

**CALIFORNIA
BOARD OF BARBERING AND COSMETOLOGY**



**MAY 15, 2017
Board Meeting**

**California Board of Barbering and Cosmetology
2420 Del Paso Road
Sequoia Room, 1st Floor
Sacramento, CA 95834**



P.O. Box 944226, Sacramento, CA 94244-2260
P (800) 952-5210 F (916) 575-7281 www.barbercosmo.ca.gov

BOARD MEETING
May 15, 2017

*Action may be taken on any item
listed on the agenda.*

MEMBERS OF THE BOARD
Dr. Kari Williams, President
Andrew Drabkin, Vice President
Bobbie Jean Anderson
Polly Codorniz
Jacquelyn Crabtree
Joseph Federico
Richard Hedges
Coco LaChine
Lisa Thong

California Board of Barbering and Cosmetology
2420 Del Paso Road
Sequoia Room, 1st Floor
Sacramento, CA 95834



Additional Teleconference Location has been established at:

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

AGENDA
10:00 A. M.
UNTIL COMPLETION OF BUSINESS

1. Call to Order/ Roll Call/ Establishment of Quorum **(Dr. Kari Williams)**
2. Appointment of Committee Members to Standing Committees for 2017-18
 - Disciplinary Review Committee
 - Education and Outreach Committee
 - Enforcement and Inspection Committee
 - Health and Safety Advisory Committee
 - Legislative and Budget Committee
 - Licensing and Examination Committee
3. Review and Approval of Proposed Draft of the Personal Service Permit Report to be Presented to the California Legislature. (BPC § 7402.5 (e))
4. Discussion and Action on Proposed Bills that could Impact BBC:
 - a. AB 326 (Salas) – Domestic Violence/Sexual Assault Awareness Training
 - b. AB 1099 (Gonzalez) – Compensation-Gratuities
 - c. SB 247 (Moorlach) – Deregulation of the Barbering license and Removal of Application of Makeup from the Specialty Branch of Skincare
 - d. SB 296 (Nguyen) – Manicure Scope of Practice (Addition of Waxing Services)
 - e. SB 547 (Hill) – Apprentice Supervision

5. Proposed Regulations – Discussion/Review and Approval of Proposed Changes:

Action Needed:

- a. Review and Adoption of Amendments to Title 16, CCR Sections 904 and 905 Regarding the Health and Safety Poster.
 - b. Review and Approval of Proposed Amendments to Title 16, CCR Section 950.10, Regarding the Transfer of Credit or Training.
 - c. Review and Approval of Proposed Regulation to Add Title 16, CCR Section 974.3 to Establish when a Fine will be Issued to an Owner and an Individual Licensee and Title 16, CCR Section 974.4 to Establish an Installment Payment Plan for Fines.
 - d. Review and Approval of Proposed Amendments to Title 16, CCR Section 961 to include the National Interstate Council (NIC) Translation Guides.
6. Public Comment on Items Not on the Agenda
Note: The Board may not discuss or take any action on any item 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, 1125.7(a))
7. 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. If you wish to participate or to have a guaranteed opportunity to observe, please plan to attend at a physical location.

**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, or send a written request to the Board of Barbering and Cosmetology, PO Box 944226, Sacramento, CA 94244. Providing your request is a least five (5) business days before the meeting will help to ensure availability of the requested accommodations. TDD Line: (916) 322-1700.

No Attachment



BUSINESS, CONSUMER SERVICES, AND HOUSING AGENCY • GOVERNOR EDMUND G. BROWN JR.
Board of Barbering and Cosmetology-Department of Consumer Affairs
PO Box 944226, Sacramento, CA 94244
P (800) 952-5210 F (916) 574-7574 | www.barbercosmo.ca.gov

2016-17 BOARD COMMITTEES

DISCIPLINARY REVIEW COMMITTEE

- *Bobbie Jean Anderson*
- *Polly Codorniz*
- *Andrew Drabkin*
- *Joseph Federico*
- *Richard Hedges*
- *Coco LaChine*
- *Lisa Thong*
- *Dr. Kari Williams*

EDUCATION AND OUTREACH COMMITTEE

- *Polly Codorniz*
- *Coco LaChine*
- *Dr. Kari Williams*

ENFORCEMENT AND INSPECTIONS COMMITTEE

- *Richard Hedges (Chairperson)*
- *Joseph Federico*
- *Coco LaChine*
- *Lisa Thong*

HEALTH AND SAFETY ADVISORY COMMITTEE (Eff. 5-15-16)

- *Richard Hedges*
- *Lisa Thong*
- *Dr. Kari Williams (Alternate)*

LEGISLATIVE AND BUDGET COMMITTEE

- *Richard Hedges (Chairperson)*
- *Bobbie Jean Anderson*
- *Andrew Drabkin*

LICENSING AND EXAMINATION COMMITTEE

- *Joseph Federico (Chairperson)*
- *Richard Hedges*
- *Dr. Kari Williams*

CALIFORNIA STATE
BOARD OF BARBERING AND COSMETOLOGY

Personal Service Permit



Board of Barbering and Cosmetology
**Report on the Implementation Progress of the
Personal Service Permit**

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

Personal Service Permit Definition

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

Industry Trends

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

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

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

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

Current Law

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

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

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

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

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

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

Stakeholder Meeting Overview

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

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

Meeting agenda items included:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Email Comments

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

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

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

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

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

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

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

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

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

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

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

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

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

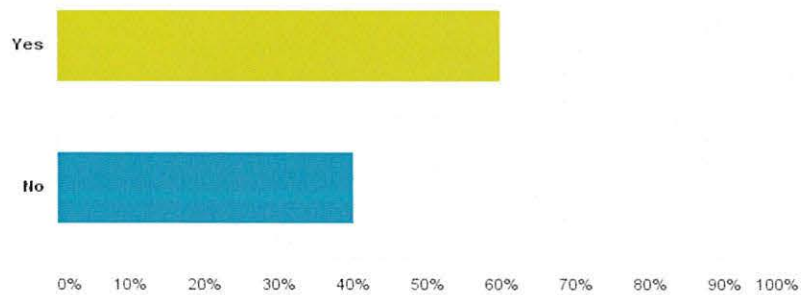
Note: For privacy reasons, personal information has been removed and some comments have been grammatically edited.

Board Survey Results

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

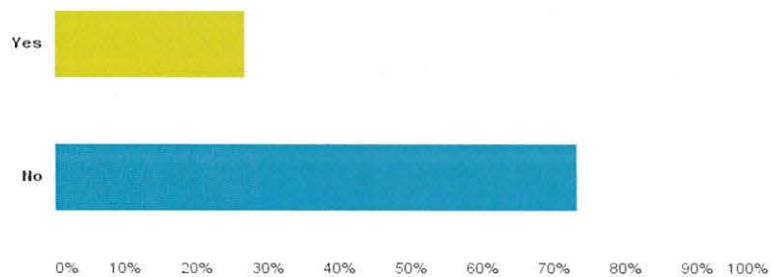
Q1 Do you think the Board should implement the PSP, to enable licensees to perform services outside of a licensed establishment?

Answered: 157 Skipped: 1



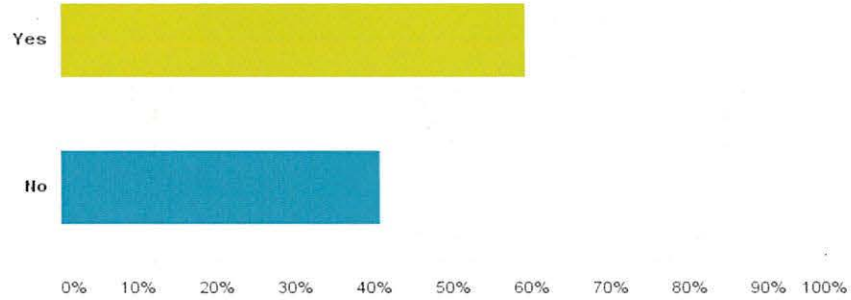
Q2 If the PSP is implemented, should the permit holder be required to make the appointments through the salon they currently work in?

Answered: 154 Skipped: 1



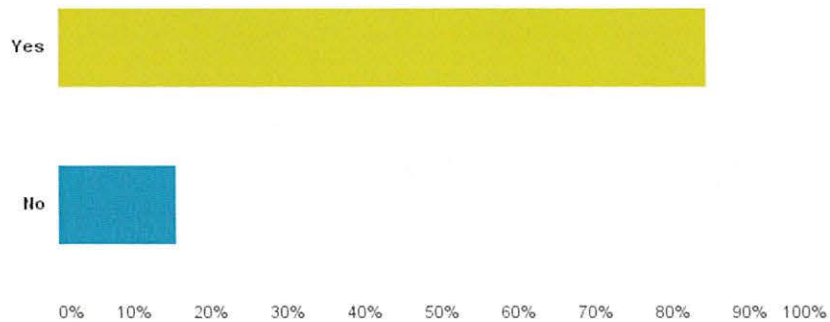
Q3 Do you think there are any services that should not be allowed to be performed outside of a licensed establishment? (For instance, should chemical work such as perms, hair colors, skin peels, etc. be allowed to be performed outside of a licensed establishment?)

Answered: 157 Skipped: 1



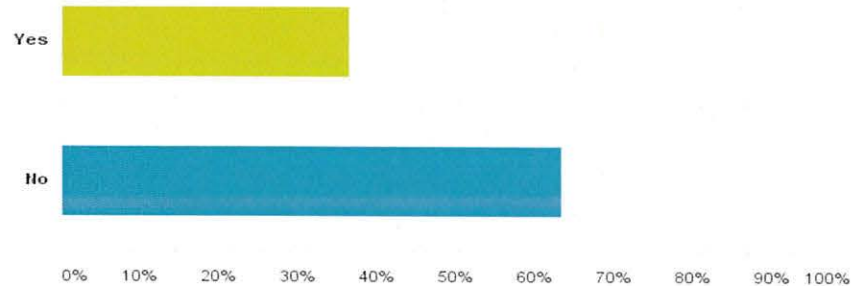
Q4 Should the holder of a PSP be required to hold personal liability insurance?

Answered: 156 Skipped: 2



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

Answered: 145 Skipped: 13



Comments:

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

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

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

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

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

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

Comments:

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

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

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

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

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

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

California Estheticians Facebook Group Survey

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

Should services be limited on the PSP?

No (16 votes)

Should random audits for compliance for health and safety be allowed?

Possible scenarios are that inspection can happen at the special event, residential appointment, etc.

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

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

Do you agree:

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

No food shall be served where services are performed

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

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

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

Comments:

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

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

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

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

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

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

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

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

Yes (25 votes)
No (1 vote)

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

Permit connected to the license of an individual esthetician. (61 votes)
Permit connected to a licensed establishment. (1 vote)

Comments:

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

"Personal responsibility all the way"

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

Options under consideration are:

Renewable Yearly (38 votes)
Renewable Bi-annually, with your current license (14 votes)
additional vote added: Should be required for artists working in makeup booths or kiosks. (22 votes)
Permit only valid for 7 days (0 votes)

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

Fiscal Impact

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

July 17, 2016 Board Meeting Summary

From January 1, 2016 to July 17, 2016, the Board understood the language of Business and Professions Code Section 7402.5 (b) in the terms that the Board “may” issue a Personal Service Permit, not that the Board “shall” issue a Personal Service Permit. At the July 17, 2016, legal representation from the Department of Consumer Affairs advised the Board on the interpretation of Section 7402.5 (b) and (c) and it was determined that the Board is required to proceed with the implementation of the PSP. Based on this legal direction, a discussion of the findings from the stakeholder meetings ensued and an attempt was made to establish a regulatory direction. A number of regulatory suggestions were presented. At the conclusion, it was decided by Board member motion for the ideas discussed during the meeting be forwarded to the Licensing and Examinations Committee for vetting.

November 14, 2016 Licensing and Examinations Committee Meeting Summary

On November 14, 2016 the Licensing and Examinations Committee met and the Committee members proposed the following regulatory guidelines:

- The regulations will limit the Personal Service Permit (PSP) to cutting and styling hair.
- The PSP will be tied to a licensed, working, brick-and-mortar establishment.
- The licensed establishment and PSP holder will provide proof of liability insurance.
- The number of PSP holders per establishment will be limited.
- A criminal background check will be part of the PSP licensing process.
- The regulations will stipulate how tools will be disinfected and transported. The clean, closed container language can be used and the PSP holder will also be required to carry a soiled container to bring back to the establishment to disinfect later.
- Spray-on disinfectants and wipes will be permitted in the field.
- The PSP holder will post their PSP and establishment licenses on any advertisement.
- A notice will be posted on the website to direct consumers to check license numbers online and verify the connection to an establishment.
- The PSP holder will be required to have a photo I.D. to show that they match the license number advertised.

As customary, the Board allowed for public comments during this meeting. Fred Jones, Legal Counsel for the Professional Beauty Federation of California (PBFC), spoke in favor of tying the

PSP to a brick-and-mortar establishment so equipment can be inspected. He suggested that the following be included in the regulations:

- PSP holders must demonstrate, while at the licensed establishment, their protocols used when in someone's home or place of business.
- The minimum liability insurance should be \$1 million. That amount should be specified in the regulations.
- Geographical boundary limitations per PSP holder should be limited, such as within "X" miles of the licensed establishment.
- PSP holders should be made employees of the establishment they are tied to.

Future Actions

Proposed regulations will be presented at the Board's next Licensing and Examinations committee meeting. Upon adoption of the proposed regulations, staff will proceed with the regulatory process. Completion of the regulatory process is expected by December 2018.



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

Board of Barbering and Cosmetology-Department of Consumer Affairs

PO Box 944226, Sacramento, CA 94244

P (800) 952-5210 F (916) 574-7574 | www.barbercosmo.ca.gov

BOARD OF BARBERING & COSMETOLOGY BILL ANALYSIS

Author: Assembly Member Salas
Assembly Coauthors: Chiu, Cunningham, Quirk,
Cooper and Friedman

Subject: Physical and Sexual
Abuse Awareness Training

Bill Number: AB 326

Version: April 6, 2017

Existing Law:

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

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

Requires the Board to determine by regulation the required subjects of instruction to be completed in all approved courses (BP&C §§ 7362 (b), 7389).

