

**CALIFORNIA**  
**BOARD OF BARBERING AND COSMETOLOGY**



**APRIL 20, 2015**  
**Board Meeting**  
Department of Consumer Affairs  
1747 North Market Blvd.  
HQ2 Hearing Room 186, 1<sup>st</sup> Floor  
Sacramento, CA 95834

# California State Board of Barbering and Cosmetology

## Board Meeting Agenda

Monday, April 20, 2015

1:00 P.M.

Or Upon Adjournment of the Education and Outreach Committee Meeting

Department of Consumer Affairs  
1747 North Market Blvd  
HQ2 Hearing Room 186, 1<sup>st</sup> Floor  
Sacramento, CA 95834

**ALL TIMES ARE APPROXIMATE AND SUBJECT TO CHANGE**

### **OPEN SESSION:**

1. Call to Order/Establishment of a Quorum (**Dr. Kari Williams**)
2. Public Comment on Items not on the Agenda  
*Note: the Board may not discuss or take action on any matter raised during this public comment section, except to decide whether to place the matter on the agenda of a future meeting. [Government Code Sections 11125, 11125.7(a)]*
3. Board President's Report (**Dr. Kari Williams**)
4. Executive Officer Report (**Kristy Underwood**)
5. Approval of Board Meeting Minutes
  - January 12, 2015
6. Update on Sunset Review
7. Committee Reports, Consideration of Committee Recommendations, and Possible Action:
  - A. Update from the Enforcement Committee Meeting on April 20, 2015 (**Richard Hedges**)
    - Update on the Progress of the Implementation of SB1159.
      - SB 1159 allows the Board to accept an Individual Taxpayer Identification Number (ITIN) in lieu of a Social Security Number (SSN).
    - Update on the Progress of Compiling the Medical Services Task Force to Address Services that can be performed by Board Licensees.
    - Discussion of Proposed Regulatory Language to Define "Demonstrating" for Purposes of BPC §7319(e) Exemptions.
    - Discussion and Recommendations on How to Prevent False and Misleading Advertising with Regard to Beauty Services.



Dr. Kari Williams, Industry Member,  
President

Richard Hedges, Public Member,  
Vice President

Mary Lou Amaro, Industry Member

Bobbie Anderson, Public Member

Polly Codorniz, Industry Member

Andrew Drabkin, Public Member

Joseph Federico, Industry 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

## B. Update from the Licensing and Examination Committee Meeting on April 20, 2015. (Elected Chairperson)

- Review and Discussion of Licensing Requirements for Establishment Owners and Determination if Additional Requirements are Needed.

## C. Update from the Legislative and Budget Committee Meeting on April 20, 2015. (Elected Chairperson)

- Status of the Board's Budget
- Update on Sunset Review
- Update and Discussions of Proposed Bills that could impact BBC:
  - AB 181 – Sunset Review Bill
  - AB 1322 – Allowing Alcohol in Establishments

## D. Update from the Education and Outreach Committee Meeting on April 20, 2015. (Elected Chairperson)

- Discussion on New Outreach Items
  - Individual Taxpayer Identification Number (ITIN)
  - Lash/Brow Tinting
  - Health and Safety Regulatory Changes
- Discussion on Outreach Avenues to Licensees and Consumers Available to the Board
- Discussion and Review of the Required Health and Safety Curriculum

## 8. Proposed Regulations Updates:

- Relating to Health and Safety Title 16, Division 9, Article 12 of the California Code of Regulations Sections: 977, 978, 979, 980.1, 980.2, 980.3, 981, 982, 983, 987, 991, and 992.
- Relating to the Apprenticeship Program Title 16, Division 9, Article 3 of the California Code of Regulations Sections: 914, 918, 921, 921.1 and 921.2
- Relating to the Removal of Lash/Brow Tinting from the Cosmetology Curriculum Title 16, Division 9, Article 7 of the California Code of Regulations Sections: 950.2, 950.9
- Relating to the Cross Over and Transfer of Credit of Barbering and Cosmetology Title 16, Division 9, Article 7 of the California Code of Regulations Sections: 950.8 and 950.9
- Relating to Text book Approval Title 16, Division 9, Article 7 of the California Code of Regulations Section: 961
- Relating to Military Training Title 16, Division 9, Article 2 of the California Code of Regulations Section: 910
- Relating to the Administrative Fine Schedule Title 16, Division 9, Article 11 of the California Code of Regulations Section : 974

## 9. Discussion and Possible Action if the Board should Consider Continuing Education for Licensees

## 10. Agenda Items for Next Board Meeting



# California State Board of Barbering and Cosmetology

## 11. 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)]*

## 12. CLOSED SESSION:

Discussion on Reconsideration and Disciplinary Cases (Closed Pursuant to Government Code Section 11126(c) (3))

## OPEN SESSION:

## 13. 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.*



*No Attachment*

**Quarterly Barbering and Cosmetology  
Licensing Statistics  
Fiscal Year 14/15**

**Applications Received**

	Jul-Sept	Oct-Dec	Jan- Mar	Apr-June	YTD
<b>Establishment</b>	1,772	1,466	1,721		4,959
<b>Mobile Unit</b>	2	4	2		8
<b>Barber</b>					
Pre-App	278	230	248		756
Initial Application	294	274	282		850
Re-Exam	191	234	328		753
<b><u>Sub-Total</u></b>	<b><u>763</u></b>	<b><u>738</u></b>	<b><u>858</u></b>		<b><u>2,359</u></b>
Reciprocity	62	20	42		124
Apprentice	135	80	109		324
<b>Cosmetology</b>					
Pre-App	2,162	1,924	1,689		5,775
Initial Application	1,030	1,012	961		3,003
Re-Exam	2,601	1,712	1,611		5,924
<b><u>Sub-Total</u></b>	<b><u>5,793</u></b>	<b><u>4,648</u></b>	<b><u>4,261</u></b>		<b><u>14,702</u></b>
Reciprocity	540	254	399		1,193
Apprentice	179	122	109		410
<b>Electrology</b>					
Pre-App	11	7	2		20
Initial Application	1	5	3		9
Re-Exam	4	6	4		14
<b><u>Sub-Total</u></b>	<b><u>16</u></b>	<b><u>18</u></b>	<b><u>9</u></b>		<b><u>43</u></b>
Reciprocity	3	1	3		7
<b>Manicuring</b>					
Pre-App	744	634	489		1,867
Initial Application	1,038	853	725		2,616
Re-Exam	1,128	1,013	944		3,085
<b><u>Sub-Total</u></b>	<b><u>2,910</u></b>	<b><u>2,500</u></b>	<b><u>2,158</u></b>		<b><u>7,568</u></b>
Reciprocity	164	120	131		415
<b>Esthetician</b>					
Pre-App	697	745	771		2,213
Initial Application	507	558	479		1,544
Re-Exam	501	404	489		1,394
<b><u>Sub-Total</u></b>	<b><u>1,705</u></b>	<b><u>1,707</u></b>	<b><u>1,739</u></b>		<b><u>5,151</u></b>
Reciprocity	144	95	115		354
<b>Total</b>	<b>14,188</b>	<b>21,384</b>	<b>17,088</b>	<b>0</b>	<b>52,660</b>



## Examination Results

(January 1, 2015-March 31, 2015)

### Practical Examinations

Administered	Passed	Failed	Total	Pass Rate	*DNA
Barber	451	54	505	89%	114
Cosmetologist	2,597	444	3,041	85%	534
Esthetician	1,152	266	1,418	81%	133
Electrologist	6	1	7	86%	0
Manicurist	1,198	695	1,893	63%	179
<b>TOTAL</b>	<b>5,404</b>	<b>1,460</b>	<b>6,864</b>	<b>79%</b>	<b>960</b>

\* Did Not Attend

### Written Examinations

Barber	Passed	Failed	Total	Pass Rate
English	369	207	576	64%
Spanish	18	9	27	67%
Vietnamese	14	3	17	82%
Korean	0	1	1	0%
<b>TOTAL</b>	<b>401</b>	<b>220</b>	<b>620</b>	<b>65%</b>

Cosmetologist	Passed	Failed	Total	Pass Rate
English	2,452	492	2,944	83%
Spanish	69	144	213	32%
Vietnamese	217	32	249	87%
Korean	20	11	31	65%
<b>TOTAL</b>	<b>2,738</b>	<b>668</b>	<b>3,406</b>	<b>80%</b>

Manicurist	Passed	Failed	Total	Pass Rate
English	383	72	455	84%
Spanish	8	5	13	62%
Vietnamese	920	177	1,097	84%
Korean	26	3	29	90%
<b>TOTAL</b>	<b>1,311</b>	<b>257</b>	<b>1,565</b>	<b>84%</b>

Esthetician	Passed	Failed	Total	Pass Rate
English	868	83	951	91%
Spanish	1	2	3	33%
Vietnamese	325	36	361	90%
Korean	26	1	27	96%
<b>TOTAL</b>	<b>1,220</b>	<b>122</b>	<b>1,315</b>	<b>93%</b>

Electrologist	Passed	Failed	Total	Pass Rate
English	8	4	12	67%
Spanish	0	0	0	0%
Vietnamese	0	0	0	0%
Korean	0	0	0	0%
<b>TOTAL</b>	<b>8</b>	<b>4</b>	<b>12</b>	<b>67%</b>



### Licenses Issued

	Jul-Sept	Oct-Dec	Jan- Mar	Apr-June	YTD
Establishment	1,680	1,558	1,516		4,754
Mobile Unit	2	2	5		9
Barber	555	422	473		1,450
Barber Apprentice	122	49	92		263
Cosmetology	2,918	3,876	3,089		9,883
Cosmetology Apprentice	151	111	97		359
Electrology	6	13	8		27
Electrology Apprentice	0	0	0		0
Manicuring	1,394	1,625	1,310		4,329
Esthetician	1,249	1,106	1,230		3,585
<b>Total</b>	<b>8,077</b>	<b>8,762</b>	<b>7,820</b>	<b>0</b>	<b>24,659</b>



Business, Consumer Services, and Housing Agency – Governor Edmund G. Brown Jr.  
 BOARD OF BARBERING AND COSMETOLOGY  
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## QUARTERLY BARBERING AND COSMETOLOGY DISCIPLINARY REVIEW COMMITTEE STATISTICS

**Fiscal Year 14-15**

**Report Date: March 31, 2015**

	January - March	YTD
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### NORTHERN

Heard	315	1,031
Received	260	792
Pending <sup>1</sup>	413	413 <sup>2</sup>

### SOUTHERN

Heard	582	1,800
Received	323	1,110
Pending <sup>1</sup>	236	236 <sup>2</sup>

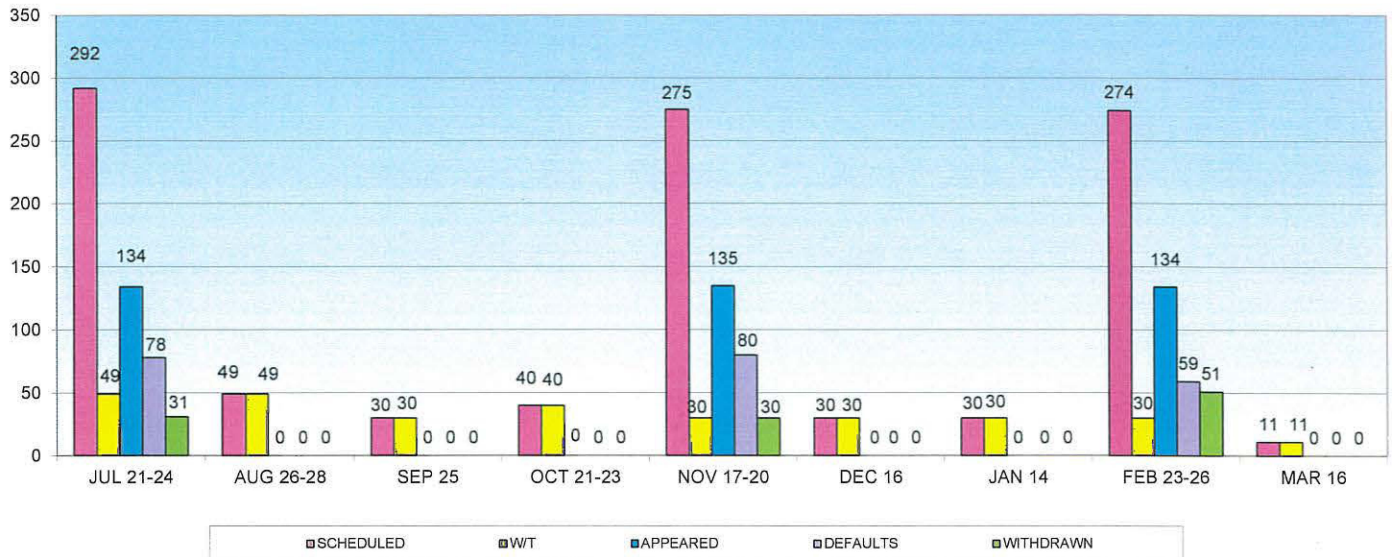
<sup>1</sup> Pending refers to the number of appeals received but not yet heard by DRC.

