



Deedee Crossett, Industry Member,
President

Christie Truc Tran, Industry
Member, Vice President

Wen Ling Cheng, Public
Member

Katie Dawson, Public Member

Joseph Federico, Industry Member

Richard Hedges, Public
Member

Frank Lloyd, Public
Member

Kristy Underwood
Executive Officer

Edmund G. Brown Jr., 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, February 6, 2012

10:00 A.M. – 5:00 P.M.

Or until completion of business

Department of Consumer Affairs

1625 North Market Blvd.

Hearing Room S-102, 1st Floor

Sacramento, CA 95834

An additional meeting location has been established at:

2405 Kalaniana'ole Avenue PH-11

Hilo, HI 96720

ALL TIMES ARE APPROXIMATE AND SUBJECT TO CHANGE

OPEN SESSION:

1. Call to Order/Roll Call (**Deedee Crossett**)
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 (**Deedee Crossett**)
4. Annual Election of Officers
5. Appointment of Committee Members
6. Overview of Disciplinary Process and Disciplinary Review Committee
7. Executive Officer Report (**Kristy Underwood**)
 - Review of Board Statistics
 - National Examination Update
8. Approval of Board Meeting Minutes
 - October 17, 2011
 - October 18, 2011
9. Legislation Update (**Kristy Underwood**)
10. Regulations Update (**Kristy Underwood**)
 - Scoring Methods in Examinations-Update on Status
 - Unregulated Practices-Approval of Final Statement of Reasons

California State Board of Barbering and Cosmetology

11. Discussion on Health and Safety Regulations and Determination if Updates are Needed **(Kristy Underwood)**
 - Section 983 (b) Personal Cleanliness; Washing of Hands
 - Section 989 Prohibited Substances
 - Section 992 Skin Peels
12. Discussion on the Oversight of Schools
13. Enforcement Committee Report **(Richard Hedges)**
 - Update on the Review of the Apprentice Program
14. Approval of 2012 Board Meeting Calendar
15. Agenda Items for Next Meeting
16. 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)]
17. **Closed Session to Discuss Enforcement Case**
 - Discussion on Reconsideration and Disciplinary Cases (Closed Pursuant to Government Code Section 11126(c) (3)).
18. Adjournment

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 Tami Guess at (916) 575-7144 or sending a written request to that person at the address noted above.

No Attachment



State and Consumer Services Agency – Governor Edmund G. Brown Jr.

Board of Barbering and Cosmetology-Department of Consumer Affairs

PO Box 944226, Sacramento, CA 94244

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BOARD COMMITTEES

LICENSING AND EXAMINATION COMMITTEE

The purpose of the Licensing and Examination Committee is to advise the Board on policy matters relating to the examining and licensing of individuals who want to practice barbering and cosmetology in California. The committee may also provide information and recommendations to the Board on issues relating to curriculum and school approval, exam appeals, laws and regulations.

ENFORCEMENT AND INSPECTIONS COMMITTEE

The purpose of the Enforcement and Inspections Committee is to advise the Board on policy matters that relate to protecting the health and safety of consumers. This includes recommendations on how inspections are conducted, the types of violations issued, maintenance of disciplinary guidelines, and other recommendations on the enforcement of the Board's statutes and regulations.

LEGISLATIVE AND BUDGET COMMITTEE

The purpose of the Legislative and Budget Committee is to review and track legislation that affects the Board and recommends positions on legislation. Provides information and recommendations to the Board on potential policy matters relating to the budget.

EDUCATION AND OUTREACH COMMITTEE

The purpose of the Education and Outreach Committee is to provide recommendations to the Board on the development of informational brochures and other publications, planning of outreach events for consumers and licensees, preparing articles for submission in trade magazines, attending trade shows.

DISCIPLINARY REVIEW COMMITTEE

The purpose of the Disciplinary Review Committee is to conduct informal administrative citation review hearings and renders decisions regarding disputed citations. The committee has authority to affirm, modify or dismiss the citations including any fine. The Board President shall annually appoint members of the committee, the appointments will be made concurrently with the annual election of officers. The Board President shall select the dates and locations of the informal citation review hearings held before the disciplinary review committee. The Board may find a need to have an alternate member for the convenience of those members who cannot attend.

No Attachment

**Quarterly Barbering and Cosmetology
Licensing Statistics
Fiscal Year 11/12**

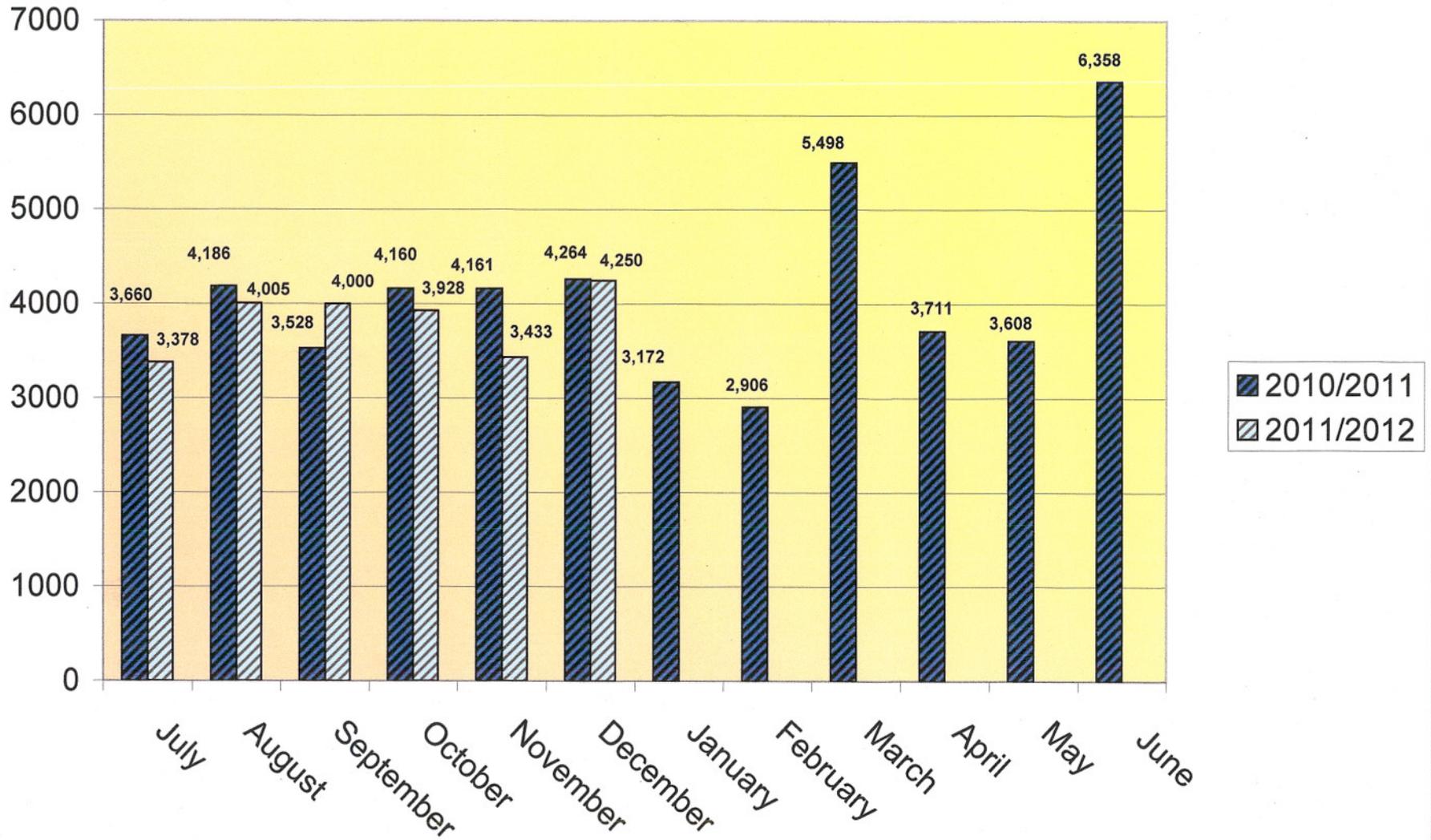
Applications Received

	Jul-Sept	Oct-Dec	Jan- Mar	Apr-May	YTD*
Establishment	1,394	1,658			3,052
Barber	476	426			902
Barber Apprentice	61	69			130
Cosmetology	5,678	5,543			11,221
Cosmetology Apprentice	122	142			264
Electrology	16	10			26
Manicuring	2,048	2,043			4,091
Esthetician	1,588	1,720			3,308
Total	11,383	11,611	0	0	22,994

