

**CALIFORNIA  
BOARD OF BARBERING AND COSMETOLOGY**



**JULY 17, 2016**

**Board Meeting**

**Handlery Hotel  
950 Hotel Circle North  
San Diego, CA 92108**



Joseph Federico, Industry Member  
President

Dr. Kari Williams, Industry Member,  
Vice President

Mary Lou Amaro, Industry Member

Bobbie Jean Anderson, Public Member

Polly Codorniz, Industry Member

Andrew Drabkin, Public Member

Richard Hedges, Public Member

Coco LaChine, Public Member

Lisa Thong, 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](http://www.barbercosmo.ca.gov)

2420 Del Paso Road, Suite 100  
Sacramento, CA 95834

# California State Board of Barbering and Cosmetology

## Board Meeting Agenda

Sunday, July 17, 2016

10:00 A.M.

Until completion of business

**Handlery Hotel**  
**950 Hotel Circle Hotel**  
**San Diego, CA 92108**

### OPEN SESSION:

1. Call to Order/Roll Call/Establishment of a Quorum (**Joseph Federico**)
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 Opening Remarks (**Joseph Federico**)
4. Executive Officer Report (**Kristy Underwood**)
  - Licensing Statistics
  - Disciplinary Review Committee Statistics
  - Enforcement Statistics
  - Budget Updates
  - Outreach Updates
5. Approval of Board Meeting Minutes
  - April 11, 2016
  - April 25, 2016
6. Appointment of Committee Members to Standing Committees for 2016-2017
7. Proposed Board Meeting Dates/Locations for 2017
8. Status Update on the Health and Safety Advisory Committee. (BPC § 7314.3) (**Kristy Underwood**)
9. Report on the Personal Service Permit (PSP) Stakeholder's Meetings and Possible Actions on the Implementation of the PSP. (BPC § 7402.5) (**Kristy Underwood**)
10. Update and Discussions of Proposed Bills that could Impact BBC:
  - AB 1322 (Daly, Wilk) - Allowing Alcohol in Establishments
  - AB 2025 (Gonzalez) - Labor Law Education Requirements
  - AB 2125 (Chiu) – Healthy Nail Salon Recognition Program
  - AB 2437 (Ting) - Nail Establishments: Training, Wage Violations
  - AB 2502 (Mullin, Chiu) - Land Use: Zoning Regulations
  - SB 896 (Nguyen) - Credit /Debit Cards for Tips
  - SB 1044 (Nguyen) - Assessment of Fines to Individuals and Establishment Owners and Citation Fine Payment Plans
  - SB 1125 (Nguyen) Nail Care Salon's Acknowledgement of Labor Law Compliance



# California State Board of Barbering and Cosmetology

## 11. Discussion and Status on the Required Reviews of Cosmetology Training and Examination (BPC § 7303.2) **(Kristy Underwood)**

- 1600 Hour Training Requirement for Cosmetologists
  - Establishing the Cosmetology Curriculum Review Advisory Task Force (Possible Actions)
- Cosmetology Occupational Analysis
- National Exam Review

## 12. Proposed Regulations Updates (Possible Actions)

- Military Training – Title 16, section 910 of the California Code of Regulations (CCR)
- Consider and Adopt Proposed Regulatory Language to Define “Demonstrating” for Purposes of BPC §7319 (e) Exemptions. Title 16 CCR section 965.1
- Consumer Notice – Title 16 CCR sections 904 and 905

## 13. Report and Discussion on the Spanish-Language Examination Pass/Failure Rates. **(Kristy Underwood)**

## 14. Discussion and Possible Actions on the Proposed Draft of the Inspector Protocol for Limited - English Speaking Establishments (B&P Code § 7313(d) **(Kristy Underwood)**

## 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. Adjournment

*Action may be taken on any item on the agenda. The time and order of agenda items are subject to change at the discretion of the Board President and may be taken out of order. In accordance with the Bagley-Keene Open Meeting Act, all meetings of the Board are open to the public. The Board plans to webcast this meeting on its website at [www.barbercosmo.ca.gov](http://www.barbercosmo.ca.gov). Webcast availability cannot, however, be guaranteed due to limited resources. The meeting will not be cancelled if webcast is not available. If you wish to participate or to have a guaranteed opportunity to observe, please plan to attend at a physical location. Adjournment, if it is the only item that occurs after a closed session, may not be webcast.*

*\*Government Code section 11125.7 provides the opportunity for the public to address each agenda item during discussion or consideration by the Board prior to the Board taking any action on said item. Members of the public will be provided appropriate opportunities to comment on any issue before the Board, but the Board President may, at his or her discretion, apportion available time among those who wish to speak. Individuals may appear before the Board to discuss items not on the agenda; however, the Board can neither discuss nor take official action on these items at the time of the same meeting (Government Code sections 11125, 11125.7(a)).*

*The meeting is accessible to the physically disabled. A person who needs disability-related accommodation or modification in order to participate in the meeting may make a request by contacting: Marcene Melliza at (916) 575-7121, email: [marcene.melliza@dca.ca.gov](mailto:marcene.melliza@dca.ca.gov), or send a written request to the Board of Barbering and Cosmetology, PO Box 944226, Sacramento, CA 94244. Providing your request is a least five (5) business days before the meeting will help to ensure availability of the requested accommodations. TDD Line: (916) 322-1700.*

*No Attachment*



**Quarterly Barbering and Cosmetology  
Licensing Statistics  
Fiscal Year 15/16**

**Applications Received**

	Jul-Sept	Oct-Dec	Jan- Mar	Apr-June	YTD
Establishment	1,795	1,606	1,640	2,045	7,086
Mobile Unit	5	0	1	4	10
<b>Barber</b>					
Pre-App	408	341	216	306	1,271
Initial Application	346	296	469	402	1,513
Re-Exam	388	391	549	581	1,909
<b>Sub-Total</b>	<b>1,142</b>	<b>1,028</b>	<b>1,234</b>	<b>1,289</b>	<b>4,693</b>
Reciprocity	40	52	31	55	178
Apprentice	156	111	163	140	570
<b>Cosmetology</b>					
Pre-App	1,737	1,767	1,100	1,357	5,961
Initial Application	1,249	1,085	1,068	1,235	4,637
Re-Exam	1,506	1,182	1,317	1,223	5,228
<b>Sub-Total</b>	<b>4,492</b>	<b>4,034</b>	<b>3,485</b>	<b>3,815</b>	<b>15,826</b>
Reciprocity	464	318	391	353	1,526
Apprentice	164	172	148	220	704
<b>Electrology</b>					
Pre-App	8	5	8	6	27
Initial Application	3	5	5	6	19
Re-Exam	0	4	5	3	12
<b>Sub-Total</b>	<b>11</b>	<b>14</b>	<b>18</b>	<b>15</b>	<b>58</b>
Reciprocity	2	1	1	4	8
<b>Manicuring</b>					
Pre-App	728	676	532	633	2,569
Initial Application	1,035	943	848	1,243	4,069
Re-Exam	943	785	896	868	3,492
<b>Sub-Total</b>	<b>2,706</b>	<b>2,404</b>	<b>2,276</b>	<b>2,744</b>	<b>10,130</b>
Reciprocity	145	135	112	116	508
<b>Esthetician</b>					
Pre-App	681	783	609	815	2,888
Initial Application	531	491	432	613	2,067
Re-Exam	638	305	404	410	1,757
<b>Sub-Total</b>	<b>1,850</b>	<b>1,579</b>	<b>1,445</b>	<b>1,838</b>	<b>6,712</b>
Reciprocity	153	100	102	116	471
<b>Total</b>	<b>13,125</b>	<b>11,554</b>	<b>11,047</b>	<b>12,754</b>	<b>48,480</b>



## Examination Results (April 1, 2016-June 30, 2016)

### Practical Examinations

Administered	Passed	Failed	Total	Pass Rate
Barber	699	166	865	81%
Cosmetologist	2,505	444	2,949	85%
Esthetician	1,241	56	1,297	96%
Electrologist	18	1	19	95%
Manicurist	1,864	310	2,174	86%
<b>TOTAL</b>	<b>6,327</b>	<b>977</b>	<b>7,304</b>	<b>87%</b>

\* Did Not Attend

### Written Examinations

Barber	Passed	Failed	Total	Pass Rate
English	470	448	918	51%
Spanish	47	74	121	39%
Vietnamese	12	13	25	48%
Korean	0	3	3	0%
<b>TOTAL</b>	<b>529</b>	<b>538</b>	<b>1,067</b>	<b>50%</b>

Cosmetologist	Passed	Failed	Total	Pass Rate
English	1,792	398	2,190	82%
Spanish	148	260	408	36%
Vietnamese	208	24	232	90%
Korean	19	5	24	79%
<b>TOTAL</b>	<b>2,167</b>	<b>687</b>	<b>2,854</b>	<b>76%</b>

Manicurist	Passed	Failed	Total	Pass Rate
English	305	155	460	66%
Spanish	11	9	20	55%
Vietnamese	1,130	427	1,557	73%
Korean	15	5	20	75%
<b>TOTAL</b>	<b>1,461</b>	<b>596</b>	<b>2,057</b>	<b>71%</b>

Esthetician	Passed	Failed	Total	Pass Rate
English	794	219	1,013	78%
Spanish	1	1	2	50%
Vietnamese	196	88	284	69%
Korean	43	1	44	98%
<b>TOTAL</b>	<b>1,034</b>	<b>309</b>	<b>1,343</b>	<b>77%</b>

Electrologist	Passed	Failed	Total	Pass Rate
English	16	2	18	89%
Spanish	0	0	0	0%
Vietnamese	0	0	0	0%
Korean	0	0	0	0%
<b>TOTAL</b>	<b>16</b>	<b>2</b>	<b>18</b>	<b>89%</b>

### Licenses Issued

	Jul-Sept	Oct-Dec	Jan- Mar	Apr-June	YTD
Establishment	1,703	1,645	1,618	1,857	6,823
Mobile Unit	3	3	0	2	8
Barber	558	411	426	534	1,929
Barber Apprentice	118	119	147	111	495
Cosmetology	2,998	2,831	2,288	2,371	10,488
Cosmetology Apprentice	147	166	134	157	604
Electrology	5	9	5	16	35
Electrology Apprentice	0	0	0	0	0
Manicuring	1,602	1,613	1,388	1,560	6,163
Esthetician	1,288	1,169	1,026	1,072	4,555
<b>Total</b>	<b>8,422</b>	<b>7,966</b>	<b>7,032</b>	<b>7,680</b>	<b>31,100</b>





Business, Consumer Services, and Housing Agency – Governor Edmund G. Brown Jr.  
 BOARD OF BARBERING AND COSMETOLOGY  
 P.O. Box 944226, Sacramento, CA 94244-2260  
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## QUARTERLY BARBERING AND COSMETOLOGY DISCIPLINARY REVIEW COMMITTEE STATISTICS

**Fiscal Year 15-16**

**Report Date: June 30, 2016**

	April - June	YTD
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### NORTHERN

Heard	270	776
Received	161	677
Pending <sup>1</sup>	89	89 <sup>2</sup>

### SOUTHERN

Heard	162	1,178
Received	414	1,362
Pending <sup>1</sup>	483	483 <sup>2</sup>

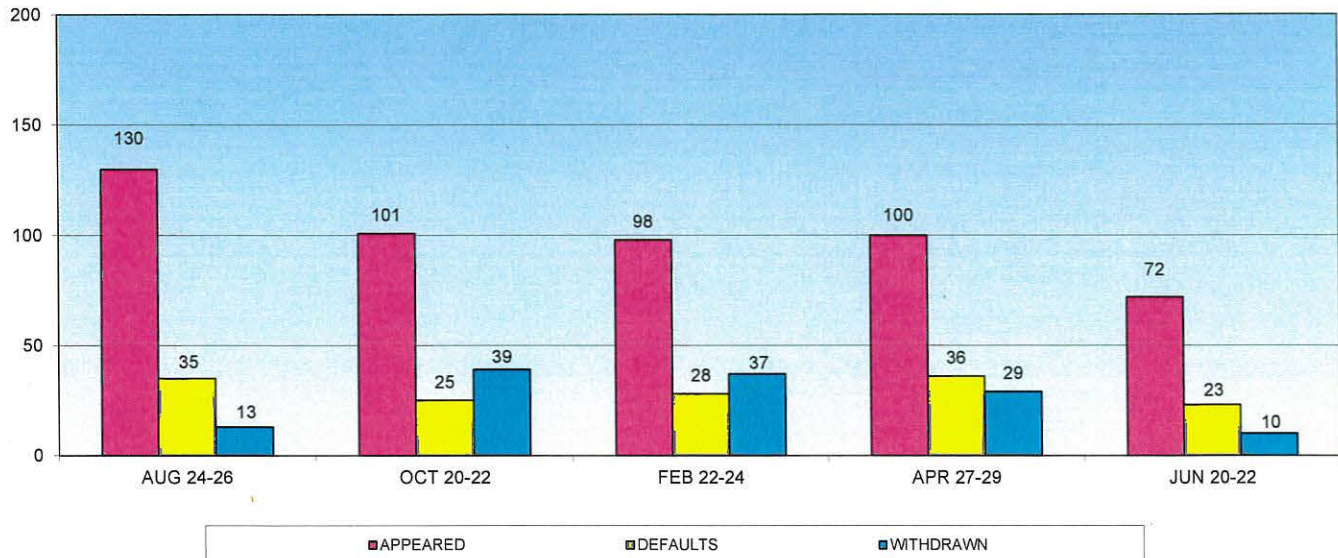
<sup>1</sup> Pending refers to the number of appeals received but not yet heard by DRC.

<sup>2</sup> Figure represents number of pending requests as of report date.

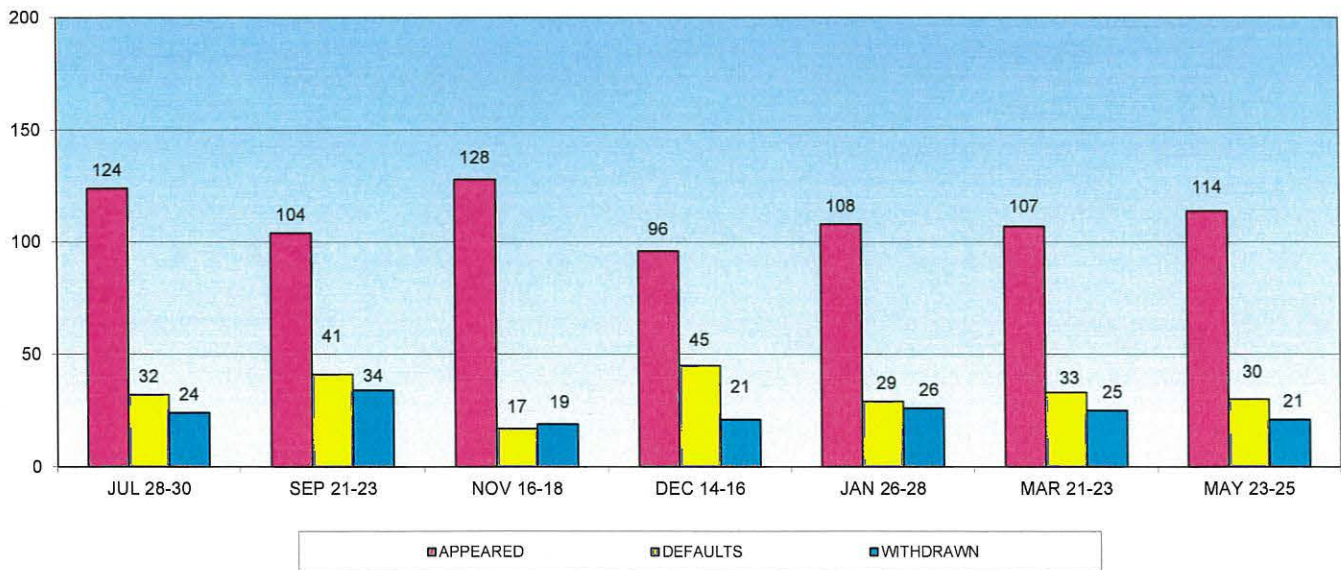
### 2016 SCHEDULED HEARINGS

Area	Location	Date
Southern	San Diego	July 19-21, 2016
Southern	Norwalk	August 22-24, 2016
Northern	Sacramento	September 26-28, 2016
Southern	Los Angeles	October 24-26, 2016
Northern	Sacramento	November 16 & 17, 2016
Southern	Los Angeles	December 19-21, 2016

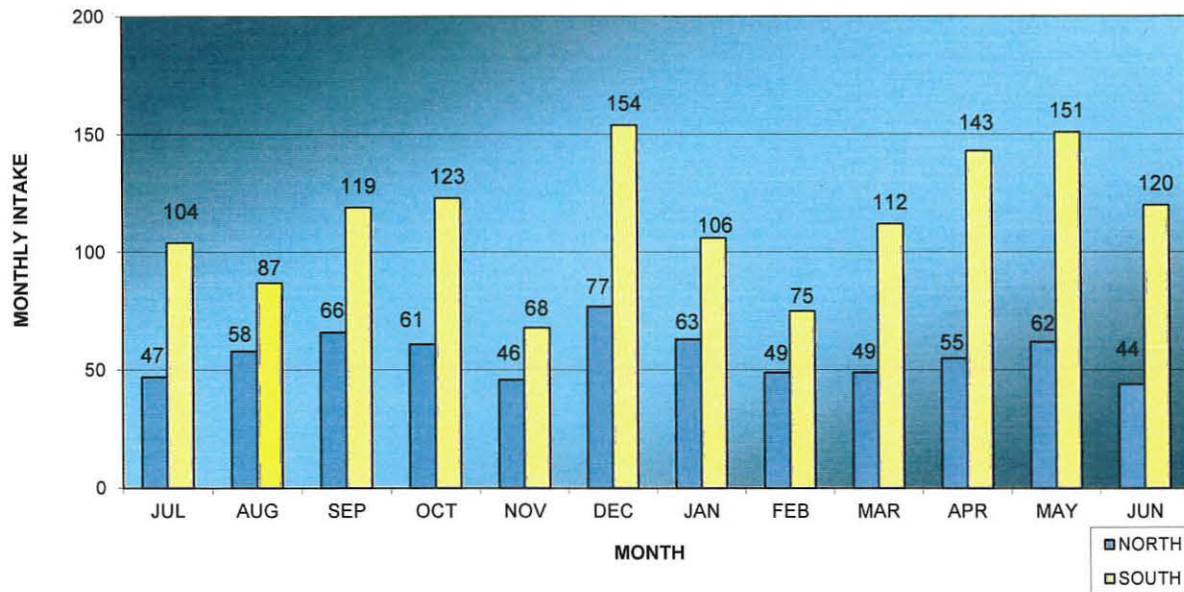
### NORTHERN APPEALS HEARD (Fiscal Year 15-16)



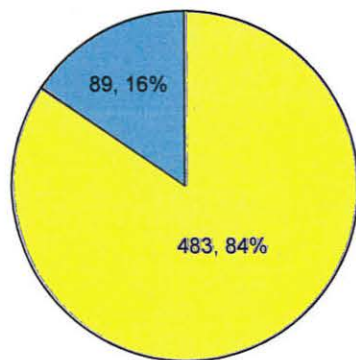
### SOUTHERN APPEALS HEARD (Fiscal Year 15-16)



**DRC MONTHLY INCOMING APPEALS (Fiscal Year 15-16)**



**DRC APPEALS WAITING TO BE HEARD/SCHEDULED  
(As of June 30, 2016)**



■ SOUTH  
■ NORTH



**QUARTERLY BARBERING AND COSMETOLOGY  
ENFORCEMENT STATISTICS Fiscal Year 15-16**

Agenda Item #4

	Jul-Sept	Oct-Dec*	Jan- Mar*	Apr-Jun*	YTD
<b>COMPLAINTS</b>					
Complaints Received	849	912	1025	941	3727
Referred to DOI	3	6	4	7	20
Complaints Closed	786	807	958	1073	3624
Total Complaints Pending	1014	1099	1153	1002	1002
<b>APPLICATION INVESTIGATIONS*</b>					
Received	209	1	1	0	211
Pending	0	3	0	0	0
Closed	233	0	0	0	233
<b>ATTORNEY GENERAL</b>					
Referred	4	15	13	58	90
Accusations Filed	9	9	8	9	35
Statement of Issues Filed	0	2	1	1	4
Total Pending	54	60	64	106	106
<b>DISCIPLINARY PROCESS</b>					
Proposed Decisions	3	2	1	3	9
Default Decision	2	4	5	2	13
Stipulation	5	6	8	7	26
<b>DISCIPLINARY OUTCOMES</b>					
Revocation	2	3	3	4	12
Revoke, Stay, Probation	0	0	0	0	0
Revoke, Stay, Suspend/Prob	10	9	4	18	41
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	3	3	2	2	10
Surrender of License	2	1	0	0	3
Public Reprimands	0	0	0	0	0
License Denied	0	0	0	0	0
Other	0	0	0	0	0
Total	17	16	9	24	66
<b>PROBATION</b>					
Active	122	132	135	131	131
	Jul-Sept	Oct-Dec	Jan- Mar	Apr-Jun**	YTD
<b>CITATIONS</b>					
Establishments	2605	2514	2430	1144	8693
Barber	243	167	193	96	699
Barber Apprentice	16	15	20	12	63
Cosmetologist	976	856	859	407	3098
Cosmetologist Apprentice	7	15	22	9	53
Electrologist	2	1	0	1	4
Electrologist Apprentice	0	0	0	0	0
Manicurist	629	673	766	294	2362
Esthetician	72	84	104	37	297
Unlicensed Est.	85	60	134	48	327
Unlicensed Individual	135	108	190	62	495
Total	4770	4493	4718	2110	16091
<b>INSPECTIONS</b>					
Establishments w/ violations	2875	2390	3092	1079	9436
Establishments w/o violations	682	596	853	292	2423
Total	3557	2986	3945	1371	11859

\* Application Investigations are only being opened if additional information is needed or if the application is denied.

\*\*Citation and Inspection Stats are from April 1, 2016 - April 30, 2016



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**Budget Updates**

**Constraints:**

On April 26, 2011, the Governor issued Executive Order B-06-11 prohibiting in state or out-of-state travel unless it is mission critical or there is no cost to the state. The Board prepared a reduction plan for FY 2016-17. The plan included reducing the amount of staff who travel to Southern California to conduct disciplinary review hearings from three (3) staff to two (2) staff. All travel must be mission critical and pre-approved by the Boards' Executive Officer.

**1. Budget 2016/17 Fiscal Year (July 2016 - June 2017):**

**Attachment 1** displays projected expenditures for end of the year.



**Board of Barbering and Cosmetology**  
**Fiscal Year 2015/2016**  
**Projected Expenditures 05/31/16**

<b>Personnel Services</b>	<b>ALLOTMENT</b>	<b>BBC Projected Expenditures</b>	<b>Projected Year</b>
Permanent	4,179,000	3,896,121	282,879
Expert Examiners	452,777	430,000	22,777
Temporary	134,223	138,169	(3,946)
BL 12-03 Blanket	0	178,847	(178,847)
Statutory-Exempt	104,000	111,576	(7,576)
Board Member Commission	0	16,700	(16,700)
Overtime	0	2,775	(2,775)
<b>Total Salary &amp; Wages</b>	<b>4,870,000</b>	<b>4,774,188</b>	<b>95,812</b>
<b>Net Salary &amp; Wages</b>	<b>4,870,000</b>	<b>4,774,188</b>	<b>95,812</b>
Staff Benefits	2,348,000	2,386,115	(38,115)
<b>Total of Personnel Services</b>	<b>7,218,000</b>	<b>7,160,303</b>	<b>57,697</b>
<b>Operating Expenses &amp; Equipment (OE&amp;E)</b>	<b>Allotment</b>	<b>BBC Projected Expenditures</b>	<b>Projected Year End Balance</b>
General Expense	191,000	195,000	(4,000)
Printing	168,000	336,000	(168,000)
Communication	41,000	44,500	(3,500)
Postage	283,000	103,500	179,500
Insurance	4,000	11,508	(7,508)
Travel In State	83,000	139,000	(56,000)
Travel, Out-of-State	0	0	0
Training	11,000	0	11,000
Facilities Operations	1,289,000	973,000	316,000
Utilities	0	1,240	(1,240)
Consultant & Professional Svs. - Interdept.	126,000	0	126,000
Consultant & Professional Svs. - External	474,000	391,476	82,524
Depart. and Central Admin. Services	10,617,000	10,617,000	0
Consolidated Data Center	68,000	4,000	64,000
DP Maintenance	38,000	62,940	(24,940)
Central Admin Pro Rata	1,152,000	1,152,000	0
Examinations	1,394,000	2,359,490	(965,490)
Major Equipment	80,000	120,084	(40,084)
Minor Equipment	12,000	26,289	(14,289)
Other Items of Expense	7,000	1,260	5,740
Vehicle Operations	38,000	50,000	(12,000)
Enforcement	1,673,000	859,600	813,400
Special Items of Expenses	0	0	0
<b>Total Operating Expenses &amp; Equipment</b>	<b>17,749,000</b>	<b>17,447,887</b>	<b>301,113</b>
<b>Total Personal Services Expenses</b>	<b>7,218,000</b>	<b>24,608,190</b>	<b>57,697</b>
Total reimbursements	(57,000)		(8,599)
<b>Total</b>	<b>24,910,000</b>	<b>23,748,996</b>	<b>350,211</b>



# 0069 - Barbering and Cosmetology

## Analysis of Fund Condition

1/7/2016

(Dollars in Thousands)

**NOTE: \$10 Million General Fund Repayment Outstanding**

### 2016-17 Governor's Budget

	Actual 2014-15	CY 2015-16	BY 2016-17
<b>BEGINNING BALANCE</b>	\$ 15,919	\$ 19,125	\$ 18,265
Prior Year Adjustment	\$ 355	\$ -	\$ -
Adjusted Beginning Balance	\$ 16,274	\$ 19,125	\$ 18,265
<b>REVENUES AND TRANSFERS</b>			
Revenues:			
125600 Other regulatory fees	\$ 6,309	\$ 6,316	\$ 6,696
125700 Other regulatory licenses and permits	\$ 4,659	\$ 4,800	\$ 4,944
125800 Renewal fees	\$ 11,458	\$ 11,801	\$ 12,155
125900 Delinquent fees	\$ 1,056	\$ 1,088	\$ 1,120
141200 Sales of documents	\$ 1	\$ -	\$ -
142500 Miscellaneous services to the public	\$ -	\$ -	\$ -
150300 Income from surplus money investments	\$ 41	\$ 56	\$ 57
150500 Interest Income from Interfund Loans	\$ -	\$ -	\$ -
160100 Settlements and Judgements	\$ 6	\$ -	\$ -
160400 Sale of fixed assets	\$ -	\$ -	\$ -
161000 Escheat of unclaimed checks and warrants	\$ 10	\$ 10	\$ 10
161400 Miscellaneous revenues	\$ 17	\$ 17	\$ 17
Totals, Revenues	\$ 23,557	\$ 24,088	\$ 24,999
Transfers from Other Funds			
Proposed GF Loan Repayment	\$ -	\$ -	\$ 11,000
Transfers to Other Funds			
GF Loan per item 1110-011-0069, Budget Act of 2011			
Totals, Revenues and Transfers	\$ 23,557	\$ 24,088	\$ 35,999
Totals, Resources	\$ 39,831	\$ 43,213	\$ 54,264
<b>EXPENDITURES</b>			
Disbursements:			
0840 State Controller (State Operations)	\$ -	\$ -	\$ -
1110 Program Expenditures (State Operations)	\$ 20,690	\$ 24,910	\$ -
1111 Program Expenditures (State Operations)	\$ -	\$ -	\$ 22,920
8880 Financial Information System for California (State Ops)	\$ 17	\$ 38	\$ 31
9670 Equity Claims / Board of Control (State Operations)	\$ -	\$ -	\$ -
Total Disbursements	\$ 20,707	\$ 24,948	\$ 22,951
<b>FUND BALANCE</b>			
Reserve for economic uncertainties	\$ 19,125	\$ 18,265	\$ 31,313
Months in Reserve	9.2	9.5	16.1

#### NOTES:

- ASSUMES WORKLOAD AND REVENUE PROJECTIONS ARE REALIZED IN BY+1 AND ON-GOING.
- ASSUMES APPROPRIATION GROWTH OF 2% PER YEAR BEGINNING IN BY+1.
- ASSUMES INTEREST RATE AT 0.3%.