Specifies in regulation, the curriculum requirements for Barbers, Cosmetologists, Manicurists, Estheticians and Electrologists (CCR** Title 16, Sections 950.1, 950.2, 950.3, 950.4, 950.5)

Imposes criminal and civil liability on certain professionals, including child care providers, clergy, educators, law enforcement, and medical professionals, for the failure to report child abuse. Requires any person who reasonably believes that he or she has observed the commission of specified violent crimes against a victim to notify a peace officer, as defined. (California Penal code §§ 11165.7 - 11167.7).

Imposes reporting requirements on certain professionals for the reporting of domestic violence. (California Penal code §§ 11160-11163.2).

This Bill:

Requires applicants to take one-hour awareness training on physical and sexual abuse as part of a Board-approved school course. This bill requires board regulations be created for the requirements of the training.

Authorizes the Board to promote physical and sexual abuse awareness by means of mail, television, radio, motion picture, newspaper, book, Internet, or other electronic communication.

Specifies that licensees and their employers are not required to act on information obtained during the course of employment concerning potential physical and sexual abuse unless otherwise required by law.

Background:

The California Partnership to End Domestic Violence website notes that 40% of California women experience physical intimate partner violence. The National Coalition against Domestic Violence factsheet, "Domestic Violence in California" notes that on a typical day the domestic violence hotline receives approximately 21,000 calls.

The Barbering and Beauty industry acknowledges the unique position that licensees maintain in being able to assist at-risk clients. Due to the intimate nature of the relationship between licensee and client, licensees may be able to recognize signs of physical and sexual abuse that may go unnoticed by onlookers. Campaigns such as "Cut It Out" administered by the Professional Beauty Association, seek to educate licensees on how to recognize the signs of physical abuse and offer assistance to at risk clients.

National state boards have begun to require specified training in Domestic Violence for instance, effective January 1, 2017, the Illinois Department of Financial and Professional Regulation now requires a one-hour, one-time continuing education course on Domestic Violence for all cosmetologists, cosmetology teachers, estheticians, esthetic teachers, hair braiders, hair braiding teachers, nail technicians, and nail technology teachers.

On February 9, 2017, Senate Bill 1030 was introduced by Senator Young of Maryland which if adopted will require beginning October 1, 2018 that an applicant for a license or license renewal from the State Board of Cosmetologists complete a domestic violence and sexual assault awareness course approved by the Board of Maryland.

On June 8, 2016, Board representatives attended a joint informational hearing (Assembly and Senate Committees on Business and Professions), "The Role of Regulated Professions in Combatting Human Trafficking". It was noted that because of California's large and diverse immigrant communities, its large economic base and its proximity to international borders, California is considered one of the top four destinations for human trafficking. It was identified that nail salons, in particular offer a unique opportunity to sex and labor traffickers. This is in part to a large percentage of immigrant population, with limited English speaking abilities. The situation in New York provides a very public example of labor trafficking. During the hearing it was noted that dismantling human trafficking appears to be best addressed through partnerships between state, local governments, businesses, communities and non-governmental organizations.

Effective March 26, 2015, the Ohio State Board of Cosmetology requires licensees and students enrolled in a school of cosmetology receive one-hour training on human trafficking either while enrolled in a school of cosmetology or through a continuing education program.

Analysis:

The Board's primary purpose is consumer protection. The education of future professionals on how to identify the signs of physical and sexual abuse and how to offer support to the victims along with the promotion of abuse awareness to licensees, validates this mission.

Board licensees and their employers are not required to act on information regarding potential physical and sexual abuse, obtained during the course of employment, unless otherwise specified in law.

If enacted, the following California Code of Regulation (CCR) sections may be affected and may need to be revised: 917, 921, 921.1, 921.2, 950.1, 950.2, 950.3, 950.4, 950.5 and 950.12.

Fiscal Impact:

Costs involved with implementing this bill are considered minor and absorbable by the Board. Costs (mailing, public meetings, etc.) involved in promulgating regulations are estimated at \$1,000.00 per regulatory package. It is estimated the Board may submit two regulatory packages.

Costs involved with promoting abuse awareness to licensees are considered minor and absorbable by the Board as it would be included within the Board's allotted outreach funds.

Board Position:

To be determined.

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

**CCR refers to the California Code of Regulations.



California LEGISLATIVE INFORMATION

Home Bill Information California Law Publications Other Resources My Subscriptions
My Favorites

AB-326 State Board of Barbering and Cosmetology: physical and sexual abuse awareness training. (2017-2018)

SHARE THIS:



Date Published: 04/07/2017 04:00 AM



AMENDED IN ASSEMBLY APRIL 06, 2017

AMENDED IN ASSEMBLY MARCH 21, 2017

CALIFORNIA LEGISLATURE— 2017–2018 REGULAR SESSION

ASSEMBLY BILL

No. 326

Introduced by Assembly Member Salas

(Principal coauthors: Assembly Members Chiu, Cunningham, Quirk, Cooper, and Friedman)

February 07, 2017

An act to amend Section 7362 of, and to add Sections 7314.5 and 7319.7 to, the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

AB 326, as amended, Salas. State Board of Barbering and Cosmetology: physical and sexual abuse awareness training.

Existing law, the Barbering and Cosmetology Act, establishes the State Board of Barbering and Cosmetology for the licensure and regulation of barbers, cosmetologists, estheticians, manicurists, electrologists, and apprentices. Existing law requires the board to carry out a list of duties, including making rules and regulations, conducting and administering license examinations, issuing licenses to qualified applicants, and disciplining persons who violate the act. Existing law requires the board to admit to a licensing examination an applicant who meets certain qualifications, including having completed one or more approved courses, as specified. Existing law requires the board to determine by regulation the required subjects of instruction to be completed in all approved courses.

This bill would require the board to require an applicant to take a one-hour training on physical and sexual abuse awareness, as specified, as part of an approved course. The bill would require the board to prescribe by regulation the requirements of the training. The bill would authorize the board to promote physical and sexual

abuse awareness, as specified, by means of mail, television, radio, motion picture, newspaper, book, Internet, or other electronic communication.

Existing law imposes criminal and civil liability on certain professionals, including child care providers, clergy, educators, law enforcement, and medical professionals, for the failure to report child abuse. Existing law requires any person who reasonably believes that he or she has observed the commission of specified violent crimes against a victim under 14 years of age to notify a peace officer, as defined.

This bill would ~~provide civil and criminal immunity for~~ specify that licensed barbers, cosmetologists, estheticians, manicurists, electrologists, and applicants for licensure, and their employers, ~~for acting in good faith or failing~~ are not required to act on information obtained during the course of employment concerning potential physical and sexual abuse unless otherwise required by law.

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

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

SECTION 1. Section 7314.5 is added to the Business and Professions Code, to read:

7314.5. The board may promote awareness of physical and sexual abuse, as described in Section 7362, by means of mail, television, radio, motion picture, newspaper, book, Internet, or other electronic communication.

SEC. 2. Section 7319.7 is added to the Business and Professions Code, to read:

7319.7. A licensee or an applicant for licensure who completes the physical and sexual abuse awareness training required by paragraph (2) of subdivision (b) of Section 7362, and his or her employer, ~~shall not incur civil or criminal liability for acting in good faith or failing~~ shall not be required to act on information obtained during the course of employment concerning potential physical and sexual abuse unless otherwise required by law.

SEC. 3. Section 7362 of the Business and Professions Code is amended to read:

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

(b) (1) The board shall determine by regulation the required subjects of instruction to be completed in all approved courses, including the minimum hours of technical instruction and minimum number of practical operations for each subject, and shall determine how much training is required before a student may begin performing services on paying patrons.

(2) The board shall require an applicant to take a one-hour training on physical and sexual abuse awareness as part of an approved course and shall prescribe by regulation the requirements of the training. Physical and sexual abuse includes, but is not limited to, the following:

(A) Domestic violence.

(B) Sexual assault.

(C) Human trafficking.

(D) Elder abuse.

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

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

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

(B) Repeated similar negligent acts.

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

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

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

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

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

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

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

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



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

Board of Barbering and Cosmetology-Department of Consumer Affairs

PO Box 944226, Sacramento, CA 94244

P (800) 952-5210 F (916) 574-7574 | www.barbercosmo.ca.gov

BOARD OF BARBERING & COSMETOLOGY

BILL ANALYSIS

Author: Assembly Member Gonzalez Fletcher

Subject: Gratuities

Bill Number: AB 1099

Version: April 5, 2017

Existing Law:

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

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

Authorizes the Labor Commissioner to investigate and enforce statutes and orders of the Industrial Welfare Commission that, among other things, specify the requirements for the payment of wages by employers. (Labor Code §1197.1)

This Bill:

Requires employers in specific industries (including an establishment licensed with the Board) that permit a client to pay for services performed by an employee by debit or credit card to also accept a debit or credit card for payment of a gratuity. This requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement. This bill would provide that no reimbursement is required by this act for a specified reason.

Background:

In the 2016 legislative session, Senate Bill 896, authored by Senate Member Nguyen and coauthored by Senate Member Mendoza and Assembly Member Chiu was introduced which required an establishment offering nail care services, if it accepts a debit or credit as payment for nail care services, to also accept a debit or credit card for payment of a tip, consistent with existing law.

The Board took an opposed position to SB 896 on 4/11/16, 4/26/17 and 7/17/16. On 6/15/16, a letter of opposition was sent to Senate Member Rudy Salas Jr., Chair of the Assembly Business and Professions Committee.

On 6/15/16, a letter of opposition was sent to Governor Jerry Brown Jr. In part that letter stated, "This bill is an unprecedented move to require the Board to enforce laws that are outside of our intended and statutorily mandated authority. The Board's sole purpose is to protect the health and safety of consumers receiving services in beauty and barbering establishments. This bill will require our staff to intervene with small business owners to ensure they are allowing a tip for service to be paid via a credit card...While we do understand the intent of the author is to ensure the workers in establishments are receiving tips regardless of how a consumer pays for their service, we do not believe that our Board is the appropriate entity to be regulating business owners on how they operate their system of payments for services." *On 8/29/16, SB 896 was vetoed by the Governor.*

Analysis:

State of California Labor & Workforce Development Agency is an executive branch Agency, and the Secretary is a member of the Governor's Cabinet. The Secretary oversees seven major departments, boards and panels that serve California businesses and workers (including the Department of Industrial Relations [Labor Commissioner] and the Employment Development Department). In part, the goal of the Agency is the enforcement of California labor laws to protect workers and create an even playing field for employers. Since the bill pertains to the Labor Law the Board would not be involved in the enforcement of the specifics contained within the bill.

Fiscal Impact:

No fiscal impact to the Board.

Board Position:

To be determined.

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



California

LEGISLATIVE INFORMATION

[Home](#)
 [Bill Information](#)
 [California Law](#)
 [Publications](#)
 [Other Resources](#)
 [My Subscriptions](#)
[My Favorites](#)

AB-1099 Compensation: gratuities. (2017-2018)

SHARE THIS:



Date Published: 04/05/2017 09:00 PM



AMENDED IN ASSEMBLY APRIL 05, 2017

CALIFORNIA LEGISLATURE— 2017-2018 REGULAR SESSION

ASSEMBLY BILL

No. 1099

Introduced by Assembly Member Gonzalez Fletcher

February 17, 2017

An act to add Section 352 to the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 1099, as amended, Gonzalez Fletcher. Compensation: gratuities.

Existing law prohibits an employer or agent, as defined, from collecting, taking, or receiving any gratuity or a part thereof that is paid, given to, or left for an employee, as defined, by a patron, or deducting any amount from wages due an employee on account of a gratuity, or requiring an employee to credit the amount, or any part thereof, of a gratuity against and as a part of the wages due the employee from the employer. Existing law declares a gratuity the sole property of the employee or employees to whom it was paid, given, or left for. Existing law requires an employer that permits patrons to pay gratuities by credit card to pay the employees the full amount of the gratuity that the patron indicated on the credit card slip, without any deductions for any credit card payment processing fees or costs that may be charged to the employer by the credit card company. Existing law requires an employer to keep accurate records of all gratuities received by the employer and requires that these records be open to inspection at all reasonable hours by the Department of Industrial Relations. Existing law requires the department to enforce these provisions, and an employer who violates these provisions is guilty of a misdemeanor.

This bill would also require ~~an employer that permits~~ *employers in specific industries that permit* a patron to pay for services performed by an employee by debit or credit card to also accept a debit or credit card for payment of gratuity. The bill would require payment of a gratuity made by a patron using a credit card to be made to the employee not later than the next regular payday following the date the patron authorized the

credit card payment. Because a violation of these provisions would be a crime, this bill would impose a state-mandated local program.

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

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

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

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

SECTION 1. Section 352 is added to the Labor Code, to read:

352. ~~Am~~(a) *As used in this section, "employer" shall include only the following employers:*

(1) A hotel. For purposes of this paragraph, "hotel" means any hotel, motel, bed and breakfast inn, or other similar transient lodging establishment.

(2) An employer in the car washing and polishing industry registered pursuant to Part 8.5 (commencing with Section 2050).

(3) An establishment licensed pursuant to the Barbering and Cosmetology Act (Chapter 10 (commencing with Section 7301) of Division 3 of the Business and Professions Code).

(4) A massage establishment as defined in Section 4601 of the Business and Professions Code.

(5) A restaurant. For purposes of this paragraph, "restaurant" means any retail establishment serving food or beverages for onsite consumption.

(6) An organization that uses an online-enabled application or platform to connect workers with customers to engage the workers to provide labor services, including, but not limited to, a transportation network company as defined in Section 5431 of the Public Utilities Code.