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

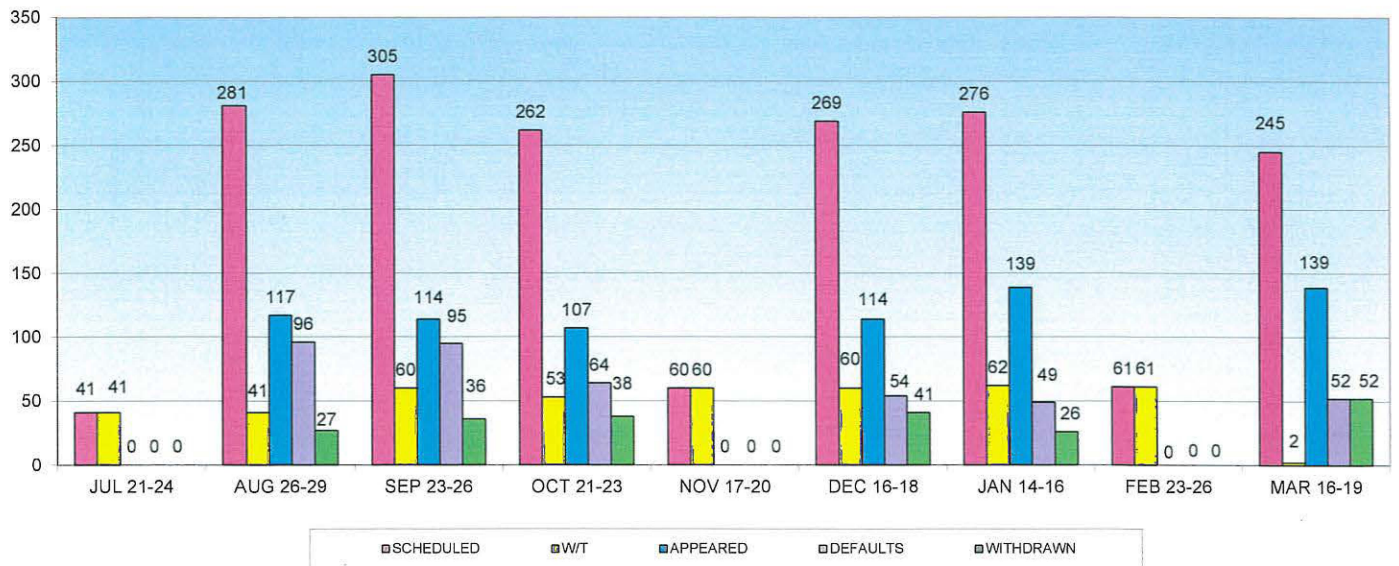
### 2015 SCHEDULED HEARINGS

Area	Location	Date
Northern	Sacramento	April 21-23, 2015
Southern	2 days SD / 2 days LA	May 18-21, 2015
Northern	Sacramento	June 22-24, 2015
Southern	Costa Mesa	July 28-30, 2015

### NORTHERN APPEALS HEARD (Fiscal Year 14-15)

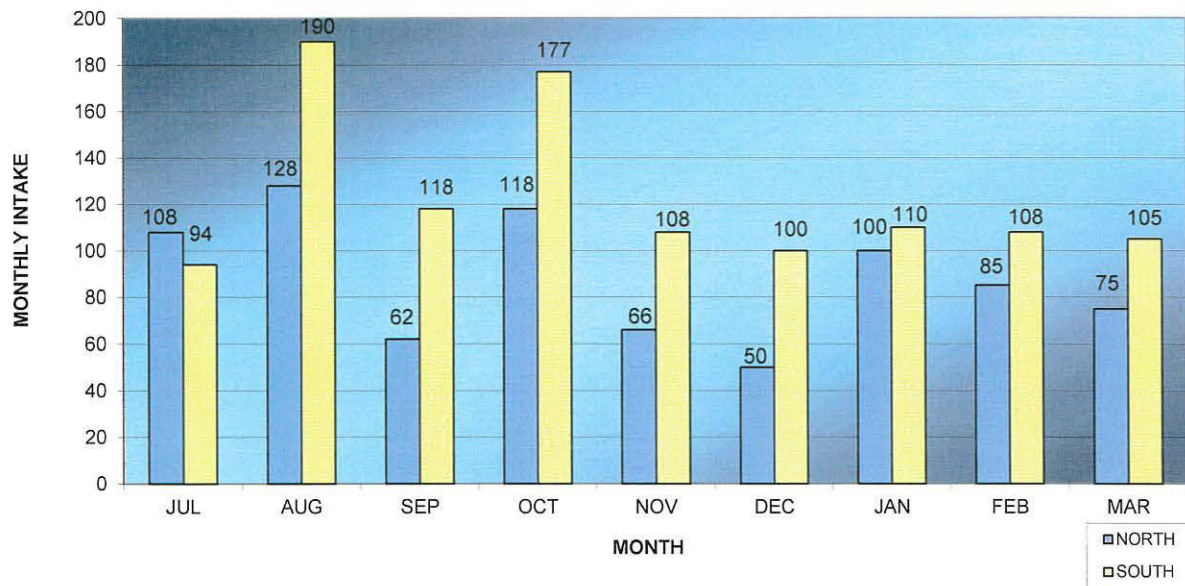


### SOUTHERN APPEALS HEARD (Fiscal Year 14-15)

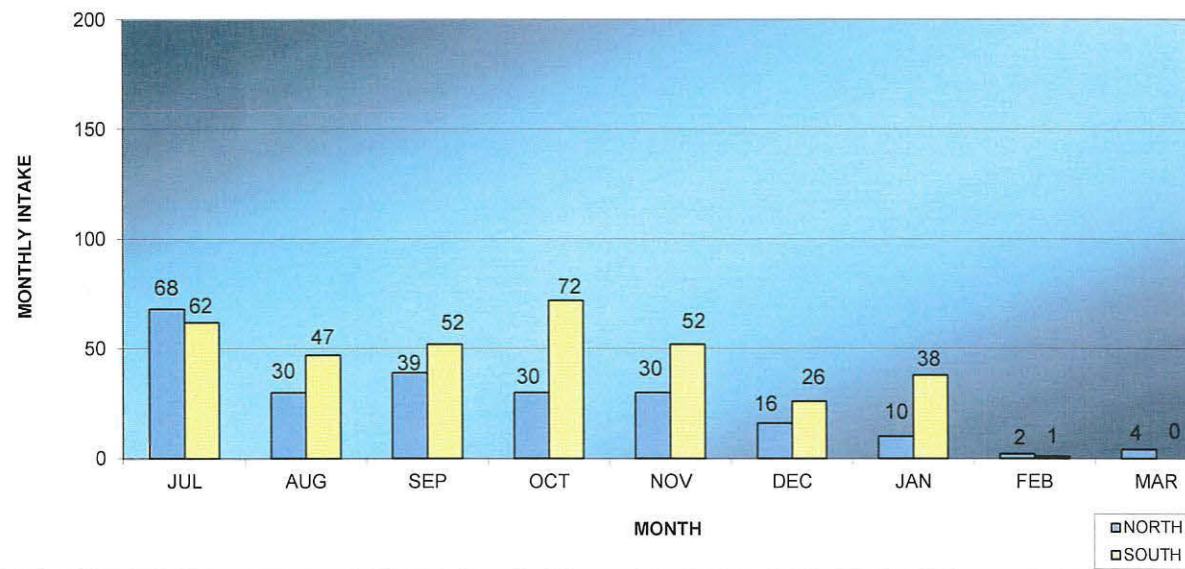




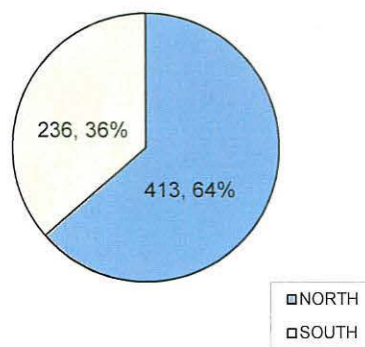
**DRC MONTHLY INCOMING APPEALS (Fiscal Year 14-15)**



**DRC MONTHLY INCOMING WT APPEALS (Fiscal Year 14-15)**



**DRC APPEALS WAITING TO BE HEARD/SCHEDULED  
(As of March 31, 2015)**





**QUARTERLY BARBERING AND COSMETOLOGY  
ENFORCEMENT STATISTICS Fiscal Year 14-15**

	Jul-Sept	Oct-Dec	Jan- Mar	Apr-Jun	YTD
<b>COMPLAINTS</b>					
Complaints Received	984	910	855	0	2749
Referred to DOI	0	6	7	0	13
Complaints Closed	784	788	789	0	2361
Total Complaints Pending	1092	1113	1136	0	1136
<b>APPLICATION INVESTIGATIONS</b>					
Received	349	344	304	0	997
Pending	0	18	0	0	0
Closed	354	352	304	0	1010
<b>ATTORNEY GENERAL</b>					
Referred	7	12	7	0	26
Accusations Filed	15	11	11	0	37
Statement of Issues Filed	0	0	0	0	0
Total Pending	101	92	80	0	80
<b>DISCIPLINARY PROCESS</b>					
Proposed Decisions	0	0	2	0	2
Default Decision	5	6	5	0	16
Stipulation	5	8	4	0	17
<b>DISCIPLINARY OUTCOMES</b>					
Revocation	6	10	8	0	24
Revoke, Stay, Probation	2	0	1	0	3
Revoke, Stay, Suspend/Prob	2	12	6	0	20
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	5	6	3	0	14
Surrender of License	2	1	2	0	5
Public Reprimands	0	0	0	0	0
License Denied	0	0	0	0	0
Other	0	0	0	0	0
Total	17	29	20	0	66
<b>PROBATION</b>					
Active	164	161	148	0	148
	<b>Jul-Sept</b>	<b>Oct-Dec</b>	<b>Jan- Mar*</b>	<b>Apr-Jun</b>	<b>YTD</b>
<b>CITATIONS</b>					
Establishments	2700	2098	1446	0	6244
Barber	218	175	113	0	506
Barber Apprentice	22	10	8	0	40
Cosmetologist	1130	782	667	0	2579
Cosmetologist Apprentice	17	7	12	0	36
Electrologist	0	0	1	0	1
Electrologist Apprentice	0	0	0	0	0
Manicurist	767	523	363	0	1653
Esthetician	67	67	42	0	176
Unlicensed Est.	124	62	106	0	292
Unlicensed Individual	114	114	68	0	296
Total	5159	3838	2826	0	11823
<b>INSPECTIONS</b>					
Establishments w/ violations	3247	2479	1666	0	7392
Establishments w/o violations	693	669	451	0	1813
Total	3940	3148	2117	0	9205

