

## 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 1.p.m. to 4 p.m. on April 9, 2014 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 April 9, 2014 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 Section 7362 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 Section 950.2**

Section 7362 of the Business and Professions Code requires the Board to determine by regulation the school curriculum for each of the professions it regulates, including cosmetology. This regulatory proposal clarifies that eyebrow and lash tinting should only be taught as part of a cosmetology school's curriculum if a product is available that isn't disapproved\*, prohibited or banned by the U.S. Food and Drug Administration (FDA), the Occupational Safety and Health Administration (OSHA), or the U.S. Environmental Protection Agency (EPA).

##### **Amend Section 950.9**

Section 7362 of the Business and Professions Code requires the Board to determine by regulation the school curriculum for each of the professions it regulates, including

\* The FDA does not “approve” products, but will disapprove of certain substances and/or how they are used.

cosmetology. This regulatory proposal clarifies that eyebrow and lash tinting should only be taught as part of a cosmetology school's crossover curriculum if a product is available that isn't disapproved, prohibited or banned by the U.S. Food and Drug Administration, the Occupational Safety and Health Administration, or the U.S. Environmental Protection Agency.

B. Policy Statement Overview/Anticipated Benefits of Proposal

Section 7362 of the Business and Professions Code requires the Board determine by regulation the school curriculum for each of the professions it regulates, including cosmetology. This proposed regulatory change clarifies that the eyebrow and lash tinting component of the cosmetology and crossover curriculums should only be taught if a product is available that isn't disapproved, prohibited or banned by the U.S. Food and Drug Administration, the Occupational Safety and Health Administration, or the U.S. Environmental Protection Agency. The benefit will be that the Board will be in compliance with federal regulatory entities and eliminate confusion among the schools regarding whether brow and lashing should be taught.

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 evaluated this regulatory proposal and it 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: None

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 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 regulations will not affect small businesses because they are revisions of an existing program and educational requirements that have no associated economic cost.

## 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 health and welfare of California residents by reinforcing the Board's prohibition against using products that are not approved by the FDA.

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

Website Access: Materials regarding this proposal can be found at  
[http://www.barbercosmo.ca.gov/laws\\_regs/prop\\_regs.shtml](http://www.barbercosmo.ca.gov/laws_regs/prop_regs.shtml)