(b) An employer that permits a patron to pay for services performed by an employee by debit or credit card shall also accept a debit or credit card for payment of gratuity. Payment of a gratuity made by a patron using a credit card shall be made to an employee not later than the next regular payday following the date the patron authorized the credit card payment.

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



BUSINESS, CONSUMER SERVICES, AND HOUSING AGENCY • GOVERNOR EDMUND G. BROWN JR.
Board of Barbering and Cosmetology-Department of Consumer Affairs
PO Box 944226, Sacramento, CA 94244
P (800) 952-5210 F (916) 574-7574 | www.barbercosmo.ca.gov

BOARD OF BARBERING & COSMETOLOGY BILL ANALYSIS

Author: Senate Member Moorlach

Subject: Deregulation of
Barbers/Makeup

Bill Number: SB 247

Version: April 17, 2017

Existing Law:

Provides the licensure and regulation of the practices of barbering, cosmetology, esthetics, manicuring and electrology by the California Board of Barbering and Cosmetology. (Board)(BP&C* §7312)

Defines the scope of practice for barbers, cosmetologists, estheticians, manicurists and electrologists. (BP&C §7316)

Requires the Board to develop or adopt a health and safety course on hazardous substances and basic labor laws, as specified in Section 7314.3, which is taught in schools approved by the board. (BP&C §7389)

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

- (1) Key differences between the legal rights, benefits, and obligations of an employee and an independent contractor.
 - (2) Wage and hour rights for hourly employees.
 - (3) Antidiscrimination laws relating to the use of a particular language in the workplace.
 - (4) Antiretaliation laws relating to a worker's right to file complaints with the Department of Industrial Relations.
 - (5) How to obtain more information about state and federal labor laws.
- (b) The amendments made to this section by the act adding this subdivision shall become operative on July 1, 2017. (BP&C §7314.3)

This Bill:

This bill would remove the application of makeup from the specialty branch of skin care (cosmetology/esthetics) and would eliminate the license requirement for the practice of barbering.

Analysis:

It is the vision of the Board to set and enforce the highest level of health and safety standards and provide an environment where consumers will obtain barbering and cosmetology services with the confidence and security that their health and safety will be protected. This is accomplished, in part by licensing individuals who have demonstrated minimum competency within the Barbering and Cosmetology scope of practices.

Future professionals within the Barbering prevue are required to complete 1500 hours of training before sitting for the licensing examination. The instruction includes training in hairstyling, permanent waving, chemical straightening, hair color and bleaching, hair cutting and shaving.

Cosmetologist are required to spend 200 hours in the instruction and practical training in esthetics with 25 hours dedicated to makeup and eyebrow beautification. The instruction includes training in skin analysis, complete and corrective makeup, the application of false eyelashes and lash/brow tinting.

Estheticians are required to spend 20 of the 600 hours required on technical and practical training in makeup. The instruction includes skin analysis, basic and corrective application, and the application of false eyelashes.

Each license type (Cosmetology, Barber, Esthetician) is required to complete 200 hours in Health and Safety instruction. This training includes instruction on hazardous substances, how to prevent chemical injuries, health and safety laws, bacteriology and preventing communicable diseases including HIV/AIDS and Hepatitis B. It includes instruction on proper disinfection and sanitation procedures to protect the health and safety of the consumer as well as the licensee. In addition, the training includes instruction on the human anatomy and physiology.

The primary avenue used to ensure licensees are holding to a continued standard of health and safety learned within their required training is done by the issuance of citations when violations are noted by inspections held by board inspectors. As noted below, the citations issued to Barbers have doubled from 2012 to 2016. It is of some concern that if barbers and makeup application were de-licensed there may be a rapid decline in health and safety procedures substantially increasing the threat to consumers.

Chart 2 - Citations Issued by Year

License Type	2012	2013	2014	2015	2016
Barbers	654	543	1041	993	1205
Cosmetologists	3955	2738	4245	4273	4462

In an Advocacy statement from the Professional Beauty Association it was noted that “The vast majority of voters say that quality and safety would decline if states ended licensing professions like hair stylists, barbers, nail technicians and estheticians. More than four in five (82%) say safety would decline and more than three in four (76%) voters say quality would decline without licensing. (Results taken from the 2012 Penn Schoen Berland National Post Election Study).”

The chart below represents some of the consumer harm allegation categories related to barbers, cosmetologist/estheticians (who may perform makeup services).

Chart 3 - Consumer Harm Allegations Received by Year					
Allegation Types	2012	2013	2014	2015	2016
ALLERGIC REACTION	3	1	0	4	2
BRUISING	0	1	0	1	1
BURN	0	2	0	0	0
CUT	39	35	0	0	0
FACIAL ALLERGIC REACTION	3	3	4	7	3
FACIAL BURN	12	9	13	11	8
FACIAL CUT	2	0	1	2	0
FACIAL INFECTION	6	6	1	3	0
FACIAL MRSA	0	7	5	1	0
HAIR BRAIDING	0	0	0	0	1
HAIR FUNGUS (RINGWORM)	7	11	10	3	1
HAIR INFESTATION (LICE)	0	1	1	3	1
INCOMPETENCE/NEGLIGENCE	0	0	0	0	1
INFECTION	95	62	1	6	2
OVER PROCESSED	32	18	25	42	52
PERMANENT MAKE-UP	0	0	0	0	2
SCALP BURN	19	17	12	24	24
SKIN ALLERGIC REACTION	0	0	5	3	0
SKIN BURN	0	0	1	5	0
SKIN CUT	14	12	8	10	10
SKIN INFECTION	0	1	2	1	1
Total	232	186	89	126	109

The Board actively uses its resources to follow up on these consumer harm allegations by opening an enforcement case and working with the licensee to educate the licensee back into compliance. Again, the Board has had a measure of success in this avenue as it rarely becomes necessary to formally discipline (probation and/or revocation of license). Professional licensing and inspections help ensure that the health and safety of consumers is being protected by proper cleanliness and sanitation practices.

On July 1, 2017, under current law the Board is required to develop or adopt a health and safety course on hazardous substances and basic labor laws to be taught in Board approved schools. This training will replace the previously adopted "Health and Safety Curriculum for Hair Care Professionals." The previous curriculum has been expanded to include a section on Workers' Rights. The curriculum is designed to educate students on key differences between the legal rights, benefits, and obligations of an employee and an independent contractor, explain wage and hour rights for hourly employees, address antiretaliation and antidiscrimination laws relating to a worker's right to file complaints with the Department of Industrial Relations and how to obtain more information about state and federal labor laws. If de-licensing occurs the board sees a possibility that there may be an increase in the abuse of workers' rights in the barbering and makeup artistry community as this timely training will not be required of individuals or shop owners.

While the health and safety of the California consumer is the Board's primary mission, it is of some concern the impact that the de-licensing may inflict on the California economy as noted below by the Bureau of Labor Statistic, Monthly Labor Review, May 2015:

"Should de-licensing occur, wages may be expected to fall immediately with the inflow of the new workers' with lower qualification into the occupation. The net result is that the immediate losses to practitioners from de-licensing are likely to be greater that the gains from licensing. Hence, the resistance to de-licensing is likely to be greater as well."

In an Advocacy statement issued by the Professional Beauty Association it was noted that “More than nine in ten voters say they support requiring their stylist, barber, nail technician or esthetician to be licensed.”

Fiscal Impact:

The de-licensing of barbers and removal of the application of makeup from the specialty branch of skin care (cosmetology/esthetics) will have a significant revenue impact upon the board and upon the industry.

Currently, the board has 151 approved schools that offer a barbering program (tuition is approximately 16,000 per student). In addition, the board has 32 apprentice sponsors offering a barber apprenticeship program (tuition is approximately \$1,900 – 2,500 per apprentice). Since the board does not separate the makeup application portion from the cosmetology school requirement, the fiscal impact to the cosmetology schools is unknown. However, the programs (barbering and makeup) would be deleted from use, significantly impacting the schools, staff, students and communities.

The board currently has 28,036 barbers and 986 barber apprentices. The revenue generated by barbers per year is as follows:

- Pre application (72 per year) – \$648.00
- Initial license fee and exam (approximately 122 per year) – \$15,250
- Re-exam (approximately 157 per year) – \$11,775
- Apprentice (approximately 30 per year) – \$750
- Reciprocity (approximately 14 per year) - \$700
- Licensing Renewal fees – approximately \$700,000 per year.

Approximate revenue amount of fines imposed to barbers per year: \$153,441.00
Approximate revenue amount of fines imposed to barber apprentices per year: \$31,258.00

The board impact from removing the application of makeup from the specialty branch of skin care is currently unknown as there is no way to identify how many students will refrain from taking a cosmetology course in order to pursue the application of makeup without a license.

Board Position:

To be determined.

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



California

LEGISLATIVE INFORMATION

[Home](#)
 [Bill Information](#)
 [California Law](#)
 [Publications](#)
 [Other Resources](#)
 [My Subscriptions](#)
[My Favorites](#)

SB-247 Professions and vocations: license requirement: business: surety bond requirement. (2017-2018)

SHARE THIS:



Date Published: 04/17/2017 02:46 PM

AMENDED IN SENATE APRIL 17, 2017

AMENDED IN SENATE MARCH 20, 2017

CALIFORNIA LEGISLATURE— 2017–2018 REGULAR SESSION

SENATE BILL

No. 247

Introduced by Senator Moorlach

February 06, 2017

An act to amend Sections 655.2, 2538.10, 2538.12, 2538.16, 2538.18, 2538.19, 2538.23, 2538.33, 2538.34, 2538.35, 2538.36, 2538.37, 2538.38, 2538.39, 2538.49, 2538.51, 2538.52, 2539.1, 6980, 6980.12, 6980.13, 6980.14, 6980.15, 6980.33, 6980.42, 6980.44, 6980.47, 6980.48, 6980.53, 6980.54, 6980.55, 6980.58, 6980.62, 6980.64, 6980.68, 6980.69, 6980.82, 7316, 7317, ~~and 7533~~ 7321, 7334, 7396, 7403, 7423, 7533, 7672.2, 7672.6, 19051, 19059.5, 19060.6, and 19170 of, to add Sections 460.5 and 7048.5 to, and to repeal Sections 2538.17, 2538.20, 2538.24, 2538.25, 2538.26, 2538.27, 2538.28, 2538.29, 2538.30, 2538.31, 3538.32, 2538.40, 2538.41, 2538.42, 2538.43, 2538.44, 2538.45, 2538.46, 2538.47, 2538.48, 2538.50, 2538.53, 2538.54, 2538.55, 2538.56, 2538.57, 6980.4, 6980.7, 6980.10, 6980.17, 6980.19, 6980.20, 6980.21, 6980.22, 6980.24, 6980.26, 6980.27, 6980.28, 6980.29, 6980.30, 6980.31, 6980.32, 6980.34, 6980.35, 6980.37, 6980.38, 6980.39, 6980.40, 6980.41, 6980.49, 6980.50, 6980.59, 6980.60, 6980.61, 6980.63, 6980.65, 6980.71, 6980.72, 6980.73, 6980.74, 6980.76, 6980.79, 6980.80, 6980.83, 6980.84, 7321.5, 7672, 7672.1, 7672.8, 7672.9, 7672.10, 7730.1, 7730.2, and 19052 of, the Business and Professions Code, and to amend Sections 1812.607 and 1812.608 of, and to repeal Section 1812.600 ~~of of~~, the Civil Code, relating to occupations.

LEGISLATIVE COUNSEL'S DIGEST

SB 247, as amended, Moorlach. Professions and vocations: license requirement: business: surety bond requirement.

(1) Existing law, the Speech-Language Pathologists and Audiologists and Hearing Aid Dispensers Licensure Act, makes it unlawful for an individual to engage in the practice of fitting or selling hearing aids, or to display a sign or in any other way to advertise or hold himself or herself out as being so engaged without having first obtained a license from the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board.

This bill would repeal this license requirement.

(2) Existing law provides for the licensure and regulation of locksmiths and the registration of employees of locksmiths by the Bureau of Security and Investigative Services. Existing law prohibits a person from engaging within this state in the activities of a locksmith unless the person holds a valid locksmith license, is registered as an employee, or is exempt from these provisions. *Existing law requires a licensee who maintains or proposes to maintain a branch office, as defined, to apply and qualify for a branch office registration.*

This bill would repeal these license and registration requirements as well as related crimes.

(3) Existing law, the Contractors' State License Law, provides for the licensure and regulation of contractors by the Contractors' State License Board. Existing law requires licensed contractors to be classified and authorizes them to be classified as, among other things, a C-27 landscaping contractor and a D-49 tree service contractor. A landscape contractor constructs, maintains, repairs, installs, or subcontracts the development of landscape systems and facilities for public and private gardens and other areas that are designed to aesthetically, architecturally, horticulturally, or functionally improve the grounds within or surrounding a structure or a tract or plot of land. A tree service contractor prunes trees, removes trees, limbs or stumps, including grinding, and engages in tree or limb guying.

Existing law provides that the law does not apply to any work or operation on one undertaking or project by one or more contracts, the aggregate contract price which for labor, materials, and all other items is less than \$500, that work or those operations being considered of casual, minor, or inconsequential nature.

This bill would additionally provide that the law does not apply to any work or operation by a C-27 landscaping contractor or D-49 tree service contractor on one undertaking or project by one or more contracts, the aggregate contract price which for labor, materials, and all other items, is less than ~~\$25,000~~ \$5,000.

(4) Existing Law, the Barbering and Cosmetology Act, provides for the licensure and regulation of the practice of barbering and cosmetology by the State Board of Barbering and Cosmetology. The practice of barbering is all or any combination of shaving or trimming the beard or cutting the hair, giving facial and scalp massages or treatments with oils, creams, lotions, or other preparations either by hand or mechanical appliances, singeing, shampooing, arranging, dressing, curling, waving, chemical waving, hair relaxing, or dyeing the hair or applying hair tonics, applying cosmetic preparations, antiseptics, powders, oils, clays, or lotions to scalp, face, or neck, and hairstyling of all textures of hair by standard methods that are current at the time of the hairstyling. Within the practice of cosmetology, there is the specialty branch of skin care, which includes the application of makeup.