BUSINESS, CONSUMER SERVICES, AND HOUSING AGENCY • GOVERNOR EDMUND G. BROWN JR.  
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### **FY 16-17 Outreach/Industry Events**

#### **Participated:**

None

#### **Scheduled:**

- September 11, 2016 Nail Pro Show (Sacramento Convention Center)  
Attendees: TBA

#### **Tentavily Scheduled:**

- August 20 - 22, 2016 Face and Body Show (San Jose Convention Center)  
Attendees: TBA
- January 28 - 30, 2017 International Salon and Spa Expo (ISSE)  
(Long Beach)  
Attendees: TBA



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**DRAFT**  
**CALIFORNIA STATE BOARD**  
**OF**  
**BARBERING AND COSMETOLOGY**

**MINUTES OF APRIL 11, 2016**  
Board of Barbering and Cosmetology  
2420 Del Paso Road  
Sequoia Room, 1<sup>st</sup> Floor  
Sacramento, CA 95834

Additional Meeting locations Established via teleconference:

5450 W. Pico Blvd., #203  
Los Angeles, CA 90019

1038 West 80<sup>th</sup> Street  
Los Angeles, CA 90044

2112 Ashian Avenue  
Clovis, CA 93611

**BOARD MEMBERS PRESENT**

Joseph Federico, President  
Dr. Kari Williams, Vice President  
(via teleconference)  
Mary Lou Amaro (via teleconference)  
Bobbie Anderson (via teleconference)  
Polly Codorniz  
Andrew Drabkin  
Richard Hedges  
Lisa Thong (via teleconference)

**STAFF MEMBERS PRESENT**

Kristy Underwood, Executive Officer  
Rebecca Bon, Legal Counsel  
Tami Guess, Board Analyst  
Carrie Harris, Enforcement Manager  
Marcene Melliza, Board Analyst

**BOARD MEMBERS ABSENT**

Coco LaChine

**1. Agenda Item #1, CALL TO ORDER/ROLL CALL/ESTABLISHMENT OF A QUORUM**

Joseph Federico, the Board President, called the meeting to order at 10:00 a.m. and confirmed the presence of a quorum.

**2. Agenda Item # 2, PROPOSED LEGISLATION – DISCUSSION AND POSSIBLE VOTE ON BOARD POSITION**

Kristy Underwood, the Executive Officer, summarized the existing law, fiscal impact, and analysis of each bill as provided in the meeting packet.



- **AB 2025 (Gonzalez) – Labor Law Education Requirements**

Ms. Underwood stated much of the Board's information has been translated into multiple languages and staff is collecting demographic information for cost efficiency in disseminating these materials.

Mr. Hedges referenced Section 7396.1(c) (1) and stated adding labor law questions to the application might make the process more difficult for owners and for the Board. He stated the concern that incomplete application submittals may increase with additional questions, which will delay the licensing process.

Mr. Hedges made a motion to support this bill if amended to exclude Section 7396.1(c) (1), where the bill only requires a question on the application that is limited to the awareness of basic labor law requirements that pertain to their establishments.

It was suggested that the application include a box to check rather than a question.

Ms. Underwood stated the bill requires a signed acknowledgement of understanding.

**Public Comment**

Fred Jones, Legal Counsel for the Professional Beauty Federation of California (PBFC), spoke in support of the motion to strike Section 7396.1(c) (1) of the Business and Professions Code.

Catherine Porter, the Policy Director for the California Healthy Nail Salon Collaborative (CHNSC) the organizational sponsor of Assembly Bill (AB) 2025, spoke in opposition to the proposed motion. She stated a simple acknowledgment of labor laws is not effective in driving the point that complying with, understanding, and learning about labor laws is essential for small business owners. She noted that the five basic questions are on the renewal application but not on the initial application. She stated many labor law violations are not obvious during drive-by inspections, such as employee wages, breaks, and hours worked. She encouraged the Board to support the bill as written.

Mr. Hedges asked about the reference to five specific questions. Ms. Porter stated it is the author's intent to include five questions.

Ms. Underwood stated staff has not been informed about the five questions. It was suggested that the five questions should be included in the bill.

Mr. Drabkin asked how the author envisions handling partial answers. Ms. Porter agreed that more detail should be included but stated it could be rectified through the regulatory process. Legislators make laws with leeway to the implementing agency to use their own judgements.

**MOTION:** A motion was made by Mr. Hedges, seconded by Mr. Federico, to support the bill if amended by striking Business and Professions Code Section 7396.1(c) (1). Motion carried 7 yes and 0 no per roll call vote.

- **AB 2125 (Chiu) – Healthy Nail Salon Recognition Program**

Ms. Underwood stated it is interesting that the Department of Public Health is involved with this bill but was not sure how it would be enforced.

Mr. Hedges asked if establishments in counties that already have this recognition program have been inspected, if they are unlicensed, and if there have been violations. Ms. Underwood stated unlicensed activity and violations have been found in the past. She agreed that is a concern.

It was recommended that the salons recognized would also be in compliance with the Board's rules and regulations for health and safety.

Mr. Hedges asked for staff's recommendation on this bill. Ms. Underwood stated this bill currently does not impact the Board.

Mr. Drabkin disagreed. If another department's website recommends a salon as a healthy establishment with clean air but that establishment is out of compliance with the Board, customers will turn to the Board to file complaints. In that respect it does impact the Board. He moved to oppose AB 2125.

**Public Comment**

Catherine Porter stated the CHNSC is also the sponsor of AB 2125. She provided an overview of the background, demographics, process, and benefits of the program. She stated a critical component of the bill is consumers' lack of awareness of product ingredients and the importance of asking what chemicals are in the products and what is known about those chemicals. Consumers should be given an option to use products with fewer chemicals. She encouraged the Board to support AB 2125 as written.

Mr. Drabkin stated the Board cannot support a bill that allows another department to say this is a better salon than what the Board is offering.

Ms. Porter stated that already exists. Counties have programs that reward salons that do the right thing. This bill does not contain standards; instead, it contains voluntary practices for salons to take on. She offered a packet of information to Board Members.

Fred Jones stated the intent behind this effort is laudable but he was concerned about inviting another agency into the Board's licensed salons. This bill sets statewide standards in statute. He stated the concern about the lack of communication – as of last week, the author had not spoken to the Department of Public Health about their participation in this bill. The bill contains sweeping generalizations about scientific findings without any scientific background. He suggested that, before implementing a statewide program, the industry should be brought into this. Another concern is these bills presume to apply only to nail salons, but the Board only has one license – an establishment license.

Mr. Drabkin stated he is not opposed to the idea but is opposed to the bill as it stands and would like further discussion and evaluation.

Mr. Hedges stated the goal of the bill is good but can confuse consumers. He suggested watching the bill.

**MOTION:** A motion was made by Mr. Drabkin, seconded by Ms. Codorniz to oppose Assembly Bill 2125 as it is written. Motion carried 5 yes, 2 no, and 1 abstain per roll call vote.

- **SB 896 (Nguyen) – Credit / Debit Cards for Tips**

Mr. Hedges asked for staff's opinion. Ms. Underwood stated she questioned how the bill will be enforced.

Mr. Federico agreed that the enforcement of this bill is a concern. Inspectors will be required to look at financial records to ensure compliance, which is something the Board has not done before. Also, credit cards charge 3 percent, so business owners will now be required to pay their employees that additional 3 percent when tips are given via credit card.

Mr. Hedges agreed that looking at financial records steps over a line. The Board does not have police powers. He stated he was torn on this issue because tips put on credit cards are not always given to the employees. He suggested the Franchise Tax Board should be the enforcing arm on this bill, not the Board.

Ms. Underwood stated she had a conversation with the author and brought up the enforcement issue.

Mr. Hedges moved to oppose Senate Bill (SB) 896.

**Public Comment**

Fred Jones spoke in support of the motion to oppose. He stated California law is clear that tips do not belong to the salon, cannot count against the wage, and are 100 percent the employees' money. The PBFC encourages tips; however, many salons do not want the added paperwork or the extra fees of potentially several hundred dollars annually due to the 3 percent charged by credit cards. He spoke in support of the intent behind the bill, but opposed the level of micromanagement that could set a precedent for other things.

**MOTION:** Mr. Hedges made a motion, seconded by Ms. Codorniz to oppose Senate Bill 896 as it is written. Motion carried 7 yes and 1 no per roll call vote.

- **SB 1044 (Nguyen) – Assessment of Fines to Individuals and Establishment Owners and Citation Fine Payment Plans**

Mr. Hedges made a motion to support and sponsor SB 1044 if amended as follows: change "an individual licensee" in the last line of Section 7407.1 to "licensees."

Mr. Federico seconded.



Ms. Underwood stated the Board offers payment plans on an informal basis but has been unsuccessful in collecting fines even with the offered payment plan. This bill puts into statute something the Board does already.

A point was made that requiring fines to be paid by the renewal date is a built-in, informal payment plan. Setting up a formal system will require sending out bills and monitoring it.

Ms. Underwood stated she spoke with the author and suggested changing the "shall" to "may" do payment plans. Rebecca Bon, Legal Counsel, stated the bill also states that regulations will be put into place on how to implement it.

### **Public Comment**

Fred Jones stated the first part of the bill is meant solely for booth renters operating within a separate establishment. The issue is that many establishment owners have indemnification clauses in their contracts with booth owners, which causes the booth owners to be double-fined. The intent of this bill is to encourage booth renters to identify themselves in an effort to raise the professionalism of this large sector of the industry. He encouraged the Board to encourage booth renters to acknowledge their independent relationship.

Mr. Jones agreed with offering a payment plan since salon owners are the last to get paid.

**MOTION:** Mr. Hedges made a motion to support and sponsor Senate Bill 1044 if amended as follows: change "an individual licensee" in the last line of Business and Professions Code Section 7407.1 to "licensees."  
Seconded by Mr. Federico. Motion carried 7 yes and 0 no per roll call vote

### **3. Agenda Item # 3 PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA**

Fred Jones stated there were other bills amended subsequent to this agenda being posted. There was a bill that was up this afternoon dealing with the extending of the Bureau of Private Post Secondary's (BPPE) Sunset and establishing two new government bodies within the Department of Consumer Affairs: a monitor and an agency that will assist BPPE with the Student Tuition Recovery Fund and student relations. He stated the concern that the author did not include beauty schools in this bill.

Mr. Jones stated AB 2437 has extensive new issues dealing with labor laws and nail salons with more responsibilities for the Board.

### **4. Agenda Item # 4 ADJOURNMENT**

There being no further business, the meeting was adjourned at 11:53 a.m.





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**DRAFT**  
**CALIFORNIA STATE BOARD**  
**OF**  
**BARBERING AND COSMETOLOGY**

**BOARD MEETING**  
**MINUTES OF APRIL 26, 2016**  
Department of Consumer Affairs  
1625 North Market Blvd.  
Hearing Room S-102, 1<sup>st</sup> Floor  
Sacramento, CA 95834

The off-site meeting location for teleconference:  
1038 West 80<sup>th</sup> Street  
Los Angeles, CA 90044

**BOARD MEMBERS PRESENT**

Joseph Federico, President  
Dr. Kari Williams, Vice President  
Mary Lou Amaro  
Bobbie Anderson (via teleconference)  
Polly Codorniz  
Andrew Drabkin  
Richard Hedges  
Coco LaChine  
Lisa Thong

**STAFF MEMBERS PRESENT**

Kristy Underwood, Executive Officer  
Heather Berg, Assistant Executive Officer  
Rebecca Bon, Legal Counsel  
Carrie Frank, Licensing Manager  
Tami Guess, Staff Manager Specialist  
Carrie Harris, Enforcement Manager  
Marcene Melliza, Board Analyst  
Theresa Rister, Inspection Manager

**1. Agenda Item #1, CALL TO ORDER/ROLL CALL/ESTABLISHMENT OF A QUORUM**

Joseph Federico, the Board President, called the meeting to order at 10:00 a.m. A quorum was achieved.

New Board Members Coco LaChine and Lisa Thong introduced themselves. Mr. Federico welcomed them to the Board.

**2. Agenda Item #2, PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA**

There were no questions or comments from the public.

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

Mr. Federico stated the Board held a teleconference meeting wherein time-sensitive legislation was discussed. He stated, while it is nice to see new legislation affecting the industry, the purpose and mission of the Board is client protection and safety. It is imperative that the Board not take on responsibilities that are out of its purview.



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

Ms. Kristy Underwood, the Executive Officer, presented her report with the following highlights:

- The cosmetology examination applicants have dramatically decreased as a result of the closure of the Marinello Schools of Beauty. It is estimated that this decrease may remain for a few more months before stabilizing.
- Staff continues to look at the Spanish exam pass rates and will have more information to present at the next Board meeting.
- Staff participated on a panel in a town hall meeting in Garden Grove with representatives from the Department of Industrial Relations and the Employment Development Department. It was a positive event for the Board.
- Heather Berg, the Deputy Executive Officer, has worked on improving processes at exam sites and the inspections program.
- Many reports are coming due. Status updates will be provided at the July 2016 Board meeting. Tami Guess, recently promoted to Staff Manager Specialist, will be the lead for this and other projects.

**5. Agenda Item #5, APPROVAL OF BOARD MEETING MINUTES**

**MOTION:** Mr. Hedges made a motion, seconded by Mr. Drabkin, that the Board approves the January 24, 2016, Meeting Minutes as presented. Motion carried 7 yes and 0 no per roll call vote. Board Members LaChine and Thong abstained.

**6. Agenda Item #6, LICENSING AND EXAMINATION COMMITTEE REPORT: CONSIDERATION OF COMMITTEE RECOMMENDATIONS AND POSSIBLE ACTION**

Mr. Federico, the Chair of the Licensing and Examination Committee, presented his report.

- **Discussion and Recommendations to Board Regarding Possible Licensing Requirements for Establishment Owners.**

Mr. Federico stated this item was held over to a future Licensing and Examination Committee meeting.

- **Discussion and Recommendations to Board Regarding Possible Board-Approved Certifications for Each Licensee Type.**

Mr. Federico stated this item was held over to a future Licensing and Examination Committee meeting.

- **Update on Personal Service Permit Stakeholder Meetings Held on March 29, 2016, and April 5, 2016.**

Ms. Underwood stated the need for stakeholder meetings to be held in addition to the two already convened. Meetings have been scheduled for May 16<sup>th</sup> in Costa Mesa and May 18<sup>th</sup> in Sacramento. Staff would like to gather more input from establishment

owners. A survey has been submitted to Rebecca Bon, Legal Counsel, for review and will be posted on the Board's website, Facebook, and Twitter for additional feedback.

- **Review of Public Stakeholder Meeting Comments – Discussion on Recommended Further Actions to be Taken by Board**

Staff will report on the public stakeholder meetings and survey input results and give recommendations at the July Board meeting.

**7. Agenda Item #7, ESTABLISHING THE HEALTH AND SAFETY ADVISORY COMMITTEE**

Ms. Underwood stated this Committee is required by Assembly Bill (AB) 181, the sunset bill. Notice has been posted to the Board's website that applications are being accepted from individuals in the industry. Two Board Members will be assigned to serve on the new Committee.

Mr. Hedges, a Board Member, suggested also assigning a Board Member to serve as an alternate on the Committee.

**MOTION:** Mr. Hedges made a motion, seconded by Mr. Drabkin, that the Board creates the Health and Safety Advisory Committee to be partially made up of two Board Members and an alternate from the Board. Motion carried 9 yes and 0 no per roll call vote.

**MOTION:** Mr. Hedges made a motion, seconded by Mr. Federico, that the Board assigns Lisa Thong and Richard Hedges to serve on the Health and Safety Advisory Committee and Dr. Kari Williams to serve as an alternate. Motion carried 9 yes and 0 no per roll call vote.

**Public Comment**

Fred Jones, Legal Counsel for the Professional Beauty Federation of California (PBFC), read the language provided in SB 181 and suggested, instead of having a prescriptive, required number of members as indicated in the meeting packet, using that list as an example of who to look for.

Ms. Underwood stated the numbers and makeup of representatives listed in the meeting packet give a broad interpretation. She stated she did not believe staff would have a problem finding individuals to volunteer.

Mr. LaChine, a Board Member, suggested adding the words "if available" to the motion to allow for representative variation. Mr. Drabkin and Mr. Hedges accepted Mr. LaChine's friendly amendment.

**MOTION:** Mr. Drabkin made a motion, seconded by Mr. Hedges, that the Board establishes the remainder of the Health and Safety Advisory Committee to be made up of industry and public members as outlined in the meeting packet, if available, and delegates the authority to the Executive Officer to make those appointments. Motion carried 9 yes and 0 no per roll call vote.

Mr. Hedges made a motion that the Board establishes a one-year appointment term for Committee members beginning at the Committee's first meeting, and that the members can be reappointed at the end of that year, if necessary. Ms. Thong made a second.

Mr. LaChine asked if this Committee will be ongoing. Rebecca Bon, Legal Counsel, stated nothing has been created in statute to sunset it. It would be another standing Committee.

Ms. Underwood stated staff recommends a one-year commitment for all Committee members. The intent is for this Committee to provide input to the Board from all aspects of the industry on health and safety to licensees and consumers.

Mr. Federico suggested that the Committee terms end at the end of the calendar year with reappointments in January to stay consistent with the other Board Committees.

Mr. Hedges and Ms. Thong accepted Mr. Federico's friendly amendment.

**MOTION:** Mr. Hedges made a motion, seconded by Ms. Thong, that the Board establishes a one-year appointment term for Committee members beginning at the Committee's first meeting, and that the members can be reappointed at the end of the calendar year as set with the other Committees of the Board, if necessary. Motion carried 9 yes and 0 no per roll call vote.

## **8. Agenda Item #8, UPDATE AND DISCUSSIONS OF PROPOSED BILLS THAT COULD IMPACT BBC**

Mr. Federico stated the Board took a position on these bills at the April 11, 2016, teleconference meeting.

### **• AB 2025 (Gonzalez) – Labor Law Education Requirements**

Mr. Federico summarized this bill and stated the Board took a position to support, if amended.

Ms. Underwood stated staff is working with the author's office to make the amendments discussed in the April 11<sup>th</sup> teleconference meeting.

Mr. Drabkin stated the bill codifies that all materials be made available in English, Spanish, and Vietnamese, which the Board already does. He stated this does not allow flexibility. He suggested making the bill more living by requiring that materials be made available in languages where populations are a certain percentage of the industry.

### **Public Comment**

Mr. Jones stated this is a bill creating a statutory mandate upon the Board. He cautioned against further prescriptive statutory mandates, even if the intention behind it is good. There is nothing that would prohibit the Board from doing this of its own volition or from providing materials in additional languages as appropriate.

Mr. LaChine agreed with Mr. Drabkin and suggested adding "or any language as deemed necessary."

Ms. Thong asked about the process to assess the populations to provide translations for. Ms. Underwood stated statute requires that, if five percent of the population served speaks another language, the Board is required to provide materials in that language. She stated the Board supports language access and would already supply translated materials.

### **Public Comment**



Mr. Jones stated the Board already has an amendment dealing with the questions asked on the owners' application. He suggested focusing on that single amendment and not asking for additional amendments that may cloud the main focus.

Mr. Hedges stated it is a mistake for this bill to ask questions about Labor Law – it will bog the system down and create unnecessary citations to establishments. He suggested following the recommendations of the Legislative Committee to support, if amended

- **AB 2125 (Chiu) – Healthy Nail Salon Recognition Program**

Ms. Underwood summarized this bill and stated the Board took a position to oppose. Staff has expressed the Board's concerns to the author.

Mr. Hedges stated the word "healthy" given to establishments by the county is misleading to the consumer and some of the establishments in the program have received citations or are not licensed.

- **AB 2437 (Ting) – Nail Establishments: Training: Wage Violations**

Ms. Underwood provided an update to changes made to this bill. The Board's requested amendments were made to this bill prior to staff's asking for them.

Mr. Hedges stated the need for the Board to be vigilant, not necessarily for this bill, but due to changes in the operations of massage parlors – some massage parlors are applying for esthetician licenses instead of massage licenses for establishments because it does not come under the purview of local police.

#### **Public Comment**

Mr. Jones spoke in support of the changes made to the bill. He stated too many educational postings in break rooms and welcome areas may decrease the likelihood that they are read.

Mr. LaChine stated there are many establishments that do not have a break room and must post information in the restrooms. He suggested providing the information in pamphlet form upon employment.

#### **Public Comment**

Mr. Jones stated the posting concern is continually brought up by salon owners. He stated the updated bill is an improvement, and the Board could take a watch position to see how this bill progresses and possibly support it later, as amended with Mr. LaChine's suggestion. He stated an issue may be proving an employee received the pamphlet years ago on their date of hire as opposed to a posting being clearly defensible by an employer.

**MOTION:** Mr. Drabkin made a motion, seconded by Mr. Hedges, that the Board supports Assembly Bill 2437. Motion carried 9 yes and 0 no per roll call vote.

- **SB 896 (Nguyen) – Credit / Debit Cards for Tips**

Ms. Underwood summarized this bill and stated the Board took a position to oppose. The Board's position has been relayed to the author's office but no discussion has ensued.

### **Public Comment**

Mr. Jones spoke in opposition to the bill. He stated members of the Legislative Committee opposed this bill saying it was an unprecedented level of micromanaging a salon. He stated the PBFC applauds the intent behind the bill – an employer should provide every opportunity to give tips to their stylists. However, what may be a moral imperative should not rise to the level of a statutory mandate micromanaging how a salon owner chooses to interact with their clientele.

Mr. Drabkin stated the concern that, in today's increasingly cashless society, individuals will go without their tips. He suggested posting notice upon arrival to a salon that tips are only received in cash.

Mr. Federico stated the concern of how inspectors can enforce the bill's mandate.

Mr. Hedges stated the Legislative Committee suggested it will be better handled by the Franchise Tax Board because they have the ability to enforce it and the Board does not.

Mr. Drabkin suggested pointing out to the author that enforcement of this bill might be better served by another entity.

- **SB 1044 (Nguyen) – Assessment of Fines to Individuals and Establishment Owners and Citation Fine Payment Plans**

Ms. Underwood summarized this bill and stated the Board took a position to support, if amended. The author's office accepted the Board's amendment.

Mr. Federico asked if individuals can be on multiple payment plans from multiple inspections or if individuals can only be on one payment plan at a time.

Ms. Underwood stated it is unclear in legislation but can be established in regulation.

### **Public Comment**

Mr. Jones stated it was not noticed on the agenda, so the Board cannot take a position. He brought to the Board's attention another bill that has impact on this Board – Senator Hill's bill extending the sunset of the California Bureau for Private Postsecondary Education (BPPE). He stated the PBFC's belief that sole oversight of beauty schools should be placed under this Board. The PBCF is also concerned about the steep licensing fees for BPPE-approved schools.

Mr. Hedges asked Mr. Jones to explain selling of hours to the new Board Members.

Mr. Jones explained what selling of hours means and stated one of the reasons the ethnic second-language passage rates have been so low is possibly due to the selling of hours and information from old, outdated exams. He stated the best thing for the industry, for beauty schools, and, most importantly, for future licensees would be for one agency to have complete control over monitoring them. The state Board is in a better position to assist and protect the interests of students.

**MOTION:** Mr. Drabkin made a motion, seconded by Ms. Amaro, that the Board supports Senate Bill 1044, as amended. Motion carried 9 yes and 0 no per roll call vote.

## **9. Agenda Item #9, PROPOSED REGULATIONS UPDATES (POSSIBLE ACTIONS)**

Mr. Federico deferred to Ms. Underwood to provide updates on the following items:

- **Military Training – Title 16, Section 910 of the California Code of Regulations**

Ms. Underwood reported that the rulemaking file was approved by the Department and is at the Office of Administrative Law.

- **Administrative Fine Schedule -Title 16, Section 974 of the California Code of Regulations**

Ms. Underwood reported that the fine schedule has been approved and goes into effect on July 1, 2016.

- **Proposed Regulatory Language to Define “Demonstrating” for Purposes of BPC 7319-(e) Exemptions**

Ms. Underwood stated technical changes have been made and are outlined in the Board meeting packet. Upon Board approval today, the proposal will go out with a 15-day notice.

**MOTION:** Mr. Federico made a motion, seconded by Mr. Hedges, that the Board approves staff's proposed regulatory language changes as outlined in the Board meeting packet. Motion carried 9 yes and 0 no per roll call vote.

- **Consumer Notice -Title 16, Sections 904 and 905 of the California Code of Regulations**

Ms. Underwood reported that staff will continue to work on this item and will update the Board on its progress.

**10. Agenda Item #10, DISCUSSION ON EXTERNSHIP PROGRAMS FOR STUDENTS OF PUBLIC SCHOOLS OF COSMETOLOGY PURSUANT TO BUSINESS AND PROFESSIONS CODE SECTION 7395.1(a)**

Mr. Federico deferred to Dr. Williams to report on this item.

Dr. Williams stated the Board received public comment from a community college instructor at the last Board meeting about the interest of students participating in externships. There is currently an exemption in the law. She discussed the historical lack of unity among program directors and community college instructors about allowing students to participate in externships but wanting there to be a carve-out in regulation that exempted their students from participating in externships. She stated the importance of ensuring that program directors and instructors are now unified in wanting this externship implemented before the Board takes a stand on this issue.

Mr. Hedges stated Skyline Community College System with two beauty schools is in favor of participating in an externship program.

**Public Comment**

Mr. Jones stated the PBFC does not recommend that the Board sponsor legislation because many community colleges remain opposed to externships. If the two colleges Mr. Hedges mentioned would like to participate in externships and create legislation to that effect, the PBFC will likely support it. He agreed with Dr. Williams's comments about letting the two colleges move forward and seeing if other community colleges oppose or support the effort.



**11. Agenda Item #11, DISCUSSION ON CALIFORNIA REENTRY PROGRAMS AND LICENSING EX-OFFENDERS**

Mr. Federico deferred to Ms. Anderson to report on this item.

Ms. Anderson stated she was not prepared to move forward on this today. She stated she will continue her research and present to the Board at a future meeting.

Mr. Underwood provided a brief update of the current program.

Mr. Hedges offered to speak with Ms. Anderson offline about the Los Angeles Community College and what they can do. Ms. Thong offered to connect Mr. Hedges and Ms. Anderson to her contacts at the college.

**12. Agenda Item #12, AGENDA ITEMS FOR NEXT BOARD MEETING**

Ms. Underwood introduced the Board's management staff.

**13. Agenda Item #13, PUBLIC COMMENT**

There were no questions or comments from the public.

**14. Agenda Item #14, ADJOURNMENT**

There being no further business, the meeting was adjourned at 11:41 a.m.



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## **2016 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.

#### **Current Members:**

**Joseph Federico (Chairperson)**  
**Mary Lou Amaro**  
**Richard Hedges**  
**Dr. Kari Williams**

### **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.

#### **Current Members:**

**Richard Hedges (Chairperson)**  
**Joseph Federico**  
**Polly Codorniz**

### **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.

#### **Current Members:**

**Richard Hedges (Chairperson)**  
**Mary Lou Amaro**  
**Bobbie Anderson**  
**Andrew Drabkin**

## **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.

### **Current Members:**

Mary Lou Amaro (Chairperson)  
Andrew Drabkin  
Dr. Kari Williams  
Polly Codorniz

## **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.

### **Current Members:**

Mary Lou Amaro  
Bobbie Anderson  
Polly Codorniz  
Andrew Drabkin  
Joseph Federico  
Richard Hedges  
Lisa Thong  
Dr. Kari Williams





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## MEMORANDUM

<b>DATE</b>	July 17, 2016
<b>TO</b>	Board Members, Board of Barbering and Cosmetology
<b>FROM</b>	Marcene Melliza, Board Analyst Board of Barbering and Cosmetology
<b>SUBJECT</b>	<b>Proposed Board Meeting Dates for 2017</b>

January 22, 2017 – Board Meeting – Santa Ana  
January 23, 2017 – Reinstatement Hearing – Santa Ana

April 23, 2017 – Board Meeting – San Jose  
April 24, 2017 – Reinstatement Hearing- San Jose

July 17, 2017 – Board Meeting/Reinstatement Hearings – Sacramento  
July 18, 2017 – Strategic Planning Meeting – Sacramento

October 22, 2017 – Board Meeting – San Diego  
October 23, 2017 – Reinstatement Hearing – San Diego



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## MEMORANDUM

TO: Members Date: June 16, 2016  
 Board of Barbering and Cosmetology

FROM: Tami Guess, Board Project Manager  
 Board of Barbering and Cosmetology

SUBJECT: Update from the June 6, 2016 Health and Safety Advisory Committee Meeting

On June 6, 2016, members of the Health and Safety Advisory Committee met in Sacramento. A brief background was provided on the purpose of the advisory and the statutory requirements of the formation of the committee.

Seventeen of the twenty members were either present in-person or teleconferenced into the meeting.

As a starting point, the committee has directed Board staff to bring the following items back to the committee for discussion and review at the upcoming committee meeting to be held on August 8, 2016 in Norwalk, California.