Licenses Issued

	Jul-Sept	Oct-Dec	Jan- Mar	Apr-May	YTD*
Establishment	2,042	1,213			3,255
Mobile Unit	2	0			2
Barber	333	273			606
Barber Apprentice	57	57			114
Cosmetology	2,335	2,740			5,075
Cosmetology Apprentice	135	126			261
Electrology	2	5			7
Manicuring	1,366	1,221			2,587
Esthetician	1,050	917			1,967
Total	7,322	6,552	0	0	13,874

Number of Applications Received



Examination Results

(October 1, 2011- December 31, 2011)

Practical Examinations

Administered	Passed	Failed	Total	Pass Rate	*DNA
Barber	267	60	327	82%	67
Cosmetologist	3,170	442	3,612	88%	617
Esthetician	976	226	1,202	81%	118
Electrologist	7	1	8	88%	1
Manicurist	1,877	365	2,242	84%	178
TOTAL	6,297	1,094	7,391	85%	981

* Did Not Attend

Written Examinations

Barber	Passed	Failed	Total	Pass Rate
English	240	58	298	81%
Spanish	16	3	19	84%
Vietnamese	11	0	11	100%
TOTAL	267	61	328	81%

Cosmetologist	Passed	Failed	Total	Pass Rate
English	2,504	1,251	3,755	67%
Spanish	90	242	332	27%
Vietnamese	88	169	257	34%
TOTAL	2,682	1,662	4,344	62%

Manicurist	Passed	Failed	Total	Pass Rate
English	305	123	428	71%
Spanish	9	9	18	50%
Vietnamese	924	340	1,264	73%
TOTAL	1,238	472	1,710	72%

Esthetician	Passed	Failed	Total	Pass Rate
English	687	235	922	75%
Spanish	3	1	4	75%
Vietnamese	288	175	463	62%
TOTAL	978	411	1,389	70%

Electrologist	Passed	Failed	Total	Pass Rate
English	8	0	8	100%
Spanish	0	0	0	0%
Vietnamese	0	0	0	0%
TOTAL	8	0	8	100%



State and Consumer Services Agency – Governor Edmund G. Brown Jr.
 BOARD OF BARBERING AND COSMETOLOGY
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**QUARTERLY BARBERING AND COSMETOLOGY
 DISCIPLINARY REVIEW COMMITTEE STATISTICS**

Fiscal Year 11-12

Report Date: December 31, 2011

	October - December	YTD
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NORTHERN

Heard	213	525
Received	283	553
Pending ¹	710	710 ²

SOUTHERN

Heard	554	987
Received	637	1,296
Pending ¹	1,523	1,523 ²

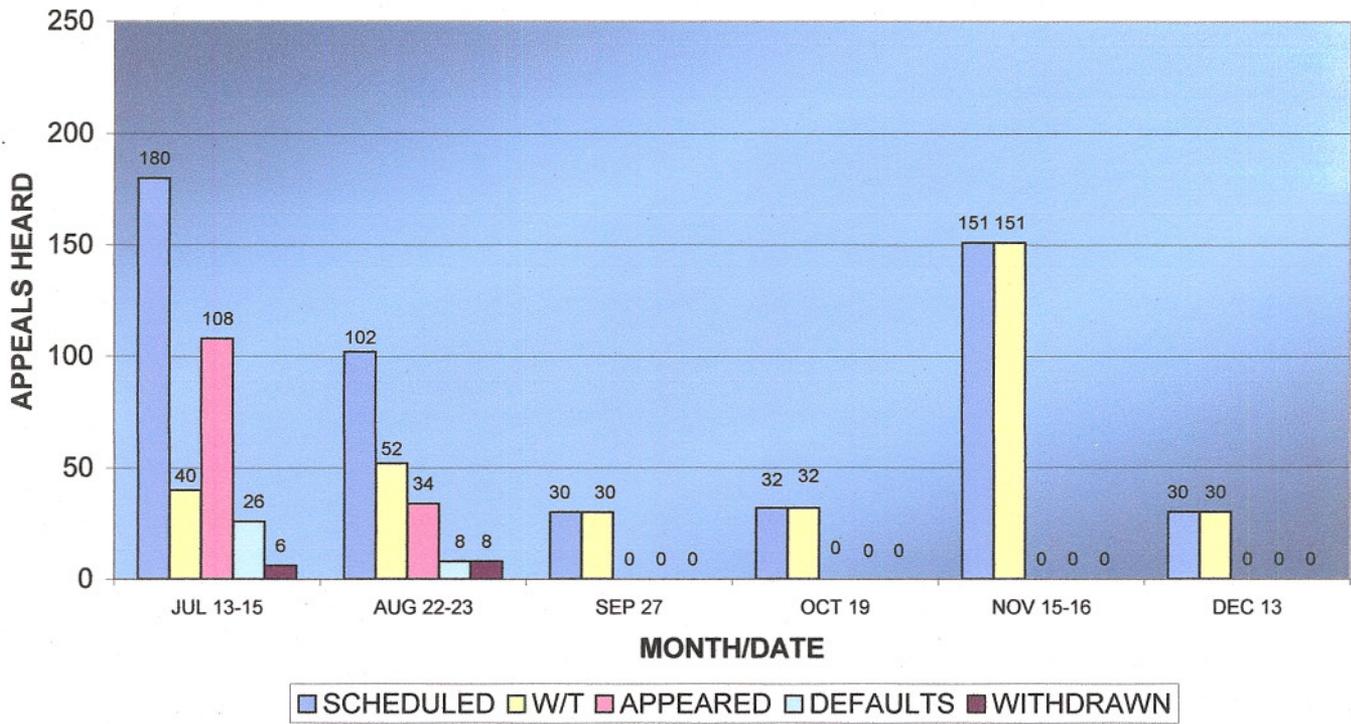
¹ Pending refers to the number of appeals received but not yet heard by DRC.