This bill would remove the application of makeup from the specialty branch of skin care and would also eliminate the license requirement for the practice of barbering.

(5) Existing law, the Private Investigator Act, prohibits a person from engaging in a business regulated by the act, acting or assuming to act as, or representing himself or herself to be, a licensee unless he or she is licensed under this act by the Bureau of Security and Investigative Services. Existing law requires each licensee to file with the bureau the complete address of his or her principal place of business, including the name and number of the street, or, if the street where the business is located is not numbered, the number of the post office box. The director may require the filing of other information for the purpose of identifying the principal place of business.

This bill would specify that no California office is required.

(6) Existing law, the Cemetery and Funeral Act, prohibits a person from disposing of or offering to dispose of any cremated human remains unless registered as a cremated remains disposer by the Cemetery and Funeral Bureau.

This bill would repeal this registration requirement.

(7) Existing law, the Home Furnishings and Thermal Insulation Act, requires every custom upholsterer, unless he or she holds a furniture and bedding manufacturer's license, to hold a custom upholsterer's license.

This bill would repeal this license requirement.

(8) Existing law requires every auctioneer and auction company to maintain a specified bond issued by a surety company admitted to do business in this state.

This bill would repeal that bond requirement and related provisions.

(9) Existing law prohibits a city, county, or city and county from prohibiting a person or group of persons, authorized by one of the agencies in the Department of Consumer Affairs with a license, certificate, or other means to engage in a particular business, from engaging in that business, occupation, or profession or any portion of that business, occupation, or profession. Existing law prohibits a city, county, or city and county from prohibiting a healing arts licensee from engaging in any act or performing any procedure that falls within the professionally recognized scope of practice of that licensee. However, existing law does not prevent a city, county, or city and county from adopting or enforcing any local ordinance governing zoning, business licensing, or reasonable health and safety requirements for establishments or businesses of a licensee.

This bill, on or after January 1, 2018, would prohibit a city, county, or city and county from imposing any licensing requirement or fee on any profession or vocation if that profession or vocation is not already subject to a city, county, or city and county licensing requirement or fee on January 1, 2018, but the bill would authorize a city, county, or city and county to continue to regulate any profession or vocation that is subject to its licensing requirement or fee on January 1, 2018. The bill would declare the intention of the Legislature to occupy the whole field of the licensure and regulation of professions and vocations.

(10) This bill would make various nonsubstantive and conforming changes in order to carry out the provisions of this bill.

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

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

SECTION 1. The Legislature finds and declares as follows:

(a) Occupational licensing laws are important tools that, when used correctly, help protect public health and safety. Many current laws, however, do little to help public health or safety and result in barriers to entry that prevent people from making a living in their chosen occupation.

(b) The Little Hoover Commission and the President Obama White House both released recent reports that recognized the need for extensive reform to these anticompetitive laws.

(c) This act is consistent with recommendations to reduce barriers to entry into occupations that do not pose a significant risk to public health and safety. Thus, this act allows hard-working Californians to enter occupations without first having to comply with prohibitively expensive licensing and education requirements that serve no public good.

SEC. 2. Section 460.5 is added to the Business and Professions Code, to read:

460.5. (a) Notwithstanding any other law, on or after January 1, 2018, a city, county, or city and county may not impose any licensing requirement or fee on any profession or vocation if that profession or vocation is not already subject to a city, county, or city and county licensing requirement or fee on January 1, 2018, but the city, county, or city and county may continue to regulate any profession or vocation that is subject to its licensing requirement or fee on January 1, 2018.

(b) Except as provided in subdivision (a), it is the intention of the Legislature to occupy the whole field of the licensure and regulation of professions and vocations.

SEC. 3. Section 655.2 of the Business and Professions Code is amended to read:

655.2. (a) (1) No physician and surgeon or medical corporation licensed under Chapter 5 (commencing with Section 2000), nor any audiologist who is not a licensed dispensing audiologist or hearing aid dispenser shall employ any individual ~~licensed pursuant to described in~~ Article 8 (commencing with Section 2538.10) of Chapter 5.3 for the purpose of fitting or selling hearing aids.

(2) No individual ~~licensed pursuant to described in~~ Article 8 (commencing with Section 2538.10) of Chapter 5.3 shall employ any physician and surgeon or any audiologist who is not a licensed dispensing audiologist or a

hearing aid dispenser, or contract with a medical corporation licensed under Chapter 5 (commencing with Section 2000), for the purpose of fitting or selling hearing aids.

(b) This section shall not apply to any physician and surgeon or medical corporation that contracts with or is affiliated with a comprehensive group practice health care service plan licensed pursuant to the Knox-Keene Health Care Service Plan Act, as set forth in Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code.

SEC. 4. Section 2538.10 of the Business and Professions Code is amended to read:

2538.10. For the purposes of this article, the following definitions shall apply:

(a) "Advertise" and its variants include the use of a newspaper, magazine, or other publication, book, notice, circular, pamphlet, letter, handbill, poster, bill, sign, placard, card, label, tag, window display, store sign, radio, or television announcement, or any other means or methods now or hereafter employed to bring to the attention of the public the practice of fitting or selling of hearing aids.

~~(b) "License" means a hearing aid dispenser's license issued pursuant to this article and includes a temporary license.~~

~~(c) "Licensee" means a person holding a license.~~

~~(d)~~

(b) "Hearing aid" means any wearable instrument or device designed for, or offered for the purpose of, aiding or compensating for impaired human hearing.

~~(e)~~

(c) "Fund" means the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Fund.

SEC. 5. Section 2538.12 of the Business and Professions Code is amended to read:

2538.12. A ~~licensee~~ hearing aid dispenser may conduct hearing screenings at a health fair or similar event by the application of a binary puretone screening at a preset intensity level for the purpose of identifying the need for further hearing or medical evaluation.

Upon the conclusion of each hearing screening, the ~~licensee~~ hearing aid dispenser shall present to the person whose hearing was screened a written statement containing the following provisions:

"Results of a hearing screening are not a medical evaluation of your ear nor a diagnosis of a hearing disorder but are only the identification of the need for further medical or hearing evaluation."

A ~~licensee~~ hearing aid dispenser conducting hearing screenings pursuant to this section shall not make or seek referrals for testing, fitting, or dispensing of hearing aids.

SEC. 6. Section 2538.16 of the Business and Professions Code is amended to read:

2538.16. The board shall keep a record of all prosecutions for violations of this ~~article and of all examinations held for applicants for licenses together with the names and addresses of all persons taking examinations and of their success or failure to pass them.~~ article.

SEC. 7. Section 2538.17 of the Business and Professions Code is repealed.

~~2538.17. The board may recommend the preparation of and administration of a course of instruction concerned with the fitting and selection of hearing aids. The board may require applicants to first complete the required course of instruction or otherwise satisfy the board that the applicant possesses the necessary background and qualifications to fit or sell hearing aids. If the board promulgates regulations to implement this section to require a course of instruction concerned with fitting and selling hearing aids, the board shall obtain the advice of persons knowledgeable in the preparation and administration of a course of instruction.~~

~~The board may publish and distribute information concerning the examination requirements for obtaining a license to engage in the practice of fitting and selling hearing aids within this state.~~

SEC. 8. Section 2538.18 of the Business and Professions Code is amended to read:

~~2538.18. All holders of licenses to sell or fit hearing aids hearing aid dispensers shall continue their education after receiving the license. education. The board shall provide by regulation, as a condition to the renewal of a license, regulation that licensees hearing aid dispensers shall submit documentation satisfactory to the board that they have informed themselves of current practices related to the fitting of hearing aids by having pursued courses of study satisfactory to the board or by other means defined as equivalent by the board.~~

Continuing education courses shall be subject to monitoring to ensure compliance with the regulations adopted by the board pursuant to this section.

SEC. 9. *Section 2538.19 of the Business and Professions Code is amended to read:*

2538.19. (a) The board may prosecute any and all persons for any violation of this article.

(b) The board shall hear and decide all ~~matters, including, but not limited to, any contested case or any petition for reinstatement or modification of probation,~~ matters or may assign any of those matters to an administrative law judge in accordance with the Administrative Procedure Act. Except as otherwise provided in this chapter, all hearings shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

~~SEC. 3.~~**SEC. 10.** Section 2538.20 of the Business and Professions Code is repealed.

SEC. 11. *Section 2538.23 of the Business and Professions Code is amended to read:*

2538.23. (a) Hearing aids may be sold by catalog or direct mail provided that:

(1) The seller is ~~licensed as~~ a hearing aid dispenser in this state.

(2) There is no fitting, selection, or adaptation of the instrument and no advice is given with respect to fitting, selection, or adaptation of the instrument and no advice is given with respect to the taking of an ear impression for an earmold by the seller.

(3) The seller has received a statement which is signed by a physician and ~~surgeon, audiologist, surgeon licensed by the State of California, audiologist licensed by the State of California,~~ or a hearing aid dispenser, ~~licensed by the State of California~~ which verifies that Section 2538.36 and subdivision (b) of Section 2538.49 have been complied with.

(b) A copy of the statement referred to in paragraph (3) of subdivision (a) shall be retained by the seller for the period provided for in Section 2538.38.

(c) A ~~licensed~~ hearing aid dispenser who sells a hearing aid under this section shall not be required to comply with subdivision (b) of Section 2538.49.

SEC. 12. *Section 2538.24 of the Business and Professions Code is repealed.*

~~2538.24. Each person desiring to obtain a license to engage in the practice of fitting or selling hearing aids shall make application to the board. The application shall be made upon a form and shall be made in the manner as is provided by the board and shall be accompanied by the fee provided for in Section 2538.57.~~

SEC. 13. *Section 2538.25 of the Business and Professions Code is repealed.*

~~2538.25. (a) The board shall prepare, approve, grade, and conduct examinations of applicants for a hearing aid dispenser's license. The board may provide that the preparation and grading of the examination be conducted by a competent person or organization other than the board, provided, however, that the board shall establish the guidelines for the examination and shall approve the actual examination.~~

~~(b) Each applicant shall take and pass a written examination and a practical examination compiled at the direction of the board covering the critical tasks involved in the practice of fitting and selling hearing aids and the knowledge, skills, and abilities needed to perform those tasks safely and competently.~~

SEC. 14. *Section 2538.26 of the Business and Professions Code is repealed.*

~~2538.26. The board shall issue a license to all applicants who have satisfied this chapter, who are at least 18 years of age, who possess a high school diploma or its equivalent, who have not committed acts or crimes constituting grounds for denial of licensure under Section 480, and who have paid the fees provided for in Section 2538.57. No license shall be issued to any person other than an individual.~~

SEC. 15. *Section 2538.27 of the Business and Professions Code is repealed.*

~~2538.27.(a)An applicant who has fulfilled the requirements of Section 2538.24 and has made application therefor, may have a temporary license issued to him or her upon satisfactory proof to the board that the applicant holds a hearing aid dispenser's license in another state, that the licensee has not been subject to formal disciplinary action by another licensing authority, and that the applicant has been engaged in the fitting and sale of hearing aids for the two years immediately prior to application.~~

~~(b)A temporary license issued pursuant to this section shall be valid for one year from date of issuance and is not renewable. A temporary license shall automatically terminate upon issuance of a license prior to expiration of the one-year period.~~

~~(c)The holder of a temporary license issued pursuant to this section who fails either license examination shall be subject to and shall comply with the supervision requirements of Section 2538.28 and any regulations adopted pursuant thereto.~~

SEC. 16. *Section 2538.28 of the Business and Professions Code is repealed.*

~~2538.28.(a)An applicant who has fulfilled the requirements of Section 2538.24, and has made application therefor, and who proves to the satisfaction of the board that he or she will be supervised and trained by a hearing aid dispenser who is approved by the board may have a temporary license issued to him or her. The temporary license shall entitle the temporary licensee to fit or sell hearing aids as set forth in regulations of the board. The supervising dispenser shall be responsible for any acts or omissions committed by a temporary licensee under his or her supervision that may constitute a violation of this chapter.~~

~~(b)The board shall adopt regulations setting forth criteria for its refusal to approve a hearing aid dispenser to supervise a temporary licensee, including procedures to appeal that decision.~~

~~(c)A temporary license issued pursuant to this section is effective and valid for six months from date of issue. The board may renew the temporary license for an additional period of six months. Except as provided in subdivision (d), the board shall not issue more than two renewals of a temporary license to any applicant. Notwithstanding subdivision (d), if a temporary licensee who is entitled to renew a temporary license does not renew the temporary license and applies for a new temporary license at a later time, the new temporary license shall only be issued and renewed subject to the limitations set forth in this subdivision.~~

~~(d)A new temporary license may be issued pursuant to this section if a temporary license issued pursuant to subdivision (c) has lapsed for a minimum of three years from the expiration or cancellation date of the previous temporary license. The bureau may issue only one new temporary license under this subdivision.~~

SEC. 17. *Section 2538.29 of the Business and Professions Code is repealed.*

~~2538.29.A temporary licensee under Section 2538.28 shall take the license examination within the first 10 months after the temporary license is issued. Failure to take the license examination within that time shall result in expiration of the temporary license, and it shall not be renewed unless the temporary licensee has first taken the licensure examination. The board, however, may in its discretion renew the temporary license if the licensee failed to take the necessary examination due to illness or other hardship.~~

SEC. 18. *Section 2538.30 of the Business and Professions Code is repealed.*

~~2538.30.(a)A temporary licensee shall not be the sole proprietor of, manage, or independently operate a business which engages in the fitting or sale of hearing aids.~~

~~(b)A temporary licensee shall not advertise or otherwise represent that he or she holds a license as a hearing aid dispenser.~~

SEC. 19. *Section 2538.31 of the Business and Professions Code is repealed.*

~~2538.31.Practical examinations shall be held by the board at least twice a year. The time and place of any practical examination shall be fixed by the board at least 45 days prior to the date it is to be held.~~

SEC. 20. *Section 2538.32 of the Business and Professions Code is repealed.*

~~2538.32.Every applicant who obtains a passing score determined by the Angoff criterion referenced method of establishing the point in each examination shall be deemed to have passed that examination. An applicant shall pass the written examination before he or she may take the practical examination. An applicant shall obtain a passing score on both the written and the practical examination in order to be issued a license.~~

SEC. 21. *Section 2538.33 of the Business and Professions Code is amended to read:*

2538.33. (a) Before engaging in the practice of fitting or selling hearing aids, each ~~licensee~~ *hearing aid dispenser* shall notify the board in writing of the address or addresses where he or she is to engage, or intends to engage, in the practice of fitting or selling hearing aids, and of any changes in his or her place of business within 30 days of engaging in that practice.