- The Board's draft of Section 3, of the edited Health and Safety Curriculum pertaining to Safety Data Sheets.
- The Board's draft of Section 9 of the edited Health and Safety Curriculum draft pertaining to Workers' Rights.
- The draft of a new "Tips for Using a Safety Data Sheet" fact sheet.
- Staff is to provide an update to the Committee on the Board's Inspection Report translation accuracy.
- The draft of a new "Using Disinfectants Safely" tip sheet.
- A copy of the Board's current Illegal tools flyer.
- A copy of the Board's draft of the Board's Workers' Rights Pocket Guide.
- A copy of the Board's fact sheet draft on "Independent Contractor vs. Employee".
- A report on the availability of less toxic disinfectants that could potentially be used by Board licensees. The report is to include information available addressing if a licensee has the option of using less water during the disinfection process and if the Board should consider requiring disinfectants to be labeled "hospital grade".



**Board of Barbering and Cosmetology**

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## MEMORANDUM

TO: Members  
Board of Barbering and Cosmetology

Date: June 27, 2016

FROM: Tami Guess, Board Project Manager  
Board of Barbering and Cosmetology

SUBJECT: Personal Service Permit

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Upon review of the attached report summarizing the Personal Service Permit Stakeholder meetings, the members will need to consider the following:

**Action Required:**

**The Board, by motion, will need to establish:**

- If it is the Board's intent to pursue the implementation of the Personal Service Permit.

If it is the Board's intent to move forward with the PSP implementation members should:

- Direct Board staff to propose regulatory language for the oversight of the PSP, for consideration at the next Legislative and Budgets Committee meeting.





**Report to the Board on the  
Personal Service Permit  
Stakeholder Meetings**

# Board of Barbering and Cosmetology Report on the Personal Service PermitStakeholder Meetings

In March of 2015, the Senate and Assembly Business and Professions Committees conducted a joint oversight Sunset review hearing of the California Board of Barbering and Cosmetology (Board). Assembly Bill 181 (AB 181) was the resulting legislative law from the joint Committees hearing. The provisions of AB 181 became effective on January 1, 2016. Included in the legislative changes as promulgated by the bill was the requirement that the Board may issue a Personal Service Permit (PSP) to an individual who meets the criteria for a PSP as set forth by Board regulation. The Committees requested that at a minimum, two Stakeholder meetings be held to thoroughly determine if and how the industry wanted the PSP to be enacted. The Board is to report on the progress of the regulatory process and issuance of the PSP to the Legislature on or before July 1, 2017.

### **Personal Service Permit Definition**

A permit that authorizes an individual to perform services, for which he or she holds a license, outside of an establishment in accordance with regulations established by the Board.

### **Industry Trends**

California consumers are beginning to seek barbering and beauty services outside the walls of a traditional brick and mortar establishment. In addition, California is currently experiencing an upsurge of smart phone applications designed to connect a technician to a client with the intent of providing barbering or beauty services at an office, bridal suite, client home or other location, outside the confines of the licensed brick and mortar establishment. Generally speaking, services rendered primarily include hairstyling, make up and nail polish changes.

Entrepreneurs with a personal nail service business model approached the Board staff to discuss how to legitimize the offering of nail services to office workers of large corporations within the State of California.

The Board sees numerous articles from industry magazines endorsing the freelance career pathway.

There are numerous advertisements in newspapers, blogs and posting boards, such as Craig's List, advertising services being offered outside a licensed establishment.

### **Current Law**

Provides the licensure and regulation of the practices of Barbering, Cosmetology and Electrology by the California Board of Barbering and Cosmetology. (BP&C\* 7312)

States that it is unlawful for any person, firm, or corporation to engage in barbering, cosmetology or electrolysis practices for compensation, in an establishment or mobile unit which is not licensed by the Board. (BP&C 7317)

\*BP&C refers to the California Business and Professions Code.

Provides for an exemption from licensure if the person employed to render the services is in the course of and incidental to the business of employers engaged in the theatrical, radio, television or motion picture production company. (BP&C 7319 (c))

Requires any person, firm or corporation operating an establishment where activity regulated under the Board is practiced, to apply for an establishment license. Existing law prohibits the Board from issuing a license to any applicant who has committed specified acts or crimes which are grounds for denial of licensure. Requires operation of the establishment only at the location for which the license was issued. (BP&C 7347)

Requires any person, firm or corporation operating an establishment where activity regulated under the Board is practiced, to comply with the Board's rules and regulations. (BP&C 7402)

Authorizes the Board to assess administrative fines for the violation of the Act or regulations adopted by the Board. (BP&C 7406)

### **Stakeholder Meeting Overview**

The focus of the Stakeholder meetings was to gather information from Stakeholders regarding whether the industry wanted the addition of a PSP, proposed regulations Stakeholders would like to see incorporated in the creation of the PSP, and enforcement options available, if the permit was enacted.

Executive Officer Kristy Underwood presented a PowerPoint presentation which highlighted the best practice options as compiled from the other State Boards of Barbering and Cosmetology within the United States. Time was scheduled to allow for questions and comments from the interested parties. The agenda to these meetings was posted on the Board's website and agenda mail outs and emails were sent to the interested parties. In addition, the Board made use of social media (Facebook, Twitter) to advertise the pending meetings. Four meetings were conducted, two meetings in Northern California and two in Southern California locations. The first two meetings were webcast (March 29, 2016 – Sacramento, CA and April 4, 2016 – Riverside, CA). The webcasted meetings are currently archived on the Board's BarberCosmo website. The interested parties were encouraged to submit suggestions/comments either by email or by comment cards provided at the meeting sites.

Meeting agenda items included:

- Summary of Best Practices from Other State Boards.
- Discussion of Appropriate Licensing Categories and the Feasibility of the Personal Service Permit within the Licensing Category in Order to Protect Consumer Safety (BPC § 7402.5(c) (1)).
- Discussion of Proof of Liability Insurance and Criminal Background Clearance Requirements (BPC § 7402.5(c) (5)).
- Discussion of Permit Fee, Renewal Fee and Delinquency Fee. (BPC § 7402.5(d)).
- Discussion and Identification of Specific Draft Language of Regulations Pertaining to the Personal Service Permit.



### **Results of the March 29, 2016 Meeting – Sacramento, CA**

Fred Jones, Professional Beauty Federation of California (PBFC) was the only attendee and a number of individuals attended via webcast. Mr. Jones encouraged the Board to recognize the pressures and realities currently facing brick and mortar salons. This includes establishments which are employee based, commission based, booth rental based and pyramid based. The recent changes and proposed changes (minimum wage [AB 1513], piece rate wage, etc.) have put pressure on the employee based salon owners. Mr. Jones cautioned the Board on the possibility of unintended consequences. If the PSP is implemented, the PBFC would like to see a direct connection between the PSP holder and a physical brick and mortar establishment. This would allow Board inspectors access to check the permit holder's protocols, tools and verify that the Board's health and safety regulations are being followed. Without the physical establishment, the health and safety of consumers cannot be monitored. This may or may not include traditional salon establishments or office type establishments. PBFC recommends personal liability insurance for the holder of a PSP.

### **Results of the April 5, 2016 Meeting – Riverside, CA**

Over 75 individuals attended and a number of individuals attended via webcast. The attendees were primarily Riverside Community College, Citrus College and Royal College of Beauty students and staff. There was a representative of the California Estheticians Facebook group (approximately 1500 members) present, a kit company owner and establishment owners.

Views on the PSP were numerous and varied. The attendees appeared to be split on a decision if the permit should even be pursued. Reasoning included the fact that providing personal services already occurs within the State (illegally) with no documented consumer harm. The group seemed to be split on the requirement of personal liability insurance. While most felt it should be encouraged, it should not be required by the State. In addition, if the PSP was linked to the establishment, the establishment owner should carry the personal liability insurance on the PSP employee.

The point was also clearly made that the Board cannot currently conduct its regular yearly inspections on licensed establishments, how will it be able to enforce or inspect more worksites? Generally speaking, most felt that there would be no real enforcement and that this type of permit would breed a reactive response from the Board. Consumers would have possible recourse *after* the harm but not *before* the harm occurs. Many felt this was in opposition to the Board's mission to provide consumer protection.

The Estheticians Facebook group stated that the group is in favor of the PSP. They do not think electrology services should be offered as a PSP service. They want the entire scope of practice of the esthetician to be included in PSP services. It was felt by this group that the majority esthetic services that would be requested in a PSP setting would be waxing, lash extensions and facials. They do not want the PSP connected to a traditional brick and mortar establishment. The group representative stated that it is the general feeling of the group that if a PSP is obtained, the holder of the PSP should be held to a higher expectation level. PSP holders should carry personal liability insurance (recommended, but not required), hold a blood-borne pathogen training certificate and receive a background check/live scan, not just a "you pay this amount and you get this additional opportunity".

Concerns were raised during this meeting regarding the lack of control the Board would have on ensuring consumers were safe. For example if the services took place in a home setting and the consumers were receiving potentially harmful chemicals on them (such as ingredients in acrylic nail products), how would the Board be able to verify that there was proper ventilation (exposure to the elderly or children)? Also, how would the Board monitor environmental issues, such as disposing of disinfectant or harmful chemicals down the drain? In general, it was felt that the Board would not have a way to inspect the worksite or even be able to control or enforce any potential concerns. Even if the inspectors could inspect the worksite (for privacy issues, they could not), the sheer volume of inspections would greatly outweigh the number of inspectors within the State. There would not be viable enforcement monitoring by the Board. Any sort of Enforcement would have to be completely complaint driven by the consumer.

Many felt, if the PSP were implemented, they should not have to pay an additional fee to be the holder of the PSP.

Issues were raised regarding services being offered that could potentially cause unintended blood exposure, such as a barber shaving or a manicurist that nips the nail cuticle. Some felt that these services should not be offered outside the confines of a licensed establishment.

It was recommended that if the PSP is linked with an establishment, then the owners should be required to do specified training as some establishment owners have not gone through schooling to learn basic health and safety protocols.

It was felt by a few in the audience that if the PSP moves forward, then the actual service locations such as home, church, work site, etc. should be included in regulation, to prevent little street corner stands from popping up.

The suggestion was made that if the PSP moves forward, then it should possibly be limited to licensees who are in good standing with the Board and have not received any significant health and safety violations within a year.

It was recommended by some that the PSP holder be required to display and print their personal license number and PSP number on any business cards and both license and permit be displayed at the worksite.

### **Results of the May 16, 2016 Meeting – Costa Mesa, CA**

There were 16 individuals present. The meeting was not webcast. Attendees included representatives from Supercuts, Fantastic Sam's and Sports Clips, a Paul Mitchell establishment owner, a Paul Mitchell school representative and stylists. The establishment owners of Supercuts, Fantastic Sam's and Sports Clips (which represented hundreds of California based establishments) were adamantly opposed to the implementation of a PSP. In summary, the reasons are listed below:

- Some freelance services are already being performed within the State illegally. Establishment owners already have difficulty in finding staff to hire. The fact that freelance services are illegal, acts as a 'gatekeeper' for the flux of staff availability. If a PSP is implemented and not linked to an establishment, it could potentially cause establishments to fail due to the unavailability of staff to hire.

- There are numerous new and potential encumbrances being put on establishment owners, such as, the new minimum wage requirement, piece wage (commission payment) requirement, potential training requirements, etc. The representatives feel that the unintended consequences of a PSP may potentially put a large number of establishments out of business since it will no longer be lucrative to be an establishment owner in California.
- It is impossible for the Board to enforce any regulations on the holder of a PSP as they would have no way to inspect the work site. Consumer health and safety will be at risk. PSP is a slippery slope; there is a possibility of losing control of the order established for consumer safety. (Order vs. Anarchy)
- Implementation of a PSP because a company comes into California and wants to “Uberize” the nail industry is not the right reason to implement the permit. These licensees would be considered employees under California laws. Uber has faced many legal issues and there could be similar issues for PSP holders.
- It was expressed that if the PSP was linked through a brick and mortar establishment, the establishment owner would have to carry additional liability insurance. If the PSP was not linked through the establishment, the personal licensee would need to carry personal liability insurance.
- Valuable training and mentoring by seasoned establishment employees would be lost on new licensees who enter the industry and go right to a PSP situation.
- The PSP degrades the industry. It opens the door for unsafe practices. It is not playing on an even playing field between establishment owners and the individual PSP holder.
- Concern was expressed that there would be an increase in fraudulent activity. The PSP could be “borrowed out” to others, even if it is tied to an establishment, the Board does not have the resources to check the validity of the information provided from the PSP holder.

It was noted by a participant that while we may not personally like the general idea of a PSP, it is the next business model trending within the State. It is the future of the industry. People are already performing services outside the confines of a licensed brick and mortar establishment. It is the direction the industry is currently moving in and she felt that PSP services will only increase within the State. She expressed that the Board should at least set up some regulations to help protect the health and safety of California consumers and be accountable. This gives licensees the opportunity to be legitimate. The industry needs to decide how to manage off site services because it is happening and will continue to happen.

A stylist was present and was in favor of the PSP. She feels that regulations can be implemented to enforce the PSP and hairstyling is the only service that should be offered under the PSP. She was unsure if makeup services should be offered.

A stylist recommended that the PSP be linked to a special event (such as a wedding) and not just for services offered out of the home or elsewhere.

### **Results of the May 18, 2016 Meeting – Sacramento, CA**



A representative from a marketing firm representing various booth renters from the Orange county area was present. Her clients (booth renters) would like to have the PSP implemented if it could be tied to the traditional brick and mortar establishment. The booth renters are looking for opportunities to expand their business income and to have the ability to offer services in non-traditional settings and time frames. They wish to retain the traditional services and the business plan of the licensed brick and mortar establishment.

Fred Jones, Professional Beauty Federation of California (PBFC) was present and reiterated the concerns he expressed at the March 29, 2016 meeting. He clearly stated that the PBFC was not in favor of the establishment of a PSP. There is no way of guaranteeing consumer health and safety when the pool of licensees increase. There will be industry ramifications since the State Board will not be able to properly enforce the health and safety regulations in a PSP environment. The PSP creates unfair competitive economic realities between brick and mortar establishments and the PSP holder. PBFC believes that implementation of this permit will cause unintended consequences/hardships on employee based establishment owners within the State. This is in part due to recent legislative action (rise in minimum wage, piece wage bill, etc.). By 2022, establishment owners will have to pay their employees \$15.00 per hour, tips and absorb an additional 30% more in payroll expenses. He noted that in the 1980's and 90's, workers compensation rates were on the rise and this directly lead to the booth rental explosion. Salon owners could not afford the additional workers compensation expenses. Booth rental became a way for employee based establishments to avoid the workers compensation fees. While many booth rental salons operate within the confines of the law, it should be noted that many use booth rental as a way to escape the payment of taxes, workers compensation and such. This booth rental model has done a disservice to the employee based salons and the industry as a whole. The non-payment of taxes has led to a reduction in student loan money available to the next generation of licensees. In addition, a new law was just signed in October by Governor Brown that undermines the ability to pay a stylist through commissions (AB 1513). It is now cost prohibited to pay via commission. The PBFC has concerns that the PSP could turn into the next booth renter phenomenon and do further damage to the industry. PBFC expressed concern that if services were allowed to be performed outside of the confines of a brick and mortar establishment that there may be a surge in individuals, who only held back because it was illegal, to start entering the off-site services field, without the training or experience to provide healthy, safe services. The "bad-actors" could increase by 10 fold. Even though the Board could restrict which services were performed, there is no way the Board could actually enforce what is being done. If the Board moves forward with the PSP, it must be linked to a brick and mortar establishment and personal liability insurance is a must. If the Board moves forward with the PSP, the PBFC will offer constructive suggestions on regulatory language for enforcement.

Two establishment owners from San Ramon were present and initially indicated that they were in favor of the PSP. They recognized the fact that illegal services are taking place in the State and felt that the PSP might help add a higher standard or expectation of health and safety protocols to be followed if it was perceived that the Board is watching the conduct of the permit holders. They feel that personal liability insurance should be required. They did not feel the State was in the position of properly enforcing the PSP, partly due to costs involved in hiring a sizeable inspections staff. If implemented, services should be limited to only bridal hair and makeup. Concern was expressed regarding the numerous on-demand apps and agencies that hire licensed and non-licensed operators. If the PSP is implemented, how would the Board ever be able to enforce any sort of consumer protection with these agencies or on-demand apps?

Concern was also expressed that new licensees may, upon receiving their license, immediately apply for a PSP. They felt that a person should be licensed for a period of time, to gain actual industry experience, before applying for a PSP. Concern was expressed that since a PSP holder would not necessarily have to be tied to a licensed brick and mortar establishment, that establishment owners might have increased difficulty in being able to find enough staff to hire. If implemented, the PSP should be linked to a traditional brick and mortar establishment. By the end of the meeting, they were not in favor of establishing the PSP due to the comments brought forward by Fred Jones (PBFC).

Gary Federico, salon and school owner, was present and made the point that the Board should take in consideration what is best for the entire industry overall. He does not feel that this is the PSP. There would be a major fiscal impact to the industry since the Board would have to hire several more inspectors.

### **Email Comments**

The Board received a total of four email comments from March 29, 2016 to May 19, 2016. The applicable portions of the emails are included below:

1. "I want to follow up from the stakeholder's meeting in Sacramento regarding the personal service permit. This is a change I strongly agree with that will help the barber industry by providing more job opportunities for the barbers which will often go along with a gig at their current barber shops. I was surprised of the current law when I found out, since many states such as New York allow of such service, especially since there are many ways to operate safely.

The safety and quality of service will be maintained by background checks and even out of establishment inspections if necessary. I noticed a few businesses such [hairdoo.co](http://hairdoo.co) and [shearapp.com](http://shearapp.com) that currently operate in California."

2. "Hi, so I will not be able to attend the meeting for southern CA because ironically I will be on location for the month doing Makeup for a movie in Hollywood. I understand they want to charge a yearly fee for like a mobile license which is not my problem my problem is setting limitations on how many photo shoots or music videos or movies I can do because I have an Esthetic license? Will this only be for Esthetic treatments on locations or does it include makeup which you don't need one for. Have they considered the Hollywood industry all services are mobile do you think celebrities go to the Salon we travel to their homes or to hotels. I would hope that they would consider not setting limitations like how many days you can work."

3. "I am currently a student at Royale College of Beauty in Temecula, CA. I do not agree with having limited services with the PSP as well as having a fee to pay to the board after already having to pay for my license yearly. I think if the PSP comes into effect, it should have to go through as any other business license (permit) & submit through the Board of Equalization. I think that many of us that come in to this industry to be their own boss. I personally do not want to work at a salon or have to work for anyone. My license should be sufficient enough to be able work out of someone's home with a required waiver/disclosure stating that I am coming to their home & if anything happens to their home, i.e. color stain on sink, monomer spilling etc. I cannot be liable because they are asking me to do a service at their home. I do not agree with having to put my license # on anything except having it on my license that I will be receiving from the board. I think we should not have limits to what type of services we can or cannot provide in a home or whatever place we would be called to. That to me would be diminishing the

capabilities of my license. I think having the PSP be unlimited to how many times it can be used as well, if this actually becomes a thing. Having liability insurance is definitely for us normally a MUST. I do not think any extra testing should be required since we've already been tested during our licensing exam. I do think it is important to give the consumer a way to get ahold of the board if they have been harmed by the licensee. I do not think that we should have to display our license. I do think a background check would be a good idea. I definitely do not want to pay an extra \$135 more to be my own boss. I am sorry if I rambled on. I do appreciate your time and thank you for allowing us to send in our comments."

4. "I'm watching the current stakeholder's meeting and want to add more input regarding the personal service permit:

- Should not be directly connected with an establishment, because barbers may want to operate outside of their job. Many times stylist are asked if they can cut hair at home from the actual barber. Cutting hair at home does not need to be related to a store. Keeping records and inspections can still be implemented but outside of a shop, perhaps an office where everything is inspected and recorded.

- Time of a permit should not be any shorter than 12 months as this can cause a lot of hassle for barbers and hurt their pockets.

- As far as which locations should be allowed to receive haircuts shouldn't be too limited as a mutual agreement between two individuals is enough to assume they are operated safely for both individuals. Insurance and a background check will solve this together.

- Shaving should be allowed although it may be hazardous the idea is that the barber and board work with each other to maintain everything. It's the job of the Barber & Cosmetology Association to give licenses to prepared individuals and it assumes the individual is prepared to safely operate.

The big message I want to put out is the Barber & Cosmetology Association is here to prepare barbers and cosmetologist to operate safely whether it'd be in or outside of an establishment. Complaints can still be made and I believe anyone who doesn't inspect their own tools and maintain a professional service as trained by Barber & Cosmetology Association will be dealt with accordingly.

Limiting the procedure is not the right path; the right path is operating normal services and maintaining its quality and safety which can all be done through insurance, agreements, etc."

Note: For privacy reasons, personal information has been removed and some comments have been grammatically edited.

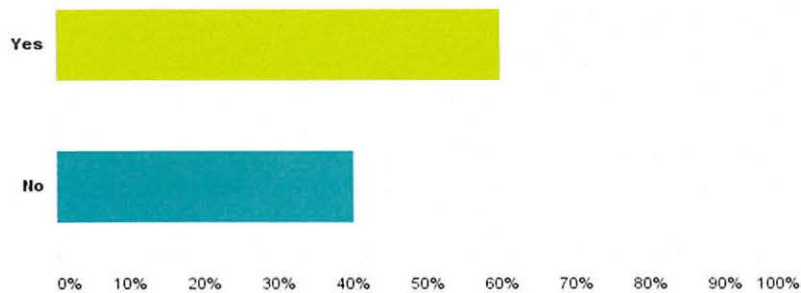


## **Board Survey Results**

From April 22, 2016 to May 23, 2016, the Board posted the following survey on its BarberCosmo website.

### **Q1 Do you think the Board should implement the PSP, to enable licensees to perform services outside of a licensed establishment?**

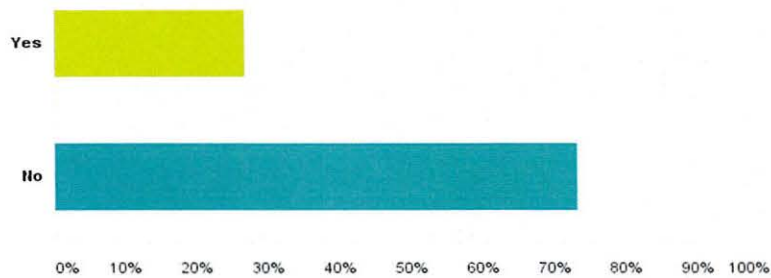
Answered: 157 Skipped: 1



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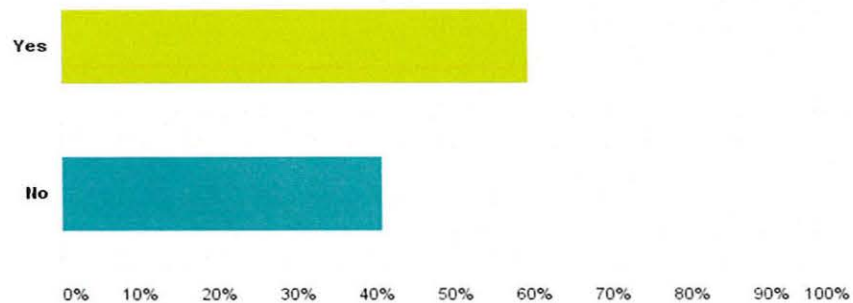
### **Q2 If the PSP is implemented, should the permit holder be required to make the appointments through the salon they currently work in?**

Answered: 154 Skipped: 4



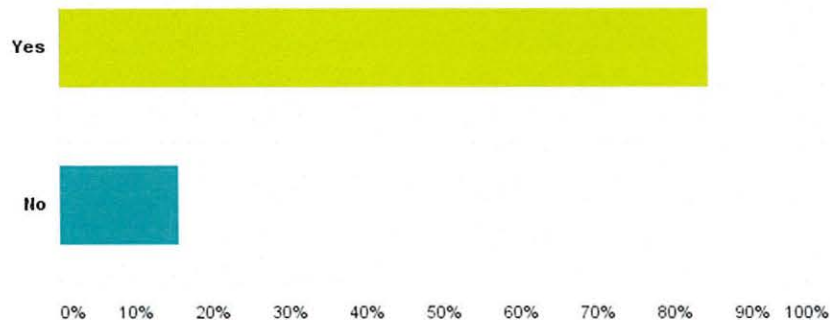
**Q3 Do you think there are any services that should not be allowed to be performed outside of a licensed establishment? (For instance, should chemical work such as perms, hair colors, skin peels, etc. be allowed to be performed outside of a licensed establishment?)**

Answered: 157 Skipped: 1



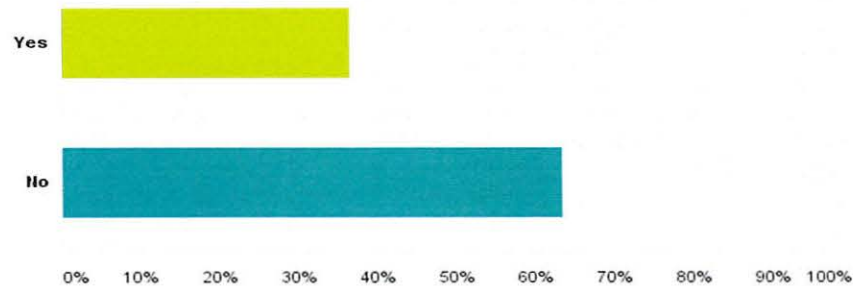
**Q4 Should the holder of a PSP be required to hold personal liability insurance?**

Answered: 156 Skipped: 2



**Q5 Do you have any suggestions regarding regulations that should be imposed upon the holder of a PSP?**

Answered: 145 Skipped: 13



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**Comments:**

- Don't feel you should allow the PSP to be allowed at all.
- Limited timeframe for the permits.
- Don't let this pass!! All regulations should be imposed!
- Holder of PSP must be a licensed by State Board of Barbering and Cosmetology.
- They should be able to be checked on by state-board like salons.
- There should be NO PSP.
- They should only be able perform these services on folks who are unable to leave their home/facility and go out into the world to get the service done. So some kind of proof of disability/residency.
- Random house visits to check their work area like it is done at the salon.
- Again, if you are licensed through the state and in good standing, No other regulations imposed.
- This license must be the sole responsibility of the individual applying for the PSP.
- Offsite sanitation requirements, maybe a checklist or written requirements to spell out what the offsite work space should contain.
- They should be asked to hold a premise insurance. Uniform pricing. Standardized products. Dispute regulations. Must have city license.
- There should be basic sanitation regulations.



- Sanitation regulations should include the car or service vehicle being used.
- If you are licensed you know what you are doing. I think just having a permit is enough and if you ever get a complaint the stylist knows they could get their license taken away. That is enough.
- Impossible to regulate and inspect.
- Yes, stop this nonsense....
- They would need to pay a license and be available for random inspections just like salons. The problem is how do you know when/where they are working to inspect.
- They should be required to hold the same permit, licenses, and certificates that a salon is required to hold.
- They should abide by the same rules and regulations that's a licensed cosmetologist follows.
- In home inspection to maintain compliance similar to and above the current laws should be held to the same standards as an operating business. Just don't allow PSP.
- Yes. Proper documentation of all outside work for bookkeeping purposes.
- Yes please do not allow non-licensed people to get this permit and help put a stop to all the people who aren't licensed providing services. There has been talk amongst them being "grandfathered in" to this Permit since they have been providing hair services for so many years. It upsets me because we went to school for a long time, learned all of our regulations all of our sanitation and everything else involved with cosmetology, spent thousands of dollars for our education and there's people out there that completely disregard this. I know for fact two people that have had state board called on them for doing hair for bridal that are makeup artist that used to work behind a makeup counter. They are not licensed to do hair they know nothing of the industry the rules or regulations and when the state board lady confronted them they simply said oh we don't do hair we just do make up. Which if you look at any of their websites you will see the truth of the matter and it's become very frustrating for us to have worked hard for our businesses.
- Be responsible for the same sanitation practices.
- They shouldn't be allowed to do any chemical services out of the salon.
- They shouldn't give them the permit to work at home if they are employee.
- Following the NY regulations would be a good move, there's no need to look for every aspect of this to limit.
- We already have thousands of people doing hair at home both licensed and unlicensed and getting paid for it and not declaring the money as income. There is not enough

enforcement of the current regulations and the public doesn't care... until someone gets hurt.

- All professionals should be required to carry Liability insurance.
- That if the services performed, will have no reflection on the establishment they're employed. I case the results aren't what expected.
- Already made them.
- No PSP!! It's impossible to regulate or monitor. When they're in someone's home, you have no idea what's going on behind closed doors.
- How about an oath to provide quality work in a clean and professional environment? Going to a hotel for bridal services isn't an issue, but the random apartment services are a little sketchy.
- They should not be allowed but if this happens they should be held to all same standards of any operating salon.
- I think we should hold the same standard as if we have our own business establishment.
- The only reason I can see for a PSP is if someone was physically not able to visit an establishment (i.e., bedbound, etc.)
- The regulations imposed on professionals in salons should remain the same for personal service permit holders. For displaying of the license maybe a badge version of the license could be issued to permit holders so it could be displayed in the work space or attached to clothing.
- I believe there should be a kit requirement similar to State Board Examination that ensures sanitation and disinfection procedures are followed: I.e. Clean implements container, to be disinfected container, individually sealed bags with disposables per client.
- Proof of Liability Insurance Lifescan documentation Blood Borne Pathogen documentation Basic First Aid/CPR documentation clean record with the BBC/DCA, with allowable minor fines (labeling, minor corrective actions upon inspection, etc.)
- Proof of Liability insurance should have to be provided. License should still need to be prominently displayed.
- I think it should be renewed every year and they should provide proof of liability insurance to the board before it is issued.
- Only that they maintain consistency in following rules of sanitation i.e. No double dipping.

