Board/Commission (910,920)	0
Overtime	0
Staff Benefits	1,820,941
Salary Savings	(136,632)
TOTAL, PERSONAL SVC	6,442,245
OPERATING EXPENSE AND EQUIPMENT	
General Expense	226,875
Printing	241,995
Communication	105,722
Postage	337,384
Insurance	4,489
Travel In State	80,906
Travel, Out-of-State	883
Training	22,513
Facilities Operations	1,327,231
C & P Services - Interdept.	125,781
C & P Services - External	196,947
DP Billing (OIS)	2,421,870
Indirect Distributed Cost (OAS)	944,600
Interagency Services	1,194
Interagency Agreement	0
DOI Prorata	36,742
Public Affairs	78,842
Consumer & Comm. Relations	1,551,592
OPP Support Services	0
Consolidated Data Center	70,088
DP Maintenance	36,376
Central Admin Pro Rata	562,154
EXAMINATIONS:	
C/P Svs - Ext Subject Matter	1,394,177
EQUIPMENT:	
Major Equipment	0
Minor Equipment	0
ENFORCEMENT:	
Attorney General	1,342,935
Office Admin. Hearing	218,829
Evidence / Witness Fees	23,332
Court Reporters	0
Div. of Investigations	552,238
Other Items of Expense	7,288
Vehicle Operations	14,772
Special Adjustments	
OE&E Savings	
TOTALS, OE&E	11,927,755
Special Items of Expense	0
TOTAL EXPENSE	18,370,000
Sched. Reimb. - Other	(57,000)
Sched. Reimb. - Fingerprints	
TOTAL Reimbursements	(57,000)
NET APPROPRIATION	18,313,000

**CALIFORNA BOARD OF BARBERING AND COSMETOLOGY
OPERATION PLAN
FY 2010/2011**

LICENSING and EXAMINATIONS

Application Evaluations for
Examinations

Application Evaluations for non-
Examination

Examinations

STAFFING

The Licensing and Examinations Unit consists of 47 staff. Seventeen staff are located in the Sacramento Office and thirty are split between the Glendale and Fairfield Examination Sites.

Application Evaluations for Examinations

This unit processes all examination applications for cosmetology, barber, esthetician, manicuring and electrology. This includes any application that is submitted with a pre-application. This unit also schedules all examinations for these license types.

Application Evaluations for non-Examinations

This unit processes all applications that do not require an examination, such as; apprentice, schools, out-of-state, out-of-country and establishment. Also done in this unit are certification requests, name changes, duplicate requests and address changes.

Examinations

The Board maintains two examination facilities that operate on a daily basis, Monday through Friday with the exception of furloughs.

CURRENT STRATEGIC GOAL

- Improve the Board's licensing and examination efficiency.

INTERNAL LICENSING AND EXAMINATION GOALS

Goal	Costs Involved	Estimated Costs	Expected Completion Date
Implement the NIC national practical examination.	Yes	\$570,000*	Unknown Due to Budget
Reduce processing time of establishment licensing.	No		12/31/2010
Reduce processing time for written-only re-examination.	No		11/30/2010
Maintain processing time for examination applicants.	No		On-going
Determine resource needs to have examination sites fully staffed.	Yes	Unknown	2/28/2011
Develop and maintain desk manuals for all staff.	Minimal		10/1/2010
Improve customer service.	Minimal		On-going
Develop process to review applications with convictions to reduce examination wait time.	No		10/1/2010
Complete the implementation of the new curriculum	Minimal		2/1/2010

**Cost is amount of contract. Current examination fee's are sufficient to cover this cost.*

Minimal costs are absorbable in existing budget.

ENFORCEMENT

Case Management

Inspections

Citations

STAFFING

The Boards Enforcement Unit is broken up into three separate units. Among these three units there are a total of 52 staff. Thirty-two positions are dedicated to inspections (29 inspectors and 3 support), thirteen positions are dedicated to case management, five are dedicated to citations and 2 managers (one for inspections and citations and one for case management).

Case Management

The Case Management Unit handles complaints, disciplinary action, probation, and application convictions.

Inspections

The Inspection Unit consists of the Board inspectors who are in the field daily conducting inspections and the support team is in the headquarter office and is responsible for inputting the inspection report data.

Citations

The Citations Unit reviews the inspection reports and issues all citations of licensees.

CURRENT STRATEGIC GOALS

- Increase the Board's enforcement activity to ensure the safety of consumers.
- Enhance the Board's inspection unit to improve effectiveness and ensure consumer safety.

INTERNAL ENFORCEMENT GOALS

Goal	Costs Involved	Estimated Costs	Expected Completion Date
Update procedure manuals for case management.	No		12/31/2010
Update Inspector manual.	No		10/31/2010
Develop program to address unlicensed activity by working with the Division of Investigation.	Yes	Unknown (DOI Costs involved)	On-going
Reduce in-house case management time frames.	No		On-going
Provide training to inspectors Certified Regulatory Investigator Training sponsored by the NIC.	Yes	Unknown	6/30/2010
Provide Training to all enforcement staff from Council on Licensure, Enforcement and Regulation	Yes	\$17,250	6/30/2011
Evaluate staffing resources for inspectors and analysts	No		5/31/2011
Update complaint forms	Minimal		12/31/2010
Develop new and improved expert witness program	Minimal		6/31/2011
Develop team with the Boards of Registered Nursing, Medical Board and the BPPE	No		1/31/2011
Fully implement telephone disconnect program for unlicensed establishments	Minimal		11/30/2010
Automate disciplinary letters	Minimal		12/31/2010
Pursue FTB program for unpaid fines	No		On-going
Develop procedures to increase the Board probation monitor processes	No		12/31/2010
Review cost recovery cases for payment	No		12/31/2010
Complete manual for processing applications with convictions	No		09/30/2010

Minimal costs are absorbable in existing budget.

ADMINISTRATION

STRUCTURE



STAFFING

The Administration Unit consists of a total of nine staff. These nine staff are allocated as follows: 1 staff person to Budgets and Outreach; 1 staff person to Regulations and Legislation and Contracts; 1 staff person to Human Resources; 1 staff person to Business Services; and 3 staff persons to DRC. In addition, there is one manager that oversees the Administration Unit.

STRATEGIC GOALS

- Fully educate consumers and industry on health and safety of barbering and cosmetology services.

INTERNAL ADMINISTRATION GOALS

Goal	Unit	Costs Involved	Estimated Costs	Expected Completion Date
Implement 5% reduction of personnel services	Budgets	Reduction		Immediate
Develop and implement contract with collection agency for unpaid fines	Contracts	Yes	\$50,000	1/1/2011
Develop contract for NIC practical exam.	Contracts	Yes	\$550,000	3/1/2011
Conduct job analysis of inspector classification to determine best method to up-grade/re-classify inspector positions.	Human Resources	Yes	\$25,000	5/1/2011
Participate in outreach events for consumers and licensees	Outreach	Yes	Unknown	6/30/2011
Purse legislative authority to allow for remedial education in lieu of a fine.	Leg/Reg	No		
Work with DCA to obtain legislative authority to require fingerprint clearances for all applicants and licensees.	Leg/Reg	Yes	Unknown	
Update health and safety regulations to determine validity of existing regulations	Leg/Reg	Yes	Unknown	6/30/2012
Update regulations regarding passing scores in examinations	Leg/Reg	Yes	Unknown	6/30/2012
Update regulations for minimum equipment for schools	Leg/Reg	Yes	Unknown	6/30/2012
Obtain vehicles for all inspectors	Business Services	Yes	Unknown	3/31/2011

State of California

**Department of Consumer Affairs
California State Board of Barbering and Cosmetology**

"To ensure the health and safety of California Consumers by promoting ethical standards and by enforcing the laws of the beauty industry"

**STRATEGIC PLAN
2006**



Arnold Schwarzenegger, Governor
State of California

Rosario Marin, Secretary
State and Consumer Services Agency

Charlene Zettel, Director
Department of Consumer Affairs

Board Members and Functions

Jerry R. Tyler, President, Professional Member

Richard Hedges, Vice President, Public Member

Dr. Della M. Condon, Professional Member

Marlene Gadinis, Professional Member

Joe Gonzalez, Professional Member

Bonnie G. LaChappa, Public Member

Frank Lloyd, Public Member

Angela Reddock, Public Member

Jerri Ann Walters, Public Member

Kristy Underwood, Executive Officer

Denise Johnson, Assistant Executive Officer

Table of Contents

Vision and Mission Statements	4
Shared Values/Core Principals	5
Agency Description – About the Board of Barbering and Cosmetology	6
Methodology	7
Summary of Goals	8
Goals, Outcome, Objectives and Measures	9

CALIFORNIA STATE BOARD OF BARBERING AND COSMETOLOGY

VISION STATEMENT

California will set and enforce the highest level of health and safety standards and provide an environment where consumers will obtain barbering and cosmetology services with the confidence and security that their health and safety will be protected.

MISSION STATEMENT

To ensure the health and safety of California consumers by promoting ethical standards and by enforcing the laws of the beauty industry.

SHARED VALUES/CORE PRINCIPLES

The Board of Barbering and Cosmetology will exhibit:

- Vision
- Integrity
- Flexibility
- Commitment
- Loyalty to its mission
- Relevance to important issues
- Compassion and
- Open mindedness

These values will be exhibited when considering all matters before the Board affecting the consumers of California and the profession of barbering and cosmetology.

About the California State Board of Barbering and Cosmetology

In 1927, the Board of Barber Examiners and the Board of Cosmetology was established. The Board of Barber Examiners governed the barbering profession, and the Board of Cosmetology governed the cosmetology profession. The Board of Barber Examiners consisted of 5 members, 2 of which were public members. The Board of Cosmetology consisted of 7 members, 2 of which were public members.

Throughout the years there were minor changes to the laws of each profession. For example, the requirement of apprenticeship prior to master barber licensing for barbers and revision to the cosmetology laws to include a separate manicurist license, electrology license, and esthetician license. In 1939, the manicurist license and the electrology license were added, and in 1978, the cosmetician (esthetician) license was added.

In 1992, the Board of Barber Examiners and the Board of Cosmetology were merged to create the Board of Barbering and Cosmetology. Chapter 10, Division 3 of the Business and Professions Code (known and cited as the Barbering and Cosmetology Act) was enacted by AB 3008 (Eastin, Chapter 1672, Statutes of 1990) and became effective July 1, 1992. In July 1997, the Board of Barbering and Cosmetology was eliminated by the California Legislature and the duties, powers, and functions of the Board were transferred directly to the Department of Consumer Affairs and were administered by the Bureau of Barbering and Cosmetology. On January 1, 2003, SB 1482 (Polanco), Chapter 1148, Statutes of 2002, reinstated the Board of Barbering and Cosmetology (BBC).

Today, the Board consists of nine members, seven are appointed by the Governor, one by the Senate Pro Tem, and one by the Assembly Speaker. Of the nine appointments, four members are licensees and five are public members. The Board appoints the Executive Officer. The Executive Officer oversees a staff of 85. The major areas of responsibility in the daily operations of the Board are testing and licensing applicants as cosmetologists, manicurists, estheticians, electrologists and barbers as well as inspecting salons for health and safety violations; and investigating consumer complaints.

METHODOLOGY

In developing its strategic plan, the Board relied upon the full participation of its staff, its Board members and its stakeholders. The Board identified strategic issues to be addressed during the July 2006, meeting. Additionally, the Board developed a new mission and vision statement, shared values and refocused the objectives of its committees into an outcome-oriented strategic plan, with refined objectives and tasks.

At the July 2006, Board meeting, as part of the annual strategic plan update, the Board prioritized goals and modified the plan's objectives and tasks.

Board staff, Board members and stakeholders have provided valuable input to produce this strategic plan. The participation of each group has provided important information necessary for a dynamic strategic plan, capable of guiding the Board in fulfilling its mission for several years.

SUMMARY OF GOALS

Goal One

Increase the Board's enforcement activity to ensure safety of consumers.

Goal Two

Enhance the Board's Inspection unit to improve effectiveness and ensure consumer safety.

Goal Three

Improve the Board's licensing and examination efficiency.

Goal Four

Fully educate consumers and industry on health and safety of barbering and cosmetology services.

Goal Five

Establish an excellent organization through proper Board governance and effective leadership.



State and Consumer Services Agency – Arnold Schwarzenegger, Governor
Board of Barbering and Cosmetology-Department of Consumer Affairs
PO Box 944226, Sacramento, CA 94244
P (800) 952-7574 F (916) 574-7574 | www.barbercosmo.ca.gov



MEMORANDUM

DATE: October 25, 2010

TO: Members, Board of Barbering and Cosmetology

FROM: Kristy Underwood, Executive Officer *KU*
Board of Barbering and Cosmetology

SUBJECT: Status of Legislation

Attached is a chart of the final outcome of all bills that the Board has been tracking. In addition, a copy of each bill that was signed by the Governor is attached as well as any veto message.

*Note: Due to SB 1491 being multiple pages, only the section that impacts the Board are being included.

Tracking of Current Bills

SIGNED BY THE GOVERNOR

Bill Number	Topic	Status
AB 1659	New Joint Sunset Committee	Chaptered
AB 2091	Exempts information security from PRA	Chaptered
AB 2130	Abolishes Joint Committee on Boards	Chaptered
AB 2738	Regulations: Makes changes to initial statement of reasons	Chaptered
SB 1491	Omnibus Massage during manicure from elbow to fingers, knee to toe Smoothers Written testimony Air hand dryers Clarifies 7317	Chaptered BOARD POSITION: SUPPORT

VETOED BY THE GOVERNOR

Bill Number	Topic	Status
AB 1889	BPPE	Vetoed
AB 1899	Requires state agencies to post specified audits and contracts	Vetoed
AB 2393	BPPE	Vetoed

NO ACTION

Bill Number	Topic	Status
AB 978	Requires CIO to collaborate with DCA on a new IT system	Held under submission
AB 1787	Requires narrative on regulations to add or delete	Held under submission
AB 1957	Requires agency to mail notice of regulation change to local government	Held under submission
AB 1993	Requires declaration from agency head when report is submitted, declaring information is true	Referred to Rules
AB 2466	Regulations: Requires OAL to submit packages to Legislature, increases time from 30 to 90 days	Held under submission
SB 942	Regulations: Analysis	Held under submission
SB 1171	Abolishes Joint Committee and requires review by policy committees	Referred to Rules

Assembly Bill No. 1659

CHAPTER 666

An act to add Article 7.5 (commencing with Section 9147.7) to Chapter 1.5 of Part 1 of Division 2 of Title 2 of the Government Code, relating to state government.

[Approved by Governor September 30, 2010. Filed with
Secretary of State September 30, 2010.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1659, Huber. State government: agency repeals.

Existing law establishes the Joint Committee on Boards, Commissions, and Consumer Protection and, until January 1, 2012, requires the committee to hold public hearings at specified times and to evaluate whether a board or regulatory program has demonstrated a need for its continued existence. Existing law states the intent of the Legislature that all existing and proposed state boards be subject to review every 4 years to evaluate and determine whether each has demonstrated a public need for its continued existence, as specified.