(b) If a street address is not the address at which the ~~licensee~~ *hearing aid dispenser* receives mail, the ~~licensee~~ *hearing aid dispenser* shall also notify the board in writing of the mailing address for each location where the ~~licensee~~ *hearing aid dispenser* is to engage, or intends to engage, in the practice of fitting or selling hearing aids, and of any change in the mailing address of his or her place or places of business.

SEC. 22. *Section 2538.34 of the Business and Professions Code is amended to read:*

2538.34. (a) Every ~~licensee~~ *hearing aid dispenser* who engages in the practice of fitting or selling hearing aids shall have and maintain an established retail business address to engage in that fitting or selling, routinely open for service to customers or clients. The address of the ~~licensee's~~ *hearing aid dispenser's* place of business shall be registered with the ~~bureau~~ *board* as provided in Section 2538.33.

(b) Except as provided in subdivision (c), if a ~~licensee~~ *hearing aid dispenser* maintains more than one place of business within this state, he or she shall apply for and procure a duplicate license for each branch office maintained. The application shall state the name of the person and the location of the place or places of business for which the duplicate license is desired.

(c) A hearing aid dispenser ~~may, without obtaining a duplicate license for a branch office,~~ *may* engage on a temporary basis in the practice of fitting or selling hearing aids at the primary or branch location of another ~~licensee's~~ *hearing aid dispenser's* business or at a location or facility that he or she may use on a temporary basis, provided that the hearing aid dispenser notifies the board in advance in writing of the dates and addresses of those businesses, locations, or facilities at which he or she will engage in the practice of fitting or selling hearing aids.

SEC. 23. *Section 2538.35 of the Business and Professions Code is amended to read:*

2538.35. A ~~licensee~~ *hearing aid dispenser* shall, upon the consummation of a sale of a hearing aid, deliver to the purchaser a written receipt, signed by or on behalf of the ~~licensee,~~ *hearing aid dispenser,* containing all of the following:

(a) The date of consummation of the sale.

(b) Specifications as to the make, serial number, and model number of the hearing aid or aids sold.

(c) The address of the principal place of business of the ~~licensee,~~ *hearing aid dispenser,* and the address and office hours at which the ~~licensee~~ *hearing aid dispenser* shall be available for fitting or postfitting adjustments and servicing of the hearing aid or aids sold.

(d) A statement to the effect that the aid or aids delivered to the purchaser are used or reconditioned, as the case may be, if that is the fact.

~~(e) The number of the licensee's license and the name and license number of any other hearing aid dispenser or temporary licensee who provided any recommendation or consultation regarding the purchase of the hearing aid.~~

(f)

(e) The terms of any guarantee or written warranty, required by Section 1793.02 of the Civil Code, made to the purchaser with respect to the hearing aid or hearing aids.

SEC. 24. *Section 2538.36 of the Business and Professions Code is amended to read:*

2538.36. (a) Whenever any of the following conditions are found to exist either from observations by the ~~licensee~~ *hearing aid dispenser* or on the basis of information furnished by the prospective hearing aid user, a ~~licensee~~ *hearing aid dispenser* shall, prior to fitting or selling a hearing aid to any individual, suggest to that individual in writing that his or her best interests would be served if he or she would consult a licensed physician specializing in diseases of the ear or if no such licensed physician is available in the community then to a duly licensed physician:

- (1) Visible congenital or traumatic deformity of the ear.
- (2) History of, or active drainage from the ear within the previous 90 days.
- (3) History of sudden or rapidly progressive hearing loss within the previous 90 days.
- (4) Acute or chronic dizziness.
- (5) Unilateral hearing loss of sudden or recent onset within the previous 90 days.
- (6) Significant air-bone gap (when generally acceptable standards have been established).
- (7) Visible evidence of significant cerumen accumulation or a foreign body in the ear canal.
- (8) Pain or discomfort in the ear.

(b) No referral for medical opinion need be made by any ~~licensee hearing aid dispenser~~ in the instance of replacement only of a hearing aid that has been lost or damaged beyond repair within one year of the date of purchase. A copy of the written recommendation shall be retained by the ~~licensee hearing aid dispenser~~ for the period provided for in Section 2538.38. A person receiving the written recommendation who elects to purchase a hearing aid shall sign a receipt for the same, and the receipt shall be kept with the other papers retained by the ~~licensee hearing aid dispenser~~ for the period provided for in Section 2538.38. Nothing in this section required to be performed by a ~~licensee hearing aid dispenser~~ shall mean that the ~~licensee hearing aid dispenser~~ is engaged in the diagnosis of illness or the practice of medicine or any other activity prohibited by the provisions of this code.

SEC. 25. *Section 2538.37 of the Business and Professions Code is amended to read:*

2538.37. No hearing aid shall be sold by ~~an individual licensed under this chapter,~~ a hearing aid dispenser, to a person 16 years of age or younger, unless within the preceding six months a recommendation for a hearing aid has been made by both a board-certified, or a board-eligible physician specializing in otolaryngology, and by a state licensed audiologist. A replacement of an identical hearing aid within one year shall be an exception to this requirement.

SEC. 26. *Section 2538.38 of the Business and Professions Code is amended to read:*

2538.38. A ~~licensee hearing aid dispenser~~ shall, upon the consummation of a sale of a hearing aid, keep and maintain records in his or her office or place of business at all times and each record shall be kept and maintained for a seven-year period. All records related to the sale and fitting of hearing aids shall be open to inspection by the bureau or its authorized representatives upon reasonable notice. The records kept shall include:

- (a) Results of test techniques as they pertain to fitting of the hearing aid.
- (b) A copy of the written receipt required by Section 2538.35 and the written recommendation and receipt required by Section 2538.36 when applicable.
- (c) Records of maintenance or calibration of equipment used in the practice of fitting or selling hearing aids.

SEC. 27. *Section 2538.39 of the Business and Professions Code is amended to read:*

2538.39. A hearing aid dispenser who is the owner, manager, or franchisee at a location where hearing aids are fit or sold, shall be responsible for the adequacy of the fitting or selling of any hearing aid fit and sold by any ~~licensee or licensees hearing aid dispenser~~ at that location.

SEC. 28. *Section 2538.40 of the Business and Professions Code is repealed.*

~~2538.40. Upon denial of an application for license, the board shall notify the applicant in writing, stating (1) the reason for the denial and (2) that the applicant has a right to a hearing under Section 2533.2 if he or she makes written request therefor within 60 days after notice of denial. Service of the notice required by this section may be made by certified mail addressed to the applicant at the latest address filed by the applicant in writing with the board in his or her application or otherwise.~~

SEC. 29. *Section 2538.41 of the Business and Professions Code is repealed.*

~~2538.41. Before setting aside the revocation or suspension of any license or modifying the probation of any licensee, the board may require the petitioner to pass the regular examination given for applicants for licenses.~~

SEC. 30. *Section 2538.42 of the Business and Professions Code is repealed.*

~~2538.42. Any person who violates any of the provisions of this article is guilty of a misdemeanor and, upon conviction thereof, shall be punished by imprisonment in the county jail for not less than 10 days nor more than one year, or by a fine of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000), or by both such fine and imprisonment.~~

SEC. 31. *Section 2538.43 of the Business and Professions Code is repealed.*

~~2538.43. It is unlawful to sell or barter, or offer to sell or barter, any license issued by the board.~~

SEC. 32. *Section 2538.44 of the Business and Professions Code is repealed.*

~~2538.44. It is unlawful to purchase or procure by barter any license issued by the board with intent to use the same as evidence of the holder's qualification to practice the fitting or selling of hearing aids.~~

SEC. 33. *Section 2538.45 of the Business and Professions Code is repealed.*

~~2538.45. It is unlawful to alter with fraudulent intent in any material regard a license issued by the board.~~

SEC. 34. *Section 2538.46 of the Business and Professions Code is repealed.*

~~2538.46. It is unlawful to use or attempt to use any license issued by the board that has been purchased, fraudulently issued, counterfeited, or materially altered as a valid license.~~

SEC. 35. *Section 2538.47 of the Business and Professions Code is repealed.*

~~2538.47. It is unlawful to willfully make any false statement in a material regard in an application for an examination before the board for a license.~~

SEC. 36. *Section 2538.48 of the Business and Professions Code is repealed.*

~~2538.48. It is unlawful to engage in the practice of fitting or selling hearing aids in this state without having at the time of so doing a valid, unrevoked, and unexpired license or temporary license.~~

SEC. 37. *Section 2538.49 of the Business and Professions Code is amended to read:*

2538.49. It is unlawful for a ~~licensed~~ hearing aid dispenser to fit or sell a hearing aid unless he or she first does all of the following:

- (a) Complies with all provisions of state laws and regulations relating to the fitting or selling of hearing aids.
- (b) Conducts a direct observation of the purchaser's ear canals.
- (c) Informs the purchaser of the address and office hours at which the ~~licensee~~ hearing aid dispenser shall be available for fitting or postfitting adjustments and servicing of the hearing aid or aids sold.

SEC. 38. *Section 2538.50 of the Business and Professions Code is repealed.*

~~2538.50. It is unlawful to advertise by displaying a sign or otherwise or hold himself or herself out to be a person engaged in the practice of fitting or selling hearing aids without having at the time of so doing a valid, unrevoked license or temporary license.~~

SEC. 39. *Section 2538.51 of the Business and Professions Code is amended to read:*

2538.51. It is unlawful to engage in the practice of fitting or selling hearing aids without the ~~licensee~~ hearing aid dispenser having and maintaining an established business address, routinely open for service to his or her clients.

SEC. 40. *Section 2538.52 of the Business and Professions Code is amended to read:*

2538.52. When tests are conducted by ~~persons licensed~~ hearing aid dispensers under this article in connection with the fitting and selling of hearing aids, the provisions of this article shall apply.

SEC. 41. *Section 2538.53 of the Business and Professions Code is repealed.*

~~2538.53.(a) A license issued under this article expires at midnight on its assigned renewal date.~~

~~(b) To renew an unexpired license, the licensee shall, on or before the date of expiration of the license, apply for renewal on a form provided by the board, accompanied by the prescribed renewal fee.~~

~~(c) Temporary license holders shall renew their licenses in accordance with Section 2538.27, and apply for that renewal on a form provided by the board, accompanied by the prescribed renewal fee for temporary licenses.~~

~~(d) Each duplicate license issued for a branch office shall expire on the same date as the permanent license of the hearing aid dispenser to whom the duplicate license was issued. These duplicate licenses shall be renewed according to subdivision (b).~~

SEC. 42. *Section 2538.54 of the Business and Professions Code is repealed.*

~~2538.54. Except as otherwise provided in this article, an expired license may be renewed at any time within three years after its expiration on filing of an application for renewal on a form prescribed by the board, and payment of all accrued and unpaid renewal fees. If the license is renewed after its expiration the licensee, as a condition precedent to renewal, shall also pay the delinquency fee prescribed by this article. Renewal under this section shall be effective on the date on which the application is filed, on the date on which the renewal fee is paid, or on the date on which the delinquency fee, if any, is paid, whichever last occurs. If so renewed, the license shall continue in effect through the date provided in Section 2538.53 which next occurs after the effective date of the renewal, when it shall expire if it is not again renewed.~~

SEC. 43. *Section 2538.55 of the Business and Professions Code is repealed.*

~~2538.55. A license which has been suspended is subject to expiration and shall be renewed as provided in this article but such renewal does not entitle the holder of the license, while it remains suspended and until it is reinstated, to engage in the fitting or selling of hearing aids, or in any other activity or conduct in violation of the order or judgment by which the license was suspended. A license which has been revoked is subject to expiration, but it may not be renewed. If it is reinstated after its expiration, the licensee, as a condition precedent to its reinstatement, shall pay a reinstatement fee in an amount equal to the renewal fee in effect on the last regular renewal date before the date on which it is reinstated, plus the delinquency fee, if any, accrued at the time of its revocation.~~

SEC. 44. *Section 2538.56 of the Business and Professions Code is repealed.*

~~2538.56. A license that is not renewed within three years after its expiration may not be renewed, restored, reissued, or reinstated thereafter, but the holder of the expired license may apply for and obtain a new license if all of the following apply:~~

~~(a) He or she has not committed acts or crimes constituting grounds for denial of licensure under Section 480.~~

~~(b) He or she pays all the fees that would be required of him or her if he or she were then applying for a license for the first time.~~

~~(c) He or she takes and passes the examination that would be required of him or her if he or she were then applying for a license for the first time, or otherwise establishes to the satisfaction of the board that he or she is qualified to engage in the practice of fitting or selling hearing aids. The board may, by regulation, provide for the waiver or refund of all or any part of the application fee in those cases in which a license is issued without an examination under this section.~~

SEC. 45. *Section 2538.57 of the Business and Professions Code is repealed.*

~~2538.57. The amount of fees and penalties prescribed by this article shall be those set forth in this section unless a lower fee is fixed by the board:~~

~~(a) The fee for applicants applying for the first time for a license is seventy-five dollars (\$75), which shall not be refunded, except to applicants who are found to be ineligible to take an examination for a license. Those applicants are entitled to a refund of fifty dollars (\$50).~~

~~(b) The fees for taking or retaking the written and practical examinations shall be amounts fixed by the board, which shall be equal to the actual cost of preparing, grading, analyzing, and administering the examinations.~~

~~(c) The initial temporary license fee is one hundred dollars (\$100). The fee for renewal of a temporary license is one hundred dollars (\$100) for each renewal.~~

~~(d) The initial permanent license fee is two hundred eighty dollars (\$280). The fee for renewal of a permanent license is not more than two hundred eighty dollars (\$280) for each renewal.~~

~~(e) The initial branch office license fee is twenty five dollars (\$25). The fee for renewal of a branch office license is twenty five dollars (\$25) for each renewal.~~

~~(f) The delinquency fee is twenty five dollars (\$25).~~

~~(g) The fee for issuance of a replacement license is twenty five dollars (\$25).~~

~~(h) The continuing education course approval application fee is fifty dollars (\$50).~~

~~(i) The fee for official certification of licensure is fifteen dollars (\$15).~~

SEC. 46. *Section 2539.1 of the Business and Professions Code is amended to read:*

2539.1. (a) (1) On and after January 1, 2010, in addition to satisfying the licensure and examination requirements described in Sections 2532 and 2532.2, no licensed audiologist shall sell hearing aids unless he or she completes an application for a dispensing audiology license, pays all applicable fees, and passes an examination, approved by the board, relating to selling hearing aids.