- I believe the infection control and sanitation protocols should be the same. I think the main problem with this is accountability. Hopefully you guys can come up with a way to make these professionals perform at the same high standards as in a spa/salon.
- The applicant should have at least 3-5 years working in licensed establishment so they have a significant amount of experience working with the public under supervised professionals. This way the person has an understanding of how to deal with multiple situations and scenarios that can occur while performing cosmetology services.
- Vote No on PSP.
- It should be strictly controlled and limited to certain locations that the services can be performed.
- Should be a booth renter to get a permit not to go outside the dhip.
- The permit holder should work under an establishment licensed salon. Giving the salon the right to set prices, receive revenue from these holders and provide the client with reassurance.
- Same as in salon with the exception in volunteering non chemical services to needy Ex. Homeless running water many use water bottles and go out to the street to help.
- Clean and safety regulations.
- There should be no difference between a PSP and regular license.
- They should be held to the same requirements as a licensed establishment, and be required to have regular kit inspections.
- They must keep up to code..sanitation and sterilization are key. Cosmetologist's licenses should suffice.
- Sanitation and disinfection always.
- A PSP should require a license verification of some sort. There needs to be a way to make consumers aware that there are licensed professionals performing these services.
- Why not make the PSP an extension of an establishment license instead of the individual's license? It will create less work for the board by issuing to an establishment vs. many individual permits. I believe it will also create a more regulated system as the salon owners will also be held accountable.
- Must have adequate equipment and supplies for sanitations and be a licensed professional under the scope of services being performed.



**Q6 Please provide any additional suggestions, concerns or ideas you may have regarding the implementation of the PSP.**

**Comments:**

- I think having a PSP is a great idea for stylists, there are many occasions that being "on location" for your client would be very convenient. I also think it's a way for the board to set licensed aestheticians and cosmetologists apart from the unlicensed "makeup artists" who are not trained in sanitation and disinfection practices. To say you have insurance and a personal service permit comes off as very professional and assures the client you are serious about their health and safety.
- I really feel strongly about individuals that will be performing out of a licensed establishment. If they will be able to do so with the PSP regulation then, this should mean the possession of personal liability insurance should be also implemented to the individual performing these outside jobs.
- Safety, it will also have an impact on salon business and there will also be no way to regulate services performed are going to be safe.
- As a client I would want to make sure the permit holder has had a clean background check.
- There should be very consistent and thorough inspections for those operating from mobile units or home based establishments. Those providing on site services should have routine check ins with inspectors to ensure proper tools etc. are within codes.
- DON'T DO IT!!
- This is a horrible idea and should not happen, this will destroy everything we have worked for by building salon cultures and stylists working together!
- #1 safety of the clients don't let this pass to take away from the salon experience of getting your hair done.
- If this was to happen salon owners wouldn't make any money and the establishment wouldn't have any return guests. Everyone would want to have the stylist just go to their homes to do the service. It would take too much time out of our day and time with our guests.
- Dry Bar and Glam App are already doing services at client's homes. Are all makeup and cosmetic stores licensed establishments? I think that we, the ones that pay for professional licensing, establishment license, insurance and are otherwise abiding to rules and regulations are scrutinized the hardest and intimidated on regular basis by State Board regulations / enforcement/lack of.
- I think this would be a wonderful addition to our license. Not all people are able come in our office for various reasons.

- I don't think this should pass. You're basically allowing stylists to come to an establishment learn someone's technique and then quit and take the guests with them. You will have salons go out of businesses and if you let a brand new stylist get this permit they will make mistakes left and right and what does that mean for you? This is a reckless idea.
- I disagree.
- There is no way the board will be able to keep up with and be able to do inspections if these PSP holders are never in the same place. You will be allowing a lot of things to go wrong. You will not be able to check that safety and disinfection are being done appropriately.
- I think this is way too risky to have in existence at all. I fear stylist will lose their license. Seems like stylist will be able to cut corners on safety and sanitation regulations. This could be a detriment to salon business everywhere, as stylist can choose what to charge, then create a clientele off the grid. I DO NOT SUPPORT THIS IN ANY WAY!
- DO NOT PASS!!!! THERE IS NO REAL WAY TO REGULATE THIS!!! IF A BUSINESS HAS TO DO IT THE RIGHT WAY, WHY GIVE SOMEONE A FREE PASS?!
- None, licensed individuals should be allowed to run a business the way they wish, as long as it follows all regulation and guidelines.
- Don't make it impossible for an independent person to obtain such a license. Also for anyone who is working as a makeup artist that is not licensed under the board should have to take a one day class on sanitation before they can get this license and should have to update class every 2 years to get renewal, just like us.
- As the trend of app driven services continues to grow so will the desire for stylists to add to their income. Requiring stylists to carry liability insurance while performing services outside of the salon protects the consumer and the stylist. App driven services will have the responsibility of verifying licenses and liability insurance of the service provider. Salon owners may require their employees to NOT have a PSP, this can be done by amending their rules and regulations in their employee handbook, effectively making it an employment condition.
- This practice in whole is not ethical and should not be encouraged as it can cause more harm in the community.
- This would allow small business/at home to grow their business and offer services to those who may not like/or cannot travel to a salon. Those who are disabled, cannot drive can benefit from a mobile service. Thank you.
- Becoming a licensed establishment is too hard and expensive to do hair out of the home.
- The PSP holder should be solely responsible for all fines and fees. It makes no sense to attach the fines and/or fees to the establishment.

- Quit the increase burden you put on small businesses....
- As an established business/license holder it becomes extremely dis heartening to know that anyone can be conducting services, that I am licensed for, have put in due hours, and paid thousands of dollars in school tuition as well as passing state board. I believe all venues, hotels should maintain the copies of the permitted as well to have on hand so ALL parties are liable to maintain a permit as well as liable to only allow permit holders.
- In general, it seems unworkable and puts clients at risk due to difficulty of regulating. Therefore, I would not recommend implementing the PSP.
- It's a bad idea. Injury can easily be caused to a patron by a person that is not properly trained.
- This seems like a bad idea: salons are currently finding it difficult to hire with the reduction in schools. Now the state wants to create an additional way for stylists to avoid declaring income? How would these people get healthcare? It makes sense for people to get serviced inside a shop.
- By allowing PSP's, small businesses could go out of business as there would be fewer stylists willing to work in a salon and overhead costs would continue to be high to maintain state board standards in a Salon where there would be fewer clients coming in for service.
- PSP will put the public in danger. Why would you want to do something like this?
- If all stylists have Personal Service Permits, who will take care of their education and their personal benefits? What will customers do if they aren't happy with the service or the amount they are charged?
- They would need to carry their personal license and post it wherever they are, just like in the salon.
- This is ridiculous that I as a cosmetologist should have to have a separate license to do what I already do on location.
- So looking forward to this! It will be so nice to offer our clients non-chemical services within their home or hotel. This is a really great change our industry needs I just really hope they tighten up on it being for licensed only.
- Sanitation should be their priority.
- Individuals that hold this PSP are solely responsible for all services performed.
- As I said before this is a terrible idea and does not protect the 25,000 plus hair salons located with the state of California.
- NO PSP!!! It's a big mistake from every perspective!



- This is already happening so much. Some may not even realize it is against the rules, some may not care. It lowers the professional image of our industry and raising the bar would be better for us all.
- The PSP should be free of charge to any licensee who applies for one and meets all eligibility requirements.
- More suggestion to come...
- Please consider other issues like tax collection. I believe this would make it easier for income tax evasion.
- Issuing PSP permits would provide many opportunities for professionals and for clients seeking services, but if not properly regulated, it could also open the door to many new issues. Some suggestions: Have each individual applying for a PSP submit their business plan or their special event outline describing services offered and location conditions. Also have them provide a copy of their professional and business license. Each permit could be reviewed on a case by case basis. Have a reporting system where permit holders schedule/report events or services to an online website OR through a salon or beauty school. The Board inspectors could show up at any event just as they could to a salon. Have permit holders take a safety and regulations written test specific to providing services outside of a salon via online or at testing cite before issuing the permit.
- I really look forward to seeing this implemented in a productive way to help advance our offerings while also allowing another stream of income for State Board.
- This should be our opportunity to represent the DCA/BBC as licensees that can be trusted to provide the consumers with safe, ethical, professional treatments outside of a brick-and-mortar licensed establishment. As this is a situation that allows us to expand our business, the privilege of serving the public in this manner should be met with the highest business standards and ethics, ensuring the public that a PSP holder provides trusted, safe services.
- The hair industry has worked very hard to raise the standards of safety and sanitation, sending out PSP's would definitely undermine this. I also feel that PSP's plus the recent changes to min wage and commission pay would make it hard for salons to survive.
- PSP could lose their home if any wrong doing or bad service.
- It would be a tremendous advantage to implement a PSP to open up many business opportunities to the licensed professional.
- If doing an event, will a PSP be valid for the entire date range, or will the applicant have to apply for each date separate? I understand the need for regulation, but I feel that unless the inspectors are going to events how will this be enforced adequately?
- This will only be a benefit to customers who can't conform to salon hours. And will better protect and support what is already being done in the industry.

- It seems like a gateway to many at home disasters. At my salon, we do many color correction services and have to refuse some because of these low-cost at-home services bad results. In my opinion, NO to PSP.
- The PSP is a loophole where people can do services by just paying a permit/fee. Instead do required at least a 200 hours classes, plus a written exam toward state board as a minimum requirement. Then once student pass they do the PSP yearly. Do feel that PSP will get abuse and people will start doing beyond its entitlement.
- Tracking and keeping all records on outside work for follow up on board infractions.
- Required to post who the services were done to.
- The PSP should be part of the standard license. It should be treated the same as if someone chooses to rent a booth instead of being employed by a salon owner.
- If think the plan is great but I'm concerned that there will be more issues with safety as it will be hard to properly inspect or check on the PSP holders. There needs to be a way to hold them accountable. Maybe the license should specify the services they can provide and there is a routine lit inspections. Also, in general and to assist in regulating maybe the board should use social media and the Internet to monitor unlicensed activity. If someone unlicensed is advertising services or if someone is advertising services they are unlicensed to do.
- PSP is a path towards deregulation. There is no way to ensure proper sanitation requirements are being met, which I'd why we have you in the first place. This activity already goes on, however making it legal is going to hurt all hard working, rent paying owners, and put us out of business.
- Require the event to be registered with the board if having personal services outside an establishment. 1. Bride name 2. Date & location of service 3. Services to be performed and on whom 4. Marriage certificate number 5. Licensee name 6. License number 7. Insurance Provider contact info.
- Just they be required insurance and the license be displayed while working.

Note: For privacy reasons, personal information has been removed and some comments have been grammatically edited.

## **California Estheticians Facebook Group Survey**

The California Estheticians Facebook group contacted the Board after the March 29, 2016 PSP meeting in Sacramento. The group's moderator, hosted an informal survey based off the PowerPoint slides presented at the PSP March 29, 2016 meeting. The questions and results of that survey are included:

### **Should services be limited on the PSP?**

No (16 votes)

### **Should random audits for compliance for health and safety be allowed? Possible scenarios are that inspection can happen at the special event, residential appointment, etc.**

No, random inspections should not be allowed. It's a violation of the privacy of the event and would disrupt special occasions. (43 votes)

Yes, random inspections should be allowed. It's for the protection of the consumer. (3 votes)

### **Do you agree:**

**No alcohol shall be served in the area where services are performed**

**No food shall be served where services are performed**

Food & alcohol okay outside of treatment rooms. (51 votes)

Yes, food and alcohol are both ok. (13 votes)

Food and alcohol should be prohibited for sanitation reasons. (8 votes)

### **Comments:**

"I am in a salon suite. Clients bring their kids in and plant them in the chair while they get a quick peel. It is also where I eat my lunch. Or grab a handful of almonds in between clients. I have my morning and afternoon, (ok, and my evening coffee) in my little 98 sq. ft. room. I don't want that restricted. And stylists serve beer and wine to their clients, I don't understand the big deal with that. I don't want BBC dictating that to me quite honestly."

"I too am solo. I have wrapped dark chocolate in my room for my clients. They have come to expect it and look forward to it they tell me. They bring their beverages in my room. I don't "cook" Or prepare food in my room. In the salon, we have occasional parties we set up for clients to enjoy. Some after hours. Some clients bring their food and eat during their hair appointments, sitting with color on. It would be a shame to restrict our ability to offer those perks for our client's enjoyment. Frankly, we should have enough common sense to know what is appropriate or not in our set ups."

"This rule or possible rule is silly really! There are way too many possible variables. As a one room business, where am I supposed to keep my meal food? Do I tell a client to throw their food in the trash if they happen to bring with them, dump their coffee, etc.? Having a coffee or tea in my room would it be a fine for that too? Seems pretty crazy to have this even on the agenda. Allow beverages and food, as long as we are not preparing and selling why should it matter?"



"No reason to ban clients from bringing in their own water/drink, but it should not be left in the direct treatment area."

"As a service provider, I am against us having any food/drink visible to the client or eaten while working with a client."

"There are some things I think that should be left to each operator's discretion and judgment and not legislated. All of our situations are unique and while I hope we all strive for professional conduct, I don't want to be in violation of anything if my client walks into my one room studio with a Starbucks drink and I don't think she should have to throw it away either."

"This should be up to the service provider whether or not to allow their clients to eat or drink during the service and whether or not to provide food or drink during the service. "The service area". Is too broad a term; does it include the entire room or just a table or chair? The service provider should not be prohibited from drinking any non-alcoholic beverage while providing a service and should not be prohibited from drinking a non-alcoholic beverage or eating in the room when a client is not present."

**Should the PSP number be included on all advertisements for services?  
(Advising the general public that the LE servicing the client has special  
permit/permission to do so.)**

Yes (25 votes)

No (1 vote)

**Should the PSP be connected to a licensed establishment or connected to the license of  
an individual esthetician?**

Permit connected to the license of an individual esthetician. (61 votes)

Permit connected to a licensed establishment. (1 vote)

#### **Comments:**

"I'm not at all experienced in the salon/spa world, but I think the responsibility should lie with the technician. I say that based upon what I experienced in school for a year and a half. There are those who will always break the rules, and try to get away with whatever they can, and by making them solely responsible they may think twice."

"Personal responsibility all the way"

**A Personal Service Permit would allow a licensee to perform services outside of a  
licensed establishment.**

**Options under consideration are:**

Renewable Yearly (38 votes)

Renewable Bi-annually, with your current license (14 votes)

additional vote added: Should be required for artists working in makeup booths or kiosks. (22 votes)

Permit only valid for 7 days (0 votes)



Limit 4 permits per calendar year (0 votes)  
Permit only valid for 10 days (0 votes)

### **Fiscal Impact**

If the PSP is implemented, the estimated ongoing costs to the Board are approximately \$ 70,000 per year for issuing new personal service permits. It is anticipated the ongoing fee revenues to be approximately 5 million per year for new personal service permits. (It is anticipated that 15% percent of licensees will seek the new permit.) Costs are unknown for the enforcement of potential licensing requirements related to the permit.



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## BOARD OF BARBERING & COSMETOLOGY

### BILL ANALYSIS

**Authors:** Assembly Member Daly  
 Assembly Member Wilk

**Subject:** Alcoholic Beverages

**Bill Number:** AB 1322

**Version:** As Amended June 30, 2016

#### Existing Law:

- Establishes the Department of Alcoholic Beverage Control (ABC) and grants exclusive authority to administer the ABC Act.
- Makes it unlawful for any person other than a licensee of the Department of ABC to sell, manufacture, or import alcoholic beverages in California.
- Makes unlawful for a person to keep or consume an alcoholic beverage on any premises open to the public other than as specifically permitted by law.
- Allows for the serving of alcohol without a license or permit in a limousine or as part of a hot air balloon ride service, provided there is no extra charge for the alcohol.

#### This Bill:

1. Allows for the serving of beer or wine in a barber/beauty shop without a license from the Department of ABC as part of a beauty/barber shop service provided that:
  - There is no extra charge or fee for the beer or wine;
  - The establishment providing the service is in good standing with the California Board of Barbering and Cosmetology;
  - The servings are limited to no more than twelve ounces of beer or six ounces of wine; and
  - The beer or wine is provided only during business hours and in no case later than 10 p.m.
2. This bill does not limit the authority of a city or city and county to restrict or limit the consumption of alcoholic beverages.

**Background:**

Opinion No. 85-701 issued by the Attorney General in 1985, held that an operator of a commercial enterprise who provides complimentary alcoholic beverages to guests, customers, or passengers while charging for the services rendered is deemed to have "sold" the alcoholic beverage.

**Fiscal Impact:**

Unknown.

**Analysis:**

This bill grants beauty/barber establishment owners/managers the opportunity to serve beer or wine without having to go through the standard ABC licensing process, which requires applicants to undergo fingerprinting and a thorough background investigation.

The bill as written does not clarify the term, "In good standing with the State Board". It is unclear if the author is referring to the establishment owner holding a valid, current establishment license or if the author intends for the establishment owner not to have had any citable violations within the establishment. Additionally, it is unclear how long of a time period the establishment owner must be "in good standing". Very few establishments have a no violation record with the Board.

As written, Board inspectors would be required to determine if the establishment is in fact providing more than twelve ounces of beer or six ounces of wine to the client. It is unclear how alcohol limitations related to underage drinking and excess would be enforced. It is unclear how Board inspectors would make any of these determinations as they do not receive any training on these subjects.

Board inspectors do not typically perform inspections until 10 p.m. at night; therefore, they are unable to determine if beer or wine is being provided up to or after this time frame as written in the bill.

**Board's Current Position:**

On October 19, 2015, the Board took the following position: "Oppose".



*California*  
LEGISLATIVE INFORMATION

**AB-1322 Alcoholic beverages: licenses: beauty salons and barber shops.** (2015-2016)

AMENDED IN SENATE JUNE 30, 2016

AMENDED IN SENATE JUNE 20, 2016

AMENDED IN ASSEMBLY APRIL 15, 2015

CALIFORNIA LEGISLATURE— 2015–2016 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1322**

Introduced by Assembly ~~Member-Daly~~ **Members Daly and Wilk**  
(~~Coauthor: Assembly Member-Wilk~~)

**February 27, 2015**

An act to amend Section 23399.5 of the Business and Professions Code, relating to alcoholic beverages.

LEGISLATIVE COUNSEL'S DIGEST

AB 1322, as amended, Daly. Alcoholic beverages: licenses: beauty salons and barber shops.

Existing law makes it unlawful for any person other than a licensee of the Department of Alcoholic Beverage Control to sell, manufacture, or import alcoholic beverages in this state. Existing law allows the serving of alcohol without a license or permit in a limousine or as part of a hot air balloon ride service, provided there is no extra charge or fee for the alcoholic beverages.

This bill would additionally allow the serving of beer or wine without a license as part of a beauty salon or barber shop service if specified requirements are met, including that there be no extra charge or fee for the beer or wine, the license of the establishment providing the service is in good standing, and the servings are limited to specified amounts.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

**SECTION 1.** Section 23399.5 of the Business and Professions Code is amended to read:

**23399.5. (a) (1)** A license or permit is not required for the serving of alcoholic beverages in a limousine by any person operating a limousine service regulated by the Public Utilities Commission, provided there is no extra charge or fee for the alcoholic beverages.

(2) For purposes of this subdivision, there is no extra charge or fee for the alcoholic beverages when the fee charged for the limousine service is the same regardless of whether alcoholic beverages are served.



(b) (1) A license or permit is not required for the serving of alcoholic beverages as part of a hot air balloon ride service, provided there is no extra charge or fee for the alcoholic beverages.

(2) For purposes of this subdivision, there is no extra charge or fee for the alcoholic beverages when the fee charged for the hot air balloon ride service is the same regardless of whether alcoholic beverages are served.

(c) A license or permit is not required for the serving of ~~beer or wine~~ *wine or beer* as part of a beauty salon service or barber shop service if the following requirements are met:

(1) There is no extra charge or fee for the beer or wine. For purposes of this paragraph, there is no extra charge or fee for the beer or wine if the fee charged for the beauty salon service or barber shop service is the same regardless of whether beer or wine is served.

(2) The license of the establishment providing the beauty salon service or barber shop service is in good standing with the State Board of Barbering and Cosmetology.

(3) No more than 12 ounces of beer or six ounces of wine by the glass is offered to a client.

(4) The beer or wine is provided only during business hours and in no case later than 10 p.m.

(5) Nothing in this subdivision shall be construed to limit the authority of a city or city and county to restrict or limit the consumption of alcoholic beverages, as described in this subdivision, pursuant to Section 23791.





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## BOARD OF BARBERING & COSMETOLOGY

### BILL ANALYSIS

**Author:** Assembly Member Gonzalez  
**Co-Author(s):** Assembly Member Chiu and Ting  
 Senator Nguyen

**Subject:** Labor Law

**Bill Number:** AB 2025

**Version:** Amended June 9, 2016

#### Existing Law:

Provides the licensure and regulation of the practices of Barbering, Cosmetology and Electrology by the California Board of Barbering and Cosmetology. (Board)(BP&C\* § 7312)

Requires the Board to establish a Health and Safety Advisory Committee to provide advice and recommendations on health and safety issues. (BP&C § 7314.3)

Requires any person, firm or corporation operating an establishment where activity regulated under the Board is practiced, to apply for an establishment license. Existing law prohibits the Board from issuing a license to any applicant who has committed specified acts or crimes which are grounds for denial of licensure. (BP&C § 7347)

Requires the Board keep a registration record of each licensee containing the name, address, license number, date issued, and any facts that the applicant may have stated in the application for examination for licensure. (BP&C § 7314)

Requires the Board to admit to a licensing examination an applicant who meets certain qualifications, including course training as specified by the Board in a Board approved school. (BP&C Sections § 7321, 7321.5, 7324, 7326, 7330, 7362)

Requires licensees to report to BBC upon renewal (BP&C § 7401), including:

- a) License status, practicing full time, part time, practicing full time/part time in another state, not working in the industry, retired or other practice that the Board defines.
- b) Identification as an employee, independent contractor, booth renter or establishment owner.
- c) Establishment owners are to report whether a booth renter or independent contractor is operating in the establishment.

### **This Bill:**

This bill would require:

- the board offer and make available all written materials provided to licensees and applicants in English, Spanish, and Vietnamese;
- expands the role of the Health and Safety Advisory Committee to require recommendations be provided on issues that impact licensees, including how to ensure licensees are aware of basic labor laws, as specified;
- that every applicant for admission to exam and licensure to include a signed acknowledgment that the applicant understands his/her rights as a licensee as outlined in the informational materials on basic labor laws;
- as part of a complete establishment application, a signed acknowledgment that the applicant understands the informational material on basic labor laws the applicant is provided by the Board with the application and that the establishment is responsible for compliance with any applicable labor laws of the State;
- as of January 1, 2018, the Board would collect through optional questions on the establishment application, demographic information on each applicant, including preferred language preference;
- the health and safety course additionally cover basic labor laws, as specified. Specifications include:
  1. Key differences between the legal rights, benefits, and obligations of an employee and an independent contractor.
  2. Wage and hour rights for hourly employees.
  3. Antidiscrimination laws relating to the use of a particular language in the workplace.
  4. Anti-retaliation laws relating to a workers' right to file complaints with the DIR.
  5. How to obtain more information about State and Federal labor laws.

### **Fiscal Impact:**

The bill will require the Board to revise application forms and curriculums and develop informational materials relating to labor laws in California as they relate to the barbering and cosmetology industry. Many of the Board's written materials are already translated or set to be translated soon. Work has already been started on a written and webinar based training and informational fact sheets for applicants, students and current licensees regarding workers' rights. Possible impact could result if there are a large number of application deficiencies on the establishment application, additional staffing may be required. (to process deficient applications) The costs are considered minor and absorbable by the Board. Anticipated IT work (impact) will include posting, multi-lingual informational material on the Board's website, capturing optional applicant demographic information, and providing applicants an acknowledgment pertaining to basic labor laws. The IT impact will be absorbable by the Board within maintenance resources and assuming an implementation date six months after finalization of the regulations.

### **Analysis:**

This bill is designed to prevent abuse of Asian workers – many of whom are recent immigrants working as manicurists. The news media recently publicized the abuse, after which New York City Governor, Andrew N. Cuomo ordered an emergency investigation into nail salons following the revelation that most workers are underpaid or not paid at all.

The Board is currently updating its Health and Safety Curriculum and is including a section on workers' rights. Once this curriculum is completed it will ensure that students will be trained in basic labor laws



prior to entering into the industry. Upon Board approval of the curriculum it will be formatted into a webinar based training to be accessible (on the Board's website) to students and licensees.

The Board currently translates most of its written materials into English, Spanish, Vietnamese, and Korean. The translation of training materials to Korean is not addressed in this bill.

This bill does not provide the Board with authority for labor code violations.

**Board Position:**

On April 26, 2016, the Board took the following position: "Support if Amended"

The requested amendment was made by the author.



## California LEGISLATIVE INFORMATION

**AB-2025 Barbering and cosmetology: labor law education requirements.** (2015-2016)

AMENDED IN SENATE JUNE 09, 2016

AMENDED IN ASSEMBLY APRIL 18, 2016

AMENDED IN ASSEMBLY MARCH 18, 2016

CALIFORNIA LEGISLATURE— 2015–2016 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2025**

**Introduced by Assembly Member Gonzalez  
(Coauthors: Assembly Members Chiu and Ting)  
(Coauthor: Senator Nguyen)**

**February 16, 2016**

An act to amend Sections 7312, 7314, ~~7362, and 7401 of, to add Section 7396.1 to, and to repeal Section 7347 of, 7314.3, 7337, 7347, and 7389 of~~ the Business and Professions Code, relating to professions and vocations.

### LEGISLATIVE COUNSEL'S DIGEST

AB 2025, as amended, Gonzalez. Barbering and cosmetology: labor law education requirements.

Existing law, the Barbering and Cosmetology Act, establishes the State Board of Barbering and Cosmetology for the licensure and regulation of barbers, cosmetologists, estheticians, manicurists, electrologists, and apprentices. Existing law requires the board to carry out a list of duties including making rules and regulations, conducting and administering license examinations, issuing licenses to qualified applicants, and disciplining persons who violate the act.

This bill would require that the board offer and make available all written materials provided to licensees and applicants in English, Spanish, and Vietnamese.

*Existing law requires the board to establish a Health and Safety Advisory Committee to provide the board with advice and recommendations on health and safety issues before the board.*

*This bill would specify that the health and safety issues are those that impact licensees, including how to ensure licensees are aware of basic labor laws, as specified.*

*Existing law requires every application for admission to examination and licensure to be verified by the oath of the applicant.*

*This bill would additionally require every application for admission to examination and licensure to include a signed acknowledgment that the applicant understands his or her rights as a licensee as outlined in*

*informational materials on basic labor laws that the applicant is provided by the board with the application.*

Existing law requires the licensure of any person, firm, or corporation operating an establishment engaged in a practice regulated by the board. Existing law requires a separate license for each location where the establishment operates. Existing law requires applicants to submit an application, accompanied by a prescribed fee. Existing law prohibits the board from issuing a license to any applicant who has committed specified acts or crimes which are grounds for denial of licensure in effect at the time the new application is submitted.

~~This bill would require that, on or before January 1, 2018, the board require as a condition of licensure to operate an establishment that the applicant has the knowledge of basic labor laws, as defined, that pertain to the types of licensees who may work in the establishment. The bill would require the board, in consultation with the Department of Industrial Relations, to develop and add questions on basic labor law to the application for a license to operate an establishment. The bill would require the board, in consultation with the Department of Industrial Relations and stakeholders, to select or create informational materials on basic labor law that the board determines to be practical and accessible to applicants. The bill would require the board to~~ require, as part of a complete application *to operate an establishment*, a signed acknowledgment that the applicant understands the informational materials on basic labor laws *the applicant is provided by the board with the application* and that establishments are responsible for ~~obeying the~~ *compliance with any applicable* labor laws of the ~~State of California:~~ *state*.

Existing law requires the board to keep a registration record of each licensee containing the name, address, license number, date issued, and any facts that the applicant may have stated in the application for examination for licensure.

This bill would require the board, beginning January 1, 2018, to collect, through optional questions on the application to operate an establishment, demographic information of each applicant, including her or his preferred language preference.

