

TITLE 16. BOARD OF BARBERING AND COSMETOLOGY

INITIAL STATEMENT OF REASONS

Hearing Date: April 9, 2014

Subject Matter of Proposed Regulations: This proposal revises rules for participating in the Board's barbering, cosmetology and electrology apprenticeship programs and their curriculums.

Sections Affected:

- Adopt Sections 914.1 and 914.2 to Article 3, Division 9 of Title 16, California Code of Regulations.
- Amend Sections 918, 921, 921.1 and 921.2 of Article 3, Division 9 of Title 16, California Code of Regulations.

Specific Purpose of the proposed changes:

Adopt Section 914.1

Problem being addressed and anticipated benefit: The Board has found that some licensing applicants who qualify to take the Board's examination either by completing barbering, cosmetology or electrology school or by holding licenses in other states or previously completing an apprenticeship program, are avoiding taking the Board's licensing examination and working by enrolling or re-enrolling as apprentices. This section will end that practice by clarifying that applicants who qualify for the licensing examination are ineligible to apply as apprentices in the same discipline.

Factual Basis/Rationale: This regulation is necessary to prevent people from avoiding taking the Board's examination, a practice that endangers the public by allowing people whose minimum competency has not been demonstrated to work as barbers, cosmetologists and electrologists.

Adopt Section 914.2

Problem being addressed and anticipated benefit: The Board has found that some apprentices, by enrolling and re-enrolling as apprentices, are taking as long as six years to complete the program. The apprentice license is meant to be a two-year pathway to licensure. This proposal clarifies that apprenticeships are meant to be two-year programs and limits re-enrollments to allow only one.

Factual Basis/Rationale: This regulation is necessary to prevent people from avoiding taking the Board's examination, a practice that endangers the public by allowing people whose minimum competency has not been demonstrated to work as barbers, cosmetologists and electrologists.

Amend Section 918

Problem being addressed and anticipated benefit: The Board has found some apprentice trainers supervising as many as a half-dozen apprentices at one time. This regulation will improve the training of apprentices by limiting the number of apprentices a trainer may oversee. The number of apprentices per trainer is not set by statute, but the Division of Apprenticeship Standards (DAS) does set standards that differ from trade to trade. For barbering and cosmetology professions, DAS currently sets a limit of 2 apprentices per trainer for new barbering and cosmetology apprentice programs, a ratio currently followed by all but one of California's 15 approved barbering and cosmetology apprenticeship program sponsors (that program still operates under an older, 3:1 standard, but DAS has indicated it intends to update its standards so that all programs have the lower ratio).

Factual Basis/Rationale: This amendment is necessary to ensure apprentices are properly trained, which is vital to the health and safety of consumers as well as to students who must demonstrate via examination that they meet the minimum standards of their profession.

Amend Section 921, 921.1 and 921.2

Problem being addressed and anticipated benefit: Over the last few years, the Board has revised both the content and organization of its school curriculums. As a result, the content of the existing apprenticeship curriculums is often inconsistent with school curriculums, as required under Section 7334(f) of the Business and Professions Code. Moreover, the organization of the apprenticeship curriculums is inconsistent with the format adopted by the Board for the school curriculums. This regulatory proposal will restore parity between school and apprentice curriculums both in terms of content and organization.

The following charts comparing the existing and proposed apprentice curriculums with the existing school curriculums illustrate the changes proposed by the Board:

COSMETOLOGY

Topic of Instruction	Existing Apprentice Curriculum T/P* 3200 hours	School Curriculum T/P* 1600 hours	Proposed Apprentice Curriculum T/P* 3200 hours
Hair Dressing Overall	--	1100	2600
--Hair Styling	95/450	65/240	95/450
--Permanent Wave/Chemical Straighten	40/210	40/105	40/210
--Hair Color/Bleach	65/215	60/50	65/215
--Hair Cutting	20/300	20/80	20/300
Health and Safety Overall	--	200	200
--Laws and Regulations	20T	20T	20T
--Health and Safety	45T	45T	45T
--Disinfection and Sanitation	20T	20T	20T
--Anatomy and Physiology	15T	15T	15T

Esthetics	--	200	200
--Facials (manual, electrical, chemical)	25/65	25/40	25/65
--Eyebrow Beautification and Make-Up	25/55	25/30	25/55
Manicure and Pedicure	--	100	200
--Manicures and pedicures	10/34	10/25	10/34
--Artificial nails and Wraps	25/120 nails	25/120	25/120 nails

*Indicates number of minimum hours of “T”echnical instruction and “P”ractical operations.