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

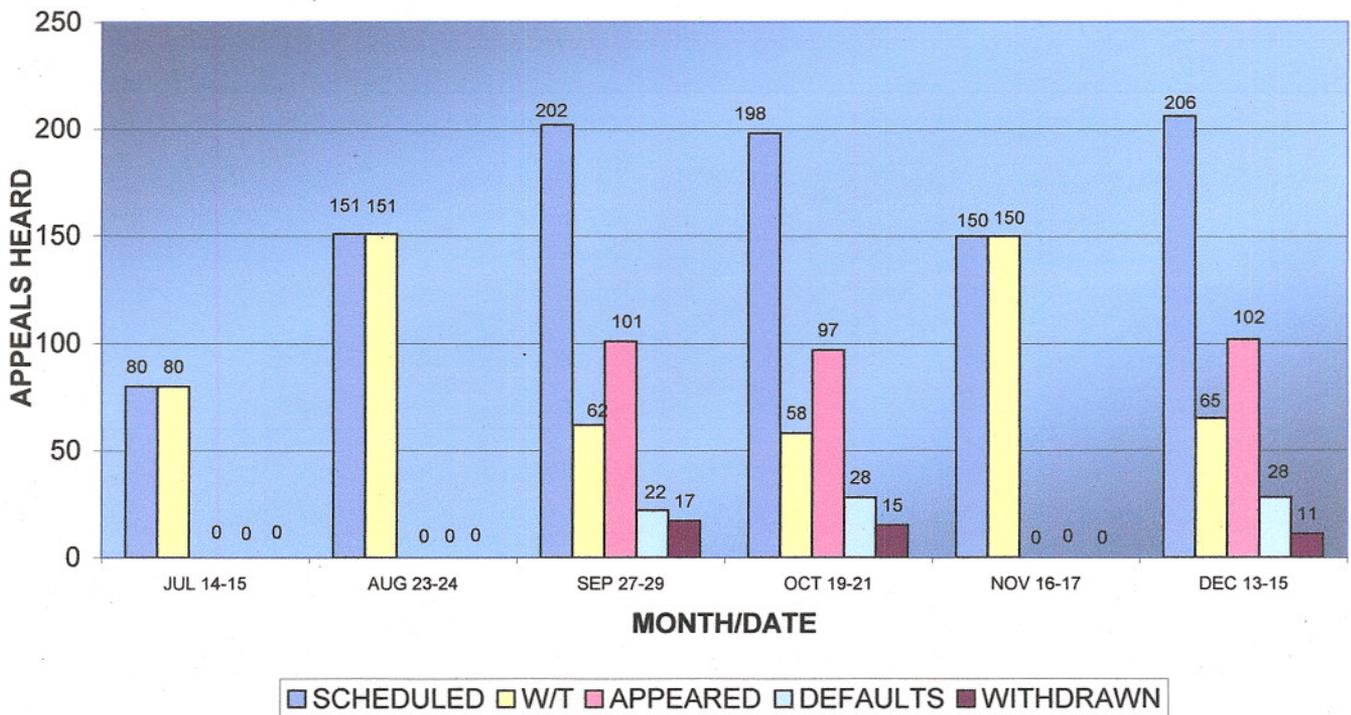
2012 SCHEDULED HEARINGS

Area	Location	Date
Southern	Norwalk	February 28, 29, March 01, 2012
Northern	Sacramento	March 21-23, 2012
Southern	San Diego	April 17-19, 2012
Southern	Norwalk	May 15-17, 2012
Northern w/t	Sacramento	June 19-21, 2012

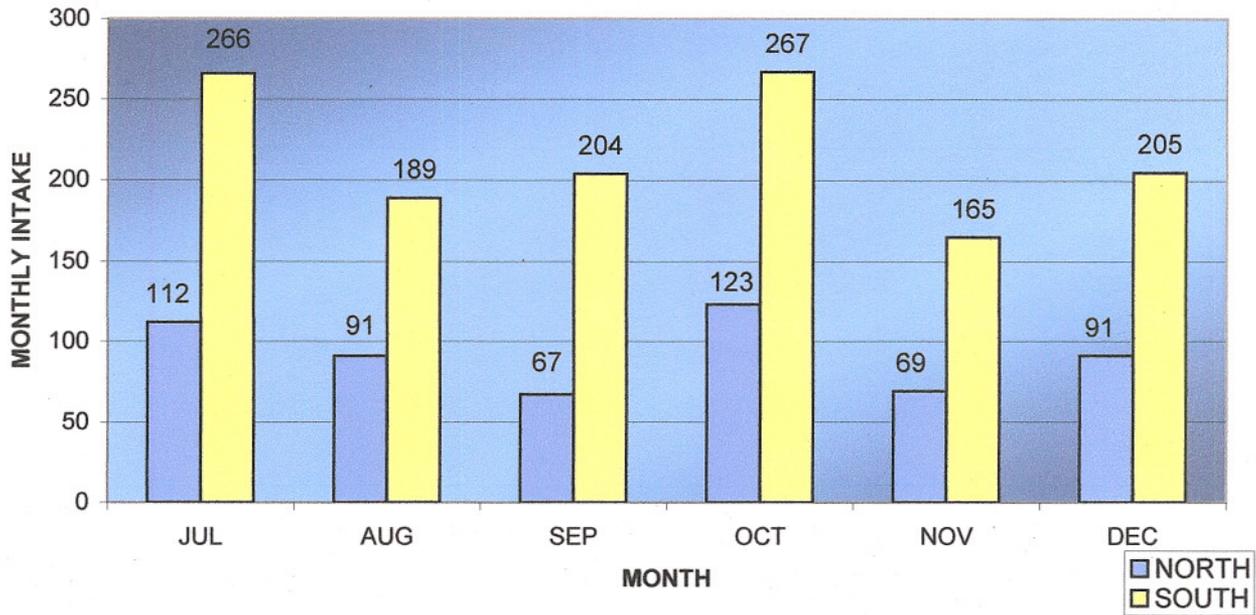
NORTHERN DRC HEARINGS (Fiscal Year 11-12)



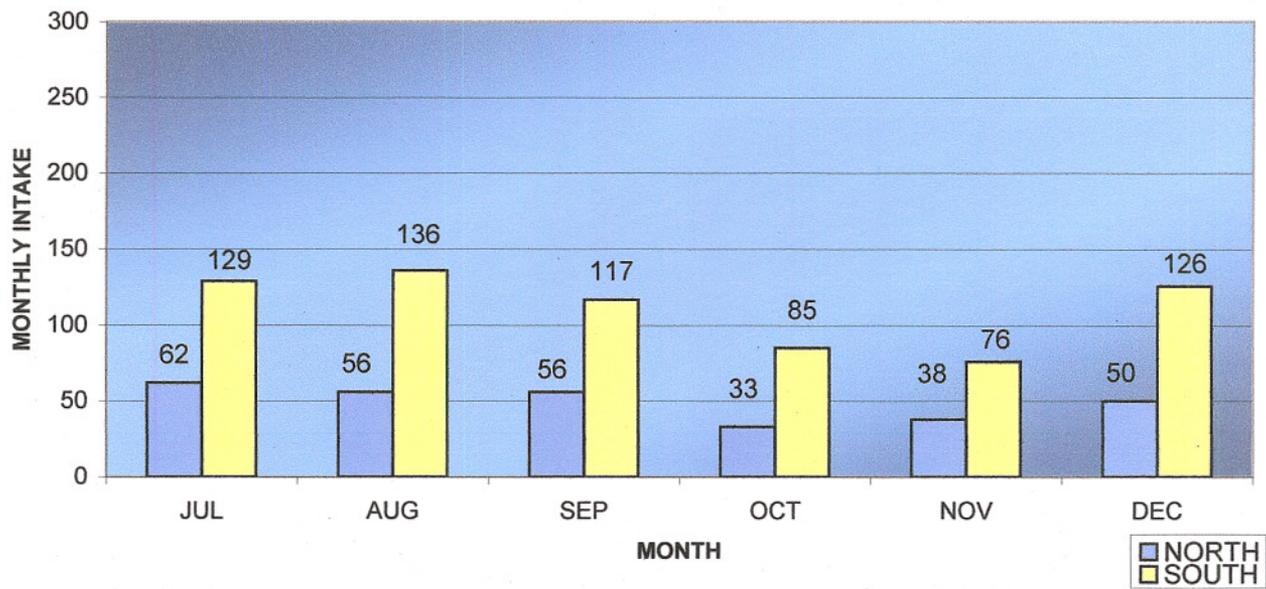
SOUTHERN DRC HEARINGS (Fiscal Year 11-12)



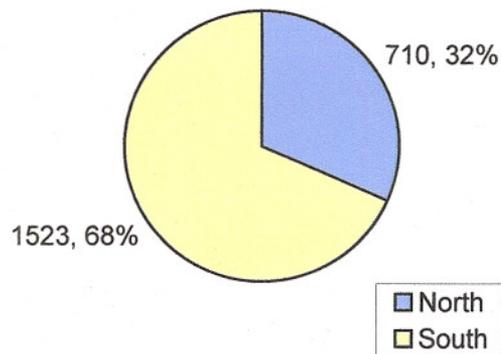
DRC MONTHLY INCOMING APPEALS (Fiscal Year 11-12)



DRC MONTHLY INCOMING WT APPEALS (Fiscal Year 11-12)