\*Citations and Inspections statistics are for January and February 2015



## **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 2015-16. 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 2014/15 Fiscal Year (July 2014 - June 2015):**

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



**Board of Barbering and Cosmetology**  
**Fiscal Year 2014/2015**  
**Projected Expenditures 02/28/15**

<b>Personnel Services</b>	<b>ALLOTMENT</b>	<b>BBC Projected Expenditures</b>	<b>Projected Year</b>
Permanent	4,009,443	3,832,658	176,785
Expert Examiners	452,554	452,554	0
Temporary	134,000	262,505	(128,505)
BL 12-03 Blanket	0	147,924	147,924
Statutory-Exempt	106,716	108,852	(2,136)
Board Member Commission	0	16,000	(16,000)
Overtime	0	12,000	(12,000)
<b>Total Salary &amp; Wages</b>	<b>4,702,713</b>	<b>4,832,493</b>	<b>166,068</b>
<b>Net Salary &amp; Wages</b>	<b>4,702,713</b>	<b>4,832,493</b>	<b>(129,780)</b>
Staff Benefits	2,240,480	2,237,025	3,455
<b>Total of Personnel Services</b>	<b>6,943,193</b>	<b>7,069,518</b>	<b>(126,325)</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	191,511	243,000	(51,489)
Printing	231,584	33,000	198,584
Communication	40,605	40,000	605
Postage	283,384	150,000	133,384
Insurance	4,489	5,775	(1,286)
Travel In State	82,789	130,000	(47,211)
Travel, Out-of-State	0	0	0
Training	10,513	403	10,110
Facilities Operations	1,288,599	1,105,582	183,017
Consultant & Professional Svs. - Interdept.	125,781	0	125,781
Consultant & Professional Svs. - External	486,506	476,476	10,030
Depart. and Central Admin. Services	6,896,230	7,277,863	(381,633)
Consolidated Data Center	68,468	5,200	63,268
DP Maintenance	38,376	50,000	(11,624)
Central Admin Pro Rata	1,068,771	1,068,771	0
Examinations	1,394,177	2,407,534	(1,013,357)
Major Equipment	72,200	185,738	(113,538)
Minor Equipment	16,200	16,200	0
Other Items of Expense	7,288	1,000	6,288
Vehicle Operations	37,784	56,000	(18,216)
Enforcement	1,951,372	967,924	983,448
Special Items of Expenses	0	0	0
Required OE&E Savings		0	0
<b>Total Operating Expenses &amp; Equipment</b>	<b>14,296,627</b>	<b>14,220,466</b>	<b>76,161</b>
<b>Total Personal Services Expenses</b>	<b>21,352,273</b>	<b>21,165,726</b>	<b>(36,113)</b>
Total reimbursements	(57,000)		
<b>Total</b>	<b>21,182,820</b>	<b>21,165,726</b>	<b>40,048</b>

# 0069 - Barbering and Cosmetology

## Analysis of Fund Condition

Prepared 12/19/14

(Dollars in Thousands)

**NOTE: \$21 Million General Fund Repayment Outstanding**

	ACTUAL 2013-14	CY 2014-15	BY 2015-16
<b>BEGINNING BALANCE</b>	\$ 13,833	\$ 15,919	\$ 16,644
Prior Year Adjustment	\$ 893	\$ -	\$ -
Adjusted Beginning Balance	\$ 14,726	\$ 15,919	\$ 16,644
<b>REVENUES AND TRANSFERS</b>			
Revenues:			
125600 Other regulatory fees	\$ 4,953	\$ 5,101	\$ 5,254
125700 Other regulatory licenses and permits	\$ 4,990	\$ 4,982	\$ 5,219
125800 Renewal fees	\$ 10,796	\$ 11,084	\$ 11,449
125900 Delinquent fees	\$ 846	\$ 871	\$ 897
141200 Sales of documents	\$ -	\$ -	\$ -
142500 Miscellaneous services to the public	\$ -	\$ -	\$ -
150300 Income from surplus money investments	\$ 32	\$ 51	\$ 55
150500 Interest Income from Interfund Loans	\$ -	\$ -	\$ -
160400 Sale of fixed assets	\$ -	\$ -	\$ -
161000 Escheat of unclaimed checks and warrants	\$ 8	\$ -	\$ -
161400 Miscellaneous revenues	\$ 9	\$ -	\$ -
Totals, Revenues	\$ 21,634	\$ 22,089	\$ 22,874
Transfers from Other Funds			
Proposed GF Loan Repayment			
Transfers to Other Funds			
GF Loan per item 1110-011-0069, Budget Act of 2011			
Totals, Revenues and Transfers	\$ 21,634	\$ 22,089	\$ 22,874
Totals, Resources	\$ 36,360	\$ 38,008	\$ 39,518
<b>EXPENDITURES</b>			
Disbursements:			
0840 State Controller (State Operations)		\$ -	\$ -
1110 Program Expenditures (State Operations)	\$ 20,348	\$ 21,347	\$ 19,170
1111 Program Expenditures (State Operations)			
8880 Financial Information System for California (State Ops)	\$ 93	\$ 17	\$ 38
9670 Equity Claims / Board of Control (State Operations)	\$ -	\$ -	\$ -
Total Disbursements	\$ 20,441	\$ 21,364	\$ 19,208
<b>FUND BALANCE</b>			
Reserve for economic uncertainties	\$ 15,919	\$ 16,644	\$ 20,310
<b>Months in Reserve</b>	8.9	10.4	12.5

### 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%.



### **FY 14-15 Outreach/Industry Events**

#### **Participated:**

- August 23, 2014 San Jose Face & Body (San Jose)  
Speakers: Kristy Underwood, Tami Guess and Marcene Melliza
- August 29, 2014 Telemundo 52 Interview (La Habra)  
Topic: Safe Sandal Season  
Speaker: Julie Espinosa
- September 8, 2014 Vietnamese Town Hall Meeting (Westminster)  
Attendees: Kristy Underwood, Tami Guess, Marcene Melliza and Patricia Garcia
- September 21, 2014 Nail Pro Show (Sacramento)  
Attendees: Marcene Melliza and Patricia Garcia
- December 12, 2014 Parlier High School Career/College Faire (Parlier)  
Attendees: MaryLou Amaro
- January 24 – 26, 2015 ISSE – Long Beach Convention Center  
Attendees: Marcene Melliza, Tami Guess and Patricia Garcia

#### **Tentatively Scheduled:**

None





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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**CALIFORNIA STATE BOARD OF  
BARBERING AND COSMETOLOGY**  
**MINUTES OF JANUARY 12, 2015 BOARD MEETING**

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

**Additional meeting locations via teleconference:**

**2405 Kalaniana'ole Avenue PH-11  
Hilo, HI 96720**

**1515 Sports Drive  
Sacramento, CA 95834**

**BOARD MEMBERS PRESENT**

Dr. Kari Williams, Vice President  
Andrew Drabkin  
Mary Lou Amaro  
Bobbie Anderson  
Christie Truc Tran

**STAFF MEMBERS PRESENT**

Kristy Underwood, Executive Officer  
Gary Duke, Legal Counsel  
Tami Guess, Board Policy Analyst  
Marcene Melliza, Board Analyst

**BOARD MEMBERS ABSENT**

Wen Ling Cheng

**TELECONFERENCED MEMBERS**

Richard Hedges, President  
Joseph Federico

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

Dr. Williams called the meeting to order at 10:00 a.m. The Board members and staff introduced themselves.

**2. Agenda Item #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)]*

The public present did not wish to address the Board.

### **3. Agenda Item # 3, Board President's Report (Richard Hedges)**

Mr. Hedges begins his report by summarizing the past years activities of the Board. The Board has significantly reduced the DRC cases waiting to be heard by adding an additional day to the hearings and by the large participation of the Board members. He noted that some of the cases he saw at the last DRC hearing had only been inspected four months prior. This is a much shorter wait time than previous years.

The Board has made great movement with revisiting our Health and Safety Regulations. We have collaborated with the industry and this has allowed us to make regulations easier to understand by adding definitions to existing regulations, as well as strengthening our consumer protection.

Our enforcement committee has made a significant impact by bringing the issues of the apprenticeship program to the forefront. This has allowed the Board to proceed with changes to regulations that will strengthened and improve processes for apprentices as well as address the abuses found in the program. Some examples of these abuses are: the selling of social security numbers, failure to turn in paperwork, and a large number of apprentices left in establishments alone/unsupervised and mainly being used for cheap labor.

The Board submitted their Sunset Review Report to the Legislature in October 2014. This allows the Board to bring up new issues to be addressed such as the Board's continued desire to have sole oversight of barbering and cosmetology schools, recognition of industry certification and natural hair care.

The Master Esthetician Bill, although it failed, the Board had put a lot of work into what could have been a new licensing category for a higher level of skincare. This will continue to be an area the Board will be watching and will look further into services that are being performed in med spas and how the Board can better address these issues.

Finally, Senate Bill 1159 allows the Board to accept an Individual Taxpayer Identification Number (ITIN) in lieu of a Social Security number (SSN) for licensure. This will assist the thousands of unlicensed people that are performing hair care services in the industry to get a license because they don't have a social security number. The Board was very proactive in supporting this bill and is looking forward to implementing the bill right away.

Mr. Hedges concluded his report by acknowledging the great work done by the BBC staff on the BreEZe application, the Boards' website and Facebook and the coordination of these programs to offer the licensees a user friendly environment.

### **4. Agenda Item # 4, Executive Officer Report (Kristy Underwood)**

Ms. Underwood began with the licensing statistics and shared that the Board continues to operate the licensing unit with no backlog at all. Establishment licenses are being processed within a couple weeks and exam applications are processed as soon as 30 days. It's the best the Board has ever been and she attributes the success with the assistance of the online system BreEZe and the Board's staff in adapting to the new system. She asked if there were any questions concerning any of the statistics provided in the Board packets and there were no questions or comments.

**5. Agenda Item # 5, Annual Election of Officers**

Mr. Hedges nominated Dr. Williams for President. Mr. Federico seconded the nomination. Dr. Williams accepted the nomination. Roll call vote was held. Dr. Williams was elected President of the Board by a vote of 7-0.

Mr. Federico nominated Mr. Hedges for Vice President. Mr. Drabkin seconded the nomination. Mr. Hedges accepted the nomination. Roll call vote was held. Mr. Hedges was elected Vice President of the Board by a vote of 7-0.

**Public Comment**

Fred Jones, Professional Beauty Federation of California, wanted to publicly acknowledge and thank Mr. Hedges for his hard work and dedication to the Board this past year and also wishes the Board a pain free Sunset Review.

**6. Agenda Item # 6, Appointment of Committee Members and Approval of Proposed 2015 Meeting Dates**

Ms. Underwood started by saying we would like to hear from each member and which committees they would like to serve on. Ms. Underwood would like the Board to establish the calendar to have all the committees meet at least once this calendar year. She reminded everyone that we can only have four members on a committee and we would also like to list everyone as a member on the Disciplinary Review Committee in case we need someone.

Ms. Anderson would like to be a member of the Disciplinary Review Committee and the Legislative and Budget Committee.

Ms. Amaro would like to be on all of the committees. Later, Ms. Amaro removed her name from the Enforcement Committee.

Mr. Drakin would like to be a member of the Enforcement and Inspection Committee and the Education and Outreach Committee.

Ms. Tran would like to remain on the Disciplinary Review Committee and join the Education and Outreach Committee.

Mr. Federico would like to remain on the committees he is currently on.

Mr. Hedges would like to remain on Disciplinary Review Committee, Licensing and Examination Committee, Enforcement Committee and Legislative and Budget Committee.

Dr. Williams would like to remain on the committees she is currently on.