BARBERING

Topic of Instruction	Existing Apprentice Curriculum T/P* 3200 hours	School Curriculum T/P* 1500 hours	Proposed Apprentice Curriculum T/P* 3200 hours
Hair Dressing Overall	2600	1100	2800
--Hair Styling	0/1660	65/240	95/450
--Permanent Wave/Chemical Straighten	0/120	40/105	40/120
--Hair Color/Bleach	0/20	60/50	65/50
--Hair Cutting	(included in styling)	20/80	20/300
Shaving Overall	--	200	200
--Preparation and Performance	0/40	100/40	100/40
Health and Safety Overall	--	200	200
--Laws and Regulations	--	20T	20T
--Health and Safety	--	45T	45T
--Disinfection and Sanitation	--	20T	20T
--Anatomy and Physiology	--	15T	15T

*Indicates number of minimum hours of “T”echnical instruction and “P”ractical operations.

ELECTROLOGY

Topic of Instruction	Existing Apprentice Curriculum T/P* 3200 hours	School Curriculum T/P* 600 hours	Proposed Apprentice Curriculum T/P* 3200 hours
Electrolysis, Thermolysis, Blend Overall	--	400	400
--Electrolysis	25/90	45/60	45/90
--Thermolysis	25/120	45/60	45/120
--Blend	25/120	45/60	45/120
--Electricity	15T	15T	15T
Health and Safety Overall	--	200	200
--Laws and Regulations	10T	20T	20T
--Health and Safety	10T	45T	45T
--Disinfection and Sanitation	25/10	20T	25T
--Anatomy and Physiology	25T	20T	25T

*Indicates number of minimum hours of “T”echnical instruction and “P”ractical operations.

The organization of all three apprenticeship curriculums has been revised to match the recently changed format of the school curriculums (OAL Files # 2008-1231-01SR, #2008-1231-02SR and #2011-1005-01S). The Board believes the change is necessary for consistency's sake.

In most instances, the minimum hours of technical instruction and/or number of practical operations for apprentices have been adjusted wherever necessary to match the minimums required of school students, as required under Section 7334(f) of the Business and Professions Code.

But there are exceptions. Though not reflected on the chart, there is a "theory" or technical instruction requirement in the existing barbering apprentice curriculum that mandates an apprentice receive a total of 80 hours of instruction in the various topics of instruction related to hair dressing. The Board, however, has determined that number of hours is insufficient to cover all aspects of hair dressing, and that in order to ensure that apprentices are properly trained, higher minimums are required and ought to be specified for each topic in regulation. To that end, the Board is proposing that the technical instruction and practical operations required in the hair dressing component for cosmetology apprentices be adopted by barbering apprentices as well, given that the activity is fundamentally the same for both trades.

Also, the Board has dropped the requirement for 10 practical operations in disinfection and sanitation in the electrology apprentice curriculum. The Board has determined that disinfection and sanitation is best addressed through technical instruction, since there is no practical disinfection procedure that requires special skill to perform, or stands alone in the same way as other barbering and cosmetology procedures. This change mirrors recent changes in the school curriculums.

Underlying Data

None

Business Impact

This regulation will not have a significant adverse economic impact on businesses because there is no economic or fiscal cost associated with these curriculum proposals

Economic Impact Assessment

This regulatory proposal will have the following effects:

- It will not create or eliminate jobs within the State of California because the proposed regulations concern only how apprentices are trained and have no economic or fiscal impact on businesses or the state.
- It will not create new business or eliminate existing businesses within the State of California because the proposed regulations concern only how apprentices are trained and have no economic or fiscal impact on businesses or the state.
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- It will not affect the expansion of businesses currently doing business within the State of California because the proposed regulations concern only how apprentices are trained have no economic or fiscal impact on businesses or the state.
- This regulatory proposal benefits does affect the health and welfare of California residents because well-trained barbers, cosmetologists and electrologists help protect consumers from harm.
- This regulatory proposal benefits does affect worker safety because well-trained barbers, cosmetologists and electrologists are less likely to injure themselves using the tools, equipment and chemicals of the barbering and cosmetology trades.
- This regulatory proposal benefits does not affect the state's environment because the proposals only affect how apprentices are trained.

Specific Technologies or Equipment

This regulation does not mandate the use of specific technologies or equipment.

Consideration of Alternatives

No reasonable alternative to the regulatory proposal would be either more effective in carrying out the purpose for which the action is proposed or would be as effective or less burdensome to affected private persons and equally effective in achieving the purposes of the regulation in a manner that ensures full compliance with the law being implemented or made specific.

Set forth below are the alternatives which were considered and the reasons each alternative was rejected:

- Maintaining the status quo: The Board has determined that failure to make the proposed changes to the Board's apprentice regulations would allow abuses of the apprenticeship program to continue and leave apprentices poorly-trained. Also, in the case of the curriculums, failure to make the proposed amendments would mean that the apprentice curriculums would violate the mandate of Section 7334(f) of the Business and Professions code, which states that apprentices must complete at least the same minimum number of hours of technical instruction and practical operations as students in schools.