

TITLE 16. BOARD OF BARBERING AND COSMETOLOGY

NOTICE OF PROPOSED RULEMAKING

NOTICE IS HEREBY GIVEN that the Board of Barbering and Cosmetology (hereinafter “the Board”) is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held from 9 a.m.-11 a.m. on August 9, 2016 in the Sequoia Room at the Board’s offices at 2420 Del Paso Road, Sacramento, California, 95834. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board at its offices not later than 5:00 p.m. on August 9, 2016 or must be received by the Board at the hearing. The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by Sections 7312 of the Business and Professions Code, and to implement, interpret or make specific Sections 129(e) and 7404 of the Business and Professions Code, the Board is considering changes to Division 9 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST

A. Informative Digest

Amend Sections 904 and 905

Section 7312 of the Business and Professions Code gives the Board broad authority to enforce the Barbering and Cosmetology Act, including disciplining people who are in violation of the act and developing health and safety standards. Section 129 of the Business and Professions Code generally describes how complaints must be handled by licensing entities such as the Board, while subsection (e) mandates that the Board “take whatever action it deems necessary ... to inform the public of its functions under this section.” This regulatory proposal eliminates the requirement that all barbering and cosmetology establishments post a Board-produced poster that includes the Board’s health and safety regulations (promulgated in Article 12 of Division 9 of Title 16). Establishments would instead be required to post only the “Message to the Consumer” portion of the poster, in a format each establishment can easily reproduce and/or print out on its own. The message is also simplified for the benefit of consumers, and invites them to contact the Board if they have any complaint, without asking them to evaluate whether the complaint is within the Board’s jurisdiction. The poster also displays a link to the Board’s Web page where the full text of the Board’s laws and regulations can be

found.

B. Policy Statement Overview/Anticipated Benefits of Proposal

Because it lists all nearly all of Article 12 of Division 9 of Title 16 of the California Code of Regulations, the current health and safety poster is lengthy, typographically dense, and rarely, if ever, actually read by the consumer during a visit to the establishment. This means that the “Message to the Consumer” portion of the poster – which the Board believes to be the most important section for consumers – goes largely unnoticed by the public. Moreover, each time the Board’s health and safety regulations change — as they recently did on July 1, 2015 — a new poster must be produced and distributed to all licensed establishments at a considerable expense to the Board. This regulatory change will eliminate that expense. The new poster also displays a link to the Board’s Web site where consumers can read the Board’s rules and regulations in four languages at their leisure. The Board believes consumers will be more likely to actually read the regulations in the comfort of their own home, away from the bustle of a salon.

C. Consistency and Compatibility with Existing State Regulations

After conducting a review for any regulations that would relate to or affect this area, the Board has determined this proposal is not inconsistent or incompatible with existing state regulations.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: The Board estimates it will save \$10,000, which would be the approximate cost of printing and mailing copies of the existing poster to California’s approximately 40,000 licensed establishments.

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Sections 17500 - 17630 Require Reimbursement: None

Business Impact:

The board has made an initial determination that because the poster can be printed on a simple piece of 8.5-by-11-inch paper, the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Cost Impact on Representative Private Person or Business:

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

The Board has determined that the proposed regulation will not affect small businesses in any significant way because the "Message to the Consumer" poster can now be easily and cheaply printed on a regular sheet of 8 1/2" by 11" paper

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS:

Impact on Jobs/Businesses:

The Board has determined that this regulatory proposal will not have an impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Benefits of Regulation:

The Board has determined that this regulatory proposal will benefit the public by helping consumers become more aware of the Board's enforcement functions.

CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposal described in this Notice, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Board has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, and any document incorporated by reference, and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Contact Person named below.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the Web site listed below.

CONTACT PERSON

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name: Kevin Flanagan
Address: 2420 Del Paso Road, Suite 100
Sacramento, CA 95834
Telephone No.: (916) 575-7100
Fax No.: (916) 928-6810
E-Mail Address: Kevin.Flanagan@dca.ca.gov

The backup contact person is:

Name: Patricia Garcia
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Website Access: Materials regarding this proposal can be found at
http://www.barbercosmo.ca.gov/laws_regs/prop_regs.shtml