This bill would create the Joint Sunset Review Committee to identify and eliminate waste, duplication, and inefficiency in government agencies and to conduct a comprehensive analysis of every "eligible agency," as defined, to determine if the agency is still necessary and cost effective. The bill would define an "eligible agency" as an entity of state government, however denominated, for which a date for repeal has been established by statute on or after January 1, 2011. The bill would require each eligible agency scheduled for repeal to submit a report to the committee containing specified information. The bill would require the committee to take public testimony and evaluate the eligible agency prior to the date the agency is scheduled to be repealed, and would require that an eligible agency be eliminated unless the Legislature enacts a law to extend, consolidate, or reorganize the agency. The bill would specify the composition of the committee, which would be appointed by the Senate Committee on Rules and the Speaker of the Assembly, and certain aspects of its operating procedure.

The people of the State of California do enact as follows:

SECTION 1. Article 7.5 (commencing with Section 9147.7) is added to Chapter 1.5 of Part 1 of Division 2 of Title 2 of the Government Code, to read:

Article 7.5. Sunset Review

9147.7. (a) For the purpose of this section, “eligible agency” means any agency, authority, board, bureau, commission, conservancy, council, department, division, or office of state government, however denominated, excluding an agency that is constitutionally created or an agency related to postsecondary education, for which a date for repeal has been established by statute on or after January 1, 2011.

(b) The Joint Sunset Review Committee is hereby created to identify and eliminate waste, duplication, and inefficiency in government agencies. The purpose of the committee is to conduct a comprehensive analysis over 15 years, and on a periodic basis thereafter, of every eligible agency to determine if the agency is still necessary and cost effective.

(c) Each eligible agency scheduled for repeal shall submit to the committee, on or before December 1 prior to the year it is set to be repealed, a complete agency report covering the entire period since last reviewed, including, but not limited to, the following:

- (1) The purpose and necessity of the agency.
- (2) A description of the agency budget, priorities, and job descriptions of employees of the agency.
- (3) Any programs and projects under the direction of the agency.
- (4) Measures of the success or failures of the agency and justifications for the metrics used to evaluate successes and failures.
- (5) Any recommendations of the agency for changes or reorganization in order to better fulfill its purpose.

(d) The committee shall take public testimony and evaluate the eligible agency prior to the date the agency is scheduled to be repealed. An eligible agency shall be eliminated unless the Legislature enacts a law to extend, consolidate, or reorganize the eligible agency. No eligible agency shall be extended in perpetuity unless specifically exempted from the provisions of this section. The committee may recommend that the Legislature extend the statutory sunset date for no more than one year to allow the committee more time to evaluate the eligible agency.

(e) The committee shall be comprised of 10 members of the Legislature. The Senate Committee on Rules shall appoint five members of the Senate to the committee, not more than three of whom shall be members of the same political party. The Speaker of the Assembly shall appoint five members of the Assembly to the committee, not more than three of whom shall be members of the same political party. Members shall be appointed within 15 days after the commencement of the regular session. Each member of the committee who is appointed by the Senate Committee on Rules or the Speaker of the Assembly shall serve during that committee member’s term of office or until that committee member no longer is a Member of the Senate or the Assembly, whichever is applicable. A vacancy on the committee shall be filled in the same manner as the original appointment. Three Assembly Members and three Senators who are members of the committee shall constitute a quorum for the conduct of committee business.

Members of the committee shall receive no compensation for their work with the committee.

(f) The committee shall meet not later than 30 days after the first day of the regular session to choose a chairperson and to establish the schedule for eligible agency review provided for in the statutes governing the eligible agencies. The chairperson of the committee shall alternate every two years between a Member of the Senate and a Member of the Assembly, and the vice chairperson of the committee shall be a member of the opposite house as the chairperson.

(g) This section shall not be construed to change the existing jurisdiction of the budget or policy committees of the Legislature.

Assembly Bill No. 2091

CHAPTER 205

An act to add Section 6254.19 to the Government Code, relating to public records.

[Approved by Governor August 27, 2010. Filed with
Secretary of State August 27, 2010.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2091, Conway. Public records: information security.

The California Public Records Act requires state and local agencies to make their records available for public inspection and to make copies available upon request and payment of a fee unless those records are exempt from disclosure.

This bill would exempt from disclosure under the act the information security records of a public agency if, on the facts of the particular case, disclosure of those records would reveal vulnerabilities to, or otherwise increase the potential for an attack on, an information technology system of a public agency.

The California Constitution requires a statute limiting the public's right of access to information concerning the public's business to be adopted with findings demonstrating the interest protected and the need for protecting that interest.

This bill would make a legislative finding to that effect.

The people of the State of California do enact as follows:

SECTION 1. Section 6254.19 is added to the Government Code, to read:

6254.19. Nothing in this chapter shall be construed to require the disclosure of an information security record of a public agency, if, on the facts of the particular case, disclosure of that record would reveal vulnerabilities to, or otherwise increase the potential for an attack on, an information technology system of a public agency. Nothing in this section shall be construed to limit public disclosure of records stored within an information technology system of a public agency that are not otherwise exempt from disclosure pursuant to this chapter or any other provision of law.

SEC. 2. The Legislature finds and declares that this act imposes a limitation on the public's right of access to writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following finding to demonstrate the interest protected by this limitation

and the need for protecting that interest: The Legislature finds and declares that in order to protect the integrity of public agency information systems, it is necessary to limit the public's access to the information security records of a public agency.

Assembly Bill No. 2130

CHAPTER 670

An act to amend Section 22 of, to repeal Section 101.1 of, and to repeal Division 1.2 (commencing with Section 473) of, the Business and Professions Code, to amend and repeal Section 4351 of the Food and Agricultural Code, to amend Sections 9148.51 and 9148.52 of, and to amend and repeal Sections 8164.1, 8164.2, and 8164.3 of, the Government Code, to amend and repeal Sections 1777, 1777.2, and 1777.4 of the Health and Safety Code, and to amend and repeal Sections 5073.5, 5073.7, and 5074 of the Public Resources Code, relating to professions and vocations.

[Approved by Governor September 30, 2010. Filed with
Secretary of State September 30, 2010.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2130, Huber. Professions and vocations: sunset review.

Existing law establishes the Joint Committee on Boards, Commissions, and Consumer Protection and, until January 1, 2012, requires the committee to hold public hearings at specified times and to evaluate whether a board or regulatory program has demonstrated a need for its continued existence. Existing law states the intent of the Legislature that all existing and proposed state boards be subject to review every 4 years to evaluate and determine whether each has demonstrated a public need for its continued existence, as specified.

This bill would abolish the Joint Committee on Boards, Commissions, and Consumer Protection and make other conforming changes.

The bill would instead require the Joint Sunset Review Committee to review all eligible agencies, as specified. The bill would require the committee to evaluate and make a report on whether an agency should be terminated or its functions revised or consolidated. The bill would require that the report shall be available to the public and the Legislature, as specified. The bill would impose a sunset date of January 1, 2013, on the State Race Track Leasing Commission, the Capitol Area Committee, the Continuing Care Advisory Committee, and the California Recreational Trails Committee.

The bill would provide that its provisions would not become operative unless AB 1659 of the 2009–10 Regular Session is enacted and establishes the Joint Sunset Review Committee.

The people of the State of California do enact as follows:

SECTION 1. Section 22 of the Business and Professions Code is amended to read:

22. "Board," as used in any provision of this code, refers to the board in which the administration of the provision is vested, and unless otherwise expressly provided, shall include "bureau," "commission," "committee," "department," "division," "examining committee," "program," and "agency."

SEC. 2. Section 101.1 of the Business and Professions Code is repealed.

SEC. 3. Division 1.2 (commencing with Section 473) of the Business and Professions Code is repealed.

SEC. 4. Section 4351 of the Food and Agricultural Code is amended to read:

4351. (a) There is hereby created the State Race Track Leasing Commission which shall be composed of the Director of Food and Agriculture, the Director of Finance, and the Director of General Services and three individuals, appointed by the Governor, who are members of the Board of Directors of the 22nd District Agricultural Association. The Director of Finance shall serve as chairperson of the commission. All meetings of the commission shall be open and public.

(b) This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

SEC. 5. Section 8164.1 of the Government Code is amended to read:

8164.1. There is in state government a Capitol Area Committee consisting of nine members who shall be appointed in the following manner:

(a) Four members of the committee shall be appointed by the Governor of which at least one member shall be appointed from a list of three candidates submitted by the City of Sacramento and at least one member shall be appointed from a list of three candidates submitted by the County of Sacramento. Two members shall be appointed for a term expiring December 31, 1979, and two for a term expiring December 31, 1981.

(b) Two members shall be appointed by the Speaker of the Assembly, one of whom may be a Member of the Assembly, and two members shall be appointed by the Senate Rules Committee, one of whom may be a Member of the Senate. Legislative members of the committee shall meet and, except as otherwise provided by the Constitution, advise the department to the extent that the advisory participation is not incompatible with their respective positions as Members of the Legislature. Of the four appointments by the Legislature, two shall be appointed for a term expiring December 31, 1979, and two for a term expiring December 31, 1981.

(c) One shall be appointed by and serve at the pleasure of the director.

Subsequent appointments pursuant to subdivisions (a) and (b) shall be for terms of four years, ending on December 31st of the fourth year after the end of the prior term, except that appointments to fill vacancies occurring for any reason other than the expiration of the term shall be for the unexpired

portion of the term in which they occur. The members of the board shall hold office until their successors are appointed and qualify.

The members of the committee shall not receive compensation from the state for their services under this article but, when called to attend a meeting of the committee, shall be reimbursed for their actual and necessary expenses incurred in connection with the meeting in accordance with the rules of the Department of Personnel Administration.

(d) This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

SEC. 6. Section 8164.2 of the Government Code is amended to read:

8164.2. (a) The committee shall elect a chairperson. The committee shall meet at least quarterly or upon the call of the chairperson or the written request of any three members.

(b) This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

SEC. 7. Section 8164.3 of the Government Code is amended to read:

8164.3. (a) It is the purpose of the committee to independently review the reports of the department to the Legislature and counsel and advise the department in the carrying out of its responsibilities related to the Capitol Area Plan. The committee may submit separate comments on the departmental reports on the Capitol Area Plan to the Legislature. The committee shall involve a broad cross section of interested citizens in the form of an advisory body. The advisory body shall serve without compensation.

(b) This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

SEC. 8. Section 9148.51 of the Government Code is amended to read:

9148.51. (a) It is the intent of the Legislature that all existing and proposed eligible agencies, as defined in subdivision (a) of Section 9147.7, be subject to review to evaluate and determine whether each has demonstrated a public need for its continued existence in accordance with enumerated factors and standards as set forth in Article 7.5 (commencing with Section 9147.7).

(b) If any state board becomes inoperative or is repealed in accordance with the act that added this section, any provision of existing law that provides for the appointment of board members and specifies the qualifications and tenure of board members shall not be implemented and shall have no force or effect while that state board is inoperative or repealed.

(c) Any provision of law authorizing the appointment of an executive officer by a state board subject to the review described in Article 7.5 (commencing with Section 9147.7), or prescribing his or her duties, shall not be implemented and shall have no force or effect while the applicable state board is inoperative or repealed.

SEC. 9. Section 9148.52 of the Government Code is amended to read:

9148.52. (a) The Joint Sunset Review Committee established pursuant to Section 9147.7 shall review all eligible agencies.

(b) The committee shall evaluate and make determinations pursuant to Article 7.5 (commencing with Section 9147.7).

(c) Pursuant to an evaluation made as specified in this section, the committee shall make a report which shall be available to the public and the Legislature on whether an agency should be terminated, or continued, or whether its functions should be revised or consolidated with those of another agency, and include any other recommendations as necessary to improve the effectiveness and efficiency of the agency. If the committee deems it advisable, the report may include proposed legislative proposals that would carry out its recommendations.

SEC. 10. Section 1777 of the Health and Safety Code is amended to read:

1777. (a) The Continuing Care Advisory Committee of the department shall act in an advisory capacity to the department on matters relating to continuing care contracts.

(b) The members of the committee shall include:

(1) Three representatives of nonprofit continuing care providers pursuant to this chapter, each of whom shall have offered continuing care services for at least five years prior to appointment. One member shall represent a multifacility provider and shall be appointed by the Governor in even years. One member shall be appointed by the Senate Committee on Rules in odd years. One member shall be appointed by the Speaker of the Assembly in odd years.

(2) Three senior citizens who are not eligible for appointment pursuant to paragraphs (1) and (4) who shall represent consumers of continuing care services, all of whom shall be residents of continuing care retirement communities but not residents of the same provider. One senior citizen member shall be appointed by the Governor in even years. One senior citizen member shall be appointed by the Senate Committee on Rules in odd years. One senior citizen member shall be appointed by the Speaker of the Assembly in odd years.

(3) A certified public accountant with experience in the continuing care industry, who is not a provider of continuing care services. This member shall be appointed by the Governor in even years.

(4) A representative of a for-profit provider of continuing care contracts pursuant to this chapter. This member shall be appointed by the Governor in even years.

(5) An actuary. This member shall be appointed by the Governor in even years.

(6) One representative of residents of continuing care retirement communities appointed by the senior citizen representatives on the committee.

(7) One representative of either nonprofit or for-profit providers appointed by the representatives of nonprofit and for-provider providers on the committee.

(c) Commencing January 1, 1997, all members shall serve two-year terms and be appointed based on their interest and expertise in the subject area. The Governor shall designate the chairperson for the committee with the advice and consent of the Senate. A member may be reappointed at the pleasure of the appointing power. The appointing power shall fill all vacancies on the committee within 60 days. All members shall continue to serve until their successors are appointed and qualified.

(d) The members of the committee shall serve without compensation, except that each member shall be paid from the Continuing Care Provider Fee Fund a per diem of twenty-five dollars (\$25) for each day's attendance at a meeting of the committee not to exceed six days in any month. The members of the committee shall also receive their actual and necessary travel expenses incurred in the course of their duties. Reimbursement of travel expenses shall be at rates not to exceed those applicable to comparable state employees under Department of Personnel Administration regulations.

(e) Prior to commencement of service, each member shall file with the department a statement of economic interest and a statement of conflict of interest pursuant to Article 3 (commencing with Section 87300) of the Government Code.

(f) If, during the period of appointment, any member no longer meets the qualifications of subdivision (b), that member shall submit his or her resignation to their appointing power and a qualified new member shall be appointed by the same power to fulfill the remainder of the term.

(g) This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

SEC. 11. Section 1777.2 of the Health and Safety Code is amended to read:

1777.2. (a) The Continuing Care Advisory Committee shall:

(1) Review the financial and managerial condition of continuing care retirement communities operating under a certificate of authority.

(2) Review the financial condition of any continuing care retirement community that the committee determines is indicating signs of financial difficulty and may be in need of close supervision.

(3) Monitor the condition of those continuing care retirement communities that the department or the chair of the committee may request.

(4) Make available consumer information on the selection of continuing care contracts and necessary contract protections in the purchase of continuing care contracts.

(5) Review new applications regarding financial, actuarial, and marketing feasibility as requested by the department.

(b) The committee shall make recommendations to the department regarding needed changes in its rules and regulations and upon request provide advice regarding the feasibility of new continuing care retirement communities and the correction of problems relating to the management or operation of any continuing care retirement community. The committee

shall also perform any other advisory functions necessary to improve the management and operation of continuing care retirement communities.

(c) The committee may report on its recommendations directly to the director of the department.

(d) The committee may hold meetings, as deemed necessary to the performance of its duties.