**DRC APPEALS WAITING TO BE HEARD/SCHEDULED
(As of December 31, 2011)**



**QUARTERLY BARBERING AND COSMETOLOGY
ENFORCEMENT STATISTICS Fiscal Year 11-12
Report Date January 1, 2012**

Agenda Item #7

	Jul-Sept	Oct-Dec	Jan- Mar	Apr-Jun	YTD*
COMPLAINTS					
Complaints Received	1017	851	0	0	1868
Referred to DOI	14	21	0	0	35
Complaints Closed	927	972	0	0	1899
Total Complaints Pending	1189	1072	0	0	1072
APPLICATION INVESTIGATIONS					
Received	468	393	0	0	861
Pending	115	85	0	0	85
Closed	455	427	0	0	882
ATTORNEY GENERAL					
Referred	34	27	0	0	61
Accusations Filed	10	16	0	0	26
Statement of Issues Filed	1	2	0	0	3
Total Pending	91	95	0	0	95
DISCIPLINARY PROCESS					
Proposed Decisions	1	4			5
Default Decision	7	6			13
Stipulation	10	11	0	0	21
DISCIPLINARY OUTCOMES					
Revocation	20	11	0	0	31
Revoke, Stay, Probation	0	6	0	0	6
Revoke, Stay, Suspend/Prob	12	7	0	0	19
Revocation, Stay w/ Suspend	0	0	0	0	0
Probation Only	0	0	0	0	0
Suspension Only	0	0	0	0	0
Suspension & Probation	0	0	0	0	0
Suspension, Stay, Probation	15	8	0	0	23
Surrender of License	0	2	0	0	2
Public Reprimands	0	0	0	0	0
License Denied	1	0	0	0	1
Other	2	0	0	0	2
Total	50	34	0	0	84
PROBATION					
Active	202	203	0	0	203
	Jul-Sept	Oct-Dec	Jan- Mar	Apr-Jun	YTD
CITATIONS**					
Establishments	2723	1125			3848
Barber	132	86			218
Barber Apprentice	17	6			23
Cosmetologist	951	377			1328
Cosmetologist Apprentice	13	4			17
Electrologist	2	0			2
Electrologist Apprentice	0	0			0
Manicurist	745	317			1062
Esthetician	75	29			104
Unlicensed Est.	137	70			207
Unlicensed Individual	189	70			259
Total	4984	2084			7068
INSPECTIONS**					
Establishments w/ violations	2694	1115			3809
Establishments w/o violations	758	694			1452
Total	3452	1809			5261

*Enforcement Numbers through December

**Reporting Inspections and Citations through December 2011. Still inputting November and December 2011 data.



Budget Updates

Constraints:

On April 26, 2011, the Governor issued an Executive Order B-06-11 ordering No travel, either in state or out-of-state, is permitted unless it is mission critical or there is no cost to the state. The board prepared a reduction plan for FY 2011-12. The plan included eliminating the attendance to all outreach events and two (2) staff members will be traveling to conduct the scheduled disciplinary review hearings in Southern CA. All travel must be mission critical and pre-approved by the Boards' Executive Officer.

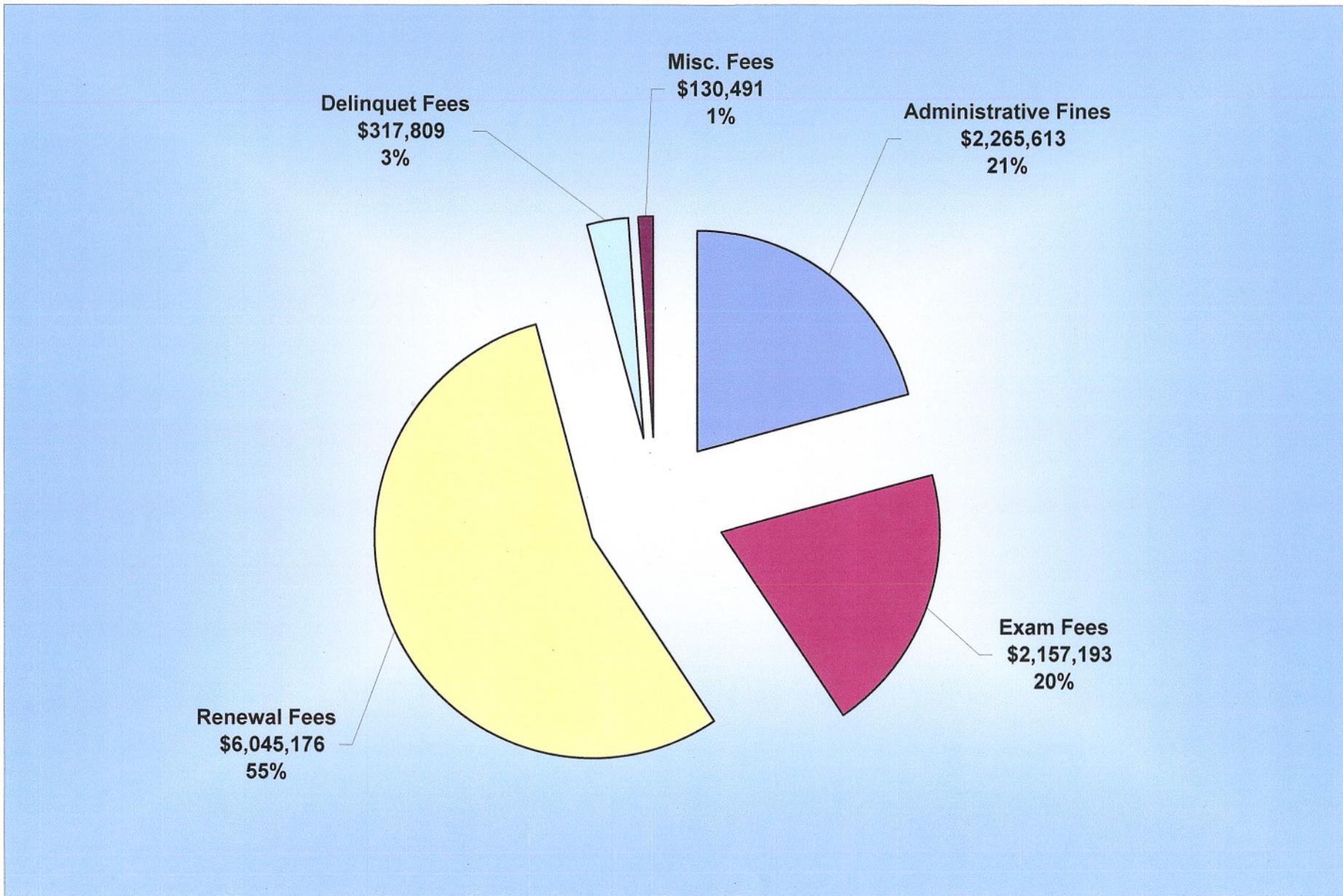
1. Budget 2011/12 Fiscal Year (July 2011 - June 2012):

Chart 1 displays the revenues received as of December 31, 2011.

Chart 2 displays the expenditures as of December 31, 2011.