Ms. Underwood asked everyone to make note of the proposed meeting dates and also mentioned the date for the March Disciplinary Review Committee has been changed to March 16-19, 2015.

Dr. Kari Williams asked for a motion to approve the proposed 2015 meeting dates. A motion was made by Mr. Drabkin, and seconded by Bobbie Anderson. The motion was passed with a 7-0 vote.



**7. Agenda Item # 7, Annual Review and Approval of Board Member Guidelines and Procedures Manual**

There have been minor changes made to the manual which are listed in red. Ms. Underwood asked if there could be a motion to approve the manual, which would include allowing staff to make any non-substantial changes.

Mr. Hedges suggested some changes to the verbiage under Chapter 6 (Travel Procedures) and questioned why the Board Members were required to use the Cal Travel Store. Ms. Underwood explained the State has a contract with the Cal Travel Store, but would inquire with DCA on Mr. Hedges's inquiry. Ms. Guess mentioned there is one exception that if the Board has a contract with a block of rooms for the meeting, those traveling to that meeting are allowed to book directly with that hotel. She also advised that if a Board Member has a particular hotel that he or she would like to stay at, they can advise the travel agent to book that hotel.

Mr. Drabkin moved to approve the Board Member Guidelines and Procedures Manual, which includes allowing staff to make any non-substantial changes. Ms. Anderson seconded the motion. The motion was approved with a 7-0 vote.

**8. Agenda Item # 8, Approval of Board Meeting Minutes**

- **October 20, 2014**

Mr. Hedges moved to approve the minutes from the October 20, 2014 meeting. Ms. Anderson seconded the motion. The minutes were approved with a 7-0 vote.

**9. Agenda Item #9, Update from the Enforcement Committee Meeting on December 11, 2014. (Richard Hedges)**

- **Discussion on Unregulated Services being offered in Establishments and Medical Offices.**
- **Discussion on the Implementation and Enforcement of SB 1159. Relating to Section 30 of the Business and Professions Code.**

Mr. Hedges shared that at the meeting the major discussion was surrounding medical facilities that use estheticians and how we should deal with them as well as other services within the salons that are not part of the Board's licensee's scope of practice. They discussed setting up a task force with the Medical Board and the RN Board to help define what goes on in medical spas, how we can make sure our licensees don't cross over into the medical scope of practice and how we can assist the medical doctors that have estheticians on staff.

**Public Comment**

Joyce Maxwell asked if dermaplaning was in the scope of practice of an esthetician and if an esthetician could instruct others on the procedure. Ms. Underwood stated performing dermaplaning on a consumer and receiving compensation for the service is not allowed. There is no regulation that prevents an esthetician from teaching others.

Ms. Underwood continued the update on the Enforcement Committee meeting and their discussion on the implementation of SB 1159. This law allows an applicant to apply for licensure with a Federal Individual Tax Identification Number (ITIN) in lieu of a Social Security Card. The committee discussed developing a handout for the inspectors to distribute to individuals if needed. A draft of the handout was provided to the Board and attendees.

The Board is working with the Department of Consumer Affairs and expecting more direction to come from them, however the Board is moving forward with making changes to their current application forms. SB 1159 does give the Board until 2016 to do regulations, but the Board does not need regulations because we do not reference our application forms in regulation.

### **Public Comment**

Fred Jones asked Ms. Underwood if the Board could put a notice out to the schools informing them of the new ITIN information and she agreed.

## **10. Agenda Item # 10, Proposed Regulations – Discussion/Review and Approval of Proposed Changes:**

**Ms. Underwood provided updates on the following:**

- **Relating to Health and Safety Title 16, Division 9, Article 12 of the California Code of Regulations Sections: 977, 978, 979, 980.1, 980.2, 980.3, 981, 982, 983, 987, 991, and 992. Updating health and safety regulations to reflect terms more commonly used in the barbering and cosmetology industry and to make the terms clearer or more detailed.**

Ms. Underwood stated that the Health and Safety Regulation file has been submitted to the Department of Consumer Affairs for review. Once approved by the Director, the file will go to our Agency for review and approval. The file will then go to the Office of Administrative Law (OAL).

- **Relating to the Apprenticeship Program Title 16, Division 9, Article 3 of the California Code of Regulations Sections: 914, 918, 921, 921.1 and 921.2**

Ms. Underwood stated that the Apprenticeship Program Regulation file has been submitted to the Department of Consumer Affairs for review. Once approved by the Director, the file will go to our Agency for review and approval. The file will then go to the Office of Administrative Law (OAL).

- **Relating to the Removal of Lash/Brow Tinting from the Cosmetology Curriculum Title 16, Division 9, Article 7 of the California Code of Regulations Sections: 950.2, 950.9**

Ms. Underwood stated that the Lash/Brow Tinting Regulations have been approved and are in effect. Notices are currently going out to all schools advising them, that while they should continue to teach the technique, there is not a product that is approved by the FDA.

**Relating to the Cross Over and Transfer of Credit of Barbering and Cosmetology Title 16, Division 9, Article 7 of the California Code of Regulations Sections: 950.8, 950.9 and 950.1**

Ms. Underwood stated that the Cross Over and Transfer of Credit of Barbering and Cosmetology Regulation file has been submitted to the Department of Consumer Affairs for

review. Once approved by the Director, the file will go to our Agency for review and approval. The file will then go to the Office of Administrative Law (OAL).

- **Relating to Text book Approval Title 16, Division 9, Article 12 of the California Code of Regulations Section: 961**

Ms. Underwood stated that the Text book Approval Regulation file has been submitted to the Department of Consumer Affairs for review. Once approved by the Director, the file will go to our Agency for review and approval. The file will then go to the Office of Administrative Law (OAL).

Dr. Williams asked how we are notifying our licensees concerning these changes and Ms. Underwood indicated that the regulation changes are on our website and that the Board is currently looking at updating the renewal notices to include a statement encouraging our licensees to visit our website for updated Board information.

**11. Agenda Item # 11, Update on Upcoming Sunset Review Hearing**

Ms. Underwood does not have an update; however she does expect a hearing date in March. As soon as she receives the date she will advise the Board, and the information will also be posted on our website.

**12. Agenda Item # 12, Discussion on Proposed Regulatory Changes Regarding Military Applicants.**

Ms. Underwood provided the background of Section 35 of the Business and Professions Code which requires that training obtained in the armed services be accepted as training towards a license. The Board already accepts training learned in the field of barbering, however it does not accept training for any other license types. Board staff is proposing a regulatory change that would allow all training applicable to barbering, cosmetology and electrology services learned in the armed services be accepted as part of the required training to sit for the examinations.

The language for the proposed new regulation would be:

909.1

Applicants applying for the examination with comparable training learned while on duty in the United States armed services shall submit the Verification of Military Experience and Training (V-Met) records.

Mr. Hedges moved for approval of the language. Ms. Amaro seconded the motion. The motion passed with a vote of 7-0.

**13. Agenda Item #13, Agenda Items for Next Meeting**

Mr. Hedges would like to discuss Continuing Education.



**14. Agenda Item #14, 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 for a future meeting. [Government Code Sections 11125, 11125.7(a)]*

**Public Comment**

Fred Jones informed the Board that the 14th Annual Welcome to the World (WOW) event is currently on hold without a date.

**15. Agenda Item #15, Closed Session**

**16. Agenda Item #16, Adjournment**

With no further business, the meeting was adjourned.

# **BACKGROUND PAPER FOR THE BOARD OF BARBERING AND COSMETOLOGY**

## **IDENTIFIED ISSUES, BACKGROUND AND RECOMMENDATIONS REGARDING THE BOARD OF BARBERING AND COSMETOLOGY**

### **CURRENT SUNSET REVIEW ISSUES**

The following are unresolved issues pertaining to the BBC, or those which were not previously addressed by the Committees, and other areas of concern for these Committees to consider along with background information concerning the particular issue. There are also recommendations the Committee staff have made regarding particular issues or problem areas which need to be addressed. The BBC and other interested parties, including the professions, have been provided with this Background Paper and can respond to the issues presented and the recommendations of staff.

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**ISSUE #1: (Pro Rata) What services does the BBC receive for its share of pro rata?**

**Staff Recommendation:** *The BBC should advise the Committees about the basis upon which pro rata is calculated, and the methodology for determining what services to utilize from DCA. In addition, BBC should also discuss whether it could achieve cost savings by dealing with more of its services in-house, such as its legal, public affairs, or call center support. The BBC should also explain to the Committees if the BBC's position reduction has led to increased reliance on DCA for administrative services.*

**Board Response:** The Board utilizes many services offered by the DCA including, but not limited to; call center, budgets, contracts, information technology, human resources and public information. The Board does have one of the higher costs for pro rata in the DCA however, the services received are numerous. The costs that are distributed from the Board to the DCA are calculated by DCA. SB 1243 (Lieu, Chapter 395, Statutes of 2014) requires the DCA to conduct a study on the system of prorating administrative expenses and this will provide a better understanding of cost distribution. The Board does not see a cost savings should it take over functions and duties that are currently handled by the DCA. Once the study of how costs are distributed the Board may be in a better position to determine if cost savings could be achieved. The Board does not believe that any position reductions led to an increased reliance on DCA.

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**ISSUE #2: (Practical Examination) Is the practical examination the most effective way to demonstrate minimal competency?**

**Staff Recommendation:** *The Committees may wish to require the BBC to conduct an occupational analysis of the current practical examination to determine if this form of examination is still a reliable and valuable measure of meeting minimal competency standards, or if any changes to improve the examination are necessary. In addition, the BBC may wish to inquire assessing the elements of a practical examination are something schools could test for at the end of an instructional program, as part of the required curriculum.*

Board Response: The Board would be happy to conduct research and provide an update to the committee on practical examinations and if they are a reliable and valuable measure for minimal competency. As for schools administering the practical examination, this is an option that could be looked into, however, the Board believes that unless it has sole oversight of schools it would not be a secure process. Currently, schools are not monitored in a way that the Board would feel confident that the test would be administered properly. There is already a significant issue of schools selling hours (issuing completion documents when the courses were not completed) and the Board does not see the schools conducting an examination in a secure manner.

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**ISSUE #3: (Spanish-language failure rates) What can the BBC do to improve the success of Spanish-language test-takers?**

Staff Recommendation: *In order to improve the outcomes of the written examination for both recent graduates and those individuals taking the Spanish-language examination, the Committees may wish to require the BBC to reevaluate the curriculum standards that are necessary for licensure and work with current BBC- and BPPE-approved education providers to ensure that the curriculum and instructional materials meet the needs of students and any material instructed in a language other than English is consistent with the language utilized on the NIC examinations. In addition, the BBC should continue to work with Spanish-language test takers to inform them of the dialect utilized in the Spanish examination. Also the Committees may wish to require the BBC to work with education providers who teach in Spanish to improve communication and information with Spanish-language examinees. Further, the BBC reported that it plans to conduct targeted outreach to Spanish-speaking students and licensees. The BBC should explain to the Committees its timeline for conducting outreach and explain its outreach strategy.*

Board Response: The Board is taking continual steps to determine what the issues are for low pass rates for those taking the written examination in Spanish. The Board does not believe that the issue lies within the curriculum or the examination. As the Board is able to generate more reports from the BreEZe database we believe students that are requesting the examination in Spanish are often not obtaining their education in Spanish. As a result, the Board will be reaching out to schools to encourage them to discuss with the students the pass rates and how the examination is translated. The Board will also be reaching out to students who have failed the examination to obtain their input and conducting town hall meetings with Spanish speaking students. This outreach will be the Board's focus during fiscal year 2015/2016.

The Board has already met with the BPPE on this issue as they are the regulatory entity who oversees the quality of education. The Board would like to see the Spanish pass rates become comparable to other language pass rates by the end of 2016.