Existing law requires the board to admit to a licensing examination an applicant who meets certain qualifications, including having completed one or more courses, as specified, offered by a school approved by the board. Existing law requires the board to ~~determine by regulation the required subjects of instruction to be completed in all approved courses:~~ *develop or adopt a health and safety course on hazardous substances that is required to be taught in schools approved by the board. Existing law requires course development to include pilot testing of the course and training classes to prepare instructors to effectively use the course.*

This bill would require the ~~labor laws that pertain to the types of licensees who may work in establishments to be among these required subjects:~~ *health and safety course that the board is required to develop or adopt to additionally cover basic labor laws, as specified.*

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

## THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

**SECTION 1.** Section 7312 of the Business and Professions Code is amended to read:

7312. The board shall do all of the following:

- (a) Make rules and regulations in aid or furtherance of this chapter in accordance with the Administrative Procedure Act.
- (b) Conduct and administer examinations of applicants for licensure.
- (c) Issue licenses to those applicants that may be entitled thereto.
- (d) Discipline persons who have been determined to be in violation of this chapter or the regulations adopted pursuant to this chapter.
- (e) Adopt rules governing sanitary conditions and precautions to be employed as are reasonably necessary to protect the public health and safety in establishments, schools approved by the board, and in the practice of any profession provided for in this chapter. The rules shall be adopted in accordance with the Administrative Procedure Act, Chapter 3.5 (commencing with Section 11340) of Title 2 of the Government Code, and shall be submitted to the State Department of Health Care Services and approved by that department prior to filing with the Secretary of State. A written copy of all those rules shall be furnished to each licensee.



(f) Offer and make available all written materials provided to licensees and applicants in English, Spanish, and Vietnamese.

**SEC. 2.** Section 7314 of the Business and Professions Code is amended to read:

7314. The board shall keep a record of its proceedings relating to its public meetings, meetings of committees, and records relating to the issuance, refusal, renewal, suspension, and revocation of licenses.

The board shall keep a registration record of each licensee containing the name, address, license number and date issued. This record shall also contain any facts that the applicants may have stated in their application for examination for licensure. Beginning January 1, 2018, the board shall collect, through optional questions on the ~~applications~~ *application* for a license issued pursuant to Section ~~7396.1, 7347~~, the demographic information of each ~~applicant~~ *applicant*, including, but not limited to, her or his spoken and written language preference.

**SEC. 3.** *Section 7314.3 of the Business and Professions Code is amended to read:*

7314.3. The board shall establish a Health and Safety Advisory Committee to provide the board with advice and recommendations on health and safety issues before the ~~board~~ *board that impact licensees, including how to ensure licensees are aware of basic labor laws. Basic labor laws include, but are not limited to, all of the following:*

- (a) Key differences between the legal rights, benefits, and obligations of an employee and an independent contractor.*
- (b) Wage and hour rights for hourly employees.*
- (c) Antidiscrimination laws relating to the use of a particular language in the workplace.*
- (d) Antiretaliation laws relating to a worker's right to file complaints with the Department of Industrial Relations.*
- (e) How to obtain more information about state and federal labor laws.*

**SEC. 4.** *Section 7337 of the Business and Professions Code is amended to read:*

7337. Every application for admission to examination and licensure shall be in writing, on forms prepared and furnished by the board.

Each application shall be accompanied by the required fee, and shall contain proof of the qualifications of the applicant for examination and licensure. It shall be verified by the oath of the ~~applicant~~ *applicant and shall include a signed acknowledgment that the applicant understands his or her rights as a licensee as outlined in informational materials on basic labor laws as specified in Section 7314.3 that the applicant is provided by the board with the application.* Every applicant shall, as a condition of admittance to the examination facility, present satisfactory proof of identification. Satisfactory proof of identification shall be in the form of a valid, unexpired driver's license or identification card, containing the photograph of the person to whom it was issued, issued by any state, federal, or other government entity.

**SEC. 5.** *Section 7347 of the Business and Professions Code is amended to read:*

7347. Any person, firm, or corporation desiring to operate an establishment shall make an application to the bureau for a license accompanied by the fee prescribed by this chapter. The application shall be required whether the person, firm, or corporation is operating a new establishment or obtaining ownership of an existing establishment. *The application shall include a signed acknowledgment that the applicant understands that establishments are responsible for compliance with any applicable labor laws of the state and that the applicant understands the informational materials on basic labor laws as specified in Section 7314.3 the applicant is provided by the board with the application.* If the applicant is obtaining ownership of an existing establishment, the ~~bureau~~ *board* may establish the fee in an amount less than the fee prescribed by this chapter. The applicant, if an individual, or each officer, director, and partner, if the applicant is other than an individual, shall not have committed acts or crimes which are grounds for denial of licensure in effect at the time the new application is submitted pursuant to Section 480. A license issued pursuant to this section shall authorize the operation of the establishment only at the location for which the license is issued. Operation of the establishment at any other location shall be unlawful unless a license for the new location has been obtained upon compliance with this section, applicable to the issuance of a license in the first instance.



**SEC. 6. Section 7389 of the Business and Professions Code is amended to read:**

7389. The board shall develop or adopt a health and safety course on hazardous substances **and basic labor laws as specified in Section 7314.3** which shall be taught in schools approved by the board. Course development shall include pilot testing of the course and training classes to prepare instructors to effectively use the course.

~~SEC. 3. Section 7347 of the Business and Professions Code is repealed.~~

~~SEC. 4. Section 7362 of the Business and Professions Code is amended to read:~~

~~7362. (a) A school approved by the board is one that is first approved by the board and subsequently approved by the Bureau for Private Postsecondary Education or is a public school in this state, and provides a course of instruction approved by the board. However, notwithstanding any other law, both the board and the Bureau for Private Postsecondary Education may simultaneously process a school's application for approval.~~

~~(b) The board shall determine by regulation the required subjects of instruction to be completed in all approved courses, including the minimum hours of technical instruction and minimum number of practical operations for each subject, and shall determine how much training is required before a student may begin performing services on paying patrons. The labor laws that pertain to the types of licensees who may work in establishments shall be among the required subjects to be completed.~~

~~(c) Notwithstanding any other law, the board may revoke, suspend, or deny approval of a school, in a proceeding that shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, when an owner or employee of the school has engaged in any of the acts specified in paragraphs (1) to (8), inclusive.~~

~~(1) Unprofessional conduct which includes, but is not limited to, any of the following:~~

~~(A) Incompetence or gross negligence, including repeated failure to comply with generally accepted standards for the practice of barbering, cosmetology, or electrology, or disregard for the health and safety of patrons.~~

~~(B) Repeated similar negligent acts.~~

~~(C) Conviction of any crime substantially related to the qualifications, functions, or duties of the owner of an approved school, in which case, the records of conviction or a certified copy thereof shall be conclusive evidence of the conviction.~~

~~(2) Repeated failure to comply with the rules governing health and safety adopted by the board and approved by the State Department of Public Health, for the regulation of board-approved schools.~~

~~(3) Repeated failure to comply with the rules adopted by the board for the regulation of board-approved schools.~~

~~(4) Continued practice by a person knowingly having an infectious or contagious disease.~~

~~(5) Habitual drunkenness, or habitual use of, or addiction to the use of, any controlled substance.~~

~~(6) Obtaining or attempting to obtain practice in any occupation licensed and regulated under this chapter, or money, or compensation in any form, by fraudulent misrepresentation.~~

~~(7) Refusal to permit or interference with an inspection authorized under this chapter.~~

~~(8) Any action or conduct that would have warranted the denial of a school approval.~~

~~SEC. 5. Section 7396.1 is added to the Business and Professions Code, to read:~~

~~7396.1. (a) Any person, firm, or corporation desiring to operate an establishment shall make an application to the board for an establishment license accompanied by the fee prescribed by this chapter. The application shall be required whether the person, firm, or corporation is operating a new establishment or obtaining ownership of an existing establishment. If the applicant is obtaining ownership of an existing establishment, the board may establish the fee in an amount less than the fee prescribed by this chapter. A license issued pursuant to this section shall authorize the operation of the establishment only at the location for which the license is issued. Operation of the establishment at any other location shall be unlawful unless a license for the new location has been obtained upon compliance with this section, applicable to the issuance of a license in the first instance.~~

~~(b) On or before January 1, 2018, the board shall require as a condition of licensure pursuant to subdivision (a) that the applicant meets the following requirements:~~

~~(1)The applicant, if an individual, or each officer, director, and partner, if the applicant is other than an individual, shall not have committed acts or crimes that are grounds for denial of licensure in effect at the time the new application is submitted pursuant to Section 480.~~

~~(2)The applicant has knowledge of basic labor laws that pertain to the types of licensees who may work in the establishment. For purposes of this section, the definition of the term "basic labor laws" shall include, but not be limited to:~~

~~(A)Key differences between the legal rights, benefits, and obligations of an employee and an independent contractor;~~

~~(B)Wage and hour rights for hourly employees;~~

~~(C)Antidiscrimination laws relating to the use of a particular language in the workplace;~~

~~(D)Antiretaliation laws relating to a worker's right to file complaints with the Department of Industrial Relations;~~

~~(E)How to obtain more information about labor law from the Department of Industrial Relations;~~

~~(c)To ensure that applicants for an establishment license have the knowledge of basic labor laws pursuant to paragraph (2) of subdivision (b) the board shall do all of the following:~~

~~(1)In consultation with the Department of Industrial Relations, the board shall develop and add questions on basic labor laws to the application;~~

~~(2)In consultation with the Department of Industrial Relations and stakeholders, the board shall select or create informational materials on basic labor laws that the board determines to be practical and accessible to applicants;~~

~~(3)As part of a complete application, the board shall require a signed acknowledgment that the applicant understands both of the following:~~

~~(A)Establishments are responsible for obeying the labor laws of the State of California;~~

~~(B)The informational materials on basic labor laws selected or created by the board pursuant to paragraph (2) of subdivision (c);~~

~~SEC. 6. Section 7401 of the Business and Professions Code is amended to read:~~

~~7401. (a) An individual licensed pursuant to Section 7396 shall report to the board at the time of license renewal, his or her practice status, designated as one of the following:~~

~~(1) Full-time practice in California;~~

~~(2) Full-time practice outside of California;~~

~~(3) Part-time practice in California;~~

~~(4) Not working in the industry;~~

~~(5) Retired;~~

~~(6) Other practice status, as may be further defined by the board.~~

~~(b) An individual licensed pursuant to Section 7396 shall, at the time of license renewal, identify himself or herself on the application as one of the following:~~

~~(1) Employee;~~

~~(2) Independent contractor or booth renter;~~

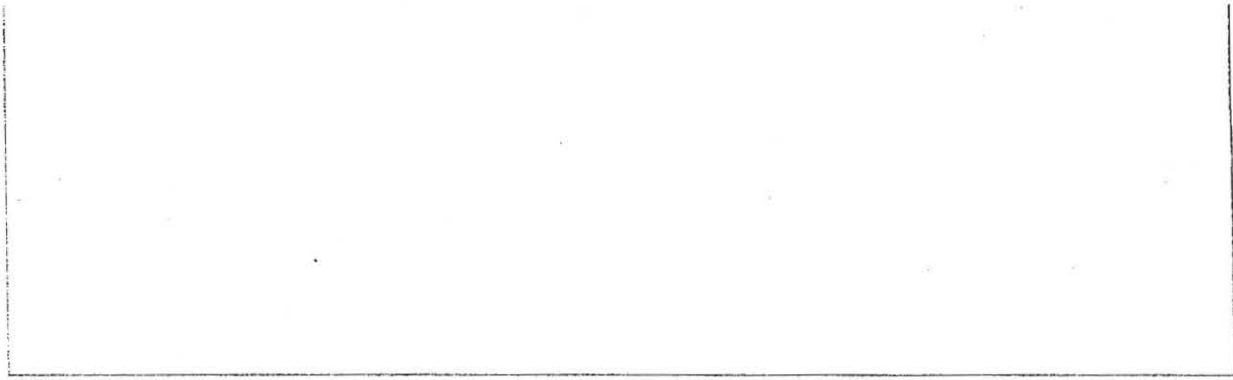
~~(3) Salon owner;~~

~~(c) An individual licensed pursuant to Section 7396.1 shall report to the board at the time of license renewal, whether either of the following is applicable to him or her:~~

~~(1) He or she has a booth renter operating in the establishment;~~

~~(2) He or she has an independent contractor operating in the establishment;~~











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## **BOARD OF BARBERING & COSMETOLOGY**

### **BILL ANALYSIS**

**Author: Assembly Member Chiu**

**Subject: Healthy Nail Salon  
Recognition Program**

**Co Author(s): Assembly Members Hernandez,  
Bonta, Chu, Gonzalez, Low, Ting and Senator Pan**

**Bill Number: AB 2125**

**Version: Amended May 31, 2016**

#### **Existing Law:**

Provides for the licensure and regulation of the practices of Barbering, Cosmetology and Electrology by the California Board of Barbering and Cosmetology (Board). (BP&C\* § 7312)

Established the California Safe Cosmetics act of 2005 which requires manufacturers to provide the "Department of Public Health with a list of ingredients used in their products that are known or suspected to cause cancer, developmental or reproductive harm."\*\*

Established the Department of Public Health (DPH), Occupational Safety and Health Administration (OSHA), Department of Industrial Relations (DIR) and Cal/OSHA.

Requires the Board to establish a Health and Safety Advisory Committee to provide the Board with advice and recommendations on health and safety issues before the Board. (BP&C\* § 7314.3)

Requires the Board develop or adopt a health and safety course on hazardous substances which shall be taught in Board approved schools. (BP&C\* § 7389)

Prohibits an establishment or school from having on the premises cosmetic products containing hazardous substances banned by the U.S. Food and Drug Administration (FDA) for use in cosmetic products. Prohibits the establishment or school have on the premises, methyl methacrylate monomer and/or methylene chloride. Prohibits use of a product in a manner disapproved by the FDA, OSHA or the Environmental Protection Agency (EPA). (16 California Code of Regulations § 989)

#### **This Bill:**

(1) Requires Department of Public Health (Department) by January 1, 2018, to publish guidelines for cities, counties and cities and counties to voluntarily implement local Healthy Nail Salon Recognition (HNSR) programs. The guidelines may include, but are not limited to:

(a) The salon shall not use any of the following: Any ingredient, that is a chemical classified by the U.S. EPA as carcinogenic to humans, likely to be carcinogenic to humans, or for which there is suggestive evidence of carcinogenic potential, or identified by the state to cause cancer as listed in the Safe Drinking Water and Toxic Enforcement Act of 1986 list of chemicals known to cause cancer or reproductive toxicity. The salon shall not use any ingredient that is a reproductive toxicant that causes birth defects, reproductive harm, or developmental harm as identified by the U. S. EPA, or listed in the Safe Drinking Water and Toxic Enforcement Act of 1986 list of chemicals known to cause cancer or reproductive toxicity. The Salon shall not use nail polishes that contain dibutyl phthalate (DBP), formaldehyde, or toluene, nail polish thinners that contain methyl ethyl ketone or toluene or nail polish removers that contain ethyl or butyl acetate.

(b) The salon shall ensure that all nail salon staff wear nitrile or other gloves determined to be sufficiently protective when using nail products.

(c) The salon shall be ventilated to improve air quality. A specific area shall be designated for artificial nail services, and that area shall be properly ventilated with mechanical ventilation units.

(d) All salon staff, whether on payroll or on contract, and owners shall be trained on safer practices delineated in the HNSR program guidelines.

(e) The salon shall not allow clients to bring in outside products for use, unless those products meet the program criteria, as determined by salon staff.

(f) The salon shall be in compliance the Act and all relevant regulations enforced by the State Board of Barbering and Cosmetology.

(g) Any other guidelines or best practices determined by the department to further the goals of an HNSR program.

(2) Requires the guidelines to impose the following on a city, county, or city and county that adopts a HNSRP:

a) Coordination with other local HNSRPs to assist businesses in achieving and moving beyond regulatory compliance.

b) Training requirements for the salon owners and staff to ensure thorough knowledge of safe and environmentally friendly procedures.

c) Providing an approved seal or certificate to a salon that has met all specified requirements, required to be displayed in full public view in the salon location.

d) Establishing a process by which a salon can enroll in an HNSRP and be verified by the local entity.

e) Establishing the frequency at which the local entity shall verify continued compliance by a salon that has previously met all specified requirements.

4) Requires DPH to consult with the Division of Occupational Safety and Health BBC throughout the process of developing the guidelines.

5) Requires DPH to promote the HNSRP guidelines through a consumer education program, by presenting the guidelines to local health officers, local environmental health departments, and other local agencies as the department deems appropriate, by developing and distributing or posting information on its website including suggestions for successful

implementation HNSRPs and resource lists that include names and contact information of vendors, consultants, or providers of financial assistance or loans for purchases of ventilation equipment and by developing a website or section on the DPH website that links to HNSRPs.

6) Authorizes DPH to prioritize its outreach to counties that have the greatest number of nail salons.

7) Authorizes BBC to notify the city, county, or city and county if a recognized salon is issued a citation or administrative fine.

### **Analysis:**

The city and county of San Francisco, Alameda, San Mateo and Santa Clara counties, and the city of Santa Monica have adopted a voluntary recognition program that encourages salons to use products with less toxic chemicals within the salon. The current program encourages nail establishment owners to assess the ventilation found in the salon and make improvements. Training is provided by the establishment owner to the staff on best practices for health and safety. Salons that meet the program's criteria are given an acknowledgement certificate, window sticker or poster and are listed as a healthier nail salon on a government website.

This bill sets forth voluntary requirements for nail salons to be designated as a Healthy Nail Salon. BBC does not classify licensed establishments by the services they offer. The bill does not clarify if this program is available to salons that offer cosmetology services in addition to nail services, as licensed cosmetologists may perform all of the services offered by a licensed manicurist.

The term "**Healthy** Nail Salon", implies that the designated establishment is following all laws and regulations (including laws and regulations imposed by the Board) that in a consumers mind make the establishment a 'healthy' environment. The bill as written, does not clarify how compliance by the local jurisdiction will be monitored, specifically, in regard to how the salon is in or not in compliance with the Act and Board regulation.

It is unclear if the training provided by the establishment owner of the approved Healthy Nail Salon establishment, to the approved salon employee, will be cohesive and supportive with training already provided by the Board in statute.

This bill allows another state agency to establish health and safety standards for establishments licensed by the Board.

This bill authorizes the Board to notify the city, county, or city and county if a recognized salon is issued a citation or administrative fine.

### **Fiscal Impact:**

As currently written this bill will not create a new burden or cost for the Board.

### **Board Position:**

On April 11, 2016, the Board took the following position: "Oppose"

\*BP&C refers to the California Business and Professions Code.

\*\* Information taken from the California Safe Cosmetics website. <https://www.cdph.ca.gov/programs/cosmetics/Pages/default.aspx>



*California*  
LEGISLATIVE INFORMATION

**AB-2125 Healthy Nail Salon Recognition Program. (2015-2016)**

AMENDED IN ASSEMBLY MAY 31, 2016

AMENDED IN ASSEMBLY APRIL 05, 2016

AMENDED IN ASSEMBLY MARCH 31, 2016

CALIFORNIA LEGISLATURE— 2015-2016 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2125**

**Introduced by Assembly Member Chiu**

~~(Coauthor: Assembly Member Roger Hernández)~~ *(Coauthors: Assembly Members Bonta, Chu, Gonzalez, Roger Hernández, Low, and Ting)*  
*(Coauthor: Senator Pan)*

**February 17, 2016**

An act to add Chapter 14 (commencing with Section 108960) to Part 3 of Division 104 of the Health and Safety Code, relating to nail salons.

**LEGISLATIVE COUNSEL'S DIGEST**

AB 2125, as amended, Chiu. Healthy Nail Salon Recognition Program.

Existing law regulates the existence and disclosure of specified chemicals and components in consumer products, including phthalates and bisphenol A. Existing law also provides for the licensing and regulation of nail salons and manicurists by the State Board of Barbering and Cosmetology within the Department of Consumer Affairs.

This bill would require the State Department of Public Health to publish ~~guidelines, including one or more model ordinances, guidelines~~ for cities, counties, and ~~city~~ cities and counties to voluntarily implement local healthy nail salon recognition (HNSR) programs with specified criteria for nail salons, including the use of less toxic nail polishes and polish removers and improved ventilation. The bill would also require the department to develop awareness campaigns, ~~model ordinances for local governments,~~ *present the guidelines to local health officers, local environmental health departments, and other local agencies,* and post specified information on its Internet Web site.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

**THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:**

**SECTION 1.** The Legislature finds and declares all of the following:



(a) According to the State Board of Barbering and Cosmetology, there are ~~98,613~~ **129,015** licensed manicurists, and ~~41,830~~ **52,680** licensed business establishments providing manicure services. There are ~~253,571~~ **312,215** licensed cosmetologists, many of whom work as nail salon technicians.

(b) Beauty care workers, including cosmetologists and manicurists, are highly exposed to the potential harm of carcinogens and reproductive toxins in cosmetics. Cosmetologists and manicurists are predominantly women and minorities. In California, an estimated 80 percent of nail salons are operated by Vietnamese women.

(c) Nail services are increasing in popularity among consumers. The money consumers spent in nail salons increased from \$7.3 billion in 2012 to \$8.54 billion in 2014.

(d) Chemicals in professional cosmetics can be harmful to salon customers, who increasingly include prepubescent girls and young women.

(e) Endocrine-disrupting chemicals can cause harm at very low levels. Some may enter the body through the skin or cuticle.

(f) Dibutyl phthalate (DBP), included in nail polish to reduce brittleness and cracking, is a reproductive and developmental toxicant that is especially harmful to pregnant women.

(g) Developmental toxicants interfere with proper growth or health of a child, acting at any point from conception to puberty.

(h) Toluene, a solvent found in nail polish, is a developmental and neurological toxicant that causes headaches, dizziness, and nausea, among other symptoms.

(i) Formaldehyde, a chemical that acts as a disinfectant and as a preservative in nail polishes, is a known carcinogen. Exposure to formaldehyde in the short term can irritate the eyes, nose, throat, and skin, and in the long term exposure can cause asthma.

(j) Alternatives to substances that cause serious harm, including cancer or reproductive toxicity, are readily available for use in cosmetic products. A number of manufacturers, including both small domestic producers and large multinational corporations, have eliminated certain substances that cause cancer or reproductive harm from their products.

(k) Some local governments have already adopted successful Healthy Nail Salon Recognition Programs (HNSR programs), including the City and County of San Francisco, the Counties of Alameda, San Mateo, and Santa Clara, and the City of Santa Monica.

(l) These local HNSR programs support nail salons that use less toxic products and practices that are safer for workers and their customers.

(m) Given the presence of substances in cosmetic products that cause cancer and reproductive toxicity and other serious adverse impacts, the heavy use of these products by women of childbearing age, the increasing use of manicure services among consumers including prepubescent girls and young women, the significant exposure to these products in occupational settings such as nail and beauty salons, the recently enacted successful local HNSR programs, and the availability of safer alternative products, it is in the interest of the people of the State of California to take steps to ensure that nail salons are given guidelines to operate safely for workers and consumers, support local solutions to reduce potentially harmful chemical exposures among customers and workers, determine the success of the HNSR programs in reducing harmful exposures experienced by nail salon customers and workers, and make recommendations for program improvements, as appropriate.

**SEC. 2.** Chapter 14 (commencing with Section 108960) is added to Part 3 of Division 104 of the Health and Safety Code, to read:

#### **CHAPTER 14. Healthy Nail Salon Recognition Program**

**108960.** (a) The State Department of Public Health shall, by January 1, 2018, publish ~~guidelines, including one or more model ordinances,~~ **guidelines** for cities, counties, and cities and counties to voluntarily implement local healthy nail salon recognition (HNSR) programs.

(b) The ~~guidelines, including the model ordinance or ordinances,~~ **guidelines** for an HNSR program may include, but are not limited to, all of the following qualifications:

(1) The salon shall not use ~~any cosmetic product that contains~~ any of the following:

(A) Any ingredient, as defined in subdivision (d) of Section 111791.5, that is a chemical classified by the United States Environmental Protection Agency as carcinogenic to humans, likely to be carcinogenic to humans, or for which there is suggestive evidence of carcinogenic potential, or identified by the state to cause cancer as listed in the Safe Drinking Water and Toxic Enforcement Act of 1986 (Chapter 6.6 (commencing with Section 25249.5) of Division 20) list of chemicals known to cause cancer or reproductive toxicity.

(B) Any ingredient, as defined in subdivision (d) of Section 111791.5, that is a reproductive toxicant that causes birth defects, reproductive harm, or developmental harm as identified by the United States Environmental Protection Agency, or listed in the Safe Drinking Water and Toxic Enforcement Act of 1986 (Chapter 6.6 (commencing with Section 25249.5) of Division 20) list of chemicals known to cause cancer or reproductive toxicity.

~~(C) Dibutyl-phthalate (DBP), formaldehyde, toluene, or methyl-ethyl-ketone.~~

*(C) Nail polishes that contain dibutyl phthalate (DBP), formaldehyde, or toluene.*

*(D) Nail polish thinners that contain methyl ethyl ketone or toluene.*

*(E) Nail polish removers that contain ethyl or butyl acetate.*

(2) The salon shall ensure that all nail salon staff wear nitrile or other gloves determined to be sufficiently protective when using nail products.

(3) The salon shall be ventilated to improve air quality. A specific area shall be designated for artificial nail ~~services~~ *services*, and that area shall be properly ventilated with mechanical ventilation units.

(4) All salon staff, whether on payroll or on contract, and owners shall be trained on safer practices delineated in the HNSR program guidelines.

(5) The salon shall not allow clients to bring in outside products for use, unless those products meet the program criteria, as determined by salon staff.

(6) The salon shall be in compliance with Chapter 10 (commencing with Section 7301) of Division 3 of the Business and Professions ~~Code~~. *Code, and all relevant regulations enforced by the State Board of Barbering and Cosmetology.*

(7) Any other guidelines or best practices determined by the department to further the goals of an HNSR program.

(c) The ~~model ordinance~~ *guidelines* required pursuant to subdivision (a) shall impose, but not be limited to, all of the following requirements on a ~~local entity~~ *city, county, or city and county* that adopts ~~a~~ *an* HNSR program:

(1) Coordinate with other local HNSR programs to assist businesses in achieving and moving beyond regulatory compliance.

~~(2) Encourage businesses to implement strategies to reduce toxic exposures to chemicals in nail salon products, improve ventilation strategies, and achieve greater understanding of products and their impacts on health.~~

~~(3) Promote improved community health outcomes, economic vitality, and sustainable business approaches.~~

~~(4)~~

*(2) Require training for the salon owners and staff to ensure thorough knowledge of safe and environmentally friendly procedures.*

~~(5)~~

*(3) Provide an approved seal or certificate to a salon that has met all specified requirements, required to be displayed in full public view in the salon location.*

~~(6)~~

*(4) Establish a process by which a salon can enroll in an HNSR program and be verified by the local entity.*

~~(7)~~



(5) Establish the frequency at which the local entity shall verify continued compliance by a salon that has previously met all specified requirements.

(d) The State Department of Public Health shall, throughout the process of developing guidelines pursuant to subdivision (a), consult with the Division of Occupational Safety and ~~Health, representatives of local agencies with existing HNSR programs, personnel of private nonprofit entities who have experience and skills in implementing HNSR programs, and members of affected communities, among others.~~ *Health and the State Board of Barbering and Cosmetology.*

(e) The department shall promote the HNSR ~~program~~ *guidelines* established pursuant to this chapter by doing all of the following:

~~(1) Solicit and support voluntary implementation of HNSR programs through awareness campaigns directed at nail salon business owners and local governments.~~

~~(2)~~

*(1) Develop and implement a consumer education program to promote awareness about HNSR programs.*

*(2) Present the HNSR guidelines to local health officers, local environmental health departments, and other local agencies as the department deems appropriate.*

(3) Develop and either distribute or post on its Internet Web site information for local entities, including, but not limited to, suggestions for successful implementation of HNSR programs and resource lists that include names and contact information of vendors, consultants, or providers of financial assistance or loans for purchases of ventilation equipment.

(4) Develop an Internet Web site or a section on the department's Internet Web site that links to county HNSR Internet Web sites.