(e) This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

SEC. 12. Section 1777.4 of the Health and Safety Code is amended to read:

1777.4. (a) Any member of the Continuing Care Advisory Committee is immune from civil liability based on acts performed in his or her official capacity. Costs of defending civil actions brought against a member for acts performed in his or her official capacity shall be borne by the complainant. However, nothing in this section immunizes any member for acts or omissions performed with malice or in bad faith.

(b) This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

SEC. 13. Section 5073.5 of the Public Resources Code is amended to read:

5073.5. (a) The Governor shall establish a California Recreational Trails Committee to advise the director in the development and coordination of the system. The committee shall consist of seven members appointed by the Governor. Two members shall be selected from the northern, two members from the southern, and two members from the central portions of the state, and one member shall be selected at large. Members shall be selected from lists submitted by private organizations that have a demonstrated interest in the establishment of recreation trails. The chair of the committee shall be elected by the members from their membership.

(b) This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

SEC. 14. Section 5073.7 of the Public Resources Code is amended to read:

5073.7. (a) The terms of the members of the committee shall be four years, except that such members first appointed to the committee shall classify themselves by lot so that the term of three members shall expire January 15, 1976, the term of two members shall expire January 15, 1977, and the term of two members shall expire January 15, 1978.

Members of the committee shall serve without compensation, but shall be reimbursed for actual and necessary expenses, including traveling expenses, incurred in the performance of their duties.

(b) This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

SEC. 15. Section 5074 of the Public Resources Code is amended to read: 5074. The committee shall have the following powers and duties:

(a) Coordinate trail planning and development among cities, counties, and districts. In carrying out this responsibility, the committee shall review records of easements and other interests in lands which are available for recreational trail usage, including public lands, utility easements, other rights-of-way, gifts, or surplus public lands which may be adaptable for such use, and shall advise the director in the development of standards for trail construction so that uniform construction standards may be available to cities, counties, and districts.

(b) Advise the director in the preparation and maintenance of the plan.

(c) Study the problems and opportunities presented by the use of private property for recreational trail use and advise the director on measures to mitigate undesirable aspects of such usage.

(d) This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

SEC. 16. The provisions of this act shall not become operative unless Assembly Bill 1659 of the 2009–10 Regular Session is also enacted and becomes operative on or before January 1, 2011, and adds Article 7.5 (commencing with Section 9147.7) to Chapter 1.5 of Part 1 of Division 2 of Title 2 of the Government Code to establish the Joint Sunset Review Committee.

Assembly Bill No. 2738

CHAPTER 398

An act to amend, add, and repeal Section 11346.2 of the Government Code, relating to regulations, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 2010. Filed with
Secretary of State September 27, 2010.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2738, Niello. Regulations: agency statement of reasons.

Existing law, the Administrative Procedure Act, governs the procedure for the adoption, amendment, or repeal of regulations by state agencies and for the review of those regulatory actions by the Office of Administrative Law.

Existing law requires an agency to submit to the office, among other things, an initial statement of reasons for proposing the adoption, amendment, or repeal of a regulation that includes, among other things, a description of reasonable alternatives to the regulation. Existing law requires, for a regulation that would mandate the use of specific technologies or equipment or prescribe specific actions or procedures, that the imposition of performance standards be considered as an alternative and that the initial statement of reasons include a statement of reasons why the agency believes that mandates or prescriptive standards are required.

This bill would, from January 1, 2012, until January 1, 2014, recast these provisions and require that the initial statement of reasons also include a description of any performance standard that was considered as an alternative to the proposed adoption, amendment, or repeal of the regulation.

This bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. Section 11346.2 of the Government Code is amended to read:

11346.2. Every agency subject to this chapter shall prepare, submit to the office with the notice of the proposed action as described in Section 11346.5, and make available to the public upon request, all of the following:

(a) A copy of the express terms of the proposed regulation.

(1) The agency shall draft the regulation in plain, straightforward language, avoiding technical terms as much as possible, and using a coherent

and easily readable style. The agency shall draft the regulation in plain English.

(2) The agency shall include a notation following the express terms of each California Code of Regulations section, listing the specific statutes or other provisions of law authorizing the adoption of the regulation and listing the specific statutes or other provisions of law being implemented, interpreted, or made specific by that section in the California Code of Regulations.

(3) The agency shall use underline or italics to indicate additions to, and strikeout to indicate deletions from, the California Code of Regulations.

(b) An initial statement of reasons for proposing the adoption, amendment, or repeal of a regulation. This statement of reasons shall include, but not be limited to, all of the following:

(1) A statement of the specific purpose of each adoption, amendment, or repeal and the rationale for the determination by the agency that each adoption, amendment, or repeal is reasonably necessary to carry out the purpose for which it is proposed. Where the adoption or amendment of a regulation would mandate the use of specific technologies or equipment, a statement of the reasons why the agency believes these mandates or prescriptive standards are required.

(2) An identification of each technical, theoretical, and empirical study, report, or similar document, if any, upon which the agency relies in proposing the adoption, amendment, or repeal of a regulation.

(3) (A) A description of reasonable alternatives to the regulation and the agency's reasons for rejecting those alternatives. In the case of a regulation that would mandate the use of specific technologies or equipment or prescribe specific actions or procedures, the imposition of performance standards shall be considered as an alternative.

(B) A description of reasonable alternatives to the regulation that would lessen any adverse impact on small business and the agency's reasons for rejecting those alternatives.

(C) Notwithstanding subparagraph (A) or (B), an agency is not required to artificially construct alternatives, describe unreasonable alternatives, or justify why it has not described alternatives.

(4) Facts, evidence, documents, testimony, or other evidence on which the agency relies to support an initial determination that the action will not have a significant adverse economic impact on business.

(5) A department, board, or commission within the Environmental Protection Agency, the Resources Agency, or the Office of the State Fire Marshal shall describe its efforts, in connection with a proposed rulemaking action, to avoid unnecessary duplication or conflicts with federal regulations contained in the Code of Federal Regulations addressing the same issues. These agencies may adopt regulations different from federal regulations contained in the Code of Federal Regulations addressing the same issues upon a finding of one or more of the following justifications:

(A) The differing state regulations are authorized by law.

(B) The cost of differing state regulations is justified by the benefit to human health, public safety, public welfare, or the environment.

(c) A state agency that adopts or amends a regulation mandated by federal law or regulations, the provisions of which are identical to a previously adopted or amended federal regulation, shall be deemed to have complied with subdivision (b) if a statement to the effect that a federally mandated regulation or amendment to a regulation is being proposed, together with a citation to where an explanation of the provisions of the regulation can be found, is included in the notice of proposed adoption or amendment prepared pursuant to Section 11346.5. However, the agency shall comply fully with this chapter with respect to any provisions in the regulation that the agency proposes to adopt or amend that are different from the corresponding provisions of the federal regulation.

(d) This section shall be inoperative from January 1, 2012, until January 1, 2014.

SEC. 2. Section 11346.2 is added to the Government Code, to read:

11346.2. Every agency subject to this chapter shall prepare, submit to the office with the notice of the proposed action as described in Section 11346.5, and make available to the public upon request, all of the following:

(a) A copy of the express terms of the proposed regulation.

(1) The agency shall draft the regulation in plain, straightforward language, avoiding technical terms as much as possible, and using a coherent and easily readable style. The agency shall draft the regulation in plain English.

(2) The agency shall include a notation following the express terms of each California Code of Regulations section, listing the specific statutes or other provisions of law authorizing the adoption of the regulation and listing the specific statutes or other provisions of law being implemented, interpreted, or made specific by that section in the California Code of Regulations.

(3) The agency shall use underline or italics to indicate additions to, and strikeout to indicate deletions from, the California Code of Regulations.

(b) An initial statement of reasons for proposing the adoption, amendment, or repeal of a regulation. This statement of reasons shall include, but not be limited to, all of the following:

(1) A statement of the specific purpose of each adoption, amendment, or repeal and the rationale for the determination by the agency that each adoption, amendment, or repeal is reasonably necessary to carry out the purpose for which it is proposed.

(2) An identification of each technical, theoretical, and empirical study, report, or similar document, if any, upon which the agency relies in proposing the adoption, amendment, or repeal of a regulation.

(3) Where the adoption or amendment of a regulation would mandate the use of specific technologies or equipment, a statement of the reasons why the agency believes these mandates or prescriptive standards are required.

(4) (A) A description of reasonable alternatives to the regulation and the agency's reasons for rejecting those alternatives.

(B) A description of any performance standard that was considered as an alternative. In the case of a regulation that would mandate the use of specific technologies or equipment or prescribe specific actions or procedures, the imposition of performance standards shall be considered as an alternative.

(C) A description of reasonable alternatives to the regulation that would lessen any adverse impact on small business and the agency's reasons for rejecting those alternatives.

(D) Notwithstanding subparagraph (A), (B), or (C), an agency is not required to artificially construct alternatives, describe unreasonable alternatives, or justify why it has not described alternatives.

(5) Facts, evidence, documents, testimony, or other evidence on which the agency relies to support an initial determination that the action will not have a significant adverse economic impact on business.

(6) A department, board, or commission within the Environmental Protection Agency, the Resources Agency, or the Office of the State Fire Marshal shall describe its efforts, in connection with a proposed rulemaking action, to avoid unnecessary duplication or conflicts with federal regulations contained in the Code of Federal Regulations addressing the same issues. These agencies may adopt regulations different from federal regulations contained in the Code of Federal Regulations addressing the same issues upon a finding of one or more of the following justifications:

(A) The differing state regulations are authorized by law.

(B) The cost of differing state regulations is justified by the benefit to human health, public safety, public welfare, or the environment.

(c) A state agency that adopts or amends a regulation mandated by federal law or regulations, the provisions of which are identical to a previously adopted or amended federal regulation, shall be deemed to have complied with subdivision (b) if a statement to the effect that a federally mandated regulation or amendment to a regulation is being proposed, together with a citation to where an explanation of the provisions of the regulation can be found, is included in the notice of proposed adoption or amendment prepared pursuant to Section 11346.5. However, the agency shall comply fully with this chapter with respect to any provisions in the regulation that the agency proposes to adopt or amend that are different from the corresponding provisions of the federal regulation.

(d) This section shall become operative on January 1, 2012.

(e) This section shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide regulatory agencies with maximum lead time on the change in law, it is necessary for this act to take effect immediately. This will result in a codified statute as early as possible, and the affected agencies will have sufficient time to adjust their practices.

O

Senate Bill No. 1491

CHAPTER 415

An act to amend Sections 5020, 5021, 5024, 5076, 5090, 5109, 5120, 5122, 6750, 6751, 6756, 6758, 6759, 6763, 6799, 7028.6, 7028.7, 7028.9, 7058.5, 7099.2, 7110, 7210.7, 7316, 7317, 7320.1, 7352, 7410, 8740, 8746, 8748, and 8805 of, and to repeal Section 5109.5 of, the Business and Professions Code, and to amend Sections 7054.6 and 8344 of, and to repeal Section 8340 of, the Health and Safety Code, relating to professions and vocations.

[Approved by Governor September 28, 2010. Filed with
Secretary of State September 28, 2010.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1491, Committee on Business, Professions and Economic Development. Professions and vocations.

(1) Existing law provides for the licensure and regulation of accountants by the California Board of Accountancy. Existing law authorizes the board to appoint an administrative committee to provide advice and assistance relative to investigations of licensee misconduct. Existing law also authorizes the board to create and appoint other advisory committees consisting of public accountants or certified public accountants who need not be members of the board for the purpose of making recommendations to the board.

This bill would designate the administrative committee as the enforcement advisory committee. The bill would require these other advisory committees to consist solely of board members or to consist of board members and other persons who are not board members.

(2) Existing law provides for the licensure and regulation of professional engineers and professional land surveyors by the Board for Professional Engineers and Land Surveyors. Existing law authorizes the board to make arrangements with a public or private organization to conduct licensure examinations and to authorize the organization to receive examination fees directly from applicants.

This bill would provide that the fee to take an examination administered by a public or private organization may not be greater than actual cost of examination development and administration.

Existing law authorizes an applicant for certification as an engineer-in-training to sit for the first division of the licensing examination after he or she completes 3 or more years of college or university education in board-approved engineering curriculum or 3 or more years of board-approved experience.

This bill would allow an applicant for certification as an engineer-in-training to sit for the first division of the examination upon

completion of 3 years of engineering experience, postsecondary engineering education, or a combination of education and experience. The bill would make other conforming changes.

(3) Existing law provides for the licensure and regulation of contractors by the Contractors' State License Board. Existing law, based upon complaint or otherwise, authorizes the Registrar of Contractors to issue citations for violations of the licensure requirement within 4 years after the act or omission that is the basis for the citation.

This bill would require a citation to be issued within 4 years after the act or omission that is the basis for the citation or within 18 months after filing the complaint with the registrar, whichever is later.

Existing law prohibits a contractor from engaging in asbestos-related work, as specified, without passing an asbestos certification examination. Existing law requires the board to develop, and deliver to all applicants with the request for bond and fee, a booklet relating to the handling and disposal of asbestos, that includes an open book examination concerning asbestos-related work. Existing law requires all applicants for an initial contractor's license and specified applicants filing a delinquent renewal application to complete and sign the open book examination and to submit it to the board with the required renewal or bond and fee.

This bill would instead require the board to make that booklet available to all applicants, either on the board's Internet Web site or upon request in hard copy. The bill would require only applicants for initial licensure to complete the examination and to submit it to the board, as specified.

Under existing law, a willful or deliberate disregard by a licensed contractor of various state building, labor, and safety laws constitutes a cause for disciplinary action.

This bill would specify that a willful or deliberate disregard of the Subletting and Subcontracting Fair Practices Act also constitutes a cause for disciplinary action.

(4) Existing law establishes within the Department of Consumer Affairs a State Board of Guide Dogs for the Blind that, among others things, licenses and regulates schools and instructors for the training of guide dogs for the blind and the instruction of blind persons in the use of guide dogs.

Under existing law, the board may authorize board-licensed schools or instructors employed by those schools to provide home training, as specified, in the use of guide dogs. Existing law requires schools desiring to provide home training to apply to the board and provide the board with specified information for conducting that home training subject to board approval. Existing law requires these schools to annually provide the board specified information about those persons receiving home training. Existing law also requires, except in cases of undue hardship, the guide dog user to complete a formal in-residence training program from a licensed or recognized school as a condition of receiving home training.

This bill would eliminate that approval process and other requirements, including the formal in-residence training program for guide dog users, and would instead authorize schools and instructors licensed by the board to

provide home training in the use of guide dogs. The bill would also require instructors to file annual reports with the board regarding persons receiving home training.

(5) Existing law, the Barbering and Cosmetology Act, provides for the licensure and regulation of the practice of barbering and cosmetology by the State Board of Barbering and Cosmetology.

Under existing law, nail care is a specialty branch within the practice of cosmetology and is the practice of, among other things, cutting, trimming, manicuring nails or massaging, cleansing, or beautifying the hands or feet of any person. Existing law permits metal instruments to be used for the cutting, trimming, manicuring, or pedicuring of nails or cuticles.

This bill would specify that nail care is also the practice of pedicuring nails or massaging, cleansing, or beautifying from the elbow to the fingertips or the knee to the toes of any person. The bill would also permit metal instruments to be used for the smoothing and massaging of the hands and feet.