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**ISSUE #4: (Taking the written examination prior to completing school) Should applicants be permitted to take the written examination prior to completing school instruction?**

Staff Recommendation: *The Committees may wish to require the BBC to conduct an occupational analysis of the written examination along with an assessment of curriculum standards to ensure the material is relevant to current practices and standards within the industry. Additionally, the Committees may wish to inquire of the BBC the need to attend*



*1600 hours of instruction or less depending on licensee-type, if individuals are able to take and pass an examination prior to completing coursework. Is there coursework that is no longer relevant to industry practices? The Committees may wish to require the BBC to contract with an outside entity to conduct a revised Occupational Analysis of the 1600 curriculum program for cosmetologists.*

Board Response: The Board believes that the current 1600 hour curriculum is adequate. The Board supports the idea of the written examination being taken early only because it is based on theory that is learned in the beginning of a course and it would be beneficial to students to be tested upon completion of learning the material as opposed to several months later.

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**ISSUE #5: (SCHOOL APPROVALS)** What is the BBC's current relationship with the BPPE? Does the BBC have a plan to improve its relationship with the BPPE? What steps has the BBC taken ensure better outcomes if it were tasked with the responsibility of being the sole approving entity for schools?

Staff Recommendation: *The BBC should further update the Committees about any plans it has to improve its regulatory relationship with the BPPE. The BBC should explain where the communication problems may lie between the two entities and consider establishing an enforcement process and communication system in consultation with the BPPE to help alleviate any communication deficiencies. The BBC should inform the Committees about any transition plan it has in place if it were to be granted the sole approval authority for schools including, the projected costs and staff resources necessary to implement such a program. The BBC and the BPPE should continue to work together and monitor any pending litigation issues that impact the curriculum requirements and licensing model for the barber and cosmetology industry.*

Board Response: Communication with the BPPE has been lacking since the BPPE was reconstituted. Effort has been made by the Board to improve communication by requesting meetings and providing information on what the Board needs from the BPPE. In the past these meetings have not been successful as communication from the BPPE to the Board has not improved. However, in 2015 the Board reached out to the DCA to address these issues and we now have regularly scheduled meetings with the BPPE. These meetings are held monthly and are to discuss outstanding issues as well as general information sharing. The Board continues to believe that one entity should have sole oversight over cosmetology and barbering schools and that entity should be the Board. Should the Board be granted sole oversight it would then have the authority to charge a fee for its services and then be able to pursue additional staffing. The Board has not done a full study of staffing needs but maintains it is in the best position to oversee schools as we currently already have staff dedicated to this process.

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**ISSUE #6: (Health and Safety for Hair Care and Beauty Professionals)** What is the BBC's timeframe for updating its current health and safety curriculum manual?

Staff Recommendation: *The BBC should advise the Committees as to when it will revise or update the current curriculum in the Health and Safety for Hair Care and Beauty Professionals manual. The Committees may wish to require the BBC update this important instructional material by July 1, 2017.*

Board Response: The Board is currently in the process of updating this curriculum and expects to have it completed no later than July 1, 2017.

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**ISSUE #7: (Enforcement timeframes) Why is the enforcement process for formal discipline taking longer than the targeted 540 days?**

**Staff Recommendation:** *The BBC should advise the Committees about where it believes the bottlenecks are in its investigation processes and disciplinary actions. What does BBC think are the causes of the delays? In the BBC's opinion, what are viable solutions to the extensive timeframes in its enforcement processes?*

Board Response: The Board's investigation portion of cases where formal discipline was completed in the FY 2013/2014 averaged 241 days. The balance of the aging process for these cases is occurring at the AG's Office. In order to decrease aging at the AG's office Board analysts are regularly inquire about the status of accusations, whether Notices of Defense were filed, whether or not default decisions have been prepared, and whether or not settlement terms have been offered. When accusations or decisions are received, the Board staff will ensure they are processing these documents timely.

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**ISSUE #8: (Inspector Program) What are the BBC's current issues with its Inspector Program?**

**Staff Recommendation:** *Given the current challenges with obtaining the approval to hire BBC's desired number of inspectors, and the recruitment challenges, the BBC should explain to the Committees how it plans to adjust, streamline or modify its Inspection Program in order to work within the constraints of available resources. The BBC should explain any problems that may arise from a resource-deficient Inspection Program. The BBC should explore ways it can improve the inspection process for individuals with limited English proficiency and explain to the Committees if an inspector protocol around language and diversity is possible, and if not, what those challenges may be to implementing it. The BBC should inform the Committees of any outcomes from its "all-inspector" trainings. Additionally, the BBC should explain to the Committees its hiring plan to fill inspector positions, if granted BCP authority.*

Board Response: The Board will continue to pursue obtaining additional inspector positions as it believes this is the only way to ensure consumers are protected. It should be noted that the lack of inspector positions to adequately cover all of California does put consumers at risk. It is often that the most egregious violations are found in establishments that have been licensed for many years but have not been inspected on a regular basis. In addition, not having the adequate number of staff requires current inspectors to carry a significantly larger workload thereby impacting the quality of inspections. The Board is committed to quality not quantity inspections. We believe that more time spent in an establishment is beneficial to licensees as opposed to a fast inspection.

The Board does believe that a protocol for inspecting establishments where there is limited English speaking individuals can be developed and can be helpful. The Board plans to develop this protocol and have it in place by the end of 2015, if not sooner.

The Board held two “all-inspector” trainings in 2014. During these meetings inspectors attended tactical communication training, met with industry experts on emerging trends in skin care, and conducted a violation review to ensure consistency in conducting inspections.

Additional meetings will be scheduled for 2015 and the Board will continue to focus on diversity and customer service.

The DCA is assisting the Board in recruitment for vacant inspector positions including promoting the vacant positions at California colleges. The Board is also utilizing social media as a means of promoting the vacant positions. Should the Board be granted new positions, the first step would be to have DCA conduct personnel examinations to establish a list of eligible applicants.

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**ISSUE #9: What is the status of BReEZe implementation by the BBC?**

**Staff Recommendation:** *The BBC should update the Committees about the current status of its implementation of BreEZe. What have been the challenges to implementing this new system? What are the costs for using the system and has it enhanced operational or administrative efficiencies?*

*Is the cost of BreEZe consistent with what the BBC was told the project would cost? Is the BBC comfortable that any remaining technical issues will be addressed?*

**Board Response:** The Board has fully implemented the BreEZe system. Numerous challenges were encountered in the initial implementation. The system did not function as easily as Board staff believed it would and there were several changes that needed to be made to accommodate the Board’s functions. The Board has spent over \$4 million to date on the BreEZe system which is higher than originally thought. The Board is happy to report that operational efficiencies have been gained as a result of BreEZe, the most significant being on-line transactions. The Board receives over 1,000 on-line transactions a month. The Board believes that remaining technical issues will be addressed as prior issues have already been addressed.

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**ISSUE #10: (Freelance Certification) Are more people seeking beautification services outside of the traditional salon establishment? Does the BBC need to update the current establishment requirements to meet consumer demands?**

**Staff Recommendation:** *The BBC should explain to the Committees how they would implement a freelance or mobile certificate. The BBC should also explain any new regulations, industry standards or licensing reforms that would be necessary to implement a new freelance certificate and explain how the BBC could regulate such certificates in a matter consistent with its mission. In addition, the BBC should explain to the Committees if it would need to enhance application requirements for freelance certificates, such as expanding the background check program or adding bonding requirements.*

**Board Response:** Should the Board be granted the authority to issue a “freelance” certificate it believes the process would be to add an indicator to an applicants personal license. An individual would be required to submit an application and fee, obtain fingerprint clearance from the Department of Justice and provide proof of liability insurance. The Board would then

approve the licensee to enter non-licensed facilities to perform services. As the Board's primary focus is consumer protection, the Board would also require any individual that is providing services outside of a licensed establishment to provide information to consumers on how to file a complaint with the Board.

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**ISSUE #11: (Correctional Facilities Licensing Program)** What, if anything, can the BBC do to expand this program? How can the BBC assist in increasing the number of test-takers?

**Staff Recommendation:** *The BBC should explain to the Committees its role in the program, how their current partnership with CDCR is working, and ways the BBC believes it can help to improve or expand access to the program.*

**Board Response:** The Board currently has two examinations scheduled one at Chowchilla State Prison and the other at Corona State Prison. The Board is contacted by the CDCR to set up the examinations when there are candidates ready to test. The Board is flexible and can usually accommodate the CDCR whenever they are ready. At this time, these are the only two facilities that offer educational programs that lead to Board licensure. The Board is willing to expand this program however, that is dependent upon the CDCR. Costs involved for the Board are minimal as the examinations are conducted by Board staff; therefore only minimal travel costs are involved. CDCR incurs the majority of the cost as each facility must be equipped with a learning center.

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**ISSUE #12: (Booth Renters License)** Is there a need to create a separate booth renter's license?

**Staff Recommendation:** *The Committees may wish to inquire of the BBC how a booth renters' license will provide any enhanced protections for consumers or licensees. As raised during previous sunset review oversight hearings, it is unclear why owners of establishments would not want to maintain the responsibility for individuals operating at their place of business and it is unclear why a responsible business owner would potentially want to ignore violations in their establishment and not require all individuals working closely with them to abide by the law. In addition, the BBC should explain to the Committees if a booth renter's license would increase the workload of investigators, which the BBC reports, is currently understaffed. The Committees may wish to instead require the BBC to provide additional information to consumers and licensees, on its Web site, about the difference between a booth rental and establishment employment to help clarify the role of establishment owners, employees and booth renters to benefit both licensees and consumers.*

**Board Response:** The Board believes that a booth rental license will provide increased consumer protection by allowing a consumer to fully understand who is providing the service. Consumers should understand that when they enter an establishment if they are receiving services from a booth renter, and are harmed, the liability is with the individual performing the services. The Board does believe that owners would still be required to maintain responsibility of the establishment, specifically common areas that may be used by multiple booth renters (for example: shampoo bowls). The addition of a booth renter license would not increase work for Board inspectors because they currently inspect all aspects of the establishment and issue individual inspection reports and establishment inspection reports.



The Board agrees with providing additional information on its website that will benefit consumers and licensees and will have this information posted by June 30, 2015.

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**ISSUE #13: (Additional Licensing Sub-categories and Industry Certification) How would these enhance consumer protection?**

**Staff Recommendation:** *The Committees may wish to require the BBC to focus on numerous other areas including: adjusting its current regulatory authority to include recognition of a freelance certificate; improving its Inspection Program, improving its relationship with the BPPE, reviewing the curriculum standards of schools and hour requirement necessary for licensure; and addressing consumer safety issues instead of approving industry certificates which licensees are already permitted to receive, granted they are operating within the scope of their professional license.*

**Board Response:** The Board believes that an industry certification program would allow an incentive for an individual to gain further education in their specific skill set. This would allow those licensees to become better at their craft and become safer operators. More education by licensees would increase consumer protection.

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**ISSUE #14: (Board Composition) Should professional members be required to be a licensed professional?**

**Staff Recommendation:** *The Committees may wish to consider if requiring the professional appointees to represent a more diverse segment of the licensing population would be beneficial. This could be achieved by specifying that a portion of, or all, professional board member appointees hold an active, professional license. The Committees may also wish to require the BBC to create a designated industry-advisory committee which specifically focuses industry-related issues and is comprised of licensed-industry members.*

**Board Response:** As noted in the background paper the Board is comprised of nine members with four members being of the profession. As of the date of this report there are 2 cosmetologists, 1 barber and 1 school owner serving on the board. Currently, the Board does not have members that hold a license as an esthetician, manicurist or electrologist. The Board has formed technical advisory committees for each of the licensing categories. These committees are beneficial to the Board in that they provide direct industry related issues. This process has allowed the Board to include all aspects of the industry in the regulatory and consumer protection areas.