(f) The department may prioritize its outreach to those counties that have the greatest number of nail ~~salons and that have the highest pollution burdens and vulnerabilities as determined by CalEnviroScreen.~~ *salons.*

*(g) The State Board of Barbering and Cosmetology may notify the city, county, or city and county if a recognized salon is found in violation of Article 12 of the State Board of Barbering and Cosmetology regulations. A violation shall result in the removal of healthy nail salon recognition from that salon.*







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## BOARD OF BARBERING & COSMETOLOGY

### BILL ANALYSIS

**Author: Assembly Member Ting**

**Subject: Posting Notice**

**Bill Number: AB 2437**

**Version: As Amended June 22, 2016**

#### **Existing Law:**

Provides the licensure and regulation of the practices of Barbering, Cosmetology and Electrology by the California Board of Barbering and Cosmetology. (Board)(BP&C\* § 7312)

Requires any person, firm or corporation operating an establishment where activity regulated under the Board is practiced, to apply for an establishment license. Existing law prohibits the Board from issuing a license to any applicant who has committed specified acts or crimes which are grounds for denial of licensure. (BP&C § 7347)

Provides that failure to display a license or health and safety rules and regulations in a visible place is grounds for disciplinary action by the Board. BP&C § 7404)

Creates the Division of Labor Standards Enforcement within the Department of Industrial Relations, which includes the general duty of enforcing labor laws, including those relating to wage claims and employer retaliation. (Labor Code (LAB) § 83, 90, 90.5, 96.7, 98)

Requires, at the time of hiring, an employer to provide each employee a written notice, containing information about the rate or rates of pay. (LAB § 2810.5)

#### **This Bill:**

- Requires on or after July 1, 2017, that an establishment licensed by the Board post a notice (developed by the Labor Commissioner) regarding workplace rights and wage and hour laws in a visible location in clear view of employees. This posting shall include, at a minimum, information on the following:
  1. Misclassification of an employee as an independent contractor;
  2. Wage and hour laws, including minimum wage, overtime compensation, meal periods and rest periods;
  3. Tip or gratuity distribution;
  4. How to report violations of the law;
  5. Business expense reimbursement;
  6. Protection from retaliation;
  7. The notice shall be translated into Spanish, Vietnamese, and Korean.

- Requires the Board to inspect for notice posting compliance.
- Gives the Board authority to cite and fine for non-posting compliance.
- Requires the notice is developed in plain language and be accessible on the Labor Commissioner's website.

**Fiscal Impact:**

The Board will need to promulgate regulations requiring establishments to display the required notice. The Board anticipates these costs minor and absorbable by the Board. If there is any IT impact required to implement the new fine, the Board deems the impact minor and absorbable by the Board.

**Analysis:**

This bill requires the Labor Commissioner to develop a posting that provides basic instruction on labor law. The Board will be required to inspect establishments for the posting of this notice. The Board will need to establish regulations for the citing and fining of the posting requirement. The Board will be minimally impacted by the requirements of this bill as amended.

**Board Position:**

On April 26, 2016, the Board took a "Support" position on the bill.

\*BP&C refers to the California Business and Professions Code.



*California*  
LEGISLATIVE INFORMATION

**AB-2437 Barbering and cosmetology: establishments: posting notice. (2015-2016)**

AMENDED IN SENATE JUNE 22, 2016

AMENDED IN ASSEMBLY APRIL 25, 2016

AMENDED IN ASSEMBLY MARCH 31, 2016

CALIFORNIA LEGISLATURE— 2015–2016 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2437**

**Introduced by Assembly Member Ting**

**February 19, 2016**

An act to add Section 7353.4 to the Business and Professions Code, and to add Section 98.10 to the Labor Code, relating to barbering and cosmetology.

**LEGISLATIVE COUNSEL'S DIGEST**

AB 2437, as amended, Ting. Barbering and cosmetology: establishments: posting notice.

(1) The Barbering and Cosmetology Act provides for the licensure and regulation of barbers, cosmetologists, estheticians, manicurists, electrologists, and apprentices by the State Board of Barbering and Cosmetology. The act requires the licensure of any person, firm, or corporation operating an establishment engaged in a practice regulated by the board, as specified, and requires a licensed establishment to comply with various requirements. That act requires the board to inspect an establishment within 90 days after issuing the establishment a license and requires the board to maintain a program of random and targeted inspections of establishments, as specified. A violation of the Barbering and Cosmetology Act is a misdemeanor unless a specific penalty is otherwise provided.

This bill would require, on and after July 1, 2017, an establishment licensed by the board to post a ~~specified~~ notice *regarding workplace rights and wage and hour laws, as described in paragraph (2)*, in a conspicuous location in clear view of employees and where similar notices are customarily posted. The bill would require the board to inspect an establishment for compliance with that requirement when it conducts the above-mentioned inspection, and would provide that a violation of that posting requirement is punishable as an administrative fine.

(2) Existing law creates the Division of Labor Standards Enforcement within the Department of Industrial Relations, and vests the division with the general duty of enforcing labor laws, including those relating to wage claims and employer retaliation. Existing law provides that the Labor Commissioner is the Chief of the Division of Labor Standards Enforcement.

This bill would require the Labor Commissioner, on or before June 1, 2017, to create a model posting notice pertaining to the workplace rights and wage and hour laws for employees of establishments licensed under the



Barbering and Cosmetology Act. The bill would require the model posting notice to ~~contain clear and concise~~ *be developed using plain* language and would require the commissioner to post the notice on the commissioner's Internet Web site, as specified. The bill would require the notice to contain, at a minimum, certain information, including laws regarding overtime compensation. ~~The bill would authorize the commissioner to consult with the Barbering and Cosmetology Board about providing the notice in additional languages other than English. The bill would require the model notice to be translated into specified languages.~~

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

## THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

**SECTION 1.** Section 7353.4 is added to the Business and Professions Code, to read:

**7353.4.** (a) On and after July 1, 2017, an establishment licensed by the board shall, upon availability of the posting notice developed by the Labor Commissioner pursuant to Section 98.10 of the Labor Code, post that notice in a manner that complies with the requirements of Section 98.10 of the Labor Code in a conspicuous location in clear view of employees and where similar notices are customarily posted.

(b) The board shall inspect for compliance with this posting requirement when it conducts an inspection pursuant to Section 7353.

(c) A violation of this section shall be punished by an administrative fine established pursuant to Section 7407 and shall not be punished as a misdemeanor under Section 7404.1.

**SEC. 2.** Section 98.10 is added to the Labor Code, immediately following Section 98.9, to read:

**98.10.** (a) On or before June 1, 2017, the Labor Commissioner shall develop a model notice pertaining to workplace rights and wage and hour laws for employees of establishments licensed under Chapter 10 (commencing with Section 7301) of Division 3 of the Business and Professions Code. The model posting notice shall ~~contain clear and concise~~ *be developed using plain* language and be accessible on the Labor Commissioner's ~~Commissioner's~~ Internet Web site so that it is reasonably accessible to an establishment that must comply with Section 7353.4 of the Business and Professions Code. ~~The Labor Commissioner may consult with the Board of Barbering and Cosmetology in providing the model posting notice in additional languages other than English.~~

(b) The model notice shall include information, including, but not limited to, all of the following:

(1) Misclassification of an employee as an independent contractor.

(2) Wage and hour laws, including, but not limited to, minimum wage, overtime compensation, meal periods, and rest periods.

(3) Tip or gratuity distribution.

(4) How to report violations of the law.

(5) Business expense reimbursement.

(6) Protection from retaliation.

*(c) The model notice shall be translated into Spanish, Vietnamese, and Korean.*







*California*  
LEGISLATIVE INFORMATION

**AB-2502 Land use: zoning regulations. (2015-2016)**

AMENDED IN ASSEMBLY JUNE 02, 2016  
AMENDED IN ASSEMBLY MAY 27, 2016  
AMENDED IN ASSEMBLY APRIL 18, 2016  
AMENDED IN ASSEMBLY MARCH 30, 2016

CALIFORNIA LEGISLATURE— 2015–2016 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2502**

**Introduced by Assembly Members Mullin and Chiu**  
**(Coauthors: Assembly Members Bonilla, Burke, Campos, Gordon, Thurmond, and Ting)**  
**(Coauthors: Senators Leno and Wieckowski)**

**February 19, 2016**

An act to amend Section 65850 of the Government Code, relating to land use.

**LEGISLATIVE COUNSEL'S DIGEST**

AB 2502, as amended, Mullin. Land use: zoning regulations.

The Planning and Zoning Law authorizes the legislative body of any city, county, or city and county to adopt ordinances regulating zoning within its jurisdiction, as specified.

This bill would additionally authorize the legislative body of any city, county, or city and county to adopt ordinances to require, as a condition of development of residential *rental* units, that the development include a certain percentage of residential rental units affordable to, and occupied by, moderate-income, lower income, very low income, or extremely low income households, as specified, and would declare the intent of the Legislature in adding this provision. The bill would also make nonsubstantive changes.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

**THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:**

**SECTION 1.** Section 65850 of the Government Code is amended to read:

**65850.** The legislative body of any city, county, or city and county may, pursuant to this chapter, adopt ordinances that do any of the following:

(a) Regulate the use of buildings, structures, and land as between industry, business, residences, and open space, including agriculture, recreation, enjoyment of scenic beauty, use of natural resources, and other

purposes.

(b) Regulate signs and billboards.

(c) Regulate all of the following:

(1) The location, height, bulk, number of stories, and size of buildings and structures.

(2) The size and use of lots, yards, courts, and other open spaces.

(3) The percentage of a lot which may be occupied by a building or structure.

(4) The intensity of land use.

(d) Establish requirements for off-street parking and loading.

(e) Establish and maintain building setback lines.

(f) Create civic districts around civic centers, public parks, public buildings, or public grounds, and establish regulations for those civic districts.

(g) Require, as a condition of the development of residential *rental* units, that the development include a certain percentage of residential rental units affordable to, and occupied by, households with incomes that do not exceed the limits for moderate income, lower income, very low income, or extremely low income households specified in Sections 50079.5, 50105, and 50106 of the Health and Safety Code.

**SEC. 2.** The Legislature finds and declares all of the following:

(a) Inclusionary housing ordinances have provided quality affordable housing to over 80,000 Californians, including the production of an estimated 30,000 units of affordable housing in the last decade alone.

(b) Since the 1970s, over 170 jurisdictions have enacted inclusionary housing ordinances to meet their affordable housing needs.

(c) While many of these local programs have been in place for decades, a 2009 appellate court decision has created uncertainty and confusion for local governments regarding the use of this tool to ensure the inclusion of affordable rental units in residential developments.

(d) It is the intent of the Legislature to reaffirm the authority of local jurisdictions to include in these inclusionary housing ordinances requirements related to the provision of rental units.

(e) The Legislature declares its intent in adding subdivision (g) to Section 65850 of the Government Code, pursuant to Section 1 of this act, to supersede any holding or dicta in any court decision or opinion to the extent that the decision or opinion conflicts with that subdivision.

(f) In no case is it the intent of the Legislature in adding subdivision (g) to Section 65850 of the Government Code, pursuant to Section 1 of this act, to enlarge, diminish, or modify in any way the existing authority of local jurisdictions to establish, as a condition of development, inclusionary housing requirements, beyond reaffirming their applicability to rental units.

(g) This act does not modify or in any way change or affect the authority of local jurisdictions to require, as a condition of the development of residential units, that the development include a certain percentage of residential for-sale units affordable to, and occupied by, households with incomes that do not exceed the limits for moderate-income, lower income, very low income, or extremely low income households.

(h) It is the intent of the Legislature to reaffirm that existing law requires that the action of any legislative body of any city, county, or city and county to adopt a new inclusionary housing ordinance be taken openly and that their deliberations be conducted openly consistent with the requirements of the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code).







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## BOARD OF BARBERING & COSMETOLOGY

### BILL ANALYSIS

**Author: Senator Nguyen**

**Subject: Credit/Debit Card for Tips**

**Co-Author(s): Senator Mendoza and  
Assembly Members Chiu and Gonzalez**

**Bill Number: SB 896**

**Version: Amended June 30, 2016**

#### **Existing Law:**

Provides the licensure and regulation of the practices of Barbering, Cosmetology and Electrology by the California Board of Barbering and Cosmetology (Board). (BP&C\* § 7312)

Requires any person, firm or corporation operating an establishment where activity regulated under the Board is practiced, to comply with the Board's rules and regulations. (BP&C § 7402)

Authorizes the Board to assess administrative fines for the violation of the Act or regulations adopted by the Board. (BP&C § 7406)

Prohibits an employer from collecting, taking or receiving any gratuity or a part thereof that is paid, given to, or left for an employee by a client, or deduct any amount from wages due an employee on account of a gratuity. Provides that every gratuity is the sole property of the employee to whom it was paid. Requires an employer that permits clients to pay gratuities by credit card, pay the employee the full amount of the gratuity, without any deductions for any credit card payment processing fees. Requires employers provide payment of the gratuity to the employee no later than the next regular payday following the date the client authorized the credit card payment/gratuity. (Labor Code § 351)

#### **This Bill:**

- Requires an establishment offering nail care services that accepts a debit/credit card for payment of services to also accept a debit/credit card payment for tips
- Provides that no reimbursement to the State is required by this act because it does not:
  - ✓ Create a new crime or infraction
  - ✓ Eliminate a crime or infraction
  - ✓ Change the penalty for a crime or infraction within the meaning of the Government Code Section 17556
  - ✓ Change the definition of a crime within the California Constitution, Section 6, Article XIII B.

#### **Analysis:**

This bill addresses the issue of use of credit/debit card payments for tips to establishments that offer nail care services. It does not include establishments that do not offer nail care services. No enforcement provisions are included with in the bill. The California Constitution requires the State to reimburse local

agencies and school districts for certain costs mandated by the State. This bill would provide that no such reimbursement is required due to the specified reasons listed.

**Fiscal Impact to the Board:**

None

**Board Position:**

On April 11, 2016 and April 26, 2016, the Board took the following position: "Oppose"

\*BP&C refers to the California Business and Professions Code.



## California LEGISLATIVE INFORMATION

**SB-896 Barbering and cosmetology: nail care establishments: credit and debit cards.** (2015-2016)

AMENDED IN ASSEMBLY JUNE 30, 2016

AMENDED IN SENATE MAY 23, 2016

AMENDED IN SENATE APRIL 25, 2016

AMENDED IN SENATE MARCH 17, 2016

CALIFORNIA LEGISLATURE— 2015-2016 REGULAR SESSION

**SENATE BILL**

**No. 896**

**Introduced by Senator Nguyen**

**(Coauthor: Senator Mendoza)**

~~(Coauthor: Assembly Member Chiu)~~ **(Coauthors: Assembly Members Chiu and Gonzalez)**

**January 21, 2016**

An act to add Section 7353.5 to the Business and Professions Code, relating to professions and vocations.

### LEGISLATIVE COUNSEL'S DIGEST

SB 896, as amended, Nguyen. Barbering and cosmetology: nail care establishments: credit and debit cards.

Existing law, the Barbering and Cosmetology Act, provides for the licensure and regulation of barbers, cosmetologists, estheticians, manicurists, electrologists, and apprentices by the State Board of Barbering and Cosmetology. The act requires the licensure of any person, firm, or corporation operating an establishment engaged in a practice regulated by the board, as specified, and requires a licensed establishment to comply with various requirements. A violation of the Barbering and Cosmetology Act is generally a misdemeanor.

Existing law declares that every gratuity, as defined, is the sole property of the employee or employees to whom it was paid, given, or left for. Existing law prohibits an employer from collecting, taking, or receiving any gratuity, or part thereof, that is paid, given to, or left for an employee by a patron, from deducting any amount from wages due an employee on account of a gratuity, or requiring an employee to credit the amount, or any part thereof, of a gratuity against and as part of the wages due an employee. Existing law also requires an employer that permits patrons to pay gratuities by credit card to pay the employee the full amount of the gratuity without any deductions for any credit card payment processing or costs, and to pay a gratuity made by a patron using a credit card to an employee not later than the next regular payday.

This bill would require an establishment ~~that offers~~ **offering** nail care services, if it accepts a debit or credit card as payment for nail care services, to also accept a debit or credit card for payment of a tip or gratuity, consistent with the above existing law regarding gratuities. By expanding the scope of the criminal penalty

provisions of the Barbering and Cosmetology Act, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

**SECTION 1.** Section 7353.5 is added to the Business and Professions Code, to read:

**7353.5.** If an establishment ~~that offers~~ **offering** nail care services accepts a debit or credit card as payment for nail care services, the establishment shall also accept a debit or credit card for payment of a tip or gratuity, consistent with Section 351 of the Labor Code.

**SEC. 2.** No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.







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## **BOARD OF BARBERING & COSMETOLOGY**

### **BILL ANALYSIS**

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**Author: Senator Nguyen****Co-Sponsor: Board of Barbering and Cosmetology****Subject: Double Fines; Payment Plans****Bill Number: SB 1044****Version: Amended June 13, 2016**

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#### **Existing Law:**

Requires the Board to issue a citation for violations for which an administrative fine is authorized to be assessed. The citation must be in writing, the nature of the violation alleged must be printed on the citation and the fine must be attached at the time the citation is written. The citation shall include an order to correct any violations, as determined by the Board. (BP&C § 7408)

Requires the establishment owner and individual licensee to be jointly responsible for implementing and maintaining the Health and Safety rules. (CCR\*\* 904(b))

Requires that all citations be paid within 30 days of issuance of a citation (BP&C §125.9 (b)(5))

Requires that a license not be issued or renewed if a licensee fails to pay his/her fines in full. (BP&C § 7414)

#### **This Bill:**

- Requires the Board to determine by regulation when a fine should be assessed to the establishment holder and the individual licensee for the same health and safety violation;
- Requires the Board to establish through regulation when a fine should be assessed to an individual and an establishment owner using the following specifications:
  1. Consider the egregiousness of the health and safety violation
  2. Consider whether the violation is a repeated violation by an individual licensee within the same establishment
- Authorizes the Board to enter into a payment plan for citations with administrative fines exceeding \$500.00;

- Requires the Board to define by regulation the parameters of the payment plan (including the terms of the plan and the grounds for the cancellation of the plan).
- Allows for the Board to issue or renew a license if the licensee has not paid their fines and is put on a payment plan.

### **Background:**

It is the Board's practice to cite the establishment owner(s) for ALL violations found within the establishment regardless of whether the establishment owner precipitated the violation.

Currently, the Board offers an informal payment plan in which the account terms are noted on the BreEZe database (work notes) but the responsibility to keep track of payments, how much is due, and final balance falls to the licensee. The Board has provided this informal service in an attempt to not have fines impact the livelihood of licensees.

### **Analysis:**

The evaluation of who receives the fine (establishment owner or individual licensee) or the institution of a payment plan for a licensee would mean minimal process changes for Board staff. It is felt that the workload could be absorbed within the Boards current work load capabilities.

This bill addresses the BBC's concern of establishment owners being cited for the practices of their booth renters. Booth renters are often under contract to pay the establishment owners any fines assessed to the establishment owner by the Board. Oftentimes, this results in the booth renter paying a double fine. (Their own fine and the fine to the establishment owner). Discontinuing the practice of double fining the establishment owner and personal licensee/booth renter will result in fewer fines to parties that are not directly responsible for the violation while still addressing disciplinary actions (fines) to the proper offender.

This bill does favor economic interests within the State as an individual can continue to provide services in a licensed establishment while paying off fines that may have otherwise gone unpaid without a payment plan.

### **Fiscal Impact:**

The Board is currently using the BreEZE database. Additional interfacing would need to be implemented to the database. It is estimated the IT impact would be minor and absorbable with existing maintenance resources assuming an implementation date is six months after finalization of regulations. The Board anticipates the cost to promulgate regulations would be no more than \$1,000.00 and may be absorbable by the Board.

### **Board Position:**

On April 26, 2016, the Board took a "Support" position and became a co-sponsor of the bill.

\*BP&C refers to the California Business and Professions Code.

\*\*CCR refers to the California Code of Regulations



# California

## LEGISLATIVE INFORMATION

### SB-1044 Barbering and cosmetology. (2015-2016)

AMENDED IN ASSEMBLY JUNE 13, 2016

AMENDED IN SENATE APRIL 20, 2016

AMENDED IN SENATE MARCH 17, 2016

CALIFORNIA LEGISLATURE— 2015–2016 REGULAR SESSION

**SENATE BILL**

**No. 1044**

**Introduced by Senator Nguyen  
(Coauthor: Assembly Member Chiu)**

**February 12, 2016**

An act *to amend Section 7414 of, and* to add Sections 7407.1 and 7408.1 *to to*, the Business and Professions Code, relating to professions and vocations.

### LEGISLATIVE COUNSEL'S DIGEST

SB 1044, as amended, Nguyen. Barbering and cosmetology.

Existing law, the Barbering and Cosmetology Act, provides for the licensure and regulation of the practices of barbering, cosmetology, and electrolysis by the State Board of Barbering and Cosmetology. Existing law also requires any person, firm, or corporation operating an establishment where any activity licensed under the act is practiced to apply to the board for a license. Existing law requires protection of the public to be the highest priority for the board in exercising its licensing, regulatory, and disciplinary functions. Under existing law, whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public is required to be paramount.

Under existing law, the board is authorized to assess administrative fines for a violation of the act or a violation of any rules and regulations adopted by the board pursuant to the act. Existing law requires the board to establish by regulation a schedule of administrative fines for violations of the act.

This bill would require the board to determine by regulation when a fine is required to be assessed against both the holder of the establishment license and the individual licensee for the same violation. The bill would also require the board to determine by regulation when a fine shall be assessed to only the holder of the establishment license or to only an individual licensee for the same violation. In making these determinations, the bill would require the board to consider specified factors.

Existing law requires the board to issue a citation with respect to any violation for which an administrative fine is authorized to be assessed. Existing law requires these citations to be in writing and to describe with particularity the nature of the violation alleged to have occurred. Under existing law, the administrative fine, if any, is required to be attached at the time the citation is written.



The bill would authorize the board to enter into a payment plan for citations with administrative fines exceeding \$500. The bill would require the board to define by regulation the parameters of the payment plans, as specified.

*Existing law prohibits issuing a license to, or renewing any issued licenses of, persons who fail to pay administrative fines that were not contested or were contested but the appeal has been adjudicated, until all fines are paid in addition to any application, renewal, or delinquency fees which are required.*

*The bill would instead authorize making the issuance of a license to, or the renewal of a license of, a person who fails to pay administrative fines that were not contested or that were contested but the appeal has been adjudicated contingent upon all fines being paid in addition to any application, renewal, or delinquency fees which are required.*

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

## THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

**SECTION 1.** Section 7407.1 is added to the Business and Professions Code, to read:

**7407.1.** The board shall determine by regulation when a fine shall be assessed to both the holder of the establishment license and the individual licensee for the same violation. The board shall also determine by regulation when a fine shall be assessed to only the holder of the establishment license or to only an individual licensee for the same violation. In making these determinations, the board shall consider the egregiousness of the violation of the health and safety regulations and whether the violation is a repeated violation by licensees within the same establishment.

**SEC. 2.** Section 7408.1 is added to the Business and Professions Code, to read:

**7408.1.** The board may enter into a payment plan for citations with administrative fines that exceed five hundred dollars (\$500). The board shall define by regulation the parameters of the payment plan, which shall include, but shall not be not limited to, the terms of the plan and grounds for cancellation of the plan.

**SEC. 3.** Section 7414 of the Business and Professions Code is amended to read:

**7414.** ~~Persons who fail~~ *The issuance of a license to, or the renewal of a license of, a person who fails* to pay administrative fines that were not contested or ~~that~~ were contested but the appeal has been ~~adjudicated, shall not be issued a license or allowed to renew any licenses issued to them until~~ *adjudicated may be made contingent upon* all fines ~~are being~~ paid in addition to any application, renewal, or delinquency fees which are required.





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## **BOARD OF BARBERING & COSMETOLOGY**

### **BILL ANALYSIS**

**Author: Senator Nguyen****Subject: Establishment License  
Acknowledgement****Bill Number: SB 1125****Version: Amended March 28, 2016**

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**Existing Law:**

Provides for the licensure and regulation of the practices of Barbering, Cosmetology and Electrology by the California Board of Barbering and Cosmetology (Board). (BP&C\* § 7312)

Prohibits an employer from collecting, taking or receiving any gratuity or a part thereof that is paid, given to, or left for an employee by a client, or deduct any amount from wages due an employee on account of a gratuity. Provides that every gratuity is the sole property of the employee to whom it was paid. Requires an employer that permits clients to pay gratuities by credit card, pay the employee the full amount of the gratuity, without any deductions for any credit card payment processing fees. Requires employers provide payment of the gratuity to the employee no later than the next regular payday following the date the client authorized the credit card payment/gratuity. (Labor Code (LAB) § 351)

Creates the Division of Labor Standards Enforcement within the Department of Industrial Relations, which includes the general duty of enforcing labor laws, including those relating to wage claims and employer retaliation. (LAB) § 83, 90, 90.5, 96.7, 98)

Requires, at the time of hiring, an employer to provide each employee a written notice, containing information about the rate or rates of pay. (LAB § 2810.5)

**This Bill:**

- Requires the Board to include an acknowledgment statement on an establishment license application, of an establishment proposing to provide nail care services, that the applicant understands their responsibility to comply with any applicable State labor laws and that they understand the informational materials provided by the Board as it pertains to basic labor laws.
- Establishes that the educational materials developed or selected by the Board shall include information on:

1. Key differences between the legal rights, benefits and obligation of an employee and independent contractor;
2. Wage and hour rights for hourly employees;
3. Antidiscrimination laws relating to the use of a particular language in the workplace;
4. Antiretaliation laws relating to a worker's right to file complaints with the Department of Industrial Relations;
5. How to obtain more information about labor law from the Department of Industrial Relations.

**Analysis:**

The Board does not currently differentiate between the types of services offered at the establishments that it licenses. This bill is directly written for establishments that offer nail care services. Possible impact could result if there are a large number of applications deficiencies on the establishment application (due to the acknowledgement not being signed). The Board will need to implement a Nail Services Establishment License Application. The costs and workload impact is considered minor and absorbable by the Board.

**Fiscal Impact:**

The costs and workload impact related to this bill are considered minor and absorbable by the Board.

**Board Position:**

None on file.

\*BP&C refers to the California Business and Professions Code.

\*\*CCR refers to the California Code of Regulations





# California

## LEGISLATIVE INFORMATION

**SB-1125 Employment relations: nail care salons: labor law compliance.** (2015-2016)

AMENDED IN SENATE MARCH 28, 2016

CALIFORNIA LEGISLATURE— 2015–2016 REGULAR SESSION

**SENATE BILL**

**No. 1125**

**Introduced by Senator Nguyen**

**February 17, 2016**

An act to ~~amend Section 1171 of~~ **add Section 2810.8** to the Labor Code, relating to employment.

### LEGISLATIVE COUNSEL'S DIGEST

SB 1125, as amended, Nguyen. ~~Employees: regulation and supervision.~~ **Employment relations: nail care salons: labor law compliance.**

*The Barbering and Cosmetology Act provides for the licensure and regulation of barbers, cosmetologists, estheticians, manicurists, electrologists, and apprentices by the State Board of Barbering and Cosmetology. The act requires the licensure of any person, firm, or corporation operating an establishment engaged in a practice regulated by the board, as specified. Existing law imposes various duties on employers with respect to employment relations, including requiring the employer to, at the time of hiring, provide each employee with a written notice containing specified information about the terms of employment and the rights of the employee.*

*In the case of an establishment offering or proposing to offer nail care services, this bill would require the board to require an application for an establishment license to include a signed acknowledgment that the applicant understands that the applicant is responsible for compliance with any applicable labor laws of the state and the informational materials that the board selects or develops on basic labor laws, as specified.*

~~Existing law regulates the wages, hours, and working conditions of employees with specified exceptions. Under existing law, these provisions apply to and include men, women, and minors employed in any occupation, trade, or industry, except as provided.~~

~~This bill would make nonsubstantive changes to these provisions.~~

Vote: majority Appropriation: no Fiscal Committee: ~~no~~yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

**SECTION 1.** *Section 2810.8 is added to the Labor Code, to read:*

**2810.8.** *The State Board of Barbering and Cosmetology shall require, as part of a complete application for an establishment license made pursuant to Section 7347 of the Business and Professions Code by an establishment*

*providing or proposing to provide nail care services, that the applicant include a signed acknowledgment that the applicant understands both of the following:*

*(a) That establishments are responsible for compliance with any applicable labor laws of the state.*

*(b) Those informational materials on the basic labor laws of the state that the State Board of Barbering and Cosmetology shall select or develop. As used in this subdivision, "basic labor laws" shall include, but not be limited to, the following:*

*(1) Key differences between the legal rights, benefits, and obligations of an employee and an independent contractor.*

*(2) Wage and hour rights for hourly employees.*

*(3) Antidiscrimination laws relating to the use of a particular language in the workplace.*

*(4) Antiretaliation laws relating to a worker's right to file complaints with the Department of Industrial Relations.*

*(5) How to obtain more information about labor law from the Department of Industrial Relations.*

~~SECTION 1. Section 1171 of the Labor Code is amended to read:~~

~~1171. The provisions of this chapter shall apply to and include men, women, and minors employed in any occupation, trade, or industry, whether compensation is measured by time, piece, or otherwise, but shall not include an individual employed as an outside salesperson or an individual participating in a national service program carried out using assistance provided under Section 12571 of Title 42 of the United States Code.~~

~~An individual participating in a national service program pursuant to Section 12571 of Title 42 of the United States Code shall be informed by the nonprofit, educational institution or other entity using his or her service, prior to the commencement of service of the requirement, if any, to work hours in excess of eight hours per day, or 40 hours per week, or both, and shall have the opportunity to opt out of that national service program at that time. Individuals participating in a national service program pursuant to Section 12571 of Title 42 of the United States Code shall not be discriminated against or be denied continued participation in the program for refusing to work overtime for a legitimate reason.~~





**Board of Barbering and Cosmetology**  
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## MEMORANDUM

TO: Members, Board of Barbering and Cosmetology Date: May 12, 2016

FROM: Tami Guess, Board Project Manager, Board of Barbering and Cosmetology

SUBJECT: Cosmetology Examination Review Updates (AB 181)

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Effective January 1, 2016, the provisions of AB 181 (Bonilla, Chapter 430) became effective. The Board is required to conduct the following reviews and report its findings and recommendations to the Assembly Committee on Business and Professions and the Senate Committee on Business and Economic Development no later than November 1, 2018. (Pursuant to Section 7303.2 (a) of the California Business and Professions Code).