Existing law makes it unlawful for any person to engage in barbering or cosmetology for compensation or to operate an establishment where barbering or cosmetology is practiced without a license and specifies that a violation of this requirement is a misdemeanor.

This bill would instead provide that a violation of that requirement is subject to an administrative fine and may be subject to a misdemeanor.

Existing law requires barbering and cosmetology establishments to provide specified handwashing facilities, including running water, soap, and approved sanitary towels.

This bill would instead require these establishments to provide running water, soap, and towels or air hand dryers.

Existing law authorizes the board to issue a notice of violation or a citation with an administrative fine to persons violating the act. Existing law authorizes these persons to appeal the citation and requires them or their appointed representative to appear in person before the disciplinary review committee.

This bill would eliminate that appearance requirement and instead authorize these persons or their appointed representative to appear in person before the disciplinary review committee.

(6) Existing law, the Cemetery Act, establishes the Cemetery and Funeral Bureau within the Department of Consumer Affairs and sets forth its powers and duties, including, but not limited to, the registering and regulating of cremated remains disposers.

Existing law authorizes cremated remains to be removed in a durable container from the place of cremation or interment and kept in the dwelling owned or occupied by the person having the right to control disposition of the remains, or kept in a church or religious shrine if certain requirements are met, if the removal is under the authority of a permit for disposition of human remains. Under existing law, these disposition permits are required to include a description of the final place of disposition sufficient to identify the place and are issued by the local registrar. Existing law requires a

- (1) The gravity of the violation.
- (2) The good faith of the licensee or applicant for licensure being charged.
- (3) The history of previous violations.

(b) Except as otherwise provided by this chapter, no civil penalty shall be assessed in an amount greater than five thousand dollars (\$5,000). Notwithstanding Section 125.9, a civil penalty not to exceed fifteen thousand dollars (\$15,000) may be assessed for a violation of Section 7114 or 7118.

SEC. 22. Section 7110 of the Business and Professions Code is amended to read:

7110. Willful or deliberate disregard and violation of the building laws of the state, or of any political subdivision thereof, or of Section 8550 or 8556 of this code, or of Sections 1689.5 to 1689.15, inclusive, of the Civil Code, or of the safety laws or labor laws or compensation insurance laws or Unemployment Insurance Code of the state, or of the Subletting and Subcontracting Fair Practices Act (Chapter 4 (commencing with Section 4100) of Part 1 of Division 2 of the Public Contract Code), or violation by any licensee of any provision of the Health and Safety Code or Water Code, relating to the digging, boring, or drilling of water wells, or Article 2 (commencing with Section 4216) of Chapter 3.1 of Division 5 of Title 1 of the Government Code, constitutes a cause for disciplinary action.

SEC. 23. Section 7210.7 of the Business and Professions Code is amended to read:

7210.7. Schools and instructors licensed by the board may provide home training in the use of guide dogs.

Schools and instructors providing home training in the use of guide dogs shall, annually, provide the board with the names and addresses of those persons who are receiving home training and shall include those persons who have received home training from the school or instructor subsequent to the last report filed with the board.

SEC. 24. Section 7316 of the Business and Professions Code is amended to read:

7316. (a) The practice of barbering is all or any combination of the following practices:

- (1) Shaving or trimming the beard or cutting the hair.
- (2) Giving facial and scalp massages or treatments with oils, creams, lotions, or other preparations either by hand or mechanical appliances.
- (3) Singeing, shampooing, arranging, dressing, curling, waving, chemical waving, hair relaxing, or dyeing the hair or applying hair tonics.
- (4) Applying cosmetic preparations, antiseptics, powders, oils, clays, or lotions to scalp, face, or neck.
- (5) Hairstyling of all textures of hair by standard methods that are current at the time of the hairstyling.

(b) The practice of cosmetology is all or any combination of the following practices:

- (1) Arranging, dressing, curling, waving, machineless permanent waving, permanent waving, cleansing, cutting, shampooing, relaxing, singeing,

bleaching, tinting, coloring, straightening, dyeing, applying hair tonics to, beautifying, or otherwise treating by any means, the hair of any person.

(2) Massaging, cleaning, or stimulating the scalp, face, neck, arms, or upper part of the human body, by means of the hands, devices, apparatus or appliances, with or without the use of cosmetic preparations, antiseptics, tonics, lotions, or creams.

(3) Beautifying the face, neck, arms, or upper part of the human body, by use of cosmetic preparations, antiseptics, tonics, lotions, or creams.

(4) Removing superfluous hair from the body of any person by the use of depilatories or by the use of tweezers, chemicals, or preparations or by the use of devices or appliances of any kind or description, except by the use of light waves, commonly known as rays.

(5) Cutting, trimming, polishing, tinting, coloring, cleansing, or manicuring the nails of any person.

(6) Massaging, cleansing, treating, or beautifying the hands or feet of any person.

(c) Within the practice of cosmetology there exist the specialty branches of skin care and nail care.

(1) Skin care is any one or more of the following practices:

(A) Giving facials, applying makeup, giving skin care, removing superfluous hair from the body of any person by the use of depilatories, tweezers or waxing, or applying eyelashes to any person.

(B) Beautifying the face, neck, arms, or upper part of the human body, by use of cosmetic preparations, antiseptics, tonics, lotions, or creams.

(C) Massaging, cleaning, or stimulating the face, neck, arms, or upper part of the human body, by means of the hands, devices, apparatus, or appliances, with the use of cosmetic preparations, antiseptics, tonics, lotions, or creams.

(2) Nail care is the practice of cutting, trimming, polishing, coloring, tinting, cleansing, manicuring, or pedicuring the nails of any person or massaging, cleansing, or beautifying from the elbow to the fingertips or the knee to the toes of any person.

(d) The practice of barbering and the practice of cosmetology do not include any of the following:

(1) The mere sale, fitting, or styling of wigs or hairpieces.

(2) Natural hair braiding. Natural hair braiding is a service that results in tension on hair strands or roots by twisting, wrapping, weaving, extending, locking, or braiding by hand or mechanical device, provided that the service does not include haircutting or the application of dyes, reactive chemicals, or other preparations to alter the color of the hair or to straighten, curl, or alter the structure of the hair.

(3) Threading. Threading is a technique that results in removing hair by twisting thread around unwanted hair and pulling it from the skin and the incidental trimming of eyebrow hair.

(e) Notwithstanding paragraph (2) of subdivision (d), a person who engages in natural hairstyling, which is defined as the provision of natural hair braiding services together with any of the services or procedures defined

within the regulated practices of barbering or cosmetology, is subject to regulation pursuant to this chapter and shall obtain and maintain a barbering or cosmetology license as applicable to the services respectively offered or performed.

(f) Electrolysis is the practice of removing hair from, or destroying hair on, the human body by the use of an electric needle only.

“Electrolysis” as used in this chapter includes electrolysis or thermolysis.

SEC. 25. Section 7317 of the Business and Professions Code is amended to read:

7317. Except as provided in this article, it is unlawful for any person, firm, or corporation to engage in barbering, cosmetology, or electrolysis for compensation without a valid, unexpired license issued by the board, or in an establishment or mobile unit other than one licensed by the board, or conduct or operate an establishment, or any other place of business in which barbering, cosmetology, or electrolysis is practiced unless licensed under this chapter. Persons licensed under this chapter shall limit their practice and services rendered to the public to only those areas for which they are licensed. Any violation of this section is subject to an administrative fine and may be subject to a misdemeanor.

SEC. 26. Section 7320.1 of the Business and Professions Code is amended to read:

7320.1. When providing a manicure or pedicure, no metal instruments shall be used except those metal instruments necessary for the cutting, trimming, manicuring, or pedicuring of nails or cuticles or for the smoothing and massaging of the hands and feet.

SEC. 27. Section 7352 of the Business and Professions Code is amended to read:

7352. Every establishment shall provide adequate and convenient handwashing facilities, including running water, soap, and towels or air hand dryers.

SEC. 28. Section 7410 of the Business and Professions Code is amended to read:

7410. Persons to whom a notice of violation or a citation is issued and an administrative fine assessed may appeal the citation to a disciplinary review committee established by the board. All appeals shall be submitted in writing to the program within 30 days of the date the citation was issued. Appeals of citations that are not submitted in a timely manner shall be rejected.

After a timely appeal has been filed with the program, the administrative fine, if any, shall be stayed until the appeal has been adjudicated.

Persons appealing a citation, or their appointed representatives, may appear in person before the disciplinary review committee. The appellant may present written or oral evidence relating to the facts and circumstances relating to the citation that was issued. Following an appeal to a disciplinary review committee, the disciplinary review committee shall issue a decision, based on findings of fact, which may affirm, reduce, dismiss, or alter any charges filed in the citation. In no event shall the administrative fine be

increased. The appellant shall be provided with a written copy of the disciplinary review committee's decision relating to the appeal.

SEC. 29. Section 8740 of the Business and Professions Code is amended to read:

8740. (a) An application for each division of the examination for a license as a land surveyor shall be made to the board on the form prescribed by it, with all statements therein made under oath, and shall be accompanied by the fee fixed by this chapter.

(b) The board may authorize an organization specified by the board pursuant to Section 8745 to receive directly from applicants payment of the examination fees charged by that organization as payment for examination materials and services.

SEC. 30. Section 8746 of the Business and Professions Code is amended to read:

8746. An applicant failing an examination may be examined again upon filing a new application and the payment of the fee fixed by the board.

SEC. 31. Section 8748 of the Business and Professions Code is amended to read:

8748. The board, upon application therefor, and the payment of the fee fixed by this chapter, may issue a land surveyor's license, without written examination, to any person who holds a valid land surveyor's license issued to him or her by any state or country when the applicant's qualifications meet the requirements of this chapter and rules established by the board.

SEC. 32. Section 8805 of the Business and Professions Code is amended to read:

8805. The amount of the fees prescribed by this chapter shall be fixed by the board in accordance with the following schedule:

(a) The fee for filing each application for licensure as a land surveyor at not more than four hundred dollars (\$400) and for each application for certification as a land surveyor-in-training (LSIT) at not more than one hundred dollars (\$100).

(b) The fees to take an examination administered by a public or private organization pursuant to Section 8754 shall be no greater than the actual cost of the development and administration of the examination and may be paid directly to the organization by the applicant.

(c) The renewal fee for a land surveyor at not more than the application fee.

(d) The fee for a retired license at not more than 50 percent of the professional land surveyor application fee in effect on the date of application.

(e) The delinquency fee at not more than 50 percent of the renewal fee in effect on the date of reinstatement.

(f) The board shall establish by regulation an appeal fee for examination. The regulation shall include provisions for an applicant to be reimbursed the appeal fee if the appeal results in passage of examination. The fee shall be no more than the costs incurred by the board.

(g) All other document fees are to be set by the board by rule.

To the Members of the California State Assembly:

I am returning Assembly Bill 1899 without my signature.

I strongly support the goal of transparency in government and believe that posting information online is a simple method of achieving this goal and allowing citizens information about how their tax dollars are spent. For that reason I have issued executive orders directing posting of this type of material to the Reporting Transparency in Government Web site. As such, this bill is not necessary.

For this reason I cannot sign this bill.

Sincerely,

Arnold Schwarzenegger

To the Members of the California State Assembly:

I am returning Assembly Bill 1889 without my signature.

Among many other provisions, this bill would require an Executive Branch agency to follow specific staffing requirements prescribed by the Legislature. This is both an inappropriate and unacceptable action to micro-manage and burden the implementation of regulatory policy.

If the author or interest groups wish to make staffing decisions for the Bureau for Private Postsecondary Education, I suggest they look into applying for the position of Bureau Chief. Applications can be obtained at: www.gov.ca.gov/appointments.

For these reasons, I refuse to sign this bill.

Sincerely,

Arnold Schwarzenegger

To the Members of the California State Assembly:

I am returning Assembly Bill 2393 without my signature.

This bill would create varying standards for determining post-graduate placement rates from different vocational fields. California needs uniform standards in this area of law that can be consistently and fairly applied by the Bureau of Private Postsecondary Education, and that are predictable for consumers and schools. This bill proposes to put California on the same path to overly confusing statutes and guidelines that existed prior to the new Private Postsecondary Education Act.

For these reasons, I am unable to sign this bill.

Sincerely,

Arnold Schwarzenegger



Board of Barbering and Cosmetology
PO Box 944226, Sacramento, CA 94244
P (800) 952-7574 F (916) 574-7574 | www.barbercosmo.ca.gov

MEMORANDUM

TO: Members
Board of Barbering and Cosmetology

DATE: October 25, 2010

FROM: Kristy Underwood *KU*
Executive Officer

SUBJECT: Update Curriculum Regulations

Staff has revised the Board's regulations package to address concerns about the manicuring curriculum and resubmitted it to the Department of Consumer Affairs' Division of Legislation and Policy Review, which will forward it to the Director for his signature. It will then go to Agency and the Department of Finance. If approved, it will be returned to the Board for filing with the Office of Administrative Law (OAL). It is possible that the Board could miss the November 20, 2010 deadline for filing with OAL, but DCA assures us that in that event OAL would grant an extension.



Board of Barbering and Cosmetology
 PO Box 944226, Sacramento, CA 94244
 P (800) 952-7574 F (916) 574-7574 | www.barbercosmo.ca.gov

MEMORANDUM

DATE: October 25, 2010
TO: Members, Board of Barbering and Cosmetology
FROM: Kristy Underwood, Executive Officer *KU*
SUBJECT: Administrative Fine Schedule Regulations

Previously the Board approved the administrative fine schedule that will set the fines on an escalating scale for first, second, and third offenses. Upon further review staff would like to recommend that some fines be combined to have a set of fines for a specific section. For example:

Previously Approved Fines Schedule for Section 965 Display of License:

Section	1 st Offense	2 nd Offense	3 rd Offense
965a-License not displayed at work station	\$50	\$100	\$150
965b-Establishment license not in reception area	\$50	\$100	\$150
965c-Display of expired/invalid license	\$50	\$100	\$150

Staff recommends that this section be combined to one fine for any or all of the violations that would apply:

Section	1 st Offense	2 nd Offense	3 rd Offense
965 Display of License a-license not displayed at work station b-establishment license not in reception area c-display of expired/invalid license	\$50	\$100	\$150

Attached you will find the fine schedule with the recommended changes highlighted in yellow.