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**ISSUE #15: (Language Access) How can the BBC enhance language-access services to consumers and licensees?**

**Staff Recommendation:** *Although the BBC has made significant improvements in addressing language access issues, it is clear that more can be done. The BBC should explain to the Committees how it plans to continue enhancing language access services, including translation services at disciplinary hearings and any plans the BBC has to increase the numbers of bilingual inspectors.*

Board Response: The Board believes language access will take continual effort and looks forward to adding to what has already been accomplished. Effective May 1, 2015 the Board will begin issuing citations to all manicurists and establishments cited for manicuring violations in English and in Vietnamese. In addition, the Board hopes to continue its outreach to the limited English speaking communities. The Board will be developing a protocol for inspectors to assist in the process of inspecting establishments with non-English speaking licenses. In addition, the Board continues to advertise job vacancies encouraging non-English speaking candidates to apply.

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**ISSUE #16: (Consumer and Licensee Safety) How can the BBC promote safe standards for industry workers and consumers? How does the BBC stay informed about product safety and pass along the information to both consumers and licensees? Is greater outreach necessary?**

**Staff Recommendation:** *The BBC should consider establishing a health and safety advisory committee or adding this important task to one of its existing advisory committees which meets regularly.*

Board Response: The Board agrees with staff's recommendation and will be adding this topic to each agenda for the various technical advisory committee meetings. These advisory committees are comprised of members of the industry that are educated in the current trends and medical and/or scientist personnel. Having this topic on the agenda will allow the Board to stay informed and be proactive on any industry concerns. The Board will promote safe standards through its use of social media, website and trade shows. The update of the Board's Health and Safety Curriculum (which is discussed further under item #6) will also be beneficial to promote safety standards for licensees.

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**ISSUE #17: Technical Cleanup.**

**Staff Recommendation:** *The Board should recommend any additional technical cleanup amendments for BPC § 7301 et seq. to the Committees.*

Board Response: The Board recommends the following technical cleanup amendments:

Section	Action	Reason
7303.2	Repeal	The Board fulfilled the requirement and language is no longer relevant.
7303.5 (c) and (d)	Repeal	This section does not appear to be relevant as it repeals the Executive Officer. This section would become inoperative should the Board become inoperative through the sunset process.
7308	Repeal	The Board fulfilled the requirement and language is no longer relevant.
7313 (b)	Amend	Amend language to reflect accurate name of the Bureau for Private Postsecondary and Vocational Education
7362 (a)	Amend	Amend language to reflect accurate name of the Bureau for Private Postsecondary and Vocational Education

7395.1	Amend	Amend language to reflect accurate name of the Bureau for Private Postsecondary and Vocational Education
7401 (d)	Repeal	The Board fulfilled the requirement and language is no longer relevant.
7404 (4)(c)	Amend	Amend language to reflect accurate name of the CA Department of Public Health
7407	Amend	Remove requirement for Board to review and revise the administrative fine schedule by January 1, 2005. The Board has fulfilled this requirement.

**ISSUE #18: (CONTINUED REGULATION BY BOARD OF BARBERING AND COSMETOLOGY.)** Should the licensing and regulation of barbers, cosmetologists, electrologists, manicurists and estheticians be continued and be regulated by the current BBC membership?

**Staff Recommendation:** *Recommend that the barbering, cosmetology, electrology, manicure and esthetician professions continue to be regulated by the current the BBC in order to protect the interests of the public and be reviewed once again in four years, and that the BBC update the appropriate policy committees of the Legislature in 4 years on the issues raised earlier in this report.*

**Board Response:** the Board agrees with staff recommendation and looks forward to continued work with the committees.



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## MEMORANDUM

TO: Members, Enforcement Committee      Date: April 20, 2015  
Board of Barbering and Cosmetology

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

SUBJECT: Discussion of Proposed Regulatory Language to Define Demonstrating

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### **Background**

The Board is seeing a growing number of unlicensed individuals that are performing services within a scope of practice regulated by the Board but are claiming that the services are only for demonstration and therefore a license is not needed.

### **Statutory Authority**

Business and Professions Code section 7319(e) states:

The following persons are exempt from this chapter:

*(e) Persons engaged in the administration of hair, skin, or nail products for the exclusive purpose of recommending, demonstrating, or selling those products.*

### **Recommendation**

Staff recommends that the committee adopt regulatory language, and present to the full Board, that clarifies what constitutes "demonstrating".

Attached is recommended language to define demonstration.



#### Section 977. Health and Safety Definitions

Demonstrate – a one-time service, without compensation, to show or prove the value or efficiency of a product to a consumer with the intent that the person could perform the service or administer the product, on their own/at home without a licensee/product instructor present.





**Board of Barbering and Cosmetology**

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## MEMORANDUM

TO: Members, Enforcement Committee      Date: April 20, 2015  
Board of Barbering and Cosmetology

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

SUBJECT: Discussion and Recommendations on How to Prevent False and Misleading  
Advertising with Regard to Beauty Services

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### **Background**

The Board is seeing a growing number of establishments that are providing advertising that is misleading to California consumers. For Example:

- Using the term Medical Esthetician
- Mole Removal
- Medical Grade Skin Services

The Board believes that this type of advertising is misleading to consumers and implies that Board licensees are allowed to perform services in which they are not licensed,

### **Statutory Authority**

Business and Professions Code section 7404 (a)(4) states that the grounds for disciplinary action are:

*Unprofessional conduct which includes but is not limited to any of the following:*

*(4) Advertising by means of knowingly false or deceptive statements.*

### **Recommendation**

Staff recommends that the committee begin discussions on the development of regulations to clarify this statute and make clear what false or deceptive statements would be considered grounds for discipline. Staff has attached a recommendation of new regulatory language to facilitate this discussion.

## Article 12. Health and Safety

999. The Board considers a person practicing medicine if the person does, advertises or offers to do, one or more of the following:

1. Advertise, offers, holds out to the public or represents in any manner that the person is authorized to practice medicine in this State.
  - a. Append the letters M.D. or D. O. to the name of the person or use the words, Doctor, Physician, Surgeon, or any abbreviation or combination thereof, or any letters or words of similar import in connection with the name of the person, or any trade name in which the person is interested, in the conduct of any occupation or profession pertaining to the diagnosis or treatment of human diseases or conditions.
2. Advertises, offers, holds themselves out to the public or represents themselves as practicing, any system or mode of treating the sick or afflicted or who diagnose, treats, operates for, or prescribes for any ailment, blemish, deformity, disease, disfigurement, disorder, injury, or other physical or mental condition of any person, including, but not limited to, the treating of spider veins, lesions, growths or rashes.
3. Advertises, offers, holds out to the public or represents in any manner that the person is authorized to perform any procedures that by any means, methods, devices or tools that can damage the living skin (dermis) and subcutaneous tissues, including but not limited to, the use of all scalpels, syringes, all lasers, microwave energy, radio frequencies (with the exception of Electrologists), electrical impulses; and all other energy emitting devices, thermal destruction (with the exception of Electrologists), needles (with the exception of Electrology needles or probes), chemical application, particle sanding, and other foreign or natural substances by injection or insertion.
4. Advertises, offers, holds out to the public or represents in any manner that the person is authorized to undertake to perform any surgical operation upon any person, or puncture or pierce the skin in any manner, including but not limited to, mole removal, skin tag removal and/or spot removal.
5. Found on the premises any drug or medicine or advertises, offers, holds out to the public, or represents in any manner that the person is authorized to undertake to prescribe, give or administer any drug or medicine for the use of any other person.





**Board of Barbering and Cosmetology**  
**Fiscal Year 2014/2015**  
**Projected Expenditures 02/28/15**

<b>Personnel Services</b>	<b>ALLOTMENT</b>	<b>BBC Projected Expenditures</b>	<b>Projected Year</b>
Permanent	4,009,443	3,832,658	176,785
Expert Examiners	452,554	452,554	0
Temporary	134,000	262,505	(128,505)
BL 12-03 Blanket	0	147,924	147,924
Statutory-Exempt	106,716	108,852	(2,136)
Board Member Commission	0	16,000	(16,000)
Overtime	0	12,000	(12,000)
<b>Total Salary &amp; Wages</b>	<b>4,702,713</b>	<b>4,832,493</b>	<b>166,068</b>
<b>Net Salary &amp; Wages</b>	<b>4,702,713</b>	<b>4,832,493</b>	<b>(129,780)</b>
Staff Benefits	2,240,480	2,237,025	3,455
<b>Total of Personnel Services</b>	<b>6,943,193</b>	<b>7,069,518</b>	<b>(126,325)</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	191,511	243,000	(51,489)
Printing	231,584	33,000	198,584
Communication	40,605	40,000	605
Postage	283,384	150,000	133,384
Insurance	4,489	5,775	(1,286)
Travel In State	82,789	130,000	(47,211)
Travel, Out-of-State	0	0	0
Training	10,513	403	10,110
Facilities Operations	1,288,599	1,105,582	183,017
Consultant & Professional Svs. - Interdept.	125,781	0	125,781
Consultant & Professional Svs. - External	486,506	476,476	10,030
Depart. and Central Admin. Services	6,896,230	7,277,863	(381,633)
Consolidated Data Center	68,468	5,200	63,268
DP Maintenance	38,376	50,000	(11,624)
Central Admin Pro Rata	1,068,771	1,068,771	0
Examinations	1,394,177	2,407,534	(1,013,357)
Major Equipment	72,200	185,738	(113,538)
Minor Equipment	16,200	16,200	0
Other Items of Expense	7,288	1,000	6,288
Vehicle Operations	37,784	56,000	(18,216)
Enforcement	1,951,372	967,924	983,448
Special Items of Expenses	0	0	0
Required OE&E Savings		0	0
<b>Total Operating Expenses &amp; Equipment</b>	<b>14,296,627</b>	<b>14,220,466</b>	<b>76,161</b>
<b>Total Personal Services Expenses</b>	<b>21,352,273</b>	<b>21,165,726</b>	<b>(36,113)</b>
Total reimbursements	(57,000)		
<b>Total</b>	<b>21,182,820</b>	<b>21,165,726</b>	<b>40,048</b>



# **BACKGROUND PAPER FOR THE BOARD OF BARBERING AND COSMETOLOGY**

## **IDENTIFIED ISSUES, BACKGROUND AND RECOMMENDATIONS REGARDING THE BOARD OF BARBERING AND COSMETOLOGY**

### **CURRENT SUNSET REVIEW ISSUES**

The following are unresolved issues pertaining to the BBC, or those which were not previously addressed by the Committees, and other areas of concern for these Committees to consider along with background information concerning the particular issue. There are also recommendations the Committee staff have made regarding particular issues or problem areas which need to be addressed. The BBC and other interested parties, including the professions, have been provided with this Background Paper and can respond to the issues presented and the recommendations of staff.

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**ISSUE #1: (Pro Rata) What services does the BBC receive for its share of pro rata?**

**Staff Recommendation:** *The BBC should advise the Committees about the basis upon which pro rata is calculated, and the methodology for determining what services to utilize from DCA. In addition, BBC should also discuss whether it could achieve cost savings by dealing with more of its services in-house, such as its legal, public affairs, or call center support. The BBC should also explain to the Committees if the BBC's position reduction has led to increased reliance on DCA for administrative services.*

**Board Response:** The Board utilizes many services offered by the DCA including, but not limited to; call center, budgets, contracts, information technology, human resources and public information. The Board does have one of the higher costs for pro rata in the DCA however, the services received are numerous. The costs that are distributed from the Board to the DCA are calculated by DCA. SB 1243 (Lieu, Chapter 395, Statutes of 2014) requires the DCA to conduct a study on the system of prorating administrative expenses and this will provide a better understanding of cost distribution. The Board does not see a cost savings should it take over functions and duties that are currently handled by the DCA. Once the study of how costs are distributed the Board may be in a better position to determine if cost savings could be achieved. The Board does not believe that any position reductions led to an increased reliance on DCA.