(2) The board shall issue a dispensing audiology license to a licensed audiologist who meets the requirements of paragraph (1).

~~(b) (1) On and after January 1, 2010, a licensed audiologist with an unexpired license to sell hearing aids pursuant to Article 8 (commencing with Section 2538.10) may continue to sell hearing aids pursuant to that license until that license expires pursuant to Section 2538.53, and upon that expiration the licensee shall be deemed to have satisfied the requirements described in subdivision (a) and may continue to sell hearing aids pursuant to his or her audiology license subject to the provisions of this chapter. Upon the expiration of the audiologist's license to sell hearing aids, the board shall issue him or her a dispensing audiology license pursuant to paragraph (2) of subdivision (a). This paragraph shall not prevent an audiologist who also has a hearing aid dispenser's license from maintaining dual or separate licenses if he or she chooses to do so.~~

~~(2) A licensed audiologist whose license to sell hearing aids, issued pursuant to Article 8 (commencing with Section 2538.10), is suspended, surrendered, or revoked shall not be authorized to sell hearing aids pursuant to this subdivision and he or she shall be subject to the requirements described in subdivision (a) as well as the other provisions of this chapter.~~

~~(c)~~

~~(b) A licensed hearing aid dispenser who meets the qualifications for licensure as an audiologist shall be deemed to have satisfied the requirements of paragraph (1) of subdivision (a) for the purposes of obtaining a dispensing audiology license.~~

~~(d)~~

(c) For purposes of subdivision (a), the board shall provide the hearing aid dispenser's examination provided by the former Hearing Aid Dispensers Bureau until such time as the next examination validation and occupational analysis is completed by the Department of Consumer Affairs pursuant to Section 139 and a determination is made that a different examination is to be administered.

SEC. 47. *Section 6980 of the Business and Professions Code is amended to read:*

6980. The following terms as used in this chapter have the meaning expressed in this article:

~~(a) "Branch office" means any additional physical location, other than the principal place of business of a licensee, where any locksmith service is provided. Branch office includes the California office of any out-of-state business conducting, directing, dispatching, or managing a locksmith business, service, or service providers in California. A telephone answering service or a telephone call forwarding device, for routing calls within the immediate geographic area, shall not be deemed to be a branch office.~~

~~(b)~~

(a) "Bureau" means the Bureau of Security and Investigative Services.

~~(c)~~

(b) "Chief" means the Chief of the Bureau of Security and Investigative Services.

~~(d)~~

(c) "Department" means the Department of Consumer Affairs.

~~(e)~~

(d) "Director" means the Director of the Department of Consumer Affairs.

~~(f)~~

(e) "Employer" means a person who employs an individual for wages or salary, lists the individual on the employer's payroll records, and withholds all legally required deductions and contributions.

~~(g)~~

(f) "Employee" means an individual who works for an employer, is listed on the employer's payroll records, and is under the employer's direction and control. An independent contractor is not an employee pursuant to this chapter.

~~(h)~~

(g) "Employer-employee relationship" means an individual who works for another and where the individual's name appears on the payroll records of the employer.

~~(i) "Licensee" means a business entity, whether an individual, partnership, or corporation, licensed under this chapter.~~

~~(j)~~

(h) "Locksmith" means any person who, for any consideration or compensation whatsoever, engages, directly or indirectly and as a primary or secondary object, in the business of rekeying, installing, repairing, opening, modifying locks, or who originates keys for locks, including, but not limited to, electronic cloning of transponder keys and any other electronic programming of automotive keys and electronic operating devices, such as key fobs, door and ignition key devices, and successive electronic and other high-security key technology. A locksmith may be a business entity, whether an individual, partnership, or corporation. A "locksmith" does not mean a person whose activities are limited to making a duplicate key from an existing key.

~~(k)~~

(i) "Person" means any individual, firm, company, association, organization, partnership, or corporation.

~~(l) "Registrant" means an employee registered pursuant to the provisions of this chapter.~~

~~(m)~~

(j) "Lock" means any mechanical, electromechanical, electronic, or electromagnetic device, or similar device, including any peripheral hardware, that is designed to control access from one area to another, or that is designed to control the use of a device, including, but not limited to, a safe, vault, or safe deposit box.

~~(n)~~

(k) "Recombination" means changing the combination of any combination-actuated lock.

~~(o)~~

(l) "Master key system" means any system in which a lock is rekeyed so that the lock can be operated by its own individual key and can also be operated by a key that can operate other locks if the other locks cannot be operated with the lock's individual key.

~~(p)~~

(m) "Key duplication machine" means any tool whose only capability is to manufacture a new key by using an existing key as a guide, which includes, but is not limited to, any of the following:

(1) Standard key duplication machines that are limited to duplication of a metallic key from an existing metallic key, standard single- or double-sided key, including a plastic "credit card" emergency key.

(2) High-security key machines that include the duplication of restricted keys, such as sidewinders and laser cut styles of machines.

(3) Transponder cloning and reprogramming machines that transfer electronic codes and signals and successive technology to keys, fobs, and door and ignition operating devices.

~~(q)~~

(n) "Key blank" means a key that has not been altered or cut and does not include depth keys.

~~(r)~~

(o) "Pin kit" means a container that holds only the following lock parts and materials:

(1) Bottom pins.

(2) Top pins (not including master pins).

(3) Springs.

(4) Plug follower.

(5) Proprietary tools, provided by a lock manufacturer, designed for the purpose of rekeying a lock.

~~(s)~~

(p) "Locksmith tool" means (1) any tool designed for the purpose of opening, bypassing, altering, rekeying, servicing, or repairing any lock, or (2) any burglar tool, as described in Section 466 of the Penal Code.

~~(t)~~

(q) "Motor service vehicle" means any vehicle, as defined in Section 6161 of the Vehicle Code, or other mode of transportation, that is used in the business of rekeying, installing, repairing, opening, or modifying locks, or originating keys for locks.

SEC. 48. *Section 6980.4 of the Business and Professions Code is repealed.*

~~6980.4. The chief shall gather evidence of violations of this chapter and of any rule or regulation established under this chapter by unlicensed persons who engage in a business for which a license is required under this chapter, and shall furnish the evidence to prosecuting officers of any county, city, or city and county for the purpose of prosecuting those violations.~~

SEC. 49. *Section 6980.7 of the Business and Professions Code is repealed.*

~~6980.7.(a) The director may adopt and enforce rules and regulations as may be reasonable and necessary for issuing licenses to applicants, for the conduct of the licensees, or for the general enforcement of this chapter in the protection of the public.~~

~~(b) These rules and regulations shall be adopted in accordance with the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.~~

~~SEC. 4.~~ **SEC. 50.** *Section 6980.10 of the Business and Professions Code is repealed.*

SEC. 51. *Section 6980.12 of the Business and Professions Code is amended to read:*

6980.12. This chapter does not apply to the following persons:

(a) A person, or his or her agent or employee, who is the manufacturer of a product, other than locks and keys, and who installs, repairs, opens, or modifies locks or who makes keys for the locks of that product as a normal incident to its marketing.

(b) An employee who is an industrial or institutional locksmith, provided that the employee provides locksmith services only to a single employer that does not provide locksmith services for hire to the public for any consideration or compensation whatsoever.

(c) A tow truck driver who does not originate keys for locks and whose locksmith services are limited to opening motor vehicles.

(d) A person employed exclusively and regularly by a state correctional institution, or other state or federal agency, and who does not provide locksmith services for hire to the public for any consideration or compensation whatsoever.

(e) (1) A person registered with the bureau pursuant to Chapter 11 (commencing with Section 7500) if the duties of that person's position that constitute locksmithing are ancillary to the primary duties and functions of that person's position.

(2) A person licensed, certified, or registered pursuant to Chapter 11.6 (commencing with Section 7590) if the duties of that person's position that constitute locksmithing are performed in combination with the installation, maintenance, moving, repairing, replacing, servicing, or reconfiguration of an alarm system, as defined in subdivision (n) of Section 7590.1, and limited to work on electronic locks or access control devices that are controlled by an alarm system control device, including the removal of existing hardware.

(f) An agent or employee of a retail establishment that has a primary business other than providing locksmith services, providing all of the following criteria are met:

(1) The services provided by the retail establishment are limited to rekeying and recombination of locks.

(2) All rekeying, recombination, and installation of locks must take place on the premises of the retail establishment.

(3) All rekeying, recombination, and installation services provided by the retail establishment subject to this chapter are limited to locks purchased on the retail establishment's premises and are conducted prior to purchasers taking possession of the locks.

(4) An ~~unlicensed~~ agent or employee of the retail establishment shall not advertise or represent himself or herself to be ~~licensed~~ a locksmith under this chapter, and an agent or employee of the retail establishment shall not advertise or represent himself or herself to be a locksmith.

(5) An agent or employee of the retail establishment shall not design or implement a master key system, as defined in subdivision ~~(e)~~ (l) of Section 6980.

(6) An agent or employee of the retail establishment shall not rekey, change the combination of, alter, or install any automotive locks.

(7) The retail establishment shall not have on its premises any locksmith tool, as defined in subdivision ~~(s)~~ (p) of Section 6980, other than the following:

(A) Standard key duplication machines.

(B) Key blanks.

(C) Pin kits.

(g) A law enforcement officer employed by any city, county, city and county, state, or federal law enforcement agency, if all services are performed during the course of the officer's professional duties.

(h) A firefighter or emergency medical person employed by any city, county, city and county, district, or state agency, if all services are performed during the course of duties as a firefighter or emergency medical person.

(i) A new motor vehicle dealer, as defined in Section 426 of the Vehicle Code, and an employee of a new motor vehicle dealer acting within the scope of employment at a dealership.

SEC. 52. Section 6980.13 of the Business and Professions Code is amended to read:

6980.13. (a) Any person who violates any provision of this chapter, or who conspires with another person to violate any provision of this chapter, or who knowingly engages a nonexempt ~~or unlicensed~~ locksmith after being notified in writing by the bureau of the individual's ~~unlicensed~~ status with the bureau, is guilty of a misdemeanor, punishable by a fine of ten thousand dollars (\$10,000), or by imprisonment in a county jail for not more than one year, or by both that fine and imprisonment, except as otherwise provided in this chapter.

(b) A proceeding to impose the fine specified in subdivision (a) may be brought in any court of competent jurisdiction in the name of the people of the State of California by the Attorney General or by any district attorney or city attorney, or with the consent of the district attorney, the city prosecutor in any city or city and county having a full-time city prosecutor for the jurisdiction in which the violation occurred. If the action is brought by the district attorney, the penalty collected shall be paid to the treasurer of the county in which the

judgment is entered. If the action is brought by a city attorney or city prosecutor, one-half of the penalty collected shall be paid to the treasurer of the city in which the judgment was entered and one-half to the treasurer of the county in which the judgment was entered. If the action is brought by the Attorney General, all of the penalty collected shall be deposited in the Private Security Services Fund.

(c) Any person who is convicted of a violation of this section ~~or Section 6980.10~~ shall not be ~~issued a license a locksmith for a period of one year following a first conviction and shall not be issued a license for a period of five years following a second or subsequent conviction of this section or Section 6980.10 or any combination of those sections.~~ conviction.

(d) It is the intent of the Legislature that the prosecuting officer of any county or city shall prosecute all violations of this chapter occurring within his or her jurisdiction.

SEC. 53. *Section 6980.14 of the Business and Professions Code is amended to read:*

6980.14. (a) The superior court in and for the county where any person has engaged or is about to engage in any act that constitutes a violation of this ~~chapter, or where any person engages in the business of a locksmith after the revocation or expiration of any license or during the period of suspension of any license,~~ chapter, may, upon application of the chief or any ~~person licensed locksmith~~ person, issue an injunction or other appropriate order restraining this conduct and may impose civil fines not exceeding ten thousand dollars (\$10,000). The proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, except that there shall be no requirement to allege facts necessary to show or tending to show lack of adequate remedy at law or irreparable injury.

(b) During the period of revocation, expiration, or suspension, any business telephone number used to conduct, direct, operate, dispatch, manage, or utilize an ~~illegal, nonexempt, or unlicensed~~ illegal or nonexempt locksmith business, locksmith service, service provider, or related activity, may be disconnected by ruling of the chief.

(c) The superior court for the county in which any person has engaged in any act that constitutes a violation of this chapter may, upon a petition filed by the chief with the approval of the director, order this person to make restitution to persons injured as a result of the violation.