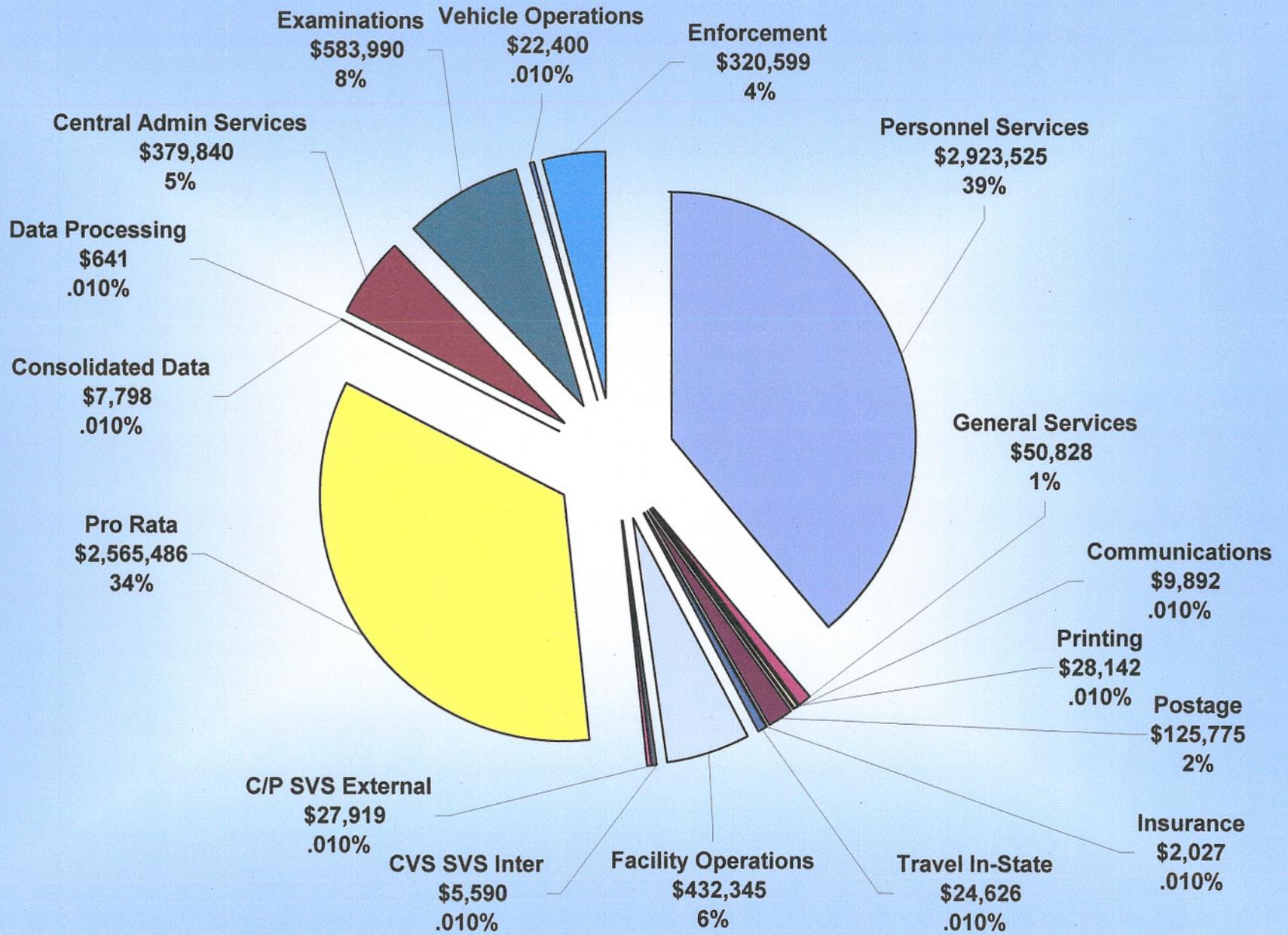
Attachment 3 displays projected expenditures for end of the year.

Monthly Budget Report (11/12 FY)
Revenues
(As of 12/31/11)



Revenues as of 12/31/11
\$10,916,282

Monthly Budget Report (11/12 FY)
Expenditures
(As of 12/31/11)



Expenditures as of 12/31/11
\$7,511,423

Board of Barbering and Cosmetology
Fiscal Year 2011/2012
Projected Expenditures 12/31/11

Personnel Services	ALLOTMENT	BBC Projected Expenditures	Projected Year
Permanent	3,988,544	3,557,351	431,193
Expert Examiners	452,554	452,554	0
Temporary	0	144,000	(144,000)
Statutory-Exempt	101,852	102,012	(160)
Board Member Commission	0	10,000	(10,000)
Overtime	0	17,000	(17,000)
Total Salary & Wages	4,542,950	4,282,917	260,033
Salary Savings	(141,697)	0	(141,697)
5% Salaray Savings	(278,460)	0	(278,460)
Net Salary & Wages	4,122,793	4,282,917	(160,124)
Staff Benefits	1,919,501	1,528,261	391,240
Total of Personnel Servies	6,042,294	5,811,178	231,116
<hr/>			
Operating Expenses & Equipment (OE&E)	Allotment	BBC Projected Expenditures	Projected Year End Balance
General Expense	182,346	158,400	23,946
Printing	220,413	170,000	50,413
Communication	105,605	10,000	95,605
Postage	389,384	300,000	89,384
Insurance	4,489	2,500	1,989
Travel In State	82,789	99,300	(16,511)
Travel, Out-of-State	0	0	0
Training	24,513	20,000	4,513
Facilities Operations	1,327,231	1,327,231	0
Consultant & Professional Svs. - Interdept.	125,781	100,000	25,781
Consultant & Professional Svs. - External	196,947	196,947	0
Dept. and Central Admin. Services	5,132,165	5,100,000	32,165
Pro Rata	759,682	750,000	9,682
Consolidated Data Center	70,088	70,088	0
Examinations	1,394,277	1,354,034	40,243
Major Equipment	57,000	50,000	7,000
Minor Equipment	41,000	35,000	6,000
Data Processing	38,376	30,000	(2,000)
Other Items of Expense	7,288	70,000	(62,712)
Vehicle Operations	14,772	64,575	(49,803)
Enforcement	1,585,096	1,500,000	85,096
Special Items of Expenses	0	0	0
Required OE&OSavings		171,022	(50,482)
Total Operating Expenses & Equipment	11,759,242	11,579,097	290,309
Scheduled reimbursements	(57,000)		(57,000)
Total	11,702,242	11,579,097	233,309



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FY 11-12 Outreach/Industry Events

- None

On April 26, 2011, the Governor issued an Executive Order B-06-11 ordering No travel, either in state or out-of-state, is permitted unless it is a mission critical or there is no cost to the state.



**CALIFORNIA STATE BOARD OF
BARBERING AND COSMETOLOGY
MINUTES OF OCTOBER 17, 2011**

**Holiday Inn Hotel
2726 South Grand Avenue
Grand Ballroom
Santa Ana, CA 92705**

BOARD MEMBERS PRESENT

Deedee Crossett, President
Christie Truc Tran, Vice President
Richard Hedges
Frank Lloyd
Wen Ling Cheng

STAFF MEMBERS PRESENT

Kristy Underwood, Executive Officer
Gary Duke, Staff Counsel

1. Agenda Item #1, Call to Order/Roll Call

Ms. Crossett called the meeting to order. The board members introduced themselves.
Mr. Hedges requested a moment of silence for the passing of Ken Cassidy and the eight licensees slain at Seal Beach.

2. Agenda Item, #2, 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 (a)]

Fred Jones of the PBFC echoed Mr. Hedges commemoration of Ken Cassidy. He stated the mission of the PBFC was to raise the professional standards of the Beauty organization. An open salon memorial was held for Ken Cassidy and several hundred people were in attendance.

Victor Chang asked that the board reconsider their decision on fish pedicures.

Kathryn Grady owner of Plush Beauty Bar in West Hollywood stated her salon is having difficulty finding licensed nail technicians. She asked the board to consider developing regulatory language to develop the apprenticeship program for nail technicians. Director Crossett agreed a number of schools have eliminated the nail program because their enrollment has dropped. Ms. Grady noted the students cannot afford to take months off work to attend school. She would like to work with the schools to build awareness of the opportunities to earn a living wage.

Doug Schoon, president of Schoon Scientific, asked the Board to revisit their decision on the non-use of pedicure tub liners. He believes a consequence of regulation should be to encourage innovation for solutions. He believes the use of pedicure liners to be one such innovation. He stated he will prepare a written document with his comments regarding the environmental benefits of using pedicure tub liners and send it to the board shortly.

Robin Willoughby recommended training be included when a licensee obtains an establishment license so the salon owner will be aware of citation costs. Online education would be appropriate and could be charged for. She stated she only received training in aesthetics and not nail or cosmetology. She also commented on regulation for instrumentation. She was recently cited for working outside the scope of her license. She did not find anything in the regulations that said she could not use a 30 percent Glycolic acid peel. She noted she has bought items at conventions but found she could not use them. She asked where it was stated she could not use 30 percent glycolic acid, to protect her and other licensees. She also expressed her concern about unlicensed establishments and wondered why their fines were so low. She was concerned about disparity in the number of hours required. Ms. Crossett noted the training and unlicensed establishment fines were an ongoing issue.

Stephanie Foster with the Division of Apprenticeship Standards joined Kathryn Grady, owner of Plush Beauty Bar in requesting the Board develop a nail apprenticeship program.

Debora Sue Olson of the Real Barber College discussed the need for the licensure of Schools.