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**ISSUE #2: (Practical Examination) Is the practical examination the most effective way to demonstrate minimal competency?**

**Staff Recommendation:** *The Committees may wish to require the BBC to conduct an occupational analysis of the current practical examination to determine if this form of examination is still a reliable and valuable measure of meeting minimal competency standards, or if any changes to improve the examination are necessary. In addition, the BBC may wish to inquire assessing the elements of a practical examination are something schools could test for at the end of an instructional program, as part of the required curriculum.*



Board Response: The Board would be happy to conduct research and provide an update to the committee on practical examinations and if they are a reliable and valuable measure for minimal competency. As for schools administering the practical examination, this is an option that could be looked into, however, the Board believes that unless it has sole oversight of schools it would not be a secure process. Currently, schools are not monitored in a way that the Board would feel confident that the test would be administered properly. There is already a significant issue of schools selling hours (issuing completion documents when the courses were not completed) and the Board does not see the schools conducting an examination in a secure manner.

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**ISSUE #3: (Spanish-language failure rates) What can the BBC do to improve the success of Spanish-language test-takers?**

**Staff Recommendation:** *In order to improve the outcomes of the written examination for both recent graduates and those individuals taking the Spanish-language examination, the Committees may wish to require the BBC to reevaluate the curriculum standards that are necessary for licensure and work with current BBC- and BPPE-approved education providers to ensure that the curriculum and instructional materials meet the needs of students and any material instructed in a language other than English is consistent with the language utilized on the NIC examinations. In addition, the BBC should continue to work with Spanish-language test takers to inform them of the dialect utilized in the Spanish examination. Also the Committees may wish to require the BBC to work with education providers who teach in Spanish to improve communication and information with Spanish-language examinees. Further, the BBC reported that it plans to conduct targeted outreach to Spanish-speaking students and licensees. The BBC should explain to the Committees its timeline for conducting outreach and explain its outreach strategy.*

Board Response: The Board is taking continual steps to determine what the issues are for low pass rates for those taking the written examination in Spanish. The Board does not believe that the issue lies within the curriculum or the examination. As the Board is able to generate more reports from the BreEZe database we believe students that are requesting the examination in Spanish are often not obtaining their education in Spanish. As a result, the Board will be reaching out to schools to encourage them to discuss with the students the pass rates and how the examination is translated. The Board will also be reaching out to students who have failed the examination to obtain their input and conducting town hall meetings with Spanish speaking students. This outreach will be the Board's focus during fiscal year 2015/2016.

The Board has already met with the BPPE on this issue as they are the regulatory entity who oversees the quality of education. The Board would like to see the Spanish pass rates become comparable to other language pass rates by the end of 2016.

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**ISSUE #4: (Taking the written examination prior to completing school) Should applicants be permitted to take the written examination prior to completing school instruction?**

**Staff Recommendation:** *The Committees may wish to require the BBC to conduct an occupational analysis of the written examination along with an assessment of curriculum standards to ensure the material is relevant to current practices and standards within the industry. Additionally, the Committees may wish to inquire of the BBC the need to attend*

*1600 hours of instruction or less depending on licensee-type, if individuals are able to take and pass an examination prior to completing coursework. Is there coursework that is no longer relevant to industry practices? The Committees may wish to require the BBC to contract with an outside entity to conduct a revised Occupational Analysis of the 1600 curriculum program for cosmetologists.*

Board Response: The Board believes that the current 1600 hour curriculum is adequate. The Board supports the idea of the written examination being taken early only because it is based on theory that is learned in the beginning of a course and it would be beneficial to students to be tested upon completion of learning the material as opposed to several months later.

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**ISSUE #5: (SCHOOL APPROVALS)** What is the BBC's current relationship with the BPPE? Does the BBC have a plan to improve its relationship with the BPPE? What steps has the BBC taken ensure better outcomes if it were tasked with the responsibility of being the sole approving entity for schools?

Staff Recommendation: *The BBC should further update the Committees about any plans it has to improve its regulatory relationship with the BPPE. The BBC should explain where the communication problems may lie between the two entities and consider establishing an enforcement process and communication system in consultation with the BPPE to help alleviate any communication deficiencies. The BBC should inform the Committees about any transition plan it has in place if it were to be granted the sole approval authority for schools including, the projected costs and staff resources necessary to implement such a program. The BBC and the BPPE should continue to work together and monitor any pending litigation issues that impact the curriculum requirements and licensing model for the barber and cosmetology industry.*

Board Response: Communication with the BPPE has been lacking since the BPPE was reconstituted. Effort has been made by the Board to improve communication by requesting meetings and providing information on what the Board needs from the BPPE. In the past these meetings have not been successful as communication from the BPPE to the Board has not improved. However, in 2015 the Board reached out to the DCA to address these issues and we now have regularly scheduled meetings with the BPPE. These meetings are held monthly and are to discuss outstanding issues as well as general information sharing. The Board continues to believe that one entity should have sole oversight over cosmetology and barbering schools and that entity should be the Board. Should the Board be granted sole oversight it would then have the authority to charge a fee for its services and then be able to pursue additional staffing. The Board has not done a full study of staffing needs but maintains it is in the best position to oversee schools as we currently already have staff dedicated to this process.

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**ISSUE #6: (Health and Safety for Hair Care and Beauty Professionals)** What is the BBC's timeframe for updating its current health and safety curriculum manual?

Staff Recommendation: *The BBC should advise the Committees as to when it will revise or update the current curriculum in the Health and Safety for Hair Care and Beauty Professionals manual. The Committees may wish to require the BBC update this important instructional material by July 1, 2017.*

Board Response: The Board is currently in the process of updating this curriculum and expects to have it completed no later than July 1, 2017.

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**ISSUE #7: (Enforcement timeframes) Why is the enforcement process for formal discipline taking longer than the targeted 540 days?**

**Staff Recommendation:** *The BBC should advise the Committees about where it believes the bottlenecks are in its investigation processes and disciplinary actions. What does BBC think are the causes of the delays? In the BBC's opinion, what are viable solutions to the extensive timeframes in its enforcement processes?*

Board Response: The Board's investigation portion of cases where formal discipline was completed in the FY 2013/2014 averaged 241 days. The balance of the aging process for these cases is occurring at the AG's Office. In order to decrease aging at the AG's office Board analysts are regularly inquire about the status of accusations, whether Notices of Defense were filed, whether or not default decisions have been prepared, and whether or not settlement terms have been offered. When accusations or decisions are received, the Board staff will ensure they are processing these documents timely.

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**ISSUE #8: (Inspector Program) What are the BBC's current issues with its Inspector Program?**

**Staff Recommendation:** *Given the current challenges with obtaining the approval to hire BBC's desired number of inspectors, and the recruitment challenges, the BBC should explain to the Committees how it plans to adjust, streamline or modify its Inspection Program in order to work within the constraints of available resources. The BBC should explain any problems that may arise from a resource-deficient Inspection Program. The BBC should explore ways it can improve the inspection process for individuals with limited English proficiency and explain to the Committees if an inspector protocol around language and diversity is possible, and if not, what those challenges may be to implementing it. The BBC should inform the Committees of any outcomes from its "all-inspector" trainings. Additionally, the BBC should explain to the Committees its hiring plan to fill inspector positions, if granted BCP authority.*

Board Response: The Board will continue to pursue obtaining additional inspector positions as it believes this is the only way to ensure consumers are protected. It should be noted that the lack of inspector positions to adequately cover all of California does put consumers at risk. It is often that the most egregious violations are found in establishments that have been licensed for many years but have not been inspected on a regular basis. In addition, not having the adequate number of staff requires current inspectors to carry a significantly larger workload thereby impacting the quality of inspections. The Board is committed to quality not quantity inspections. We believe that more time spent in an establishment is beneficial to licensees as opposed to a fast inspection.

The Board does believe that a protocol for inspecting establishments where there is limited English speaking individuals can be developed and can be helpful. The Board plans to develop this protocol and have it in place by the end of 2015, if not sooner.

The Board held two "all-inspector" trainings in 2014. During these meetings inspectors attended tactical communication training, met with industry experts on emerging trends in skin care, and conducted a violation review to ensure consistency in conducting inspections.

Additional meetings will be scheduled for 2015 and the Board will continue to focus on diversity and customer service.

The DCA is assisting the Board in recruitment for vacant inspector positions including promoting the vacant positions at California colleges. The Board is also utilizing social media as a means of promoting the vacant positions. Should the Board be granted new positions, the first step would be to have DCA conduct personnel examinations to establish a list of eligible applicants.

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**ISSUE #9: What is the status of BReEZe implementation by the BBC?**

**Staff Recommendation:** *The BBC should update the Committees about the current status of its implementation of BreEZe. What have been the challenges to implementing this new system? What are the costs for using the system and has it enhanced operational or administrative efficiencies?*

*Is the cost of BreEZe consistent with what the BBC was told the project would cost? Is the BBC comfortable that any remaining technical issues will be addressed?*

**Board Response:** The Board has fully implemented the BreEZe system. Numerous challenges were encountered in the initial implementation. The system did not function as easily as Board staff believed it would and there were several changes that needed to be made to accommodate the Board's functions. The Board has spent over \$4 million to date on the BreEZe system which is higher than originally thought. The Board is happy to report that operational efficiencies have been gained as a result of BreEZe, the most significant being on-line transactions. The Board receives over 1,000 on-line transactions a month. The Board believes that remaining technical issues will be addressed as prior issues have already been addressed.

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**ISSUE #10: (Freelance Certification) Are more people seeking beautification services outside of the traditional salon establishment? Does the BBC need to update the current establishment requirements to meet consumer demands?**

**Staff Recommendation:** *The BBC should explain to the Committees how they would implement a freelance or mobile certificate. The BBC should also explain any new regulations, industry standards or licensing reforms that would be necessary to implement a new freelance certificate and explain how the BBC could regulate such certificates in a matter consistent with its mission. In addition, the BBC should explain to the Committees if it would need to enhance application requirements for freelance certificates, such as expanding the background check program or adding bonding requirements.*

**Board Response:** Should the Board be granted the authority to issue a "freelance" certificate it believes the process would be to add an indicator to an applicants personal license. An individual would be required to submit an application and fee, obtain fingerprint clearance from the Department of Justice and provide proof of liability insurance. The Board would then

approve the licensee to enter non-licensed facilities to perform services. As the Board's primary focus is consumer protection, the Board would also require any individual that is providing services outside of a licensed establishment to provide information to consumers on how to file a complaint with the Board.

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**ISSUE #11: (Correctional Facilities Licensing Program)** What, if anything, can the BBC do to expand this program? How can the BBC assist in increasing the number of test-takers?

**Staff Recommendation:** *The BBC should explain to the Committees its role in the program, how their current partnership with CDCR is working, and ways the BBC believes it can help to improve or expand access to the program.*

**Board Response:** The Board currently has two examinations scheduled one at Chowchilla State Prison and the other at Corona State Prison. The Board is contacted by the CDCR to set up the examinations when there are candidates ready to test. The Board is flexible and can usually accommodate the CDCR whenever they are ready. At this time, these are the only two facilities that offer educational programs that lead to Board licensure. The Board is willing to expand this program however, that is dependent upon the CDCR. Costs involved for the Board are minimal as the examinations are conducted by Board staff; therefore only minimal travel costs are involved. CDCR incurs the majority of the cost as each facility must be equipped with a learning center.

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**ISSUE #12: (Booth Renters License)** Is there a need to create a separate booth renter's license?