(d) The court may order a person subject to an injunction or restraining order, provided for in subdivision (a), or subject to an order requiring restitution pursuant to subdivision (c), to reimburse the bureau for expenses incurred by the bureau in its investigation related to its petition.

(e) A proceeding to impose the fine specified in subdivision (a) and enjoin the ~~unlicensed~~ operation may be brought in any court of competent jurisdiction in the name of the people of the State of California by the Attorney General or by any district attorney or city attorney, or with the consent of the district attorney, the city prosecutor in any city or city and county having a full-time city prosecutor for the jurisdiction in which the violation occurred. If the action is brought by the district attorney, the penalty collected shall be paid to the treasurer of the county in which the judgment is entered. If the action is brought by a city attorney or city prosecutor, one-half of the penalty collected shall be paid to the treasurer of the city in which the judgment was entered and one-half to the treasurer of the county in which the judgment was entered. If the action is brought by the Attorney General, all of the penalty collected shall be deposited in the Private Security Services Fund.

(f) The remedy provided for by this section shall be in addition to any other remedy provided for in this chapter.

SEC. 54. *Section 6980.15 of the Business and Professions Code is amended to read:*

6980.15. No person engaged in performing any locksmith service ~~requiring a license under this chapter~~ may bring or maintain any action in any court of this state for the collection of compensation for the performance of any act or agreement, without alleging and proving, that the person was ~~duly licensed a locksmith~~ at all times during the performance of the act or agreement.

SEC. 55. *Section 6980.17 of the Business and Professions Code is repealed.*

~~6980.17.(a)An application for a locksmith license shall be made in writing to, and filed with, the chief in the form as may be required by the director, and shall be accompanied by the application fee prescribed by this chapter. The chief may require the submission of any other relevant information, evidence, statements, or documents.~~

~~(b)Every application for a locksmith license shall state, among other things that may be required, the name of the applicant, the name under which the applicant will do business, and the location by street, number, and city of the office of the business for which the license is sought.~~

~~(c)No license shall be issued in any fictitious name that may be confused with, or that is similar to, any federal, state, county, or municipal governmental function or agency, or to any law enforcement agency, or in any name that may tend to describe any business function or enterprise not actually engaged in by the applicant.~~

~~(d)No license shall be issued in any fictitious name that is misleading or would constitute false advertising.~~

SEC. 56. *Section 6980.19 of the Business and Professions Code is repealed.*

~~6980.19.If the applicant for a license is an individual, the application shall state the full name of the individual, the full residence address of the applicant, and that the applicant is to be personally and actively in charge of the business for which the license is sought. The application shall be subscribed, verified, and signed by the applicant, under penalty of perjury.~~

SEC. 57. *Section 6980.20 of the Business and Professions Code is repealed.*

~~6980.20.If the applicant for a license is a partnership, the application shall state the true names and addresses of all the general partners and the name of the partner to be actively in charge of the business for which the license is sought. The application shall be subscribed, verified, and signed under penalty of perjury by all of the general partners.~~

SEC. 58. *Section 6980.21 of the Business and Professions Code is repealed.*

~~6980.21.(a)If the applicant for a license is a corporation, the application shall state the true names and complete residence addresses of the chief executive officer, secretary, chief financial officer, and any other corporate officer who will be active in the business to be licensed. The corporation identification number issued by the Secretary of State shall be indicated on the application. The application shall also state the name and address of a designated person to be actively in charge of the business for which the license is sought. The application shall be subscribed, verified, and signed by a duly authorized officer of the applicant under penalty of perjury.~~

~~(b)Except as herein otherwise provided, no individual shall be placed in active charge of the business if the individual has ever had a license revoked for cause or has ever been disqualified from further employment in the locksmith business pursuant to this chapter.~~

SEC. 59. *Section 6980.22 of the Business and Professions Code is repealed.*

~~6980.22.No new or original license shall be issued to any applicant pending final disposition of any disciplinary action previously filed against the person or applicant or partner, or officer of the applicant, or pending final disposition of any disciplinary action related to the locksmith business previously filed in another state against the person or applicant or partner, or officer of the applicant.~~

SEC. 60. *Section 6980.24 of the Business and Professions Code is repealed.*

~~6980.24.The director shall issue a license, the form and content of which shall be determined in accordance with Section 164. In addition, the director shall issue a "Certificate of Licensure" to any licensee, upon request, with the fee prescribed in this chapter. A "Certificate of Licensure" shall include an embossed seal of the State of California and the signature of the chief or his or her designated representative.~~

SEC. 61. *Section 6980.26 of the Business and Professions Code is repealed.*

~~6980.26.(a)Each locksmith license, together with the current renewal certificate, if any, shall at all times be conspicuously displayed at the place of business, each branch office, and in each mobile service vehicle for which the license is issued.~~

~~(b)The director may assess a fine of two hundred fifty dollars (\$250) per violation of subdivision (a). These fines shall be deposited in the Private Security Services Fund.~~

SEC. 62. *Section 6980.27 of the Business and Professions Code is repealed.*

~~6980.27.Every locksmith license shall expire at 12 midnight of the last day of the month two years following the date of issuance unless renewed; provided however, that the bureau may establish procedures, pursuant to Sections 152.5 and 152.6, for the administration of a staggered license renewal program. To renew an unexpired license or registration, the licensee shall apply for renewal on a form prescribed by the director, pay~~

~~any and all fines assessed by the chief or the director which are not pending appeal, and pay the renewal fee prescribed by this chapter. On renewal, such evidence of renewal of the license or registration as the director may prescribe shall be issued to the licensee. The bureau shall send to each licensee a notice of renewal at least 45 calendar days prior to the expiration of each unexpired license.~~

SEC. 63. *Section 6980.28 of the Business and Professions Code is repealed.*

~~6980.28. A locksmith license not renewed within three years following its expiration may not be renewed thereafter. Renewal of the license within three years, or issuance of an original license thereafter, shall be subject to payment of any and all fines assessed by the chief or the director which are not pending appeal and all other applicable fees.~~

SEC. 64. *Section 6980.29 of the Business and Professions Code is repealed.*

~~6980.29. A suspended locksmith license is subject to expiration and shall be renewed as provided in this article, but renewal of the license does not entitle the licensee, while the license remains suspended and until it is reinstated, to engage in the licensed activity, or in any other activity or conduct in violation of the order or judgment by which the license was suspended. The bureau shall not issue a license renewal certificate on a suspended license until the period of suspension has terminated.~~

SEC. 65. *Section 6980.30 of the Business and Professions Code is repealed.*

~~6980.30. A locksmith whose license has been canceled pursuant to this article, may obtain a new license only upon compliance with all of the provisions of this chapter relating to the issuance of an initial license.~~

SEC. 66. *Section 6980.31 of the Business and Professions Code is repealed.*

~~6980.31. No license issued pursuant to this chapter shall be transferred to another person.~~

SEC. 67. *Section 6980.32 of the Business and Professions Code is repealed.*

~~6980.32. Every licensee shall notify the bureau, in writing, within 30 days, of any change of residence or business address.~~

SEC. 68. *Section 6980.33 of the Business and Professions Code is amended to read:*

~~6980.33. A licensee, locksmith, or a partner or officer of a licensee, locksmith, shall carry a valid pocket identification card, issued by the bureau pursuant to Section 6980.23, and either a valid driver's license issued pursuant to Section 12811 of the Vehicle Code or a valid identification card issued pursuant to Section 13000 of the Vehicle Code, at all times the licensee, locksmith, or partner or officer, is engaged in the work of a locksmith, as defined in this chapter, whether on or off the premises of the licensee's locksmith's place of business. Every person, while engaged in any locksmith activity for which licensure is required, shall display his or her valid pocket card, and driver's license or identification card, as provided by regulation.~~

SEC. 69. *Section 6980.34 of the Business and Professions Code is repealed.*

~~6980.34. (a) Every application for a locksmith license in which the person applying desires to have the license issued under a fictitious business name shall include a certified copy of the fictitious business name statement filed with the county clerk pursuant to Chapter 5 (commencing with Section 17900) of Part 3 of Division 7.~~

~~(b) A licensee desiring to operate a locksmith business under one or more fictitious business names shall apply and qualify for an initial license for each fictitious business name.~~

~~(c) No licensee shall indicate, or cause to be indicated, in any printed matter, or in any directory or listing, that he or she conducts a locksmith business under any name, other than the name for which he or she is licensed.~~

~~(d) An application for a license for an additional fictitious business name shall be in the same form, and the applicant shall meet the same requirements, as for an initial license.~~

SEC. 70. *Section 6980.35 of the Business and Professions Code is repealed.*

~~6980.35. A locksmith desiring to operate a locksmith business at a location other than the principal place of business shall apply for a branch office registration for each additional location as set forth in this chapter.~~

SEC. 71. *Section 6980.37 of the Business and Professions Code is repealed.*

~~6980.37. A locksmith who maintains or proposes to maintain a branch office as defined in this article, shall apply and qualify for a branch office registration.~~

SEC. 72. *Section 6980.38 of the Business and Professions Code is repealed.*

~~6980.38. An application for a branch office registration under this article shall be on a form prescribed by the director and shall be accompanied by the fee as set forth in this chapter.~~

SEC. 73. *Section 6980.39 of the Business and Professions Code is repealed.*

~~6980.39. An application for a branch office registration shall include:~~

~~(a) The full name and address of, and the telephone number at, the principal business location;~~

~~(b) The address of, and the telephone number at, the branch office.~~

SEC. 74. *Section 6980.40 of the Business and Professions Code is repealed.*

~~6980.40. Upon receipt of the application for a branch office registration, the chief shall issue a "Branch Office Registration." The registration shall be posted in a conspicuous place at the branch office location.~~

SEC. 75. *Section 6980.41 of the Business and Professions Code is repealed.*

~~6980.41. Every branch office registration issued under this chapter shall be subject to the same renewal provisions which apply to a license as provided in this chapter.~~

SEC. 76. *Section 6980.42 of the Business and Professions Code is amended to read:*

6980.42. (a) Within seven days after commencing employment, any employee of a locksmith ~~who is not currently registered with the bureau and~~ who is performing the services of a locksmith shall submit to the bureau ~~a completed application for registration,~~ two classifiable fingerprint cards, one set of which shall be forwarded to the Federal Bureau of Investigation for purposes of a background ~~check, and the appropriate registration fee check.~~ No application is required to be submitted if the employee terminated employment within seven days. "Within seven days" means 168 hours from the time an employee provides any service for which he or she shall be compensated by a ~~licensee.~~ *locksmith.*

~~(b) Except as provided in subdivision (c), an employee of a licensee may be assigned to work with a temporary registration card issued by the licensee until the bureau issues a registration card or denies the application for registration. A temporary registration card shall in no event be valid for more than 120 days. However, the director may extend the expiration date beyond the 120 days if there is an abnormal delay in processing applications for locksmith employees. For purposes of this section, the 120-day period shall commence on the date the applicant signs the application.~~

~~(c) An employee who has been convicted of a crime prior to applying for a position as a locksmith employee performing the services of a locksmith shall not be issued a temporary registration card and shall not be assigned to work as a locksmith until the bureau issues a permanent registration card. This subdivision shall apply only if the applicant for registration has disclosed the conviction to the bureau on his or her application form, or if the fact of the conviction has come to the attention of the bureau through official court or other governmental documents.~~

~~(d)~~

~~(b)~~ The bureau may impose a fee not to exceed three dollars (\$3) for processing classifiable fingerprint cards submitted by applicants, excluding those submitted into an electronic fingerprint system using electronic fingerprint technology.

SEC. 77. *Section 6980.44 of the Business and Professions Code is amended to read:*

6980.44. The application shall be verified and shall include the following:

(a) The full name, residence address, telephone number, and date of birth of the employee.

(b) The name, address, *and* telephone number, ~~and license number of the employer,~~ and the date the employment commenced.

(c) A statement as to whether the employee has been arrested or convicted of a misdemeanor, excluding minor traffic violations.

(d) A statement as to whether the employee has been convicted of a felony.

SEC. 78. Section 6980.47 of the Business and Professions Code is amended to read:

6980.47. If the director determines that continued employment of an ~~applicant or registrant~~, *employee*, in his or her current capacity, may present an undue hazard to public safety, the ~~licensee, locksmith~~, upon proper notification from the director, shall suspend the ~~applicant or registrant employee~~ from employment in that capacity.

SEC. 79. Section 6980.48 of the Business and Professions Code is amended to read:

6980.48. (a) Upon determining that the applicant is qualified ~~for registration~~ pursuant to this chapter, the bureau shall issue a pocket ~~registration~~ card to the employee. The applicant may request to be issued an enhanced pocket card that shall be composed of durable material and may incorporate technologically advanced security features. The bureau may charge a fee sufficient to reimburse the department for costs for furnishing the enhanced pocket card. The fee charged may not exceed the actual cost for system development, maintenance, and processing necessary to provide the service, and may not exceed six dollars (\$6). If the applicant does not request an enhanced card, the department shall issue a standard card at no cost to the applicant.

(b) The ~~registrant employee~~ shall carry a valid ~~registration~~ card issued by the bureau under this section, and either a valid driver's license issued pursuant to Section 12811 of the Vehicle Code or a valid identification card issued pursuant to Section 13000 of the Vehicle Code, at all times the ~~registrant employee~~ is engaged in the work of a locksmith whether on or off the premises of the ~~licensee's locksmith's~~ place of business. Every person, while engaged in any ~~activity for which licensure is required, locksmith activity~~, shall display his or her valid pocket card, and driver's license or identification card, as provided by regulation.

SEC. 80. Section 6980.49 of the Business and Professions Code is repealed.

~~6980.49. A licensee shall at all times be responsible for ascertaining that his or her employees subject to registration are currently registered or have made proper application for registration as provided in this article. The licensee shall not have in his or her employment a person performing the services of a locksmith whose registration has expired, or been revoked, denied, suspended, or canceled.~~

SEC. 81. Section 6980.50 of the Business and Professions Code is repealed.