BOARD OF BARBERING AND COSMETOLOGY
Title 16, Division 9 of the California Code of Regulations.
SPECIFIC LANGUAGE

Amend Section 974 of the California Code of Regulations as follows:

974. Schedule of Administrative Fines

(a) An administrative fine may be assessed for violations of the specified sections of the Business and Professions Code and Title 16 of Division 9 of the California Code of Regulations as follows:

Schedule of Administrative Fines

Section	1 st Violation	2 nd Violation	3 rd Violation	Correctable Waiveable
7313. Access to Establishment for Inspection	250	500	750	No
7317. Unlicensed Establishment	500	1,000	1,000	No
7317. Unlicensed Individual	1,000	1,000	1,000	No
7317. Expired Establishment License	250	300	500	No
7317. Expired Individual License	250	300	500	No
7317. Individual Working in an Expired Establishment	25	50	100	No
7317. Individual Working in an Unlicensed Establishment	250	300	500	No
7320. Practice of Medicine	1,000	1,000	1,000	No
7320.1. Use of Illegal Metal Instruments	250	500	500	No
7320.2. Illegal Treatment Methods	500	500	500	No
7336. No Supervision of Apprentice	100	150	200	No
7348. No Licensee in Charge of Establishment	100	150	200	No
7349. Employing Unlicensed Persons	1,000	1,000	1,000	No
7349.1. Illegal Use of a Barber Pole	25	50	100	No
7350. Establishment – Residential Use/Entrance/Prohibited Use	50	100	150	No
7351. Restroom Requirement – Clean/Storage/Floor/Vented	50	100	150	No
7352. No Soap/Towels in Hand Washing Facilities	50	100	150	No
7358. No Licensee in Charge of Mobile Unit	100	150	200	No
7359. Employing Unlicensed Person in Mobile Unit	1,000	1,000	1,000	No
7360. Mobile Unit – Residential/Entrance/Prohibited Use	50	100	150	No

7400. No Change of Address Notice Filed	50	100	150	No
7404(i). Interference with Inspection	200	300	500	No
904(d). No Photographic Identification Available	50	100	150	No
905. Consumer Info. Not Posted/Incorrect Size of Print (Health & Safety)	50	100	150	No
920. Apprentice Training Records Not Available/Incomplete	100	150	200	No
965. Display of License (a)Not at work station (b) Establishment license not posted in reception area (c)Display of expired/invalid license	50	100	150	No
978(a) Minimum Equipment and Supplies (1). Waste Receptacle Not Covered (2) Closed Receptacle for Soiled Towels/Gowns/Sheets (3) Closed cabinet to hold clean towels (4) Containers for disinfectant solution	50	100	150	No
978(a)(5). Insufficient Disinfectant in Container for Total Immersion	100	150	200	No
978(a)(6). No Steam/Dry Heat Sterilizer for Electrology Instruments	500	1,000	1,500	No
978(b). No Disinfectant Solution Available for Use	250	300	500	No
978(c). No Manufacturer-Labeled Container for Disinfectant	250	300	500	No
979. Disinfecting Non-Electrical Instruments and Equipment (a)Non-Electrical Items Not Disinfected Properly (b) Disinfectant not changed or covered (c) Soiled non-electrical instruments not in labeled receptacle (d) Disinfected instruments not stored in clean, covered place and labeled as such.	100	250	500	No
980(a). Incorrect Disinfection of Electrical Items	100	250	500	No
980(b). Incorrect Storage of Electrical Disinfected Items	50	100	150	No
980.1. Incorrect Disinfection of Pedicure Spas (Per Chair)	500	500	500	No
980.1(c)(7). Incorrect/Missing Log-after each client 980.1(d)(8). Incorrect/Missing Log-end of day 980.1(e)(4). Incorrect/Missing Log-weekly	100	150	200	No
980.2. Incorrect Disinfection of "Pipeless" Footspas (Per Unit)	500	500	500	No
980.2(b)(7). Incorrect/Missing Log-after each client 980.2(c)(6). Incorrect/Missing Log-end of day 980.2(d)(3). Incorrect/Missing Log-weekly	100	150	200	No
980.3. Incorrect Disinfection of "Non-Whirlpool Foot Basin" (Per Unit)	100	150	200	No
980.3(b)(6). Incorrect/Missing Log	50	100	150	No
981(a). No Disposal of Non-Disinfected Items	100	150	200	No
981(b). Carry Instruments or Supplies in or on Garments	50	100	150	No
982. Incorrect Sterilization of Electrology Instruments	100	150	200	No
983 Personal Cleanliness	50	100	150	No

(a). Person/Attire Not Clean (b). Not Washing Hands before Services				
984. Work on Person with Infectious/Communicable Disease	100	250	500	No
985. No Use of Neck Strips or Towel	50	100	150	No
986. Neck Dusters/Brushes Not Clean or Sanitary	50	100	150	No
987 Towels (a). Towels Not Covered/Laundered (b). Incorrect Method of Laundering Towels (c) Clean Towels not Stored in Clean Cabinets	50	100	150	No
988 Liquids, Creams, Powders and Cosmetics (a). Cosmetics Not in Clean/Closed Containers (b). Containers Not Labeled/No Poison Label (c). Removing Cosmetic Preparations Causing Contamination (d). Cosmetic Pencils Not Sharpened Before Use	50	100	150	No
989. Prohibited Hazardous Substance/Use of Product	500	500	500	No
990 Headrests and Treatment Tables (a). Headrest Not Clean/Covered (b). Shampoo Bowls Not Clean/Repaired (c). Treatment Tables Not Clean/Covered	50	100	150	No
991. Performing Invasive Procedures	500	500	500	No
992. Performing Invasive Skin Peeling/Dermis	500	500	500	No
993 Prohibited Instruments (a). Illegal Instruments on Premises/Razor Edged Tools (b). Illegal Instruments on Premises/Needle-like Instruments	300	400	500	No
994 Cleanliness and Repair (a). Floors/Walls/Equipment Not in Clean Condition (b). Accumulation of Waste	50	100	150	No
995 Building Standards (b). No Hot/Cold Running Water in Area/Room (c). No Potable Drinking Water/Cups (d). Hand Washing Facilities – No Running Water/Location (e). No Public Restroom Located on Premises	50	100	150	No

(b) A violation indicated in subdivision (a) as not waiveable means that the fine for the first violation may not be avoided as provided for in Section 7409 of the Business and Professions Code.

NOTE: Authority cited: Sections 7312 and 7407-7406, Business and Professions Code. Reference: Sections 7406 7407 and 7409, Business and Professions Code.



State and Consumer Services Agency – Arnold Schwarzenegger, Governor
Board of Barbering and Cosmetology-Department of Consumer Affairs
 PO Box 944226, Sacramento, CA 94244
 P (800) 952-7574 F (916) 574-7574 | www.barbercosmo.ca.gov



MEMORANDUM

DATE: October 25, 2010

TO: Members
Board of Barbering and Cosmetology

FROM: Kristy Underwood, Executive Officer
Board of Barbering and Cosmetology

SUBJECT: Advanced Esthetician License

In order to create a new license type, the following steps would be required. This information is being provided to facilitate further discussion on this issue.

- Step 1: Develop scope of practice.
- Step 2: Develop legislative language for Business and Professions Code:
 - 7316-scope of practice
 - 7325-qualification for examination
 - 7364.1-Hours of Practical Training
 - 7423-Fee
- Step 3: Obtain an author that will carry the above legislative language in a bill

If legislative language is placed in a bill and moves through the process and is signed by the Governor, the following steps would be required:

- Step 4: Develop regulations to set curriculum and fee
- Step 5: Develop Budget Change Proposal to obtain staff to process additional workload within licensing unit and at examination sites.
- Step 6: Modify contracts with computer based testing company and national examination testing to include additional testing process.
- Step 7: Work with the DCA to modify current information technology systems to add new license type.

Consumer Harm:

In a review of the Board's records, the following are statistics of complaints of consumer harm that are related to skin care.

Type of Harm	FY 07/08	FY 08/09	FY 09/10
Facial Allergic reaction	0	0	5
Facial Burn	0	0	4
Facial Cut	0	0	2
Facial Infection	0	0	2
Skin Allergic Reaction	6	3	4
Skin Burn	48	38	4
Skin Infection	7	7	2
Skin laser	2	0	0
Skin Microdermabrasion	2	1	1
Wax Allergic Reaction	0	0	2
Wax Burn	0	0	25
Wax Cut	0	0	4
Wax Infection	0	0	7
Total	65	49	62

NOTES:

1. It can not be determined if these complaints were against an esthetician or a cosmetologist.
2. In FY 07/08 and 08/09 the number is higher for skin burns because the system was not set up to distinguish different types of harm as it is now. Had the system contained proper coding in 07/08 and 08/09 these numbers would likely be more spread out as in FY 09/10.

Discipline:

There have only been 4 cases of disciplinary action against an esthetician from 7/1/2007 to 6/30/2010. The cases each were regarding:

1. Wax Burn-1 case
2. Skin Burn-2 cases
3. Skin Laser-1 case



State and Consumer Services Agency – Arnold Schwarzenegger, Governor
Board of Barbering and Cosmetology-Department of Consumer Affairs
 PO Box 944226, Sacramento, CA 94244
 P (800) 952-7574 F (916) 574-7574 | www.barbercosmo.ca.gov



DATE: October 25, 2010

TO: Members, Board of Barbering and Cosmetology

FROM: Kristy Underwood, Executive Officer

SUBJECT: Scoring Methods for Examinations

Purpose

The purpose of this memo is to provide information that will facilitate the discussion on scoring methods in examinations.

Current Process

The Board scores their examinations in two different manners. The barber exam is scored by aggregate scoring and all others have minimum pass rates set in regulation.

Section 932 of the California Code of Regulations states;

An overall average of 75 percent shall be the passing grade for examinations.

- (a) Examinations consist of two parts: a practical part and a written part.
- (b) If the applicant fails to receive a passing grade for the **barbering** examination, the applicant will be required to be re-examined in the practical part and the written part of the examination.
- (c) The total possible examination score for the **barbering** exam consists of 100 points: The practical part is valued at 80 points and the written portion is valued at 20 points.
- (d) If the applicant fails to receive a passing grade but only fails one part of any **cosmetology or electrology** examination, the applicant will be required to be re-examined only in the part failed, provided the re-examination takes place within one year after the notice of the results of the examination in which the applicant failed one part has been delivered.
- (e) The total possible examination score for any **cosmetology or electrology** exam consists of 400 points: The practical part is valued at 300 points and the written portion is valued at 100 points.
- (f) To pass any of the **cosmetology or electrology** examinations, the applicant must achieve at least 300 points overall including a score of at least 225 in the practical part and at least 70 in the written part.

Given the above noted regulation, the differences in scoring are described in the table below:

Barber	Cosmetologist, Electrologist, Manicurist, Esthetician
<ul style="list-style-type: none"> • Must obtain a total score of 75. • Score is a combined total of practical points achieved and written points achieved • If either the practical or the written part is failed, both parts must be re-taken • Practical is worth 80 points • Written is worth 20 points 	<ul style="list-style-type: none"> • Must obtain a minimum score of 225 on the practical. • Must obtain a minimum score of 70 on the written. • Must have a minimum total of 300 points combined to receive a passing score. • If either the practical part or the written part is failed, only the part that is failed must be re-taken. • Practical is worth 300 points • Written is worth 100 points

If an applicant for cosmetology scores 225 on the practical and 70 on the written (total of 295), a license is issued because the minimums have been met.

Scope of Practice

The scopes of practice for a barber and a cosmetologist have some similarities. In the table below, the scopes are displayed side by side and show the similarities and differences between the two license types. (Specific language can be found at Business and Professions Code Section 7316.)

Barber-1500 Hour Course	Cosmetologist-1600 Hour Course
Arranging Dressing Curling Waving Shampooing Cutting Hair Singeing Dyeing Hair Relaxing Applying tonics Shaving or trimming the beard Giving Facial and Scalp Massages and Treatments Chemical Waving Applying cosmetic preparations (scalp, face, neck) Hairstyling	Arranging Dressing Curling Waving Shampooing Cutting Singeing Dyeing Relaxing Applying tonics Cleansing Bleaching Tinting Coloring Straightening Massaging, cleaning or stimulating the scalp, face, neck, arms or upper body Applying cosmetic preparations (face, neck, arms, upper body) Removing superfluous hair from the body Manicuring the nails Massaging, cleansing, treating, beautifying hands and feet.

Violations

A review of the most common violations was conducted to see if there is any indication that the scoring method of the examination results in higher violations. The table below indicates the most common violations:

Violation Description and Count (based on FY 2009/2010)	% committed by Barbers	% committed by Cosmetologists
979 (a) Improper disinfection of non-electrical items (810)	18%	82%
979(b) Disinfectant not changed/covered (1,649)	28%	72%
979 (c) Soiled non-electrical items not in a labeled container (4,072)	20%	80%
979 (d) Incorrect storage of non-electrical disinfected items (3,340)	14%	86%
988(b) Containers not labeled (1,697)	22%	78%

While the percent of these violations is lower for barbers, it should be noted that the volume of licensees is considerably lower. There are currently **21,530** licensed barbers and **273,334** licensed cosmetologists.

In reviewing violations specifically for **barbers**, the top five violations cited are:

Violation	# of times cited in FY 2009/2010
979 (c) Soiled non-electrical items not in a labeled container	804
979 (d) Incorrect storage of non-electrical disinfected items	484
979(b) Disinfectant not changed/covered	461
988(b) Containers not labeled (1,697)	373
978(a) Waste receptacle not covered	343

Current Pass/Fail Rates

Below is the pass/fail rate for the Barber exam from January 1, 2010 to August 31, 2010.

WRITTEN EXAM	BARBER			COSMETOLOGIST		
	Pass	Fail	Total	Pass	Fail	Total
English	666	187	853	7,076	2,667	9,743
Spanish	40	3	43	377	786	1,163
Vietnamese	43	9	52	150	408	558
Total	749	199	948	7,603	3,861	11,464
% Pass/Fail Rate	79%	21%		66%	34%	

PRACTICAL EXAM	BARBER			COSMETOLOGIST		
	Pass	Fail	Total	Pass	Fail	Total
Total	624	175	799	7,220	3,269	10,498
% Pass/Fail Rate	78%	22%		69%	31%	

Total Licenses Issued	Barber	Cosmetologist
	795	7,274

2005 Sunset Report

In March 2005 the Board submitted a report titled "Assessing the Validity of Aggregate Scoring for Board Applicants" (Attached). This report was submitted as part of the Boards sunset review. The conclusion in the report stated that the Board would change its regulations to include a criterion-referenced scoring method as recommended by the Department of Consumer Affairs and allow 5-points to be carried over to the written from the practical disinfection and sanitation portion of the exam. Also included in this report is information stating that rulemaking process for this recommendation was proceeding, however, this package was never filed with the Office of Administrative Law.

In researching the progress of these regulations, the following actions were found:

February 2005	Reported at Board meeting that regulations were filed
April 2005	Reported at Board meeting that regulations were being completed, however the Computer Based Testing vendor could not implement due to inadequate systems
June 2005	Final Statement of Reasons presented to the Board with a caution that the CBT vendor could not implement.
October 2005	DCA notes concerns with the regulations regarding the 5-point transfer
February 2006	Final package provided to Board for approval, 2 members object to language, however, language is approved by 7-2 vote. Still concerns with implementation.
April 2006	Board elects new president

The regulations are not discussed again. It is assumed that with the implementation issues and the concerns noted by DCA, these regulations were not pursued.

Aggregate Scoring

According to the DCA's Office of Professional Examination Services (OPES), aggregate scoring is not a defensible method. The OPES believe that the Board's regulations should be changed to state:

The Board shall establish passing scores in examinations based on the criterion-referenced scoring method.

This language would also be actable with the national examinations.

Next Steps

Should the Board decide to change the regulation for passing grades in examinations, the regulatory process will begin and will include the following tasks:

Task	Approximate time for completion
Prepare initial statement of reasons and public meeting notice	21 days
Obtain approval on ISR from Legal/DCA	30 days
File ISR with Office of Administrative Law	2 days
Hold Public Hearing and Comment Period	50 days
Prepare Final Regulator Package for Board Approval	60 days
If Approved, submit final package to DCA for approval	60 days
If Approved by DCA, file submitted to OAL	30 days
Total estimated time	253 days

Additional time may be required if language is modified during the process.