**Staff Recommendation:** *The Committees may wish to inquire of the BBC how a booth renters' license will provide any enhanced protections for consumers or licensees. As raised during previous sunset review oversight hearings, it is unclear why owners of establishments would not want to maintain the responsibility for individuals operating at their place of business and it is unclear why a responsible business owner would potentially want to ignore violations in their establishment and not require all individuals working closely with them to abide by the law. In addition, the BBC should explain to the Committees if a booth renter's license would increase the workload of investigators, which the BBC reports, is currently understaffed. The Committees may wish to instead require the BBC to provide additional information to consumers and licensees, on its Web site, about the difference between a booth rental and establishment employment to help clarify the role of establishment owners, employees and booth renters to benefit both licensees and consumers.*

**Board Response:** The Board believes that a booth rental license will provide increased consumer protection by allowing a consumer to fully understand who is providing the service. Consumers should understand that when they enter an establishment if they are receiving services from a booth renter, and are harmed, the liability is with the individual performing the services. The Board does believe that owners would still be required to maintain responsibility of the establishment, specifically common areas that may be used by multiple booth renters (for example: shampoo bowls). The addition of a booth renter license would not increase work for Board inspectors because they currently inspect all aspects of the establishment and issue individual inspection reports and establishment inspection reports.



The Board agrees with providing additional information on its website that will benefit consumers and licensees and will have this information posted by June 30, 2015.

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**ISSUE #13: (Additional Licensing Sub-categories and Industry Certification) How would these enhance consumer protection?**

**Staff Recommendation:** *The Committees may wish to require the BBC to focus on numerous other areas including: adjusting its current regulatory authority to include recognition of a freelance certificate; improving its Inspection Program, improving its relationship with the BPPE, reviewing the curriculum standards of schools and hour requirement necessary for licensure; and addressing consumer safety issues instead of approving industry certificates which licensees are already permitted to receive, granted they are operating within the scope of their professional license.*

**Board Response:** The Board believes that an industry certification program would allow an incentive for an individual to gain further education in their specific skill set. This would allow those licensees to become better at their craft and become safer operators. More education by licensees would increase consumer protection.

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**ISSUE #14: (Board Composition) Should professional members be required to be a licensed professional?**

**Staff Recommendation:** *The Committees may wish to consider if requiring the professional appointees to represent a more diverse segment of the licensing population would be beneficial. This could be achieved by specifying that a portion of, or all, professional board member appointees hold an active, professional license. The Committees may also wish to require the BBC to create a designated industry-advisory committee which specifically focuses industry-related issues and is comprised of licensed-industry members.*

**Board Response:** As noted in the background paper the Board is comprised of nine members with four members being of the profession. As of the date of this report there are 2 cosmetologists, 1 barber and 1 school owner serving on the board. Currently, the Board does not have members that hold a license as an esthetician, manicurist or electrologist. The Board has formed technical advisory committees for each of the licensing categories. These committees are beneficial to the Board in that they provide direct industry related issues. This process has allowed the Board to include all aspects of the industry in the regulatory and consumer protection areas.

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**ISSUE #15: (Language Access) How can the BBC enhance language-access services to consumers and licensees?**

**Staff Recommendation:** *Although the BBC has made significant improvements in addressing language access issues, it is clear that more can be done. The BBC should explain to the Committees how it plans to continue enhancing language access services, including translation services at disciplinary hearings and any plans the BBC has to increase the numbers of bilingual inspectors.*

7395.1	Amend	Amend language to reflect accurate name of the Bureau for Private Postsecondary and Vocational Education
7401 (d)	Repeal	The Board fulfilled the requirement and language is no longer relevant.
7404 (4)(c)	Amend	Amend language to reflect accurate name of the CA Department of Public Health
7407	Amend	Remove requirement for Board to review and revise the administrative fine schedule by January 1, 2005. The Board has fulfilled this requirement.

**ISSUE #18: (CONTINUED REGULATION BY BOARD OF BARBERING AND COSMETOLOGY.)** Should the licensing and regulation of barbers, cosmetologists, electrologists, manicurists and estheticians be continued and be regulated by the current BBC membership?

**Staff Recommendation:** *Recommend that the barbering, cosmetology, electrology, manicure and esthetician professions continue to be regulated by the current the BBC in order to protect the interests of the public and be reviewed once again in four years, and that the BBC update the appropriate policy committees of the Legislature in 4 years on the issues raised earlier in this report.*

**Board Response:** the Board agrees with staff recommendation and looks forward to continued work with the committees.





## **BOARD OF BARBERING & COSMETOLOGY**

### **BILL ANALYSIS**

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**Author: Committee on Business and Professions    Subject: Sunset Review**  
(Bonilla, Chr., Bloom, Dodd, Gatto, Holden,  
Mullin, Ting, and Wood)

**Bill Number: AB 181**

**Version: Introduced January 26, 2015**

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#### **Existing Law:**

Existing law requires that the Board of Barbering and Cosmetology consists of certain members, and authorizes the board to appoint an executive officer. Under existing law, these provisions are repealed on January 1, 2016.

#### **This Bill:**

This bill would extend the operation of these provisions until January 1, 2020.

#### **Fiscal Impact:**

This bill has no identifiable fiscal impact to the Board of Barbering and Cosmetology.

#### **Analysis:**

This bill amends section 7303 of the California Business and Professions Code to extend the Board's Sunset Date to January 1, 2020.

#### **Registered Support:**

N/A

#### **Registered Opposition:**

N/A

#### **Board Position:**

N/A

**ASSEMBLY BILL**

**No. 181**

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**Introduced by Committee on Business and Professions (Assembly Members Bonilla (Chair), Bloom, Dodd, Gatto, Holden, Mullin, Ting, and Wood)**

January 26, 2015

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An act to amend Section 7303 of the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

AB 181, as introduced, Committee on Business and Professions. Professions and vocations: barbering and cosmetology.

The Barbering and Cosmetology Act provides for the licensure and regulation of barbers and cosmetologists by the State Board of Barbering and Cosmetology in the Department of Consumer Affairs. Existing law requires that the board consist of certain members, and authorizes the board to appoint an executive officer. Under existing law, these provisions are repealed on January 1, 2016.

This bill would extend the operation of these provisions until January 1, 2020.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 7303 of the Business and Professions
- 2 Code is amended to read:
- 3 7303. (a) Notwithstanding Article 8 (commencing with Section
- 4 9148) of Chapter 1.5 of Part 1 of Division 2 of Title 2 of the



1 Government Code, there is in the Department of Consumer Affairs  
2 the State Board of Barbering and Cosmetology in which the  
3 administration of this chapter is vested.

4 (b) The board shall consist of nine members. Five members  
5 shall be public members, and four members shall represent the  
6 professions. The Governor shall appoint three of the public  
7 members and the four professional members. The Senate  
8 Committee on Rules and the Speaker of the Assembly shall each  
9 appoint one public member. Members of the board shall be  
10 appointed for a term of four years, except that of the members  
11 appointed by the Governor, two of the public members and two  
12 of the professions members shall be appointed for an initial term  
13 of two years. No board member may serve longer than two  
14 consecutive terms.

15 (c) The board may appoint an executive officer who is exempt  
16 from civil service. The executive officer shall exercise the powers  
17 and perform the duties delegated by the board and vested in him  
18 or her by this chapter. The appointment of the executive officer is  
19 subject to the approval of the director. In the event that a newly  
20 authorized board replaces an existing or previous bureau, the  
21 director may appoint an interim executive officer for the board  
22 who shall serve temporarily until the new board appoints a  
23 permanent executive officer.

24 (d) The executive officer shall provide examiners, inspectors,  
25 and other personnel necessary to carry out the provisions of this  
26 chapter.

27 (e) This section shall remain in effect only until January 1, ~~2016~~,  
28 2020, and as of that date is repealed, unless a later enacted statute,  
29 that is enacted before January 1, ~~2016~~, 2020, deletes or extends  
30 that date. Notwithstanding any other law, the repeal of this section  
31 renders the board subject to review by the appropriate policy  
32 committees of the Legislature.





## **BOARD OF BARBERING & COSMETOLOGY**

### **BILL ANALYSIS**

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**Author: Assembly Member Daley      Subject: Alcoholic Beverages in Beauty Salons**

**Bill Number: AB 1322**

**Version: As Introduced February 27, 2015**

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#### **Existing Law:**

Existing law makes it unlawful for anyone other than a licensee of the Department of Alcoholic Beverage Control to sell, manufacture or import alcoholic beverages in California. There are exceptions, however, such as serving alcohol as part of a limousine or hot air balloon service.

#### **This Bill:**

This bill would add beauty salons and barbershops to the list of businesses which may serve alcoholic beverages to clients ages 21 and over without a license or a permit, provided there is no extra fee charged for those beverages.

#### **Fiscal Impact:**

This bill has no identifiable fiscal impact to the Board of Barbering and Cosmetology.

#### **Analysis:**

According to a fact sheet supplied by the author, many beauty salons and barbershops throughout California offer complementary alcoholic beverages to their customers at no charge. However, by providing such beverages without possessing a liquor license from the Department of Alcoholic Beverage Control, these establishments are in conflict with state and municipal regulations.

**Registered Support:**

Drybar Inc. — Drybar is a franchise operating in Washington D.C. and seven states, including California. It specializes in blowouts (its trademarked catchphrase is "No Cuts, No Color – Just Blowouts for Only \$40"). According to its Web site, Drybar also hosts parties where it provides "the drinks and blowouts".

**Registered Opposition:**

N/A

**Board Position:**

N/A.

**ASSEMBLY BILL**

**No. 1322**

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**Introduced by Assembly Member Daly**

February 27, 2015

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

LEGISLATIVE COUNSEL'S DIGEST

AB 1322, as introduced, Daly. Alcoholic beverages: licenses: beauty salons.

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 alcoholic beverages without a license where the serving of alcoholic beverages is part of a beauty salon or barber shop service, provided there is no extra charge or fee for the alcoholic beverages.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 23399.5 of the Business and Professions
- 2 Code is amended to read:
- 3 23399.5. (a) ~~No~~(1) A license or permit is *not* required for the
- 4 serving of alcoholic beverages in a limousine by any person



1 operating a limousine service regulated by the Public Utilities  
2 Commission, provided there is no extra charge or fee for the  
3 alcoholic beverages.

4 ~~For~~

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

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

12 ~~For~~

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

17 (c) (1) *A license or permit is not required for the serving of*  
18 *alcoholic beverages as part of a beauty salon service, provided*  
19 *there is no extra charge or fee for the alcoholic beverages.*

20 (2) *For purposes of this subdivision, there is no extra charge*  
21 *or fee for the alcoholic beverages when the fee charged for the*  
22 *beauty salon service is the same regardless of whether alcoholic*  
23 *beverages are served.*

24 (d) (1) *A license or permit is not required for the serving of*  
25 *alcoholic beverages as part of a barber shop service, provided*  
26 *there is no extra charge or fee for the alcoholic beverages.*

27 (2) *For purposes of this subdivision, there is no extra charge*  
28 *or fee for the alcoholic beverages when the fee charged for the*  
29 *barber shop service is the same regardless of whether alcoholic*  
30 *beverages are served.*



## MEMORANDUM

DATE	April 20, 2015
TO	Members, Board of Barbering and Cosmetology
FROM	Kristy Underwood, Executive Officer
SUBJECT	<b>Regulations Update</b>

**Health & Safety:** The Office of Administrative Law (OAL) has approved these regulations. They will go into effect on July 1.

**Apprenticeship Program:** The Office of Administrative Law has approved these regulations. They will go into effect on July 1.

**Crossover Courses:** The Office of Administrative Law has approved these regulations. They will go into effect on July 1.

**Text and Reference Books for Students:** The rulemaking file is under review by the Business, Consumer Services and Housing Agency. The next step will be to file it with OAL.

**Military Training:** The documents necessary to file the notice of proposed rulemaking with OAL have been produced. The notice will be mailed to the public along with the notice of proposed rulemaking concerning the administrative fine schedule.

**Administrative Fine Schedule:** With the approval by OAL of the Board's health and safety regulations, staff can now proceed with updating the administrative fine schedule. The documents necessary to file the notice of proposed rulemaking with OAL have been produced. The notice will be mailed to the public along with the military training rulemaking notice.

*No Attachment*

*Closed Session*

*No Attachment*