### **1600 Hour Cosmetology Curriculum Review Advisory Task Force**

The purpose of this Advisory Task Force is to review the 1600-hour training requirement for Cosmetologists. Staff anticipates empanelling the Advisory Task Force by December 1, 2016. The Board anticipates holding meetings throughout the State depending on member location. Although no meetings have been scheduled at this time, we hope to hold the first meeting of the new Advisory Task Force by early 2017. The first meeting will be scheduled in Sacramento, California, at a location to be determined. The Board has posted committee recruiting information on its website BarberCosmo and has been using its social media to recruit membership interest.

#### **Action Required:**

##### **1. The Board, by motion, will need to establish:**

- If Board members will be on the Task Force, which two Board members will participate on the 1600 Hour Cosmetology Curriculum Review Advisory Task Force.

##### **2. The Board, by motion, will need to establish if the following committee compilation meets with their approval:**

- Community Colleges that offer the Cosmetology program
- Private Board approved Cosmetology schools
- Industry representatives
- Board licensees (Cosmetologists, Estheticians, Manicurists)

##### **3. The Board, by motion, will need to establish if the following terms are acceptable:**

- Committee membership is not considered employment with the State of California.

- Members (excluding Board Members) serve on a voluntary basis and do not receive salary, benefits or travel reimbursement.

4. The Board, by motion, may delegate the authority for the appointment of Committee Members to the Executive Officer.

**National Exam Review and Cosmetology Occupational Analysis**

The Board has begun the preliminary process of securing a contract with the Office of Professional Examination Services (OPES) for the completion of the NIC Exam Review and Cosmetology Occupational Analysis. Further information will be made available at the November Board meeting.





BUSINESS, CONSUMER SERVICES, AND HOUSING AGENCY • GOVERNOR EDMUND G. BROWN JR.

**Board of Barbering and Cosmetology-Department of Consumer Affairs**

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## MEMORANDUM

<b>DATE</b>	July 17, 2016
<b>TO</b>	Members, Board of Barbering and Cosmetology
<b>FROM</b>	Kristy Underwood, Executive Officer
<b>SUBJECT</b>	<b>Regulations Update</b>

- **Military Training:** This rulemaking has been approved by the Office of Administrative Law. It went into effect July 1, 2016.

**Action:** None needed.

- **Demonstration of Products:** The Board is submitting the final language and final statement of reasons for review and adoption by the Board. The language, which the Board agreed to modify at its last meeting, was subject to a 15-day public notice from May 10, 2016 through May 25, 2016. No public comments were received during that period.

**Action:** Staff requests that the Board approve a motion to adopt the proposed regulatory changes as modified and to delegate to the executive officer the authority to make any technical or non-substantive changes that may be required in completing the rulemaking file.

- **Consumer Notice:** This rulemaking has been filed with the Office of Administrative Law and will be the subject of a public hearing on August 9, 2016.

**Action:** None needed.

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

**Modified Text**

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

- Adopt Section 965.1, Title 16, California Code of Regulations, as follows:

**§ 965.1. Persons Exempt from ~~Licensing~~ Application of Chapter; Demonstration of Products.**

For the purposes of Section 7319, ~~as specified in subdivision (e) of the Business and Professions Code concerning persons exempt from the Barbering and Cosmetology Act, the term "demonstrating" means the following: to perform performing a one-time service on a consumer, without compensation, to show how that a product is used or to prove its value or effectiveness, with the intent that the consumer may later purchase and apply the product him- or herself, without the help of a licensee or product instructor, and the purchase price of the product charged to the consumer is no more than its average retail price.~~

*Note: Authority cited: Section 7312, Business and Professions Code. Reference: ~~Section Sections 7316 and 7319(e), Business and Professions Code.~~*

# BOARD OF BARBERING AND COSMETOLOGY

## FINAL STATEMENT OF REASONS

**Hearing Date:** October 14, 2015

**Subject Matter of Proposed Regulations:** Demonstration of Products

**Sections Affected:** Section 965.1, California Code of Regulations

### Updated Information

During the course of this rulemaking, the Board made revisions to the original language. These were posted on the Board's Web site for public review from May 10, 2016 to May 25, 2016. The changes are as follows:

- The title of Section 965.1 was modified in order to more properly align it with the subject of Article 2 of Chapter 10, Division 3 of the Business and Professions Code: the application of the chapter.
- Added language concerning the purchase price of the product because an unusually high price is a hallmark of products being applied or demonstrated outside the bounds of Section 7319(e).
- Revised the reference citation to include Section 7316, which defines the practice of barbering and cosmetology.
- Some minor, non-substantive deletions to simplify the language.

### Local Mandate

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

### Small Business Impact

There is no significant impact to small business. This regulation merely clarifies a longstanding statute regarding the demonstration of products in order to help ensure that unlicensed persons do not perform services for which a license is required under California law.

### 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 more effective in carrying out the purpose for which the regulation is proposed, would be as effective and less burdensome to affected private persons than the adopted regulation, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy on other provision of law.

### Summary of, and Responses to, Comments Received During the 45-day Comment Period on the Original Language

No comments were received.

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

No comments were received.



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## MEMORANDUM

TO: Members  
Board of Barbering and Cosmetology

Date: June 22, 2016

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

SUBJECT: Pass Rate for Spanish Cosmetology Examination

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### **Background**

The Board has been experiencing low passing rates for candidates that are taking the written examination in Spanish. Recent legislation (AB 181, chapter 430, statutes of 2016) specifically addressed this issue by stating:

*The Board shall review the Spanish language examination if, by January 1, 2016, the pass rate for Spanish speakers did not increase to the average pass rate for all other language examinations during the two-year period prior to January 1, 2016.*

For the last two-years, the Spanish pass rates have not increased. Therefore, pursuant to the statute above the Board must conduct a review to determine a cause for the low rate. Board staff has been reviewing this issue for several months and this memo will provide information on the findings.

### **Data Review**

Initially, staff believed we could determine a pattern in the low pass rates. For example, are the candidates coming from a specific school, a specific geographical area, etc. Numerous reviews of data were conducted and no pattern was found. It was determined that the low pass rates include candidates who went to a California school, came from out of state, came from out of country or completed an apprenticeship program. In fact, the failure rate is an average of 82% regardless of where the initial education was determined.

The Board starting reporting pass rates by language type in 2009 when the national written examination was adopted. Data was able to be pulled from previous years to review the prior passage rate. The prior examination was developed by the Board (in conjunction with the Department of Consumer Affairs) and was provided in Spanish. The pass rates are listed below:



Fiscal Year	Pass Rate
09/10	31%
10/11	33%
11/12	24%
12/13	29%

One item that the data review did provide was that Spanish test takers are passing the practical portion of the examination. For the last two fiscal years (2013/14 and 2014/15) the pass rate for Spanish test takers of the practical examination is 82%.

### **Translation Review**

As the Board provides a national examination developed by the National Interstate Council of State Boards of Cosmetology (NIC), the NIC also is responsible for the translations of all examinations. The Board contacted the NIC to express the concern with the low passage rate in the Spanish examinations and asked the NIC to look into a possible translation issue. The NIC responded that there is a lack of statistical evidence that the translated examination items are flawed and that leads to the conclusion that the Spanish version of the examination measures competence with the same degree of accuracy as the English examination.

### **Pass Rates by Examination Content Area**

Staff reached out to NIC and requested an audit of Spanish written exam pass rates by exam content area. The intent was to determine if there was a trend on which area of the exam Spanish exam takers were failing. NIC conducted the audit. It was determined across all four exam domains, Spanish candidates performed lower, on average, than the English candidates. Overall there did not seem to be a performance difference within the domains for English and Spanish candidates.

### **Other States**

According to the NIC, only one other state has expressed concern over pass rates for Spanish speaking applicants (North Carolina). The Board reached out to the State Board of North Carolina. The results are noted below. In addition the Board has reached out to Texas, Arizona and New Mexico. As these states border Mexico, it was assumed that these States may have a larger population of Spanish speaking individuals taking the written/practical exam in the Spanish language.

#### **North Carolina**

The North Carolina Board of Cosmetic Art Examiners notes the following statistics but is currently not addressing low Spanish exam pass rates. Cosmetology 50% (142 administrations), Nail Technology 36.23% (69 administrations). These statistics include the original exam and re-exams.

#### **Texas**

The Texas Department of Licensing and Regulation does not use the NIC written exam. The current pass rate for the 2015 written Barber exam is 73% (56 administrations given), the Cosmetology written exam is 66% (1224 administrations given), and the Cosmetology Manicurist written exam is 60% (75 administrations given).

## New Mexico

The New Mexico Board of Barbers and Cosmetologists report that they do use the NIC examination and are currently not having problems with their Spanish examination pass rates.

## Arizona

The Arizona Board of Cosmetology does use the NIC exam; however, they only offer the examination in English.

## **Candidate Survey**

To further gather data Board staff added a survey that must be responded to at the end of each computer-based examination. Below are the survey questions and the responses:

Question:	Answered Yes	Answered No
Was it easy to understand the translated exam?	62%	38%
Did you use Spanish text books in school?	89%	11%
Were you taught in Spanish at school?	72%	28%
Is Spanish your natural/first language?	98%	2%
Would you take this exam in Spanish again?	93%	7%
Would you consider taking the exam in English?	69%	31%

## **School Survey**

In April 2014, the Board reached out to cosmetology schools to determine if they had any input on this issue. The Board developed a survey and mailed it to all approved schools. Unfortunately, the responses received were minimal however; some of the information provided may be helpful. The survey questions and responses are noted below:

Question	# of Responses	Yes	No
1. Do you have Spanish speaking students?	48	54%	46%
2. Do you instruct and/or provide textbooks and learning material in Spanish?	23	40%	60%
3. What areas do you find most challenging for these students?	23	*	*
4. What suggestions do you have for the Board to assist your Spanish speaking students?	20	*	*
5. Would you send an instructor to participate in a Q & A session concerning this topic at the Boards Sacramento Office?	23	48%	52%

\*Questions 3 and 4 were open-ended questions that allowed the respondent to type in the comments. Attached are the written responses that were received. Please note: the attached survey responses are pulled directly from the survey database and appear as they were submitted by the respondents.

## **Information Provided**

To Applicants:

In an effort to help educate examination candidates, the Board updated its examination application to include the following language:

*These examinations are translated into the most universal or neutral version of each language to be acceptable to the widest possible audience.*

To Schools:

In July 2015, the following information was provided to all approved schools:

*The Board is continuing to see very low pass rates for students taking the cosmetology examination in Spanish. The Board would like all schools to remind their students that examinations are translated into the most universal or neutral version of the specified language. If a student has been taught the curriculum in English, they may be more successful if they take the examination in English.*

## **Bureau of Private Postsecondary Education**

The Board reached out to the Bureau of Private Postsecondary Education (BPPE) to determine if they have authority over passage rates as the BPPE does regulate private cosmetology schools. The BPPE noted that their authority is to ensure the school is operating legally which would require each school to:

- Require proof of high school graduation
- Hire competent teachers

The BPPE requires a student that does not have a certificate of graduation from a school providing high school education or the recognized equivalent of the certificate, take and pass an independently administered Ability to Benefit (ATB) examination. The ATB exam measures a student's basic verbal and quantitative skills. The Board approved school is required, prior to executing an enrollment agreement with an ATB student, to have the student take and pass an independently administered examination from the list of examinations prescribed by the United States Department of Education (as required by the California Education Code (CEC) Section 94904). A list of ATB examinations that are approved for use is available on the BPPE's website. The approved school must maintain a student file that includes the information related to how the student was admitted into the Board approved school (CEC, Section 71920). The BPPE is able to take administrative action if during a compliance inspection the student and or institutional records are reviewed and found out of compliance with the law or regulation. A citation or administrative action may be taken. If a student was not properly enrolled, the BPPE may seek a refund of the tuition paid to the school.

## **Conclusions**

### **High School Graduation or Equivalent**

The Board's requirement for an applicant for a cosmetology license is that they must self-certify that they have completed the 10<sup>th</sup> grade. However, the BPPE requires all private schools enroll students that have graduated high-school or have the equivalent

(ATB exam). Since the ATB exam is not required by the Board to sit for the Cosmetology/Barbering examination, it may be that students are sitting for the examination without a minimal level of education as required by the BPPE. There could be a conflict that schools are enrolling students that do not have a minimal level of education to enter into the field of cosmetology.

### Language Access

The Board's survey results do not demonstrate that language access is a concern. Applicants taking the examination in Spanish responded that 69% would take it again in Spanish.

### Quality of Education

The quality of education that is taught in schools could be a potential reason for low pass rates, however, there is very little jurisdiction of quality by either the Board or the BPPE. The Board has minimal authority over the education of the students. While the Board sets the curriculum and can ensure that schools are maintaining the curriculum, the Board does not have access to student records and cannot verify each student is being fully taught all aspects of the curriculum.

### Practical vs. Written

The Spanish speaking applicants have a high pass rate on the practical examination. This could be for a couple of reasons: 1) the students are more hands-on and visual learners and therefore are more successful in the demonstration aspect of the examination or 2) the students are being taught in school only how to pass the examination and not focusing on the theory aspect of education.

## **Solutions**

The NIC examinations are translated into the most universal or neutral version of each language offered. Therefore, the Board feels that providing students with a list of common industry terms that may not be commonly referenced in their primary language may provide students with a greater understanding of what is being asked on the examination questions. The NIC has agreed to provide a vocabulary list of common industry terms translated into the words that examinees will see on the actual written and practical exam. These vocabulary lists will be available on the NIC website in Spanish and Vietnamese by October 2016, and the Korean vocabulary list soon to follow. Once available, the Board will send out a circular letter instructing all schools who have students being instructed in the various languages to make the vocabulary lists available to the students early in the education process, so that they may become familiar with terms they will see coming on the licensing exam.

In addition, members may consider adopting the regulatory change below to the California Code of Regulations Title 16, Division 9, Article 7, section 961:

### **§ 961. Online Training and Text and Reference Books for Students.**

(a) In teaching, approved schools shall use text and reference books approved by the National Interstate Council of State Boards of Cosmetology (NIC). Approved schools may use other teaching material or on-line training programs, in lieu of the text book, under the condition that they have been approved by the NIC.



(b) Each student shall possess the following:

(1) At least one (1) of the textbooks approved by the NIC or have access to a NIC-approved online program.

(2) The Barbering and Cosmetology Act and the Rules and Regulations of the Board of Barbering and Cosmetology.

(c) There shall be available for the use of students in the school:

(1) A list of the text and reference books approved by the NIC.

(2) Any two approved texts other than the one text or online program access, possessed by the student. (Shall not apply to barber schools if there are less than three approved texts.)

(3) A vocabulary list (produced by NIC) of common industry terms that may appear on the NIC examinations translated into the languages offered by the California Board of Barbering and Cosmetology.

Note: Authority cited: Sections 7312 and 7362, Business and Professions Code.

Reference: Section 7362, Business and Professions Code.

### **Future Actions**

It will take a measure of time to determine if the required use of the vocabulary lists will produce a higher pass rate in the exams.

It is recommended that the Board advise the Executive Officer to meet with the Director of the Department of Consumer Affairs to discuss Enforcement procedures/options available to the BPPE regarding students that have been enrolled in school without meeting the educational requirements, as set forth in law.

It is the Board's determination to continue to closely monitor the pass/fail rates of the exams.



**Board of Barbering and Cosmetology**

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## MEMORANDUM

TO: Members  
Board of Barbering and Cosmetology

Date: June 27, 2016

FROM: Tami Guess, Board Project Manager  
Board of Barbering and Cosmetology

SUBJECT: Inspector Protocol for Limited-English Speaking Establishments

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Upon review of the proposed draft protocol the members will need to consider the following:

**Action Required:**

**The Board, by motion, will need to establish:**

- If the Board accepts the proposed draft protocol.
- If the Board accepts the PowerPoint Inspector training.
- If authority is granted to the Executive Officer to make minor, technical changes to the protocol and/or PowerPoint presentation.
- If authority is granted to the Executive Officer to move forward with the video clips to be added into the PowerPoint Inspector training.

Upon the completion of the addition of the video clips to the protocol, the members may direct staff to meet with community leaders for the review and/or edits to the proposed protocol.



**2016  
INSPECTOR  
LANGUAGE  
ACCESS  
PROTOCOL**

# Inspector Language Access Protocol

## Introduction

It is the policy of the California Board of Barbering and Cosmetology (Board) to take reasonable steps to provide limited English Proficient (LEP) individuals with meaningful access to all Board services, programs and activities. It is the responsibility of the Board and not the LEP individual to take reasonable steps to ensure communication between the Board representative and the LEP individual are not impaired as a result of the limited English proficiency of the individual. Representatives of the Board shall take reasonable steps to effectively inform the public of the availability of the materials and services provided by the Board language access protocol. This protocol supports the Board's VALUES:

**Consumer Protection** – We make effective and informed decisions in the best interest and for the safety of Californians.

**Openness (Open-mindedness)** – We will actively promote the sharing of ideas and information throughout the organization and with the public, and be receptive to new ideas.

**Diversity** – We recognize and celebrate California's ever-changing diversity.

**Accountability** – We are accountable to the people of California and each other as stakeholders. We operate transparently and encourage public participation in our decision-making whenever possible.

**Integrity** – We are honest, fair, and respectful in our treatment of everyone.

**Efficiency** – We diligently identify the best ways to deliver high-quality services with the most efficient use of our resources.

**Customer Service** – We acknowledge all stakeholders as our customers, listen to them, and take their needs into account.

**Quality** – We will deliver service, information and products that reflect excellence.

## Applicability

This protocol applies to all Inspector Supervisors and Inspectors employed by the California Board of Barbering and Cosmetology.

## Purpose

The purpose of this protocol is to ensure compliance with Chapter 10, Article 1, Section 7313 (d) of the California Business and Professions Code.

Effective January 1, 2016, Senate Bill AB 181, (Chapter 430, Statutes of 2015) signed by Governor Edmund G. Brown Jr. became law. This legislation amended the Business and Professions Code and requires the Board to adopt a protocol for the inspection of establishments when an inspector has difficulty understanding or communicating with the establishment owner, manager, or employees due



to a language barrier. The Board is required to evaluate the protocol every two years to ensure the protocol remains current.

### Authority

- Department of Consumer Affairs Bilingual Services Program Policy (EEO 04-02);
- Dymally-Alatorre Bilingual Services Act (Government Code Sections 7290-7299.80); and
- Chapter 10, Article 1, Section 7313 (d) of the California Business and Professions Code.

### Definitions

**Interpretation** – The act of listening to a communication in one language and orally converting it to another language while retaining the same meaning.

**Limited English Proficient (LEP)** - Individuals whose primary language is not English and who have limited ability to write, read, speak or understand English.

**Meaningful Access** – Language assistance that results in accurate, timely, and effective communication at no cost to the LEP individual. For LEP individuals, meaningful access indicates access that is not significantly restricted, delayed or reduced in quality as compared to programs or activities provided to English proficient individuals.

**Primary Language** – The language in which an individual most effectively communicates.

**Translation** – The replacement of written text from one language into an equivalent written text in another language.

**Vital Documents** – Paper or electronic material that is critical for access to the Board's services, programs or activities.

### Customer Service Standards for Non-English Speaking (LEP) Individuals

- All LEP individuals shall be treated with kindness, courtesy and respect.
- LEP individuals will be identified as early as possible during the initial contact.
- LEP individuals will be offered an opportunity to utilize an interpreter via the Language Line Services.
- Translated written materials will be provided to the LEP individual when available.

### Responsibilities

The Board will establish and maintain an Inspector Language Protocol Working Group (Working Group) that is representative of the Boards services, programs and activities as appropriate. The working group will be responsible for implementing and the regular review of the Inspector Language Access Protocol for its continued relevancy. The Working Group shall be responsible for the development of training materials that will address information specific to the Inspector Language Access Protocol. The Working

Group will be composed of the Board's Project Manager (Specialist), an Inspector Supervisor, an Inspector, a representative from the Cite and Fine unit and/or Inspections Unit and the Board's outreach analyst. The Specialist will establish a schedule to periodically evaluate and update the Board's LEP services and LEP protocol. The Specialist will lead this working group and report key issues and information to the Board's Executive Officer or designee.

### Procedures and Requirements

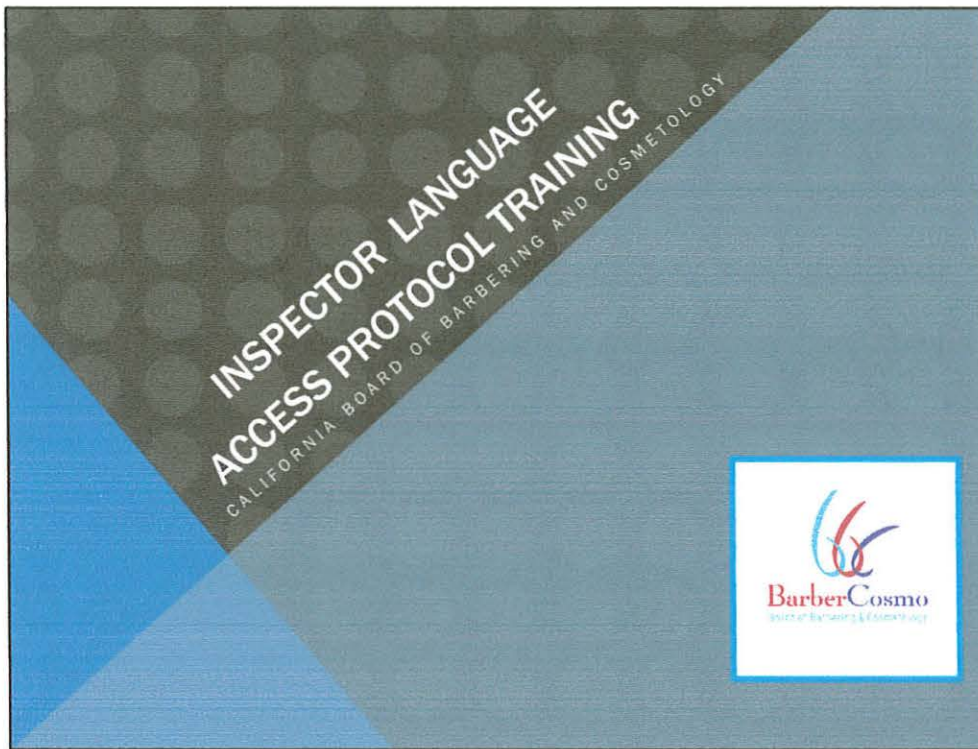
The following procedures and requirements are to be followed by the Inspectors Supervisors and Inspectors of the California Board of Barbering and Cosmetology.

- A. Inspectors who interact with the public will be trained on language access protocol and procedures, including how to access language assistance services and how to identify and work with LEP individuals and translators. This training shall be completed on a bi-yearly basis and upon accepting employment with the Board of Barbering and Cosmetology.
- B. Upon determining the need for language assistance, Board inspectors will take reasonable steps to ensure that all communication is conducted with the use of a bilingual staff member, or when necessary through telephonic interpretation.
- C. Inspectors will take reasonable steps to ensure that vital documents related to the Board's inspection program are provided to the LEP individual, in the language of their choice, if available.
- D. Inspectors who encounter and identify LEP individuals shall maintain a record of their contact with the LEP individual and the primary language spoken on the Inspection Report and the establishment record card.
- E. Inspectors shall at all times reflect the objective, values and standards of the Board.

### Revisions

In compliance with Section 7313 (d) of the California Business and Professions Code this protocol shall be reviewed every two years to ensure the protocol remains current.

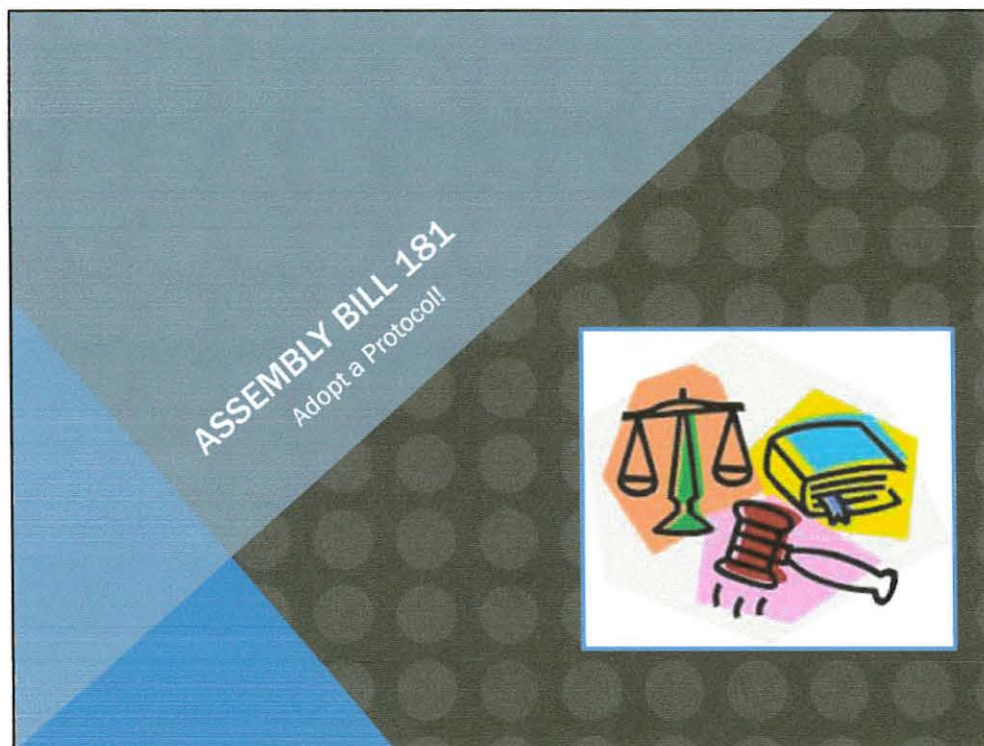
The Inspector language access protocol is intended to improve the Board's internal management of the Department of Consumer Affairs language access policy, and does not create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the Department of Consumer Affairs, its agencies, its officers or employees, or any person.





Welcome to today's training on Inspector Language Access Protocol. This training has been designed by the Inspector Language Protocol Working Group and is designed to provide you with an informative and helpful training that will present you with strategies to assist you in overcoming language barriers while conducting inspections on barbering and beauty establishments.

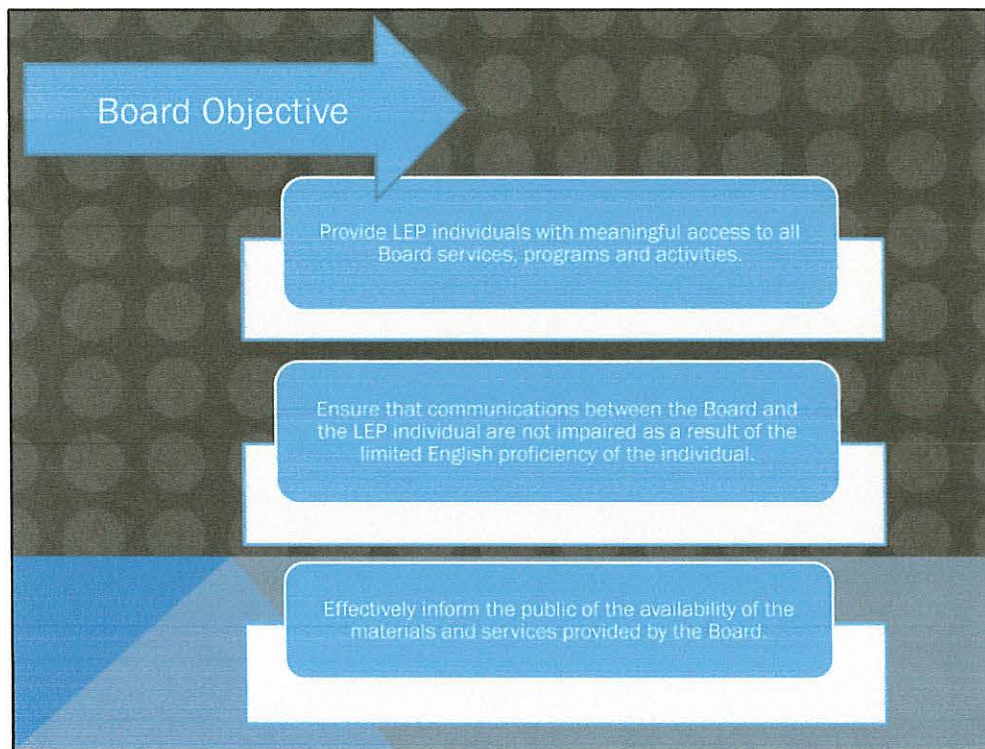




On January 1, 2016, Senate Bill AB 181, signed by Governor Edmund G. Brown Jr. became law. This legislation amended the Business and Professions Code and required the Board to adopt a protocol for the inspection of establishments when an inspector has difficulty understanding or communicating with the establishment owner, manager, or employees due to a language barrier.