Shauntie Jackson asked the board why braiders did not need a license to work in the salon and why hair extensions are not part of the board curriculum in school training. She noted a lot of students have to go out of the school realm to learn braiding. She believed it should require a license. She recommended a credit card be developed to discourage unlicensed activity. She hoped braiding would be discussed by the board. Ms. Crossett stated braiding hair is not considered styling and a license is not required. A license is not required only if braiding is done and nothing else. However, the establishment must have a license. The female audience member disagreed because various tools are used including needles. Mr. Hedges noted braiders were frequently cited for working out of the scope. Ms. Crossett agreed this should be looked at in the future.

Ann Parker of Healthy Hair Salon asked about braiding salons not being required to have a license. It was noted anyone doing anything beyond braiding would require a license.

Veronica Marisol, Salon Owner, discussed hair removal regulations. Ms. Crossett explained the scope of hair removal. Mr. Hedges stated for a regulation to be changed, legislation would need to be involved.

Fred Jones of B and P Code noted BBPE section 7316 subsection d, paragraph 2 defined the scope of natural braiding and read the regulation to clarify. He noted a lot of publicity has been generated over the topic. He stated it was important that policymakers don't create laws based on anecdotal experiences. The broader community needs to be heard from.

3. Agenda Item #3, Board President's Report

Ms. Crossett attended the Face and Body Show in San Jose, California. She also spoke at the luncheon about citations and microbacteria. She noted there were a lot of questions. She encouraged fellow board members to take the opportunity to provide public outreach and education.

4. **Agenda Item #4, Executive Officer Report**

Ms. Underwood reported the Department has signed a contract for the Breeze system. Phase I will commence July 2012. It will be a long process.

- **Review of Board Statistics**

Ms. Underwood provided a brief summary of the board statistics. The budget has been cut by 5 percent and travel has been cut. The hiring freeze remains in effect which has been difficult on the staff. Mr. Hedges commented that the Board of Barbering and Cosmetology has recently made a loan to the State of California in the amount of 10 million dollars. Mr. Lloyd asked if the national exam was included in the exam results. Only the written is included. He asked that a chart be provided on the practical exam. He noted a drop in the Spanish scores.

Public Comment

Fred Jones of PBFC worked with the national exam office to review the Vietnamese version. They found 27 inappropriate translated words. They found 7 inappropriate translations in the Spanish version. The test scores will eventually come up with the new exams. He stated it was important to notify the students about the new exam. He was impressed with the company in their willingness to work and refine the tests.

5. **Agenda Item #5, Appointment of Committee Members**

Ms. Underwood stated it would be best to appoint the committees when the remainder of the board member appointments are made. A teleconference will be scheduled. Ms. Crossett recommended students attend DRC meetings to become aware of the violations. Mr. Lloyd suggested the new Board members attend a DRC Hearing before they are assigned to the committee.

6. **Agenda Item #6, Approval of Board Meeting Minutes**

- **July 11, 2011**
- **July 12, 2011**

Ms. Crossett noted in Item 10 of the Board minutes that the comment "this was low on her priority list", she clarified this item was low on the Board's priority list. She stated the minutes should read "Face and Body Show."

Mr. Hedges made the motion to approve the minutes of July 11 and 12, 2011. Mr. Lloyd seconded the motion and it was approved by a 4-0 vote.

THE BOARD TOOK A 15 MINUTE BREAK AT THIS TIME.

7. **Agenda Item #7, Legislation Update**

Ms. Underwood reviewed the following legislative updates. None of them impacted the board and were included for informational purposes.

- **AB 300 – Safe Body Art Act:** Registration is required with the local health department but no training is required. This was signed by the Governor.
- **AB 797 – Cosmetology Schools:** Would pull cosmetology schools out of the BPPE. This bill is not moving.
- **SB 498 – Transfer of BPPE to the CA Postsecondary Education Commission:** Nothing further to report.

- **SB 541 – Subject Matter Experts:** Allows boards to enter into agreements as opposed to an actual contract for experts. This has been signed by the Governor. No impact.
- **SB 706 – Posting of Accusations:** Requires certain information to be disclosed on the internet re: licensees. This is already done by the Board. Signed by the Governor. No impact.
- **SB 746 – Tanning Salons:** Board has minimal oversight; only if in a licensed salon. Signed by the Governor. No impact.

PUBLIC COMMENT

Veronica Marisol asked if Board's licensed salons could do body wraps. Ms. Crossett stated body wraps were outside of the Board's scope.

Sal Hernandez of Montebello Beauty College asked about AB797. When BPPE is dissolved he asked about the money that was collected from schools but did not receive an answer. The Board had the same question but it was currently out of their scope.

Fred Jones of PBFC noted the Governor also signed a bill that cracked down on independent contractors and employers who mischaracterized their employees as independent contractors.

8. Agenda Item #8, Regulations Update and Approval

The following regulations have been submitted previously to the Board and the current status is noted.

- **Administrative Fine Schedule: Approval of the Second Modified Text for Section 974 of Division 9 of Title 16 of the California Code of Regulations that was noticed to the public on June 9, 2011; Consideration of any comments received during the public comment period ending June 24, 2011 and Approval of the Final Statement of Reasons.** This has been approved by OAL.
- **Disciplinary Guidelines: Approval of Final Statement of Reasons and Specific Language for Section 972 of Division 9 of Title 16 of the California Code of Regulation.**
This has been approved and will go into effect November 7, 2012.
- **Scoring Methods in Examinations: Consideration of Comment and Approval of Final Statement of Reasons and Specific Language for Section 932 of Division 9 of Title 16 of the California Code of Regulations.** These are currently being reviewed by the Department of Consumer Affairs. The timeframe is unknown at this time.
- **Curriculum: Consideration of Comment and Approval of Final Statement of Reasons and Specific Language for Sections 950.1, 950.4, 950.5, 962.3, 962.4, 962.5 and 962.6 of Division 9 of Title 16 of the California Code of Regulations.** Currently with OAL.
- **Unregulated Practices: Consideration of Comments and Approval of Final Statement of Reasons and Specific Language to Adopt Section 966 of Division 9 of Title 16 of the California Code of Regulations.** Work is ongoing. Notice will begin in late October.
- **Dishonored Check Fee: Approval of Final Statement of Reasons and Specific Language for Section 999 of Division 9 of Title 16 of the California Code of Regulations.** Approved.

9. Agenda Item #9, Discussion on Unlicensed Activity

Per a request at the last meeting, information on unlicensed activity was presented. It continues to be the biggest issue with more complaints received. The costs are very high. Unlicensed activity is difficult to monitor and punish. The Board has had success in working with the Department's Division of Investigation (DOI). Mr. Hedges would like to see the Board obtain their own sworn peace officers. Mr. Lloyd cited an example of an establishment that had received four or five citations. It was agreed more inspectors were needed and it will be included in the future budget. Ms. Underwood noted the biggest problem was unlicensed salons that employ unlicensed individuals. As the inspectors walk in, the owners cannot be found or determined. Mr. Lloyd noted some salon owners believed their Tax ID number was sufficient and only needed education.

Ms. Crossett asked what the board could do. She recommended being proactive in asking the help of the consumers. She recommended consumers be educated on what to look for. She also recommended being included on the Small Business Association Website. Ms. Underwood would like to continue to use the (DOI) and hopes to revisit the possibility for new Inspector positions. She noted the establishment license only requires that the application is filled out. Ms. Chang stated that any business that opens should have proper insurance. Mr. Hedges feels it would be beneficial to have retired police officers on staff, on an on-call basis, for criminal investigations.

Public Comment

Sal Hernandez stated he has come across many undocumented workers who want to learn and work. Without a license, their work is tax-free. He recommended the board find a way for them to work.

Marianne Light mentioned the Inspection reports currently being used have the old fine schedule posted. She offered Kristy Underwood a copy of her PowerPoint presentation on how to get a license.

Fred Jones of PBFC commented that increased laws and regulations, though well intended, will often increase unlicensed activity. The economy also had an impact. He believed the board had the most control over activity in unlicensed establishments and needed to send clear messages. He recommended increased communication. The board needs to help people understand their responsibilities. Some students believe they do not need a license if their salon had a license. An unlicensed salon can take advantage by charging lower prices. He recommended when regulations are looked at, the question does it help or hinder unlicensed activity, should be answered. As part of the solution, he believed the inspectors needed to have a relationship with the city managers, county administrators and other municipal resources to confront the unlicensed salons immediately. The new computer system will enhance this communication.