State and Consumer Services Agency – Arnold Schwarzenegger, Governor
Board of Barbering and Cosmetology-Department of Consumer Affairs
 PO Box 944226, Sacramento, CA 94244
 P (800) 952-7574 F (916) 574-7574 | www.barbercosmo.ca.gov



MEMORANDUM

DATE: October 25, 2010

TO: Members
Board of barbering and Cosmetology

FROM: Kristy Underwood, Executive Officer
Board of Barbering and Cosmetology

SUBJECT: Un-Regulated Services in Licensed Salons

There is a growing trend of unregulated services that are being performed in California licensed establishments. Samples of those services are:

- Permanent Make-up
- Body Wraps
- Teeth Whitening
- Microdermabrasion
- Foot detoxify
- Ear Candling

This growing trend in the industry is creating a situation in which it is unclear for the Board to determine who is performing what services. For example, a licensed esthetician can not perform permanent make-up because this is an invasive procedure. Unregulated services can not be performed under the auspice of a State Board license. An esthetician who is performing permanent make-up must take down their esthetician license otherwise, the consumer will see the license on display and assume the individual is licensed to perform the services being received.

In numerous inspections, permanent make-up is being performed in the same room as esthetics. When needles are found in facial rooms, inspectors are not able to tell if it is for permanent make-up or if the needles are being used by the esthetician for extractions. *Please note that permanent make-up is only one example.*

It is the Board's policy to recommend to establishments who are offering un-regulated services, to have those services performed in a separate room and do not display the Board issued license in that room. However, the Board can only recommend this and can not require or enforce this. As a result, inspectors are faced with various services being performed and are unable to determine if there is a potential for consumer harm.

Most importantly, State Board licenses are being displayed while un-regulated services are being offered. This is misleading to the consumer. Consumers should be informed that the services they are receiving are not regulated by the State Board. Consumers are entering a State Board licensed establishment and receiving services that could be harmful and services that there are no State training or health and safety requirements for these procedures.

This situation is not only confusing for inspectors and consumers, but the industry as well. Many of these unregulated services are being promoted at California trade shows. Trade shows require a California license in order to gain entry, so licensees assume that the services promoted are acceptable.

Options

The Board may want to consider the following options:

- Option 1: Only allow regulated services in licensed salons.
- Option 2: Develop regulations that set specific guidelines on how unregulated services can be offered in licensed salons (i.e. State Board license shall not be on display)
- Option 3: Status Quo

**No Inserts
for Items
14-15**

State of California
Department of Consumer Affairs
Board of Barbering and Cosmetology



Disciplinary Guidelines

Revised 2008

TABLE OF CONTENTS

	Page Number
Introduction	3
Description of Penalties	4
Factors to be Considered	6
Mitigation Evidence	7
Standard Conditions of Probation	8
Optional Conditions of Probation	9
Violations and Recommended Actions	10
Other Situations in which Revocation is the Recommended Penalty	25
Conditions of Probation	26
Introductory Language for Disciplinary Orders	27
Recommended Language for Standard Conditions of Probation	28
Recommended Language for Optional Conditions of Probation	31
Recommended Language for Applicants of Reinstatements	33
Recommended Language for Cost Recovery for Surrenders	34
Time Frames for Petitions for Reinstatement and Modification of Penalty	34

INTRODUCTION

The Board of Barbering and Cosmetology (Board) is a consumer protection agency with an obligation to protect the consumers of California from the unsafe, incompetent and/or negligent practices of its licensees. The Board has adopted the following guidelines for disciplinary orders and conditions of probation for violations of the Barbering and Cosmetology Act. The guidelines are intended for the use of those involved in the disciplinary process: Administrative Law Judges, Deputy Attorney Generals, Attorneys for Respondents, licensees and Board staff members.

The Board carefully considers the totality of the facts and circumstances in each individual case, with the safety of the public being paramount. The Board recognizes that the disciplinary orders and conditions of probation listed on the following pages are merely guidelines and that individual cases will require variations, which take into account unique circumstances. Consequently, the Board requests that the Administrative Law Judge hearing the case include an explanation of the deviations or omissions, including all mitigating factors considered by the Administrative Law Judge in the proposed Decision so that the Board is better able to understand the Administrative Law Judge's rationale during his/her review and consideration of the proposed Decision.

DESCRIPTION OF PENALTIES

REVOCACTION

This action revokes a respondent's license(s) and prohibits respondent from conducting services in the practice for which discipline is imposed. Prior to the effective date of the Decision, respondent may request reconsideration or reduction of the penalty. If the Department of Consumer Affairs denies the request or does not grant a reduction of the penalty, the earliest date respondent may petition the Board for reinstatement of the revoked license, is one year from the effective date of the Decision.

PROBATION

This action, usually taken in conjunction with a stayed revocation or suspension, places a licensee on probation with the Board for up to five years. During the probationary period, Respondent must comply with specific terms and conditions of probation. If the Respondent does not comply with all the terms and conditions of probation, the Board may pursue additional disciplinary action against the Respondent which can result in suspension or revocation of Respondent's license(s).

SUSPENSION

This action prohibits a licensee from conducting services in the practice for which they have been disciplined for a specific period of time. The licensee must cease operating during the suspension period. License suspensions can be from five (5) to forty-five (45) working days. During the period of suspension, Respondent is required to post a notice which describes the nature of the violation for which Respondent is being disciplined.

FULL COST RECOVERY

Section 7403 of the Business and Professions Code allows the Board to recover its costs of investigating and adjudicating a disciplinary case. Full cost recovery includes both Division of Investigation and Attorney General costs. A payment schedule can be specified, if warranted.

DESCRIPTION OF PENALTIES (Continued)

PARTIAL COST RECOVERY

Section 7403 of the Business and Professions Code allows the Board to recover its costs of investigating and adjudicating a disciplinary case. Partial cost recovery in this instance includes Division of Investigation costs only. A payment schedule can be specified, if warranted.

PUBLIC NOTICE

Any disciplinary action imposed as a result of a Decision may be published in the appropriate Board newsletter or other publication. Additionally, the Board or its designee may issue press releases or other public notices of disciplinary action taken by the Board.

EXAMINATIONS

This action requires the Respondent to take and pass an examination administered by the examination staff of the Board. Respondent shall pay all costs associated with the examination.

STAY OF ORDER

This action allows the Board to adopt an order of revocation or suspension but allows the order to be put aside. This means a Respondent has time to serve a lesser penalty, which normally includes probation. However, if the Respondent fails to comply with the terms outlined in the final Decision, the Board or its designee can pursue additional disciplinary action against the Respondent and reinstate the order that was stayed.

FACTORS TO BE CONSIDERED

When considering whether **revocation, suspension or probation** is to be imposed in a given case, factors such as the following should be considered:

1. Nature and severity of the act(s) or offense(s).
2. Total criminal record.
3. The time that has elapsed since the commission of the act(s) or offense(s).
4. Whether the licensee has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.
5. If applicable, evidence of expungement proceedings pursuant to section 1203.4 of the Penal Code.
6. Evidence, if any, of rehabilitation submitted by the licensee.

When considering whether **denial of a license** is to be imposed, factors such as the following should be considered:

1. The nature and the severity of the act(s) or crimes(s) under consideration as grounds of denial.
2. Evidence of any act(s) committed subsequent to the act(s) or crime(s) under consideration as grounds for denial.
3. The time that has elapsed since commission of the act(s) or crime(s) referred to in (1) and (2).
4. The extent to which the applicant has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the applicant.
5. Evidence, if any, of rehabilitation submitted by the applicant.

MITIGATION EVIDENCE

The Respondent is permitted to present mitigating circumstances at a hearing. The same opportunity is provided in the settlement process.

The following documents are examples of appropriate evidence the Respondent may submit to demonstrate his or her rehabilitative efforts and competency:

A) List of improvements made to the Establishment:

- Policy & Procedures Established
- Photographs of Improvements
- Rental Agreements

B) Declaration stating how Respondent has corrected the violations cited.

C) Certification of courses completed.

D) If Respondent was convicted of a criminal offense:

- A letter describing the underlying circumstances of the arrest(s) as well as any rehabilitative efforts or changes in life since that time to prevent future problems.
- Letters of reference from past and/or current employers.
- Evidence of compliance with and completion of terms of probation, parole, restitution or any other sanctions (proof of enrollment/completion of court ordered programs, classes, fines) for each conviction.
- Letters from recognized recovery programs attesting to current sobriety, length of time of sobriety, and recovery programs, if there has been a history of alcohol or drug abuse.

STANDARD CONDITIONS OF PROBATION

Introductory Language and Conditions 1-13 are required as follows:

- 1) Suspension of License
- 2) Posting of Suspension Sign
- 3) Cost Recovery (Does not apply to Applicants)
- 4) Quarterly Reports of Compliance
- 5) Notification to Employer
- 6) Change of Employment
- 7) Participation in Apprenticeship or Externship Program
- 8) Publication of Disciplinary Action
- 9) Obey all Laws
- 10) Comply with the Board's Probation Program
- 11) Violation of Probation
- 12) Report in Person
- 13) Residency Outside of State
- 14) Failure to Practice – California Resident
- 15) Maintain Valid License
- 16) License Surrender

OPTIONAL CONDITIONS OF PROBATION

Any of the optional conditions may be included if relevant to the violation:

- 1) Remedial Education Courses
- 2) Written Licensing Examination
- 3) Practical Licensing Examination
- 4) Notice to Employees
- 5) Criminal Probation
- 6) Proof of Advertising Correction
- 7) Restitution
- 8) Reimbursement of Probation Program
- 9) Manager or Licensee in Charge
- 10) Abstain from Controlled Substances / Submit to Biological Fluid Testing
- 11) Abstain from Use of Alcohol / Submit to Biological Fluid Testing

THE BARBERING AND COSMETOLOGY ACT VIOLATIONS AND RECOMMENDED ACTIONS

The Barbering and Cosmetology Act (Business and Professions Code, Division 3, Chapter 10) and additional sections of the Business and Professions Code specify the offenses for which the Board may take disciplinary action. The following are code numbers of the offenses and Board-determined disciplinary action. When filing an accusation, the Office of the Attorney General may also cite additional related statutes and resolutions.

7404(a) UNPROFESSIONAL CONDUCT

Recommended Penalty:

- **Maximum:** Revocation/Denial of License
Full Cost Recovery
- **Minimum:** Revocation, stayed
Probation, 3 years
Suspension, 5 consecutive working days
Partial Cost Recovery
Standard Terms of Probation Nos. 1-13
Optional Terms of Probation Nos.
 - (1) Remedial Education
 - (2) Written Licensing Exam
 - (4) Notice to Employees
 - (5) Criminal Probation

VIOLATIONS AND RECOMMENDED ACTIONS

7404(a)(1) INCOMPETENCE OR GROSS NEGLIGENCE, INCLUDING FAILURE TO COMPLY WITH GENERALLY ACCEPTED STANDARDS FOR THE PRACTICE OF BARBERING, COSMETOLOGY, OR ELECTROLOGY OR DISREGARD FOR THE HEALTH AND SAFETY OF PATRONS.

Recommended Penalty:

Maximum: Revocation

Full Cost Recovery

- **Minimum:** Revocation, stayed

Probation, 3 years

Suspension, 10 consecutive working days

Partial Cost Recovery

Standard Terms of Probation Nos. 1-13

Optional Terms of Probation Nos.

(1) Remedial Education

(2) Written Licensing Exam

(4) Notice to Employees

(7) Restitution

7404(a)(2) REPEATED SIMILAR NEGLIGENT ACTS.

Recommended Penalty:

- **Maximum:** Revocation

Full Cost Recovery

- **Minimum:** Revocation, stayed

Probation, 2 years

Suspension, 10 consecutive working days

Partial Cost Recovery

Standard Terms of Probation Nos. 1-13

Optional Terms of Probation Nos.

(1) Remedial Education

(2) Written Licensing Exam

(3) Practical Licensing Exam

(4) Notice to Employees

VIOLATIONS AND RECOMMENDED ACTIONS

7404(a)(3) CONVICTION OF ANY CRIME SUBSTANTIALLY RELATED TO THE QUALIFICATIONS, FUNCTIONS, OR DUTIES OF THE LICENSEHOLDER, IN WHICH CASE, THE RECORDS OF CONVICTION OR A CERTIFIED COPY SHALL BE CONCLUSIVE EVIDENCE THEREOF.

Conviction of a felony involving a crime of violence (including, but not limited to: murder, attempted murder, assault with a deadly weapon) or prostitution (soliciting) within the past three years or is currently on parole or probation for such a conviction.

Recommended Penalty:

- **Maximum:** Revocation
Denial of License
Full Cost Recovery
- **Minimum:** Revocation, stayed
License issued with Terms and Conditions appropriate to crime
Probation, 3 years
Partial Cost Recovery
Standard Term of Probation Nos.1-13
Optional Terms of Probation No.
(5) Criminal Probation

Conviction of three or more felonies involving crimes of violence (including, but not limited to: murder, attempted murder, assault with a deadly weapon) or prostitution (soliciting) within the past five years (or six in a ten year period).

Recommended Penalty:

- **Maximum:** Revocation
Denial of License
Full Cost Recovery
- **Minimum:** Revocation, stayed
License issued with Terms and Conditions appropriate to crime

VIOLATIONS AND RECOMMENDED ACTIONS

7404(a)(3) (Continued)

Probation, 5 years
Partial Cost Recovery
Standard Terms of Probation Nos.1-13
Optional Terms of Probation No.
(5) Criminal Probation

Conviction of a crime of a sexual nature (other than those involving a minor) within the past three years or is currently on parole or probation (including, but not limited to: rape, sexual assault, and molestation).

Recommended Penalty:

- **Maximum:** Revocation
Denial of License
Full Cost Recovery
- **Minimum:** Revocation, stayed
License issued with Terms and Conditions appropriate to crime
Probation, 5 years
Partial Cost Recovery
Standard Terms of Probation Nos. 1-13
Optional Terms of Probation No.
(5) Criminal Probation

Conviction of any crime committed by a licensee in an establishment subject to regulation by the Board.

Recommended Penalty:

- **Maximum:** Revocation
Full Cost Recovery
- **Minimum:** Revocation, stayed
License issued with Terms and Conditions appropriate to crime
Probation, 3 years
Partial Cost Recovery

VIOLATIONS AND RECOMMENDED ACTIONS
7404 (a)(3) (Continued)

Standard Terms of Probation Nos. 1-13
Optional Terms of Probation No.
(5) Criminal Probation

7404(a)(4) ADVERTISING BY MEANS OF KNOWINGLY FALSE OR DECEPTIVE STATEMENTS.

Recommended Penalty:

- **Maximum:** Revocation
Full Cost Recovery
 - **Minimum:** Revocation, stayed
Probation, 1 year
Suspension, 5 consecutive working days
Partial Cost Recovery
Standard Terms of Probation Nos. 1-13
Optional Terms of Probation No.
(6) Proof of Advertising Correction
-

7404(b) FAILURE TO COMPLY WITH THE REQUIREMENTS OF THIS CHAPTER.

(All other Business and Professions Code sections cited.)