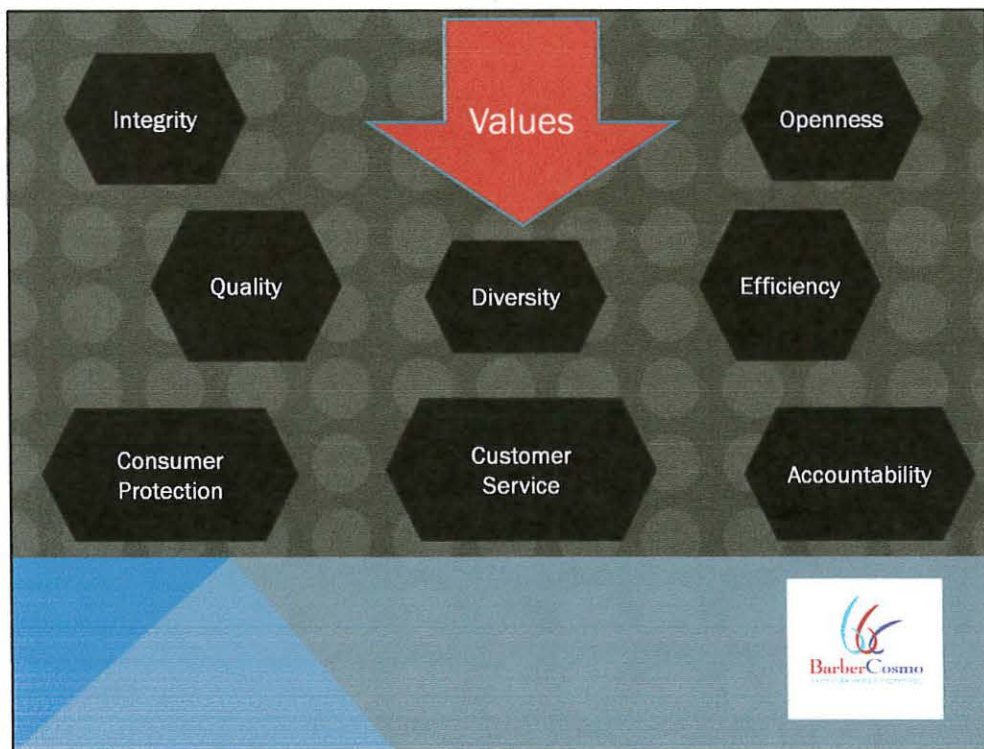


To the public Inspectors are the face and voice of the California Board of Barbering and Cosmetology. It is therefore imperative that Inspectors accurately reflect the Boards objectives, values and standards.



It is the objective of the California Board of Barbering and Cosmetology to take reasonable steps to provide limited English Proficient (LEP) individuals with meaningful access to all Board services, programs and activities. It is the responsibility of the Board Inspector and not the LEP individual to take reasonable steps to ensure that communications between the Board and the LEP individual are not impaired as a result of the limited English proficiency of the individual. Inspectors of the Board shall take reasonable steps to effectively inform the public of the availability of the materials and services provided by the Board. This objective supports the Board's core values.





These values are:

**Consumer Protection** – We make effective and informed decisions in the best interest and for the safety of Californians.

**Openness (Open-mindedness)** – We will actively promote the sharing of ideas and information throughout the organization and with the public, and be receptive to new ideas.

**Diversity** – We recognize and celebrate California's ever-changing diversity.

**Accountability** – We are accountable to the people of California and each other as stakeholders. We operate transparently and encourage public participation in our decision-making whenever possible.

**Integrity** – We are honest, fair, and respectful in our treatment of everyone.

**Efficiency** – We diligently identify the best ways to deliver high-quality services with the most efficient use of our resources.

**Customer Service** – We acknowledge all stakeholders as our customers, listen to them, and take their needs into account.



**Quality** – We will deliver service, information and products that reflect excellence.

## CUSTOMER SERVICE STANDARDS

- All LEP individuals shall be treated with kindness, courtesy and respect.
- LEP individuals will be identified as early as possible during the initial contact.
- LEP individuals will be offered an opportunity to utilize an interpreter via the Language Line Services.
- Translated written materials will be provided to the LEP individual when available.
- LEP individuals will be provided information on where to file a complaint ([www.dca.ca.gov](http://www.dca.ca.gov)) if they feel adequate services were not provided to them due to their limited –English proficiency.



Closely linked to the Board's adopted values are the Board's standards for customer service when you are conducting business with LEP individuals. These standards include:

All LEP individuals shall be treated with kindness, courtesy and respect.

LEP individuals will be identified as early as possible during the initial contact.

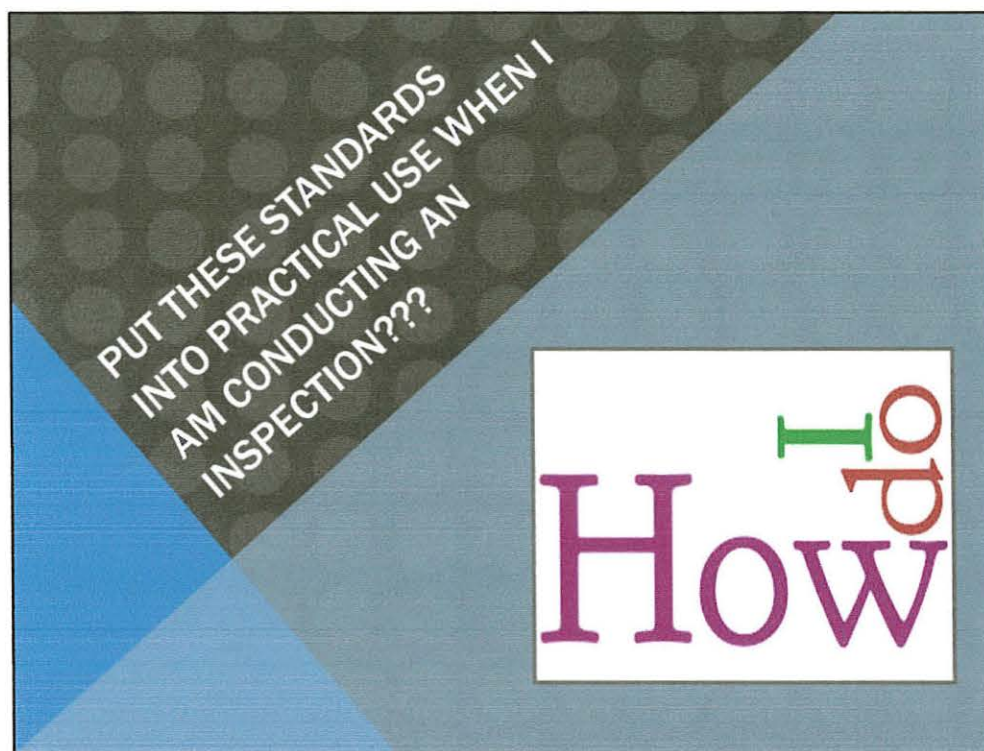
LEP individuals will be offered an opportunity to utilize an interpreter via the Language Line Services.

Translated written materials will be provided to the LEP individual when available.

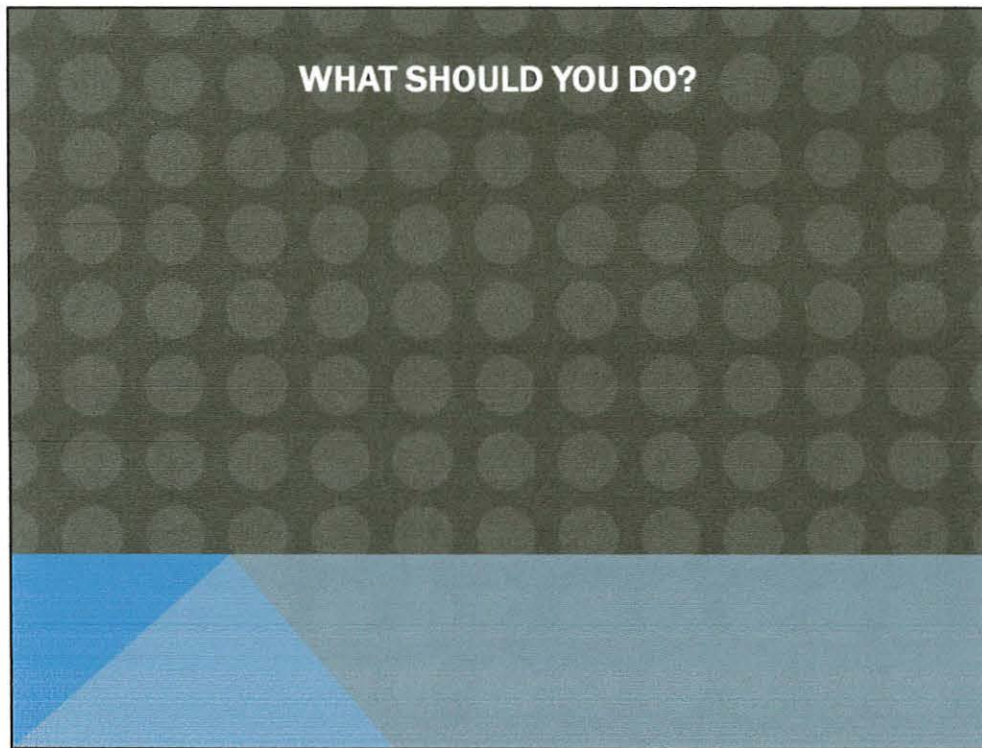
LEP individuals will be provided information on where to file a complaint ([www.dca.ca.gov](http://www.dca.ca.gov)) if they feel adequate services were not provided to them due to their limited–English proficiency.

These standards are not all inclusive but deal specifically with serving LEP individuals.

You will also want to follow the standards of conduct as listed in your Inspector's Training Manual.



You may be wondering, “How can I put these standards into practical use when I am conducting an inspection?” In today’s training we will be presenting a couple of different scenarios to assist you in providing the best customer service you can to an LEP individual. Let’s get started.



You have just pulled up outside of a nail establishment. As you approach the entrance you notice that the majority of the workers appear to be of Vietnamese decent. As you walk into the shop you hear that most workers are speaking in the Vietnamese language. What should you do? Let's take a look:




## WHAT SHOULD YOU DO NEXT?

A. The inspector should mark violations 7404 and 7348 on the inspection report and just continue on with the inspection? He could reason the individual should know the laws regarding inspection in that she should have provided the inspector her ID and not caused interference of the inspection and she should have stated she was the licensee in charge.

B. The inspector could eliminate details that might create confusion. For instance:  
Inspector: Ah, ok. Got ya. I will just do my thing and leave you with the yellow copy of the inspection report. You can have your friend or relative read it to you later. After all, it's your fault you don't have someone who can speak English here to translate.

C. The inspector could identify the individual's primary language, then offer the assistance of a telephonic interpreter.  
Inspector: Is there another language you prefer? Do you see it on this list? LEP: Yes, I speak VT.



The correct answer is C. Identify the primary language of the individual and then offer the assistance of a telephonic interpreter.

What should the inspector do now? Let's discuss a couple of different scenarios which will help us determine in which direction this inspection should go. At this point the inspector knows that the licensee is having difficulty communicating in English. What should he do next?

The inspector should mark violations 7404 and 7348 on the inspection report and just continue on with the inspection? He could reason the individual should know the laws regarding inspection in that she should have provided the inspector her ID and not caused interference of the inspection and she should have stated she was the licensee in charge.

The inspector could eliminate details that might create confusion. For instance:  
Inspector: Ah, ok. Got ya. I will just do my thing and leave you with the yellow copy of the inspection report. You can have your friend or relative read it to you later. After all, it's your fault you don't have someone who can speak English here to translate.

The Inspector could identify the individual's primary language, then offer the assistance of a telephonic interpreter.

Inspector: Is there another language you prefer? Do you see it on this list? LEP- Yes, I speak VT.

The correct answer is C. Identify the primary language of the individual and then offer the assistance of a telephonic interpreter.

Now we are going to show you why all the other scenarios are wrong.

## Why is it Wrong?

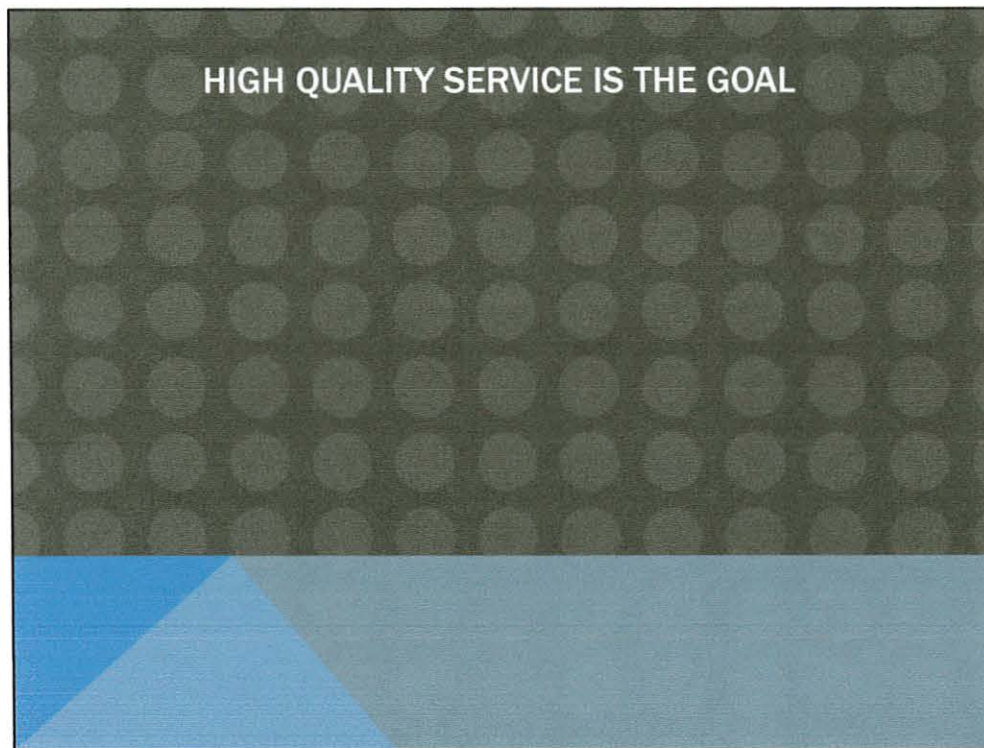


- A. Continue with the inspection and cite interference violations. This is not correct because it is very evident to the inspector that the individual is not understanding what is happening. The individual has volunteered the fact that she is limited in her ability to speak English. The Inspector should not ignore the individual's statement and continue on with the inspection as if she is not limited in her English proficiency.
- B. How about if the inspector shortens his sentences to eliminate detail that might create confusion? This is wrong as this provides the LEP individual with a different level of inspection than an English speaking individual would get and is therefore potentially discriminatory. Board inspectors have to make sure that inspected individuals understand the information being provided, just as they do with individuals who speak English.

It is important to remember that it is the responsibility of the Board inspector and not the LEP individual, to take reasonable steps to ensure that communications between the Board and the LEP individual are not impaired as a result of the limited English proficiency of the individual.

Exercising this kind of care with the individual may cause your inspection to take longer than an inspection with a proficient English speaking individual but remember, the Board is concerned with quality inspections and not just the quantity of inspections. Every individual, whether proficient in English or not, has a right to an equitable inspection.





Now, let's look at a different scenario. Some individuals you encounter may be fluent in English for certain types of communication. For instance, they may speak English rather well but not be able to read in English. It is the inspector's responsibility to pick up on cues and assess the potential need of the individual. Keep in mind that while some individuals may be able to effectively communicate in most aspects of daily life an individual's understanding may falter during stressful times such as when undergoing an inspection. Since your interaction with the individual may have a direct result on the financial loss of the individual make sure you are delivering high quality service by making sure the individual understands the inspection process and his or her rights. Let's look at another scenario in which the LEP individual has successfully communicated with the inspector right up until the review of the inspection report at the conclusion of the inspection. Due to seeing the Inspection report and how many violations have been noted and in anticipation of receiving a high fine, the LEP individual becomes distraught and begins to speak in a different language. How might you handle this situation? Let's take a look.

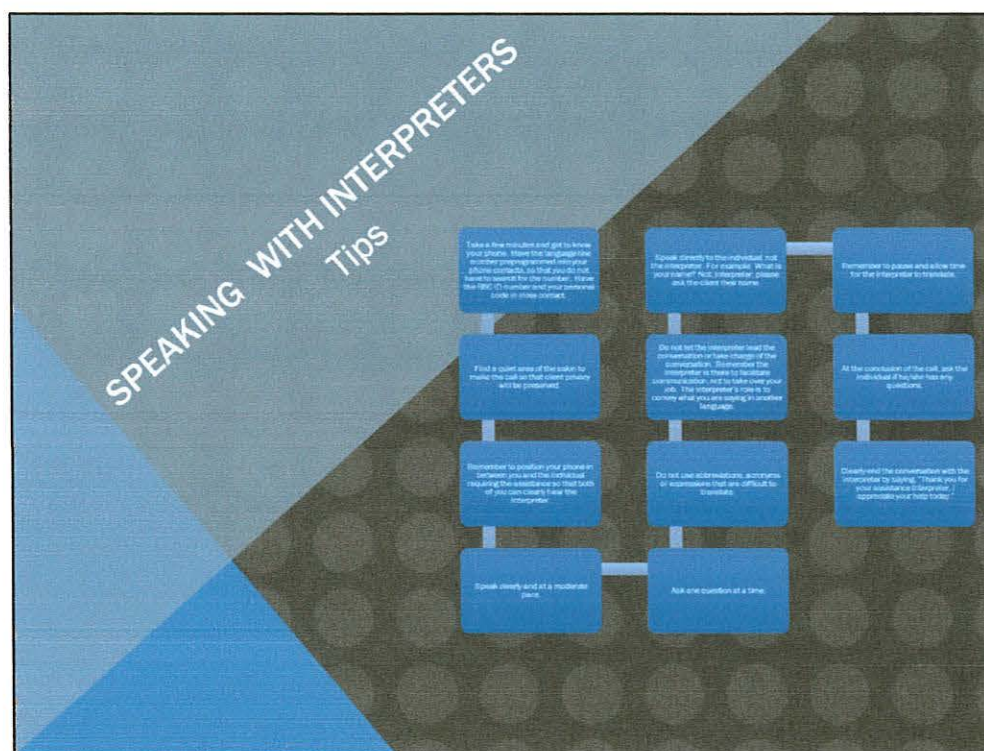


## ENSURING LANGUAGE ACCESSIBILITY LIES WITH THE INSPECTOR

Remember, the responsibility ensuring language accessibility lies with the inspector, not the LEP individual. English proficiency cannot be determined by just looking at the individual or by hearing his or her accent. Do not make assumptions about an individual's limited English proficiency. Ensure that you and the LEP individual are able to communicate effectively. If you are not sure that either of you are understanding each other, consider if language assistance might help. Then make the call.

Remember, you are there to serve the interests of California consumers. This will be accomplished if licensees understand their role in preserving the health and safety of California consumers. Now that you have decided that you need assistance from the telephonic interpreter let's take a look at how you can effectively contact the interpreter.





When you are preparing to speak with the interpreter please follow these suggestions:

Take a few minutes and get to know your phone. Have the language line number preprogrammed into your phone contacts, so that you do not have to search for the number. Have the BBC ID number and your personal code in close contact.

Find a quiet area of the salon to make the call so that client privacy will be preserved.

Remember to position your phone in between you and the individual requiring the assistance so that both of you can clearly hear the interpreter.

Speak clearly and at a moderate pace.

Ask one question at a time.

Do not use abbreviations, acronyms or expressions that are difficult to translate.

Do not let the interpreter lead the conversation or take charge of the conversation.

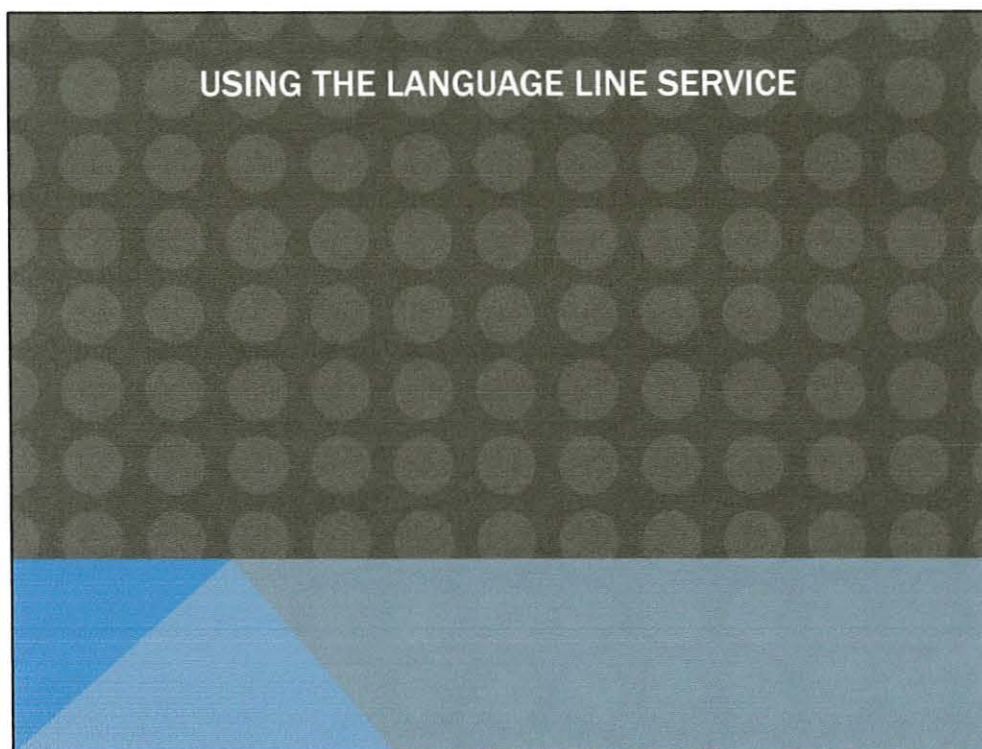
Remember the interpreter is there to facilitate communication, not to take over your job. The interpreter's role is to convey what you are saying in another language.

Speak directly to the individual, not the interpreter. For example: What is your name? Not, interpreter, please ask the client their name.

Remember to pause and allow time for the interpreter to translate.

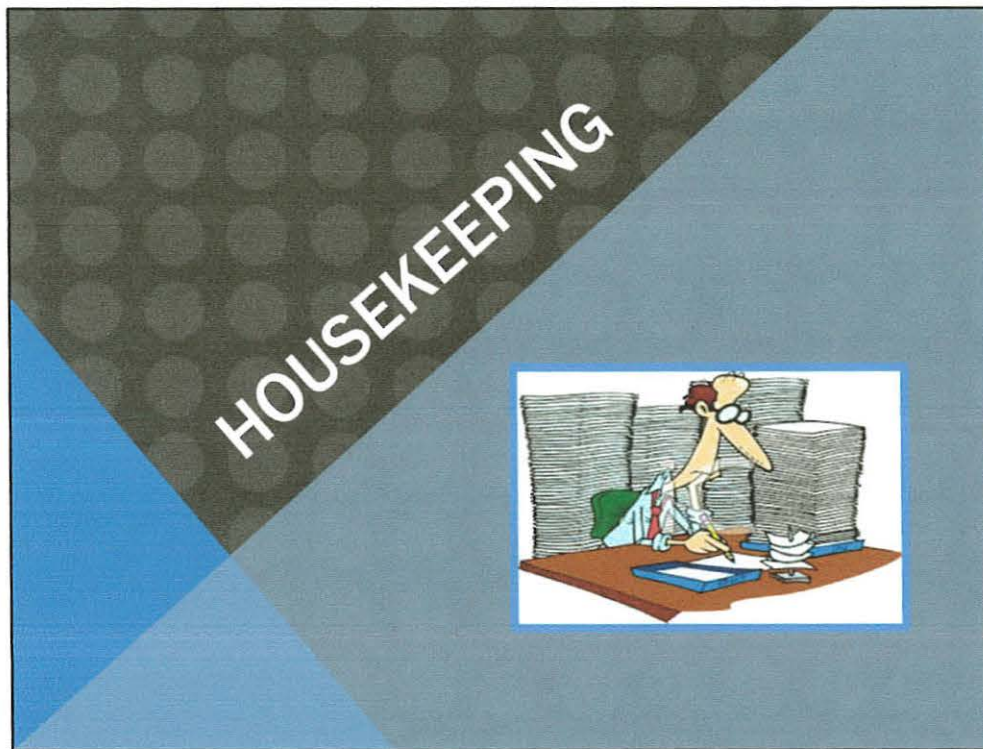
At the conclusion of the call, ask the individual if he/she has any questions.

Clearly end the conversation with the interpreter by saying, "Thank you for your assistance Interpreter, I appreciate your help today."



Now let's take a look at how the telephonic interpreter might be utilized.  
<Play Video>

It really is that easy. Let's take a moment to get out your work phones. We are going to take a few minutes right now to program the Language Line number into your phone.  
<BREAK>



Now let's take a few moments to discuss a few housekeeping ideas.

You will want to make sure you document use of the language line services in the comments section of the inspection report and on your daily log. In addition, when returning to your vehicle at the conclusion of the inspection be sure to note the back of the Establishment record card that the language line was used and which language was utilized. This will assist you in being better prepared the next time you plan to perform an inspection on the establishment.

When you are routing your day prior to completing inspections be sure to take note of the back of the establishment cards where you have noted LEP individuals. If you see that your inspection day includes shops with LEP individuals be sure to take language specific informational materials, such as a self-inspection sheet or a "What to Expect When You Are Inspected" tri-fold. The Board has made most of its outreach materials available in Spanish, Vietnamese and Korean.





No doubt when you first start using the telephonic interpreter system it may feel awkward and a little uncomfortable. But rest assured that the more you utilize this service the more you will feel comfortable using it. Remember, this service is used all across the State by various agencies (Sworn and non-sworn peace officers) and it will work effectively in making sure individuals understand you while complete your inspection.

The Board appreciates your efforts to make sure that all individuals understand their role in working with the Board of Barbering and Cosmetology. It is the hoped that this training will help you in your mission to serve the public. If after watching this training you have questions or concerns, please email Tami Guess at [Tandra.Guess@dca.ca.gov](mailto:Tandra.Guess@dca.ca.gov).



## Proposed Video Clips for Inspector Language Protocol

### Scenario #1 (Page 9)

Inspector - Good morning, my name is Ron Thomas, are you the owner?  
LEP - No.  
Inspector - Are you the licensee in charge?  
LEP - No.  
Inspector - I am an inspector for the Board of Barbering and Cosmetology. I am here to inspect your shop.  
(show badge and hand business card)  
LEP- No.  
Inspector - May I see your government issued ID please?  
LEP- No.  
Inspector - Ms. I need to see your ID.  
LEP- No English.

### Scenario #2 (Page 12)

Inspector - Is there another language you prefer? Do you see it on this list?  
LEP – Yes, (points to Spanish)  
Inspector - OK, I would like to use our telephonic interpretation service to help me assist you in understanding what is going on. The interpreter will make sure you understand everything that I am sharing with you. OK?  
LEP- OK

### Scenario #3 (Page 13)

Inspector - OK, I would like to use our telephonic interpretation service to help me assist you in understanding what is going on. The interpreter will make sure you understand everything that I am sharing with you. OK?  
LEP- OK  
Inspector - Dial 1-800-874-9426 Click on the speaker icon.  
Interpreter- Welcome to the telephonic interpretations service please enter your client ID.  
Inspector - **BBC ID: 501131# Personal Code: Number + #**  
Interpreter - Thank you, please enter 1 for Spanish and 2 for all other languages. Thank you, please enter your personal code, if you have one. Hi, I am interpreter 12345 and I will be assisting you today. Do you have the client on the line or do I need to call them?  
Inspector – I have the client with me today and Interpreter, I have you on speaker.

*No Attachment*