Ann Parker noted she reported unlicensed activity on an Inglewood salon on multiple occasions. She commended the inspectors for coming out right away. She wondered why they could not come out on Saturdays (they can). She left the employment of that salon.

Ray Briggs recommended the landlord be contacted about unlicensed activity at their property.

(Unknown audience member) She believed it would be important to post a list of people who were fined and why.

Phuc Dam from United Hair and Nail stated the displaying of licenses must be enforced.

Marianne Light commented that Saturday inspections are limited. She would like to see the Board encourage the inspectors to conduct more weekend inspections.

10. **Agenda Item #10, Enforcement Committee Report**

- Review and Recommendations on the Apprenticeship Program: Members of the DRC noticed an increase of unlicensed activity of unsupervised apprentices and stories from apprentices of lack of responsible licensee. Ms. Underwood agreed. Testimony from the public was heard at the meeting and various issues were discussed that were brought forward by staff. It was subsequently agreed the program needs to be overhauled. It will be done with extensive input from the public. It was agreed the apprenticeship program is very valuable if done correctly. If not, none of the parties involved are being served. The apprentice is not being well served by the program if their hours are not recorded or they don't receive adequate supervision. The owner of the salon is not being served because they don't understand the rules.

Ms. Underwood agreed the citations have increased and they have seen four or five apprentices in a shop with no licensee. With no supervision, the apprentice may also be delayed in taking or passing their exam. Staff will be working on recommendations to changes in the program and will bring them back to the Enforcement Committee for their review. The apprentices have been encouraged to report any problems with training in a salon. She noted anyone can be a trainer if they do not have any outstanding fines or disciplinary actions. The trainer and establishment requirements will be looked at to bring to a higher level. Mr. Hedges believed the number of apprentices were limited at salons based on the number of licensees. Ms. Crossett stated she was surprised to see how poorly some apprentices performed on their exams. She believed public feedback would be very important in the process of changing the apprenticeship program. First hand information would be important.

Public Comment:

Andre Nezetich with the Los Angeles County Cosmetology Apprenticeship Program stated he was instrumental in getting the apprenticeship program going in his salons. He believed the program has been successful in providing graduates and preparing to work. He estimated they had 120 apprentices in three locations. It was important that the apprentice was working and earning money during the program. They also received assistance in studying for the exam. The Board agreed it was a successful program. He noted an apprentice did not have to be assigned to a specific cosmetologist as long as the ratio was correct. He agreed there was room for improvement but noted his program was very successful. The Board asked him to be available in the future to provide input.

11. Agenda Item #11, National Practical Examination

Ms. Underwood noted the National Practical Examination was implemented on October 3, 2011. There was a 75 percent pass rate. The webcast is online and there appears to be a good response from schools. Ms. Underwood believes the use of mannequins in place of live models should be considered. Ms. Crossett asked if the use of hand sanitizer could be researched. Mr. Hedges expressed concern on the use of hand sanitizer. Ms. Crossett thanked staff for the implementation of the exam which took a lot of work. Ms. Underwood also thanked the staff.

Public Comment

Peter Westbrook commented on soap versus sanitizer. He recalled the discussion occurred back in the eighties.

Doug Schoon believes nothing is as effective as washing hands with soap and water. The sanitizer can dry out skin and does not remove contaminants or debris.

Ann Parker also commented on soap versus sanitizer.

12. Agenda Item #12, Top Violations

Ms. Underwood discussed the top 10 violations and how they have changed over the years.

13. Agenda Item #13, 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 (a)]

Clara Schuster asked for a clarification on Cholesterol being used during the exam process Ms. Crossett stated they would get back to Clara with more information. She asked if soap and water will still be an option at the exam.

Shauntie Jackson commented on the apprenticeship program. She believed she became a stronger teacher after learning how to teach. She believed the mentors/teachers should have a minimum hours requirement to become better teachers.

Marianne Light mentioned she has developed a PowerPoint presentation of the 10 Ten Violations. She offered to send a copy to Ms. Underwood.

Sharalyn Ada from Marinello School recommends the Board use mannequins in place of live models for the exam.

14. Agenda Item #14, Agenda Items for Next Meeting

Apprenticeship program.

15. Agenda Item #15, Closed Session to Discuss Enforcement Cases

- **Discussion on Reconsideration and Disciplinary Cases (Closed Pursuant to Government Code Section 11126(c) (3).**
- **Discussion of Pending Litigation: Zablah vs. Board of Barbering and Cosmetology, Superior Court, County of San Diego, Case No. 37-2011-00093645 (closed pursuant to Government Code Section 11126(e)(1)(2)).**

16. Agenda Item #16, ADJOURNMENT

The board returned to open session and agreed to hear one additional public comment.

Public Comment

David Rue spoke on behalf of Esther Kim and requested to appeal a recent cancellation of a cosmetology license and the resulting reinstatement. The license expired on April 30, 2006 and the grace period expired on April 30, 2011. Ms. Kim moved in 2004 and never received a notice due to her address change. Ms. Kim did receive the establishment license at her place of business and did renew it. She believed she was current on her cosmetology license. Her establishment license was clearly displayed. Ms. Kim was never cited by investigators for an expired license until July 2011. She had never received a citation in the past. Mr. Rue hoped the board could review her case and consider reinstatement. Mr. Rue agreed Ms. Kim should have taken the time to renew her cosmetology license. Mr. Duke noted there was no precedence for this request. The law was clear that the grace period was five years and the licensee must qualify again for a new license. Mr. Hedges cautioned it would set a precedent for multiple appeals. The board agreed it was the responsibility of the licensee to renew a license, update the address and follow through. The board was not able to reinstate the license due to statute. However, staff can assist in scheduling the examination for Ms. Kim.

With no further business, the meeting was adjourned.



**CALIFORNIA STATE BOARD OF
BARBERING AND COSMETOLOGY
MINUTES OF OCTOBER 18, 2011**

**Holiday Inn Hotel
2726 South Grand Avenue
Grand Ballroom
Santa Ana, CA 92705**

BOARD MEMBERS PRESENT

Deedee Crossett, President
Christie Truc Tran, Vice President
Richard Hedges
Frank Lloyd
Wen Ling Cheng

STAFF MEMBERS PRESENT

Kristy Underwood, Executive Officer
Gary Duke, Staff Counsel

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

Ms. Crossett called the meeting to order. The board members introduced themselves.

2. Agenda Item, #2, PETITION FOR REINSTATEMENT

The Administrative Law Judge conducted the proceedings for the petition for reinstatement.

- Lynette Pham
- Benny Law
- Linda Mei-Ta Wang

3. Agenda Item #3, CLOSED SESSION

Decision on Reinstatement and Disciplinary Cases (Closed pursuant to Government Code Section 11126 (C) (3)).

Open Session:

4. Agenda Item #4, ADJOURNMENT

There being no further business the meeting was adjourned.

No Attachment



State and Consumer Services Agency – Governor Edmund G. Brown Jr.
Board of Barbering and Cosmetology-Department of Consumer Affairs
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P (800) 952-5210 F (916) 574-7574 | www.barbercosmo.ca.gov



MEMORANDUM

DATE: February 6, 2012

TO: Members, Board of Barbering and Cosmetology

FROM: Kristy Underwood
Executive Officer *KU*

SUBJECT: Regulations Update

- **Scoring Methods in Examinations:** The final rulemaking package has been disapproved by the Office of Administrative Law (OAL), largely over two minor clarity issues. The Board now has 120 days to resubmit the regulations to OAL. Staff will revise the language, issue a 15-day notice of modified text and submit both this text and the Final Statement of Reasons to the Board for approval at its next meeting.
- **Unregulated Practices:** The 15-day comment period for the modified text ended on December 28, 2011. There were no comments. The Board needs to give final approval to the language and the Final Statement of Reasons in order to proceed and present it for approval to the Department of Consumer Affairs, the State and Consumer Services Agency and, ultimately, OAL.