Recommended Penalty:

- **Maximum:** Revocation
Full Cost Recovery
- **Minimum:** Revocation, stayed
Probation, 3 years
Suspension, 5 consecutive working days
Partial Cost Recovery
Standard Terms of Probation Nos. 1-13
Optional Terms of Probation Nos.
(2) Written Licensing Exam
(4) Notice to Employees

VIOLATIONS AND RECOMMENDED ACTIONS 7404(b) (Continued)

If the violation is for the practice of medicine (7320), then the recommended penalty is as follows:

- **Maximum:** Revocation
Full Cost Recovery
 - **Minimum:** Revocation, stayed
Probation, 5 years
Suspension, 15 consecutive working days
Partial Cost Recovery
Standard Terms of Probation Nos. 1-13
Optional Terms of Probation Nos.
 - (1) Remedial Education
 - (2) Written Licensing Exam
 - (4) Notice to Employees
 - (7) Restitution
-

If the violation is for the use of metal instruments (7320.1), then the recommended penalty is as follows:

- **Maximum:** Revocation
Full Cost Recovery
- **Minimum:** Revocation, stayed
Probation, 2 years
Suspension, 5 consecutive working days
Partial Cost Recovery
Standard Terms of Probation Nos. 1-13
Optional Terms of Probation Nos.
 - (1) Remedial Education
 - (2) Written Licensing Exam
 - (4) Notice to Employees
 - (7) Restitution

VIOLATIONS AND RECOMMENDED ACTIONS 7404(b) (Continued)

If the violation is for practicing illegal treatment methods (7320.2), then the recommended penalty is as follows:

- **Maximum:** Revocation
Full Cost Recovery
 - **Minimum:** Revocation, stayed
Probation, 5 years
Suspension, 15 consecutive working days
Partial Cost Recovery
Standard Terms of Probation Nos. 1-13
Optional Terms of Probation Nos.
 - (1) Remedial Education
 - (2) Written Licensing Exam
 - (4) Notice to Employees
 - (7) Restitution
-

7404(c) FAILURE TO COMPLY WITH THE RULES GOVERNING HEALTH AND SAFETY ADOPTED BY THE BOARD AND APPROVED BY THE STATE DEPARTMENT OF HEALTH SERVICES, FOR THE REGULATION OF ESTABLISHMENTS, OR ANY PRACTICE LICENSED AND REGULATED UNDER THIS CHAPTER.

Recommended Penalty:

- **Maximum:** Revocation
Full Cost Recovery
- **Minimum:** Revocation, stayed
Probation, 3 years
Suspension, 5 consecutive working days
Partial Cost Recovery
Standard Terms of Probation Nos. 1-13
Optional Terms of Probation Nos.
 - (2) Written Licensing Exam
 - (4) Notice to Employees

VIOLATIONS AND RECOMMENDED ACTIONS

7404(d) FAILURE TO COMPLY WITH THE RULES ADOPTED BY THE BOARD FOR THE REGULATION OF ESTABLISHMENTS OR ANY PRACTICE LICENSED AND REGULATED UNDER THIS CHAPTER.

Recommended Penalty:

- **Maximum:** Revocation
Full Cost Recovery
- **Minimum:** Revocation, stayed
Probation, 3 years
Suspension, 5 consecutive working days
Partial Cost Recovery
Standard Terms of Probation Nos. 1-13
Optional Terms of Probation Nos.
(2) Written Licensing Exam
(4) Notice to Employees

7404(e) CONTINUED PRACTICE BY A PERSON KNOWINGLY HAVING AN INFECTIOUS OR CONTAGIOUS DISEASE.

Recommended Penalty:

- **Maximum:** License is suspended until Respondent provides written proof from a physician stating he/she is no longer contagious/infectious. Upon verification, license is suspended for 30 consecutive working days. Include Full Cost Recovery. Standard Terms of Probation Nos. 1-13.
- **Minimum:** License is suspended until Respondent provides written proof from a physician stating he/she is no longer contagious/infectious. Upon verification, license is placed on 1 year probation. Include Partial Cost Recovery. Standard Terms of Probation Nos. 1-13.

VIOLATIONS AND RECOMMENDED ACTIONS

7404(f) HABITUAL DRUNKENNESS, HABITUAL USE OF OR ADDICTION TO THE USE OF ANY CONTROLLED SUBSTANCE.

Recommended Penalty:

License is suspended until Respondent completes a drug/alcohol rehabilitation program. Upon verification of completion, license is placed on 3 years probation.

Full Cost Recovery

Standard Terms of Probation Nos. 1-13

Optional Terms of Probation No.

(5) Criminal Probation

7404(g) OBTAINING OR ATTEMPTING TO OBTAIN PRACTICE IN ANY OCCUPATION LICENSED AND REGULATED UNDER THIS CHAPTER, FOR MONEY, OR COMPENSATION IN ANY FORM, BY FRAUDULENT MISREPRESENTATION.

Recommended Penalty:

- **Maximum:** Revocation
Full Cost Recovery
- **Minimum:** Revocation, stayed
Probation, 2 years
Suspension, 10 consecutive working days
Partial Cost Recovery
Standard Terms of Probation No. 1-13
Optional Terms of Probation No.
(5) Criminal Probation

NOTE: If Respondent has a pending application on file, the application shall be denied.

VIOLATIONS AND RECOMMENDED ACTIONS

7404(h) FAILURE TO DISPLAY THE LICENSE OR HEALTH AND SAFETY RULES AND REGULATIONS IN A CONSPICUOUS PLACE.

Recommended Penalty:

- **Maximum:** Suspension, 5 consecutive working days
Full Cost Recovery
 - **Minimum:** Public Letter of Reprimand
Partial Cost Recovery
Standard Terms of Probation Nos. 1-13
Optional Terms of Probation No.
(4) Notice to Employees
-

7404(i) ENGAGING, OUTSIDE OF A LICENSED ESTABLISHMENT AND FOR COMPENSATION IN ANY FORM WHATEVER, IN ANY PRACTICE FOR WHICH A LICENSE IS REQUIRED UNDER THIS CHAPTER, EXCEPT THAT WHEN THE SERVICE IS PROVIDED BECAUSE OF ILLNESS OR OTHER PHYSICAL OR MENTAL INCAPACITATION OF THE RECIPIENT OF THE SERVICE AND WHEN PERFORMED BY A LICENSEE OBTAINED FOR THE PURPOSE FROM A LICENSED ESTABLISHMENT.

Recommended Penalty:

- **Maximum:** Revocation
Full Cost Recovery
- **Minimum:** Revocation, stayed
Probation, 2 years
Suspension, 5 consecutive working days
Partial Cost Recovery
Standard Terms of Probation Nos. 1-13
Optional Terms of Probation No.
(4) Notice to Employees

VIOLATIONS AND RECOMMENDED ACTIONS

7404(j) PERMITTING A LICENSE TO BE USED WHERE THE HOLDER IS NOT PERSONALLY, ACTIVELY, AND CONTINUOUSLY ENGAGED IN BUSINESS.

Recommended Penalty:

- **Maximum:** Revocation
Full Cost Recovery
- **Minimum:** Revocation, stayed
Probation, 5 years
Suspension, 15 consecutive working days
Full Cost Recovery
Standard Terms of Probation Nos. 1-13
Optional Terms of Probation No.
(4) Notice to Employees

7404(k) THE MAKING OF ANY FALSE STATEMENT AS TO A MATERIAL MATTER IN ANY OATH OR AFFIDAVIT, WHICH IS REQUIRED BY THE PROVISIONS OF THIS CHAPTER.

Recommended Penalty:

- **Maximum:** Revocation
Full Cost Recovery
- **Minimum:** Revocation, stayed
Probation, 2 years
Suspension, 5 consecutive working days
Partial Cost Recovery
Standard Terms of Probation Nos. 1-13

NOTE: If Respondent has a pending application on file, the application shall be denied.

VIOLATIONS AND RECOMMENDED ACTIONS

7404(l) REFUSAL TO PERMIT OR INTERFERENCE WITH AN INSPECTION AUTHORIZED UNDER THIS CHAPTER.

Recommended Penalty:

- **Maximum:** Revocation
Full Cost Recovery
 - **Minimum:** Revocation, stayed
Probation, 2 years
Suspension, 5 consecutive working days
Partial Cost Recovery
Standard Terms of Probation Nos. 1-13
Optional Terms of Probation No.
(4) Notice to Employees
-

7404(m) ANY ACTION OR CONDUCT WHICH WOULD HAVE WARRANTED THE DENIAL OF A LICENSE.

Recommended Penalty:

- **Maximum:** Revocation
Full Cost Recovery
- **Minimum:** Revocation, stayed
Probation, 2 years
Suspension, 5 consecutive working days
Partial Cost Recovery
Standard Terms of Probation Nos. 1-13
Optional Terms of Probation Nos.
(4) Notice to Employees
(5) Criminal Probation

NOTE: If Respondent has a pending application on file, the application shall be denied.

VIOLATIONS AND RECOMMENDED ACTIONS

7404(n) FAILURE TO SURRENDER A LICENSE THAT WAS ISSUED IN ERROR OR BY MISTAKE.

Recommended Penalty:

- **Maximum:** Revocation
Full Cost Recovery
 - **Minimum:** Public Letter of Reprimand
Partial Cost Recovery
Standard Terms of Probation Nos. 1-13
-

480(a)(1) BEEN CONVICTED OF A CRIME. A CONVICTION WITHIN THE MEANING OF THIS SECTION MEANS A PLEA OR VERDICT OF GUILTY OR A CONVICTION FOLLOWING A PLEA OF NOLO CONTENDERE. ANY ACTION WHICH A BOARD IS PERMITTED TO TAKE FOLLOWING THE ESTABLISHMENT OF A CONVICTION MAY BE TAKEN WHEN THE TIME FOR APPEAL HAS ELAPSED, OR THE JUDGEMENT OF CONVICTION HAS BEEN AFFIRMED ON APPEAL, OR WHEN AN ORDER GRANTING PROBATION IS MADE SUSPENDING THE IMPOSITION OF SENTENCE, IRRESPECTIVE OF A SUBSEQUENT ORDER UNDER THE PROVISIONS OF SECTION 1203.4 OF THE PENAL CODE.

Recommended Penalty:

- **Maximum:** Denial of Application for Licensure
- **Minimum:** Revocation, stayed
Probation, 2 years (for misdemeanor)
3 years (less than 3 felonies)
5 years (more than 3 felonies)
Standard Terms of Probation Nos. 4 -13
Optional Terms of Probation No.
(5) Criminal Probation

VIOLATIONS AND RECOMMENDED ACTIONS

480(a)(2) DONE ANY ACT INVOLVING DISHONESTY, FRAUD OR DECEIT WITH THE INTENT TO SUBSTANTIALLY BENEFIT HIMSELF OR ANOTHER, OR SUBSTANTIALLY INJURE ANOTHER.

Recommended Penalty:

- **Maximum:** Denial of Application for Licensure
 - **Minimum:** Revocation, stayed
Probation, 2 years
Standard Terms of Probation Nos. 4 -13
Optional Terms of Probation No.
(5) Criminal Probation
-

480(a)(3) DONE ANY ACT WHICH IF DONE BY A LICENTIATE OF THE BUSINESS OR PROFESSION IN QUESTION, WOULD BE GROUNDS FOR SUSPENSION OR REVOCATION OF LICENSE. THE BOARD MAY DENY A LICENSE PURSUANT TO THIS SUBDIVISION ONLY IF THE CRIME OR ACT IS SUBSTANTIALLY RELATED TO THE QUALIFICATIONS, FUNCTIONS OR DUTIES OF THE BUSINESS OR PROFESSION FOR WHICH APPLICATION IS MADE.

Recommended Penalty:

- **Maximum:** Denial of Application for Licensure
- **Minimum:** Revocation, stayed
Probation, 3 years
Standard Terms of Probation Nos. 4 -13
Optional Terms of Probation No.
(5) Criminal Probation

VIOLATIONS AND RECOMMENDED ACTIONS

480(c) A BOARD MAY DENY A LICENSE REGULATED BY THIS CODE ON THE GROUND THAT THE APPLICANT KNOWINGLY MADE A FALSE STATEMENT OF FACT REQUIRED TO BE REVEALED IN THE APPLICATION FOR SUCH LICENSE.

Recommended Penalty:

- **Maximum:** Denial of Application for Licensure
 - **Minimum:** Revocation, stayed
Probation, 2 years
Standard Terms of Probation Nos. 4 -13
Optional Terms of Probation No.
(5) Criminal Probation
-

496 A BOARD MAY DENY, SUSPEND, REVOKE, OR OTHERWISE RESTRICT A LICENSE ON THE GROUND THAT AN APPLICANT OR LICENSEE HAS VIOLATED SECTION 123 PERTAINING TO SUBVERSION OF LICENSING EXAMINATIONS.

Recommended Penalty:

- **Maximum:** Revocation or Denial
Full Cost Recovery
- **Minimum:** Probation, 2 years
Suspension, 10 consecutive working days
Partial Cost Recovery (only if Respondent holds another license)
Standard Terms of Probation Nos. 4 -13
Optional Terms of Probation
(5) Criminal Probation

OTHER SITUATIONS IN WHICH REVOCATION IS THE RECOMMENDED PENALTY

1. Failure to file a Notice of Defense.
2. Failure to appear at the administrative hearing.
3. Failure to comply with the conditions of probation.
4. Subsequent acts offenses, or convictions, which warrant the revocation of license.

CONDITIONS OF PROBATION

The Board's primary responsibility is consumer protection. The Board believes that in disciplinary matters where probation has been imposed, conditions should be established to provide for consumer protection and allow the probationer to demonstrate rehabilitation.

The following conditions of probation provide for consumer protection and establish a mechanism to monitor the rehabilitation progress of a probationer.

For purposes of implementation of these conditions of probation, any reference to the Board also means staff working for the Board of Barbering and Cosmetology.

PROBATIONARY CONDITIONS

Probationary conditions are divided into two categories:

- A. **Standard** conditions that appear in all probation orders;
- B. **Optional** conditions that are appropriate to the nature and circumstances of the particular violation.

INTRODUCTORY LANGUAGE FOR DISCIPLINARY ORDERS

The following introductory language and all standard conditions of probation are to be included in probationary decisions/orders. For applicants, Condition 3, Cost Recovery, does not apply. For licensees, all standard conditions of probation apply. (Note: See alternative introductory language for applicants and reinstatements in next section of guidelines.)

INTRODUCTORY LANGUAGE FOR ALL ORDERS – It is hereby ordered that (license type) License No. (number) issued to Respondent (name) is revoked. However, revocation is stayed and Respondent is placed on probation for a period of (number of years) years on the following conditions.

SEVERABILITY CLAUSE – Each condition of probation contained herein is a separate and distinct condition. If any condition of this Order, or any application thereof, is declared unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other applications thereof, shall not be affected. Each condition of this Order shall separately be valid and enforceable to the fullest extent permitted by law.

RECOMMENDED LANGUAGE FOR STANDARD CONDITIONS OF PROBATION

- (1) **SUSPENSION OF LICENSE** - Respondent is suspended from the practice of (type of practice) for (number of days) consecutive working days. Respondent shall cease operating during the suspension period. During the suspension period, all conditions of probation are in full force and effect. The period of suspension shall be determined by the Board's designee and Respondent shall be notified in writing. **Probation shall not terminate until the suspension period is served.**
- (2) **POSTING OF SUSPENSION SIGN** - During the period of suspension, Respondent shall post a notice which describes the nature of the violation for which the license is being disciplined. If only an individual's license is disciplined, the notice shall be conspicuously posted in the establishment where the Respondent performs barbering and cosmetology services. If an establishment license is disciplined, the notice shall be conspicuously posted, unobstructed and visible to the public from the outside of the main entrance. The sign to be posted will be provided by the Board of Barbering Cosmetology designee prior to the commencement of the suspension and will include the Respondent's name and license number(s).
- (3) **COST RECOVERY** - Respondent shall pay to the Board of Barbering and Cosmetology costs associated with its investigation and enforcement pursuant to Business and Professions Code Section 125.3 in the amount of \$ _____. Upon request, Respondent shall be permitted to pay these costs in a payment plan approved by the Board, with payments to be completed no later than six months prior to the end of the probation term. **Probation shall not terminate until full payment has been made. Should any part of cost recovery not be paid in accordance with the outlined payment schedule, Respondent shall be considered to be in violation of probation. Any order for payment of cost recovery shall remain in effect whether or not probation is tolled. The filing of bankruptcy by the Respondent shall not relieve the Respondent of his/her responsibility to reimburse the Board for these costs.**
- (4) **QUARTERLY REPORTS OF COMPLIANCE** - Respondent shall submit Quarterly Reports of Compliance to the Board of Barbering and Cosmetology's designee in accordance with a specified schedule. The form, "Quarterly Report of Compliance," which is provided by the Board's Enforcement Program, must be completed and signed under penalty of perjury regarding compliance with all conditions of probation. **Omission or**

falsification in any manner of any information on these reports shall constitute a violation of probation. Quarterly reports are due for each year of probation and the entire length of probation as follows:

- For the period covering January 1st through March 31st, reports are to be completed and submitted between April 1st and April 7th.
- For the period covering April 1st through June 30th, reports are to be completed and submitted between July 1st and July 7th.
- For the period covering July 1st through September 30th, reports are to be completed and submitted between October 1st and October 7th.
- For the period covering October 1st through December 31st, reports are to be completed and submitted between January 1st and January 7th.

(5) **NOTIFICATION TO EMPLOYER** - Respondent shall be required to inform his/her employer and any subsequent employer during the probation period of the discipline imposed by this Decision by providing the employer with a copy of the Decision and Order in this matter. The employer will be requested to inform the Board of Barbering and Cosmetology, in writing, that he/she is aware of the discipline. This applies to independent contractors (booth renters) as well as employees.

(6) **CHANGE OF EMPLOYMENT** - Respondent shall notify the Board of Barbering and Cosmetology in writing of any and all changes in employment status, employment location and address within 30 days of such change.

(7) **PARTICIPATION IN APPRENTICESHIP OR EXTERNSHIP PROGRAM** - Respondent shall not participate as a trainer or supervisor in an apprenticeship or externship program during the course of this probation. Respondent shall terminate any such program in existence on the effective date of this decision.

(8) **PUBLICATION OF DISCIPLINARY ACTION** - Any disciplinary action imposed as a result of this Decision may be published in the appropriate Board of Barbering and Cosmetology newsletter or other publication. Additionally, the Board or its designee may issue press releases or other public notices of disciplinary action taken by the Board of Barbering and Cosmetology.

(9) **OBEY ALL LAWS** - Respondent shall obey all federal, state, local laws and all rules and regulations governing any practice for which the Respondent is licensed. A full and detailed account of any and all violations of law shall be reported by the Respondent to the Board in writing within seventy-two (72) hours of occurrence.

(10) **COMPLY WITH THE BOARD'S PROBATION PROGRAM** – Respondent shall fully comply with the conditions of the Probation Program established by the Board and cooperate with representatives of the Board in its monitoring and investigation of Respondent's compliance with the Board's Probation Program. Respondent shall inform the Board in writing within fifteen (15) days of any address change and claim all certified mail issued by the Board. Respondent shall respond to all notices of reasonable requests timely, and submit reports, remedial education documentation, verification of employment, or other similar reports, as requested and directed by the Board or its representative. Failure to appear for any scheduled meeting or cooperate with the requirements of the program, including timely submission of requested information, shall constitute a violation of probation.

(11) **VIOLATION OF PROBATION** - If Respondent violates the conditions of his/her probation, the Board, after giving the Respondent notice and the opportunity to be heard, may set aside the Order and impose the stayed discipline (revocation/suspension) of the Respondent's license.

If during the period of probation, an accusation or petition to revoke probation has been filed against Respondent's license or the Attorney General's Office has been requested to prepare an accusation or petition to revoke probation against the Respondents license, the probationary period shall automatically be extended and shall not expire until the accusation or petition has been acted upon by the Board.

(12) **REPORT IN PERSON** - Upon written notification, Respondent may be required to appear in person before the Board of Barbering and Cosmetology or its designee at any time during the period of suspension or probation.

(13) **RESIDENCEY OUTSIDE OF THE STATE** - Respondent shall immediately notify the Board's designee of any and all address changes. If Respondent should travel outside California for a period greater than sixty (60) days, Respondent must notify the Board's designee, in writing, of the

dates of departure and return. Periods of residence outside the State of California shall not apply toward a reduction of this probation time period.

Respondent's license shall be automatically cancelled if Respondent's periods of temporary or permanent residence or practice outside California total two years. However, Respondent's license shall not be cancelled as long as Respondent is residing and practicing in another state of the United States and is on active probation with the licensing authority of that state, in which case the two year period shall begin on the date probation is completed or terminated in that state.

- (14) **FAILURE TO PRACTICE- CALIFORNIA RESIDENT-** In the event Respondent resides in the State of California and for any reason Respondent stops practicing in California, Respondent shall notify the Board or its designee in writing within 30 calendar days prior to the dates of non-practice and return to practice. Any period of non-practice within California, will not apply to the reduction of the probationary term and does not relieve Respondent of the responsibility to comply with the terms and conditions of probation.
- (15) **MAINTAIN VALID LICENSE-** Respondent shall maintain a current, active and valid license for the length of the probation period. Failure to pay all fees prior to the license expiration date shall constitute a violation of probation.
- (16) **LICENSE SURRENDER-** Following the effective date of this decision, if Respondent ceases practicing due to retirement or health reasons, or is otherwise unable to satisfy the terms and conditions of probation, Respondent may voluntarily request the surrender of his/her license to the Board. The Board reserves the right to evaluate the Respondent's request and to exercise its discretion whether to grant the request or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent shall within 30 calendar days deliver Respondent's license to the Board or its designee and Respondent shall no longer engage in any practice for which a license is required. Upon formal acceptance of the tendered license, Respondent will no longer be subject to the terms and conditions of probation. Voluntary surrender of Respondent's license shall be considered to be a disciplinary action and shall become a part of Respondent's license history with the Board. Respondent may not petition the Board for reinstatement of the surrendered license. Should Respondent at any time after voluntary surrender ever reapply to the Board for licensure Respondent must meet all

current requirements for licensure including, but not limited to, filing a current application, meeting all current educational requirements, and taking and passing any and all examinations required of new applicants.

RECOMMENDED LANGUAGE FOR OPTIONAL CONDITIONS OF PROBATION

- (1) **REMEDIAL EDUCATION COURSES** - Respondent shall complete remedial education courses directly relevant to the violation(s) as specified by the Board of Barbering and Cosmetology within 180 days from the effective date of this Decision. The education courses shall be completed in a Board approved school. Respondent shall provide proof of attendance and satisfactory completion of the courses. Failure to satisfactorily complete the required courses as scheduled shall constitute a violation of probation. Respondent shall be responsible for all costs associated with such remedial education.
- (2) **WRITTEN LICENSING EXAMINATION** - If Respondent fails to pass the examination within 180 days from the effective date of this Decision, Respondent's license shall be suspended and Respondent shall cease practice until Respondent takes and successfully passes examination, has submitted proof of same to the Board, and has been notified by the Board that he/she may resume practice. The examination will be administered by the examination staff of the Board of Barbering and Cosmetology. Respondent shall pay the established examination fee and any other costs associated with taking the examination.
- (3) **PRACTICAL LICENSING EXAMINATION** - If Respondent fails to pass the examination within 180 days from the effective date of this Decision, Respondent's license shall be suspended and Respondent shall cease practice until Respondent takes and successfully passes examination, has submitted proof of same to the Board, and has been notified by the Board that he/she may resume practice. The examination will be administered by the examination staff of the Board of Barbering and Cosmetology. Respondent shall pay the established examination fee and any other costs associated with taking the examination.
- (4) **NOTICE EMPLOYEES** - A Respondent who is an establishment owner shall, upon or before the effective date of this Decision, post or circulate a notice to all employees working in the establishment which accurately recites the terms and conditions of this Decision. Respondent shall be responsible for said notice being immediately available to employees. "Employees" as used in this provision includes all full-time, part-time, temporary and independent contractors employed or hired at any time during probation.

- (5) **CRIMINAL PROBATION** - If Respondent is on criminal probation for the acts upon which disciplinary action is based; Respondent shall submit reports from the criminal court probation officer regarding Respondent's progress during criminal probation. Reports shall be filed quarterly and continue until Respondent is no longer on criminal probation or the Board's probation is terminated, whichever occurs first.
- (6) **PROOF OF ADVERTISING CORRECTION** - If the advertising violation that led to the disciplinary action has not been corrected, Respondent shall not practice until proof of correction has been submitted to the Board of Barbering and Cosmetology or its designee.
- (7) **RESTITUTION** - Respondent shall make restitution to any injured party in the amount of (specify amount). Proof of compliance with this term shall be submitted to the Board of Barbering and Cosmetology's designee within (specify time) of the effective date of the Decision. The name and address of the injured party may be inserted in the body of this condition. The amount and time period in which to comply shall be based upon the facts of the case.
- (8) **REIMBURSEMENT OF PROBATION PROGRAM**- Respondent shall reimburse the Board for the hourly costs it incurs in monitoring the probation to ensure compliance for the duration of the probation period. Reimbursement costs shall be \$ _____ per year/\$ _____ per month.
- (9) **MANAGER OR LICENSEE IN CHARGE**- Respondent shall not act as manager or licensee in charge of any establishment during the course of this probation. Respondent shall terminate any such duties on the effective date of this decision.
- (10) **ABSTAIN FROM CONTROLLED SUBSTANCES / SUBMIT TO BIOLOGICAL FLUID TESTING**- Respondent shall completely abstain from the use or possession of controlled or illegal substances during the period of probation unless lawfully prescribed by a medical practitioner for a bona fide illness. Respondent shall immediately submit to biological fluid testing, at Respondent's cost, upon request by the Board or its designee. The length of time and frequency will be determined by the Board. Respondent is responsible for ensuring that reports are submitted directly by the testing agency to the Board or its designee. There will be no confidentiality in test results. Any confirmed positive finding shall constitute a violation of probation.

(11) **ABSTAIN FROM USE OF ALCOHOL / SUBMIT TO BIOLOGICAL FLUID TESTING**- Respondent shall completely abstain from the use of alcoholic beverages during the period of probation. Respondent shall immediately submit to biological fluid testing, at Respondent's cost, upon request by the Board or its designee. The length of time and frequency will be determined by the Board. Respondent is responsible for ensuring that reports are submitted directly by the testing agency to the Board or its designee. There will be no confidentiality in test results. Any confirmed positive finding shall constitute a violation of probation.

RECOMMENDED LANGUAGE FOR APPLICANTS AND REINSTATEMENTS

In order to provide clarity and consistency in its decision, the Board of Barbering and Cosmetology recommends the following language in proposed decisions or stipulated agreements for examination applicants, establishment license applicants, and for petitioners for reinstatement who are issued a license that is placed on probation.

▪ **Examination Applicants who are placed on probation:**

“The application of Respondent _____ for licensure is hereby granted. Upon successful completion of the licensing examination and all other licensing requirements, a license shall be issued to Respondent. Said license shall immediately be revoked, the order of revocation stayed and Respondent placed on probation for a period of _____ years on the following condition:”

▪ **Establishment License Applicants who are placed on probation:**

“The application of Respondent _____ for licensure is hereby granted and a license shall be issued to Respondent upon successful completion of all licensing requirements. Said license shall immediately be revoked, the order of revocation stayed and Respondent placed on probation for a period of _____ years on the following conditions:”

▪ **Reinstatement of Licensure with conditions of probation:**

“The application of Respondent _____ for reinstatement of license number _____ is hereby granted. License number _____ shall immediately be revoked, the order of revocation stayed and Respondent placed on probation for a period of _____ years on the following conditions:”

It is important to note that in many cases, petitioners for reinstatement have not practiced for at the least one (1) year. It is recommended that Respondent retake and successfully complete the licensing examination prior to reinstatement of the license if the case involved consumer harm.

In addition to the licensing examination requirement, it is recommended that Respondent take and successfully complete remedial education courses relevant to the violation(s) prior to reinstatement of the license.

NOTE: If cost recovery was ordered in the revocation or surrender of a license and the cost recovery has not been paid in full by petitioner, a probation condition requiring payment of original cost recovery must be included in the reinstatement and decision.

RECOMMENDED LANGUAGE FOR COST RECOVERY FOR SURRENDERS

- **When the Order is a surrender of license, cost recovery should be included as follows:**

“If and when Respondent’s license is reinstated, he or she shall pay to the Board costs associated with its investigation and enforcement pursuant to Business and Professions Code Section 125.3 in the amount of \$_____. Respondent shall be permitted to pay these costs on a payment plan approved by the Board. Nothing in this provision shall be construed to prohibit the Board from reducing the amount of cost recovery upon reinstatement of the license.”

TIME FRAMES FOR PETITIONS FOR REINSTATEMENT AND MODIFICATION OF PENALTY

Pursuant to the California Administrative Procedure Act, Government Code Section 11522, “A person whose license has been revoked or suspended may petition the agency for reinstatement or reduction or penalty after a period of not less than one (1) year has elapsed from the effective date of the decision or from the date of the denial of a similar petition. The agency shall give notice to the Attorney General of the filing of the petition and the Attorney General and the petitioner shall be afforded an opportunity to present either oral or written argument before the agency itself. The agency itself shall decide the petition, and the decision shall include the reasons therefore, and any terms and conditions that the agency reasonably deems appropriate to impose as a condition or reinstatement. This section shall not apply if the statutes dealing with the particular agency contain different provisions for reinstatement or reduction of penalty.”

2011

January 11

S	M	T	W	T	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

February 11

S	M	T	W	T	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28					

March 11

S	M	T	W	T	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

April 11

S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

May 11

S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

June 11

S	M	T	W	T	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

July 11

S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

August 11

S	M	T	W	T	F	S
1	2	3	4	5	6	
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

September 11

S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	

October 11

S	M	T	W	T	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

November 11

S	M	T	W	T	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30			

December 11

S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

Holidays and Observances:

Jan 1
New Year's Day

Jan 17
Martin Luther King Day

Feb 14
Valentine's Day

Feb 21
Presidents' Day

Mar 31
Cesar Chavez

Apr 24
Easter Sunday

May 8
Mother's Day

May 30
Memorial Day

Jun 19
Father's Day

Jul 4
Independence Day

Sep 5
Labor Day

Oct 10
Columbus Day (Most regions)

Oct 31
Halloween

Nov 11
Veterans Day

Nov 24
Thanksgiving Day

Dec 24
Christmas Eve

Dec 25
Christmas Day

Dec 26
'Christmas Day' observed

**No Inserts
for Items
18-21**