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

LEGEND

<u>Underline</u>	Indicates proposed amendments or additions to the existing regulation.
Strikeout	Indicates proposed deletions to the existing regulation.
<u>Double Underline</u>	Indicates an addition to the originally proposed text of the r regulations
Double Strikeout	Indicates a deletion to the originally proposed text of regulations

Amend Section 932 of the California Code of Regulations as follows:

932. Passing Grades in Examinations.

~~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 reexamined 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.~~

(a) Examinations shall consist of a practical ~~examination~~ demonstration and a written ~~examination~~ test.

(b) ~~The Board shall establish passing scores for examinations based on criterion-referenced scoring methodology.~~ An applicant must obtain a passing score on both the practical demonstration and the written test. The board will determine the passing scores using a criterion-referenced method and based on the recommendation of subject matter experts under the direction of the Board and the Board's examination contractor.

Note: Authority cited: Sections 7312, 7338 and 7340, Business and Professions Code.
Reference: Sections ~~139~~, 7338, and 7340, ~~7341 and 7342~~, Business and Professions Code.

BOARD OF BARBERING AND COSMETOLOGY

FINAL STATEMENT OF REASONS

Hearing Date: No hearing scheduled

Subject Matter of Proposed Regulations: Unregulated Services

Sections Affected: Section 966, California Code of Regulations

Updated Information

There is no update to the information contained in the initial statement of reasons. No request for a hearing on this regulation was made by any member of the public.

Local Mandate

A mandate is not imposed on local agencies or school districts.

Small Business Impact

There is no significant impact to small business.

Consideration of Alternatives

No reasonable alternative which was considered or that has otherwise been identified and brought to the attention of the Board would be either more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed regulation.

Summary of, and Responses to, Comments Received During the 45-day Comment Period

Comment #1

Fred Jones, Counsel for the Professional Beauty Federation of California:
Mr. Jones expressed his organization's opposition to the regulation unless amended by the Board. Mr Jones noted that although the Board might not

regulate a service, it might be regulated by another entity. He recommended changing the title of the sign referenced in the proposed regulation, which he said might lead a consumer to think the services listed were not regulated at all, when in fact they might be. He also recommended amending the text of the proposed sign to read as follows: "The following services offered in this establishment or school are not regulated by the California State Board of Barbering and Cosmetology, but may be regulated by local government agencies, including the county health department."

Board Response: The Board agreed with this comment and revised the language to address Mr. Jones' concern. The modified text was noticed on December 12, 2011

Comment #2

Brian Stiger, Acting Director of the California Department of Consumer Affairs (DCA): Mr. Stiger said DCA recommends that the Board amend the regulation to require cosmetology establishments list the entities that regulate services not regulated by the Board, where they exist, as well as those entities' contact information.

Board Response: The Board agreed with this comment and revised the language to address Mr. Stiger's concern. The modified text was noticed on December 12, 2011.

Summary of, and Responses to, Comments Received During the 15-day Comment Period on the Modified Text

No comments were received.

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

Modified Text

LEGEND

<u>Underline</u>	Indicates proposed amendments or additions to the existing regulation.
Strikeout	Indicates proposed deletions to the existing regulation.
<u>Double Underline</u>	Indicates an addition to the originally proposed text of regulations
Double Strikeout	Indicates a deletion to the originally proposed text of regulations

Adopt Section 966 of the California Code of Regulations as follows:

§ 966. Unregulated Services.

- a) “Unregulated services” are those services not defined as the practice of barbering, cosmetology or electrolysis under Section 7316 of the California Business and Professions Code. These include, but are not limited to, massage therapy, and permanent make-up or tattooing.

- b) All unregulated services that are performed within an establishment or school shall be clearly identified as unregulated services and listed on a sign displayed conspicuously at the workstation where services are performed. The list of unregulated services shall be preceded by the following text in lettering at least one-half inch high: “~~Unregulated services: The following services offered in this establishment or school are not regulated by the California State Board of Barbering and Cosmetology.~~” does not regulate the following services offered in this school or establishment, but the services may be regulated by local government agencies, including the county health department, or another state agency.”

- c) The list of services not regulated by the Board shall identify any local or state government agency that has jurisdiction over those services.

Note: Authority cited: Sections 7312 and 7303.1, Business and Professions Code.
Reference: Sections 7316, 7317, 7346 and 7404, Business and Professions Code.



Board of Barbering and Cosmetology
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MEMORANDUM

TO: Members, Board of Barbering and Cosmetology Date: February 6, 2012

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

SUBJECT: Heath and Safety Regulations

The following information is being provided to facilitate the discussion on the specified health and safety regulations:

Issue #1: Personal Cleanliness

Section 983 states the following:

- (a) The person and attire of a licensee serving a patron shall at all times be clean.
- (b) Every licensee performing services shall thoroughly wash his or her hands with soap and water or any equally effective cleansing agent immediately before serving each patron.

Discussion:

The Board should discuss the issue of what defines "any equally effective cleansing agent". The Board currently does not consider the use of a hand sanitizer between each client as a violation.

Issue #2: Prohibited Substances

Section 989 states the following:

No establishment or school shall have on the premises cosmetic products containing hazardous substances which have been banned by the U. S. Food and Drug Administration for use in cosmetic products, including liquid methyl methacrylate monomer and methylene chloride. No product shall be used in a manner that is disapproved by the FDA.

Discussion:

This section is not valid as liquid methyl methacrylate monomer are NOT banned by the U.S. Food and Drug Administration (FDA). Below is information taken from the FDA's website

regarding methacrylate monomer. Based on this information, the Board should discuss updating this section.

Methacrylate Monomers in Artificial Nails ("Acrylics")

Artificial nails are composed primarily of acrylic polymers and are made by reacting together acrylic monomers, such as ethyl methacrylate monomer, with acrylic polymers, such as polymethylmethacrylate. When the reaction is completed, traces of the monomer are likely to remain in the polymer. For example, traces of methacrylate monomers remain after artificial nails are formed. The polymers themselves are typically quite safe, but traces of the reactive monomers could result in an adverse reaction, such as redness, swelling, and pain in the nail bed, among people who have become sensitive (allergic) to methacrylates.

Ethyl methacrylate monomer is commonly used today in acrylic nails, although methyl methacrylate monomer may still be found in some artificial nail products. In the early 1970s, FDA received a number of complaints of injury associated with the use of artificial nails containing methyl methacrylate monomer. Among these injuries were reports of fingernail damage and deformity, as well as contact dermatitis. Unlike methyl methacrylate monomer, methyl methacrylate polymers were not associated with these injuries. Based on its investigations of the injuries and discussions with medical experts in the field of dermatology, the agency chose to remove from the market products containing 100 percent methyl methacrylate monomer through court proceedings, which resulted in a preliminary injunction against one firm as well as several seizure actions and voluntary recalls. **No regulation specifically prohibits the use of methyl methacrylate monomer in cosmetic products.**

The CIR Expert Panel determined in 2002 that ethyl methacrylate is safe as used when application is accompanied by directions to avoid skin contact because of its sensitizing potential (that is, the possibility that a person might develop an allergy to this material).

Issue #3: Skin Peels

Section 992 states the following:

- a) Only the non-living, uppermost layers of facial skin, known as the epidermis, may, by any method or means, be removed, and then only for the purpose of beautification.
- (b) Skin removal techniques and practices which affect the living layers of facial skin, known as the dermis, are prohibited and constitute the practice of medicine.
- (c) Only commercially-available products for the removal of facial skin for the purpose of beautification may be used. Mixing or combining skin removal products is prohibited except as it is required by manufacturer instructions.

Discussion:

The Board has been operating on the basis that a skin peel product that contains 30% or more glycolic acid is a violation of section 992. However, the Board has recently been challenged that this section is not clear in defining a limit to the amount of glycolic acid that can be used by

an esthetician or cosmetologist. Therefore, the Board should discuss and consider clarification of this section to provide clear information to licensees and provide sufficient consumer protection.

No Attachment



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MEMORANDUM

TO: Members, Board of Barbering and Cosmetology **Date:** February 6, 2012

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

SUBJECT: Proposed 2012 Board Meeting Calendar

The below dates are recommended for the 2012 Board Meeting Schedule:

April 30, 2012	Sacramento
July 30, 2012	San Diego
October 29, 2012	San Jose

No Attachment

Closed Session