~~6980.50. (a) All registrations shall be placed on a cyclical renewal and shall expire two years following the date of issuance or assigned renewal date.~~

~~(b) At least 60 days prior to the expiration of a registration, a registrant who desires to renew his or her registration shall forward to the bureau a copy of his or her current registration card, along with the renewal fee as set forth in this chapter.~~

~~(c) An expired registration may still be renewed within 30 days from the date of expiration provided the registrant pays a delinquency fee provided by this chapter. A registration not renewed within 30 days following its expiration may not be renewed thereafter. The holder of an expired registration may obtain a new registration only on compliance with all the provisions of this chapter relating to the issuance of an original registration. The holder of an expired registration shall not engage in any activity requiring registration under this chapter until the bureau issues a renewal or new registration.~~

~~(d) If the renewed registration card has not been delivered to the registrant, prior to the date of expiration of the prior registration, the registrant may present evidence of renewal to substantiate continued registration, for a period not to exceed 90 days after the date of expiration.~~

~~(e) A registration shall not be renewed until any and all fines, not pending appeal, assessed by the chief or the director have been paid.~~

SEC. 82. Section 6980.53 of the Business and Professions Code is amended to read:

6980.53. A locksmith ~~licensed by the bureau~~ shall be subject to the provisions of Sections 466.6 and 466.8 of the Penal Code requiring verification of identification of clients and maintenance of work orders containing required client information. A copy of each work order completed pursuant to Sections 466.6 and 466.8 of the Penal Code shall be retained for two years, shall include the name ~~and license number~~ of the locksmith performing the service, and shall be open to inspection by the bureau or any peace officer during business hours or submitted to the bureau upon request.

SEC. 83. *Section 6980.54 of the Business and Professions Code is amended to read:*

6980.54. (a) A locksmith ~~licensed by the bureau~~ shall be subject to the provisions of Section 466.6 of the Penal Code, and shall be able to duplicate any key for any vehicle from another key.

(b) A locksmith ~~licensed by the bureau~~ shall be subject to the provisions of Section 466.8 of the Penal Code, and shall be able to duplicate any key for a residence, commercial establishment, or personal property from another key, except as follows:

(1) Duplication is prohibited when a key is stamped, imprinted, marked, or incised with the wording "Do Not Duplicate" or "Unlawful To Duplicate" and includes the originator's company name and telephone number.

(2) Duplication is prohibited when a key is a Restricted Key or a High Security Key and includes the originator's company name and telephone number or registration number.

SEC. 84. *Section 6980.55 of the Business and Professions Code is amended to read:*

6980.55. (a) Any locksmith who knowingly and willfully opens any residence, or commercial establishment for another by any method involving an on-site inspection of a door or entrance, whether or not for compensation, shall obtain the street address of the residence or commercial establishment, and the signature of the person for whom the residence or commercial establishment was opened on a work order form. The following information regarding the person requesting entry to the residence or commercial property shall be recorded on a work order form:

(1) Name.

(2) Address.

(3) Telephone Number.

(4) Date of Birth.

(5) Driver's license or identification number. A copy of each work order form shall be retained for two years, shall include the name ~~and license number~~ of the locksmith performing the service, and shall be open for inspection by any peace officer or by the bureau during business hours or submitted to the bureau upon request.

(b) Any locksmith who makes keys capable of opening a motor vehicle or personal property registered under the Vehicle Code for another by any method, whether or not for compensation, shall obtain the name, date of birth, and driver's license number or identification number of the person requesting entrance, and the registration or identification number of the vehicle or personal property registered under the Vehicle Code for which entrance is requested. This information together with the date the service was performed, and the signature of the person requesting entrance, shall be set forth on a work order. A copy of each work order form shall be retained for two years, ~~shall include the license number of the locksmith performing the service,~~ years and shall be open for inspection by a peace officer or by the bureau during business hours or submitted to the bureau upon request.

SEC. 85. *Section 6980.58 of the Business and Professions Code is amended to read:*

6980.58. A ~~licensee~~ locksmith shall at all times be responsible for those actions of his or her employees performed in violation of this chapter, when acting within the course and scope of his or her employment.

SEC. 86. *Section 6980.59 of the Business and Professions Code is repealed.*

~~6980.59.(a) A licensee shall notify the bureau within 30 days of any change of its officers required to be named pursuant to Section 6980.21 and of the addition of any new partners. Applications, on forms prescribed by the director, shall be submitted by all new officers and partners. The director may deny the application of a new officer or partner if the director determines that the officer or partner has committed any act which constitutes grounds for the denial of a license pursuant to Section 6980.71.~~

~~(b) A Notice of Warning shall be issued for the first violation of this section. Thereafter, the director shall assess a fine of five hundred dollars (\$500) for each subsequent violation of this section.~~

SEC. 87. *Section 6980.60 of the Business and Professions Code is repealed.*

~~6980.60. No licensee or employee shall conduct business from any location other than the location for which a license or branch office registration was issued.~~

SEC. 88. *Section 6980.61 of the Business and Professions Code is repealed.*

~~6980.61. No licensee shall conduct a business as an individual, partnership, or corporation, unless the licensee holds a valid license issued to the same individual, partnership, or corporation.~~

SEC. 89. *Section 6980.62 of the Business and Professions Code is amended to read:*

6980.62. (a) Each ~~licensee~~ locksmith shall maintain a file or record containing the name, address, commencing date of employment, and position of each employee, and the date of termination of employment when an employee is terminated. The files and records, together with usual payroll records, shall be available for inspection by the bureau, and copies thereof and information pertaining thereto or contained therein shall be submitted to the bureau upon written request.

(b) A ~~licensee~~ locksmith shall respond to the bureau's request to forward copies of the files or records and information pertaining thereto or contained therein within 30 days of the bureau's request.

SEC. 90. *Section 6980.63 of the Business and Professions Code is repealed.*

~~6980.63. Within seven days, each locksmith shall verify proof of current and valid registration issued by the bureau for each employee who is subject to registration, or shall require an employee to complete and submit an application for registration, pursuant to Section 6980.42, after employing an individual who does not possess a current and valid registration from the bureau.~~

SEC. 91. *Section 6980.64 of the Business and Professions Code is amended to read:*

6980.64. (a) Every advertisement by a ~~licensee~~ locksmith soliciting or advertising business shall contain his or her business name, business address, or business telephone ~~number, and license number as they appear in the records of the bureau:~~ number.

(b) For the purpose of this section, "advertisement" includes any business card, stationery, brochure, flyer, circular, newsletter, fax form, printed or published paid advertisement in any media form, directory listing, or telephone book listing.

(c) The director may assess a fine of five hundred dollars (\$500) for the first violation of this section and one thousand dollars (\$1,000) for each subsequent violation. These fines shall be deposited in the Private Security Services Fund.

SEC. 92. *Section 6980.65 of the Business and Professions Code is repealed.*

~~6980.65. No licensee or person shall aid and abet an unlicensed or nonexempt locksmith in any activity for which a license is required. For purposes of this section, to aid or abet includes, but is not limited to, the falsification of documents or facilitation of the acquisition of locksmith tools. Any licensee or person found in violation of this section shall be subject to Section 6980.14. A person shall not be subject to this section if he or she reasonably relied on a copy of a license, registration, pocket registration, or pocket identification card.~~

SEC. 93. *Section 6980.68 of the Business and Professions Code is amended to read:*

6980.68. No ~~licensee~~ locksmith shall willfully or deliberately disregard any building or safety laws of the state or any political subdivision thereof.

SEC. 94. *Section 6980.69 of the Business and Professions Code is amended to read:*

6980.69. No ~~licensee~~ locksmith shall fail in any material respect to complete the installation, repair, opening, or modification of a lock for the price stated in the contract for services.

SEC. 95. *Section 6980.71 of the Business and Professions Code is repealed.*

~~6980.71. (a) The director may deny a license or registration regulated by this chapter on the grounds that the applicant has done any of the following:~~

~~(1) knowingly made a false statement of fact required to be revealed in the application for a license.~~

~~(2) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which the bureau is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code.~~

~~(3) Committed any act involving dishonesty, fraud, or deceit, with the intent to substantially benefit himself, herself, or another, or to substantially injure another.~~

~~(4) Committed any act which, if done by a licensee, would be grounds for suspension or revocation of a license.~~

~~(5) Been refused a license under this chapter or had a license revoked.~~

~~(6) Been an officer, partner, or manager of any person who has been refused a license under this chapter or whose license has been suspended or revoked.~~

~~(b) The bureau may deny a license or registration pursuant to this section only if the crime or act is substantially related to the qualifications, functions, or duties of the license or registration for which application has been made.~~

~~(c) The denial of a license or registration shall be in writing and shall describe the basis for the denial. The denial shall inform the applicant that if he or she desires a hearing in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, the review shall be requested within 30 days of the issuance of the denial.~~

~~(d) Notwithstanding any other provision of this chapter, no person shall be denied a license or registration solely on the basis that he or she has been convicted of a felony, if he or she has obtained a certificate of rehabilitation pursuant to Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code, or solely on the basis that he or she has been convicted of a misdemeanor, if he or she has met all applicable requirements of the criteria of rehabilitation as provided in Section 6980.72.~~

SEC. 96. *Section 6980.72 of the Business and Professions Code is repealed.*

~~6980.72.(a) When considering the denial, suspension, or revocation of a license or registration for which application has been made under this chapter, the chief, in evaluating the rehabilitation of the applicant and his or her present eligibility for a license or registration, shall consider all the following criteria:~~

~~(1) The nature and severity of the act or crime under consideration as grounds for denial.~~

~~(2) The applicant's total criminal record.~~

~~(3) Evidence of any act committed subsequent to the act or crime under consideration as grounds for denial, suspension, or revocation which also could be considered as grounds for denial under Section 6980.71.~~

~~(4) The time that has elapsed since commission of the act or crime referred to in paragraph (1) or (2).~~

~~(5) The extent to which the applicant has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the applicant.~~

~~(6) Evidence, if any, of rehabilitation submitted by the applicant.~~

~~(b) When considering a petition for reinstatement of a license or registration, the chief shall evaluate evidence of rehabilitation, considering those criteria of rehabilitation listed in subdivision (a).~~

SEC. 97. *Section 6980.73 of the Business and Professions Code is repealed.*

~~6980.73.(a) The license or registration of a locksmith shall be automatically suspended if the locksmith is convicted of any crime which is substantially related to the functions, duties, and responsibilities of a locksmith. The automatic suspension shall be effectuated by the mailing of a notice of conviction and suspension of license to be sent by the bureau to the licensee at his or her address of record.~~

~~(b) The notice shall contain a statement of preliminary determination by the director or his or her designee that the crime stated is reasonably related to the functions, duties, and responsibilities of a locksmith.~~

~~(c) In enacting this section, the Legislature finds and declares that locksmiths convicted of crimes reasonably related to the functions, duties, and responsibilities of a locksmith shall be subject to automatic suspension of their license and that summary suspension is justified by compelling state interests of public safety and security.~~

within the meaning of the California Supreme Court's decision in *Eye Dog Foundation v. State Board of Guide Dogs for the Blind*, 67 Cal. 2d 536.

SEC. 98. Section 6980.74 of the Business and Professions Code is repealed.

~~6980.74.(a)The bureau may suspend or revoke a license issued pursuant to this chapter for acts including, but not limited to, any of the following acts which shall also be unlawful:~~

- ~~(1)Misrepresentation or concealment of a material fact in a license application.~~
- ~~(2)Interference with authorized personnel engaged in the enforcement or administration of this chapter.~~
- ~~(3)Knowingly using or permitting the use of any of his or her skills, tools, or facilities for the commission of any crime.~~
- ~~(4)Conviction of a crime substantially related to the qualifications, functions, or duties of a locksmith.~~
- ~~(5)A violation of this chapter or the rules and regulations adopted under the authority of this chapter.~~

~~(b)The bureau may suspend or revoke a license issued to a corporation or to a partnership for the commission of any act listed in subdivision (a) by an officer of the corporation or by a partner in the partnership.~~

SEC. 99. Section 6980.76 of the Business and Professions Code is repealed.

~~6980.76.The proceedings of the bureau to deny a license application, or to revoke or suspend a license, shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code.~~

SEC. 100. Section 6980.79 of the Business and Professions Code is repealed.

~~6980.79.The fees prescribed by this chapter are those fixed in the following schedule:~~

- ~~(a)A locksmith license application fee may not exceed thirty dollars (\$30).~~
- ~~(b)An original license and renewal fee for a locksmith license may not exceed forty five dollars (\$45).~~
- ~~(c)A branch office registration fee and branch office renewal fee may not exceed thirty five dollars (\$35).~~
- ~~(d)Notwithstanding Section 163.5, the reinstatement fee as required by Section 6980.28 is the amount equal to the renewal fee plus a penalty of 50 percent thereof.~~
- ~~(e)An initial registration fee for an employee may not exceed twenty dollars (\$20).~~
- ~~(f)A registration renewal fee for an employee performing the services of a locksmith may not exceed twenty dollars (\$20).~~
- ~~(g)The fingerprint processing fee is that amount charged the bureau by the Department of Justice.~~
- ~~(h)All applicants seeking a license pursuant to this chapter shall also remit to the bureau the fingerprint fee that is charged to the bureau by the Department of Justice.~~
- ~~(i)The fee for a "Certificate of Licensure" may not exceed twenty dollars (\$20).~~
- ~~(j)A delinquency fee is the amount equal to the renewal fee plus a penalty of 50 percent thereof.~~

SEC. 101. Section 6980.80 of the Business and Professions Code is repealed.

~~6980.80.The initial application fee is considered an earned fee at the time an application for a license is received by the bureau. No refund shall be made to the applicant in the event that the applicant is found to lack the required qualifications, or is otherwise denied a license pursuant to this chapter.~~

SEC. 102. Section 6980.82 of the Business and Professions Code is amended to read:

~~6980.82.~~ The director shall furnish one copy of ~~the licensing law~~ *this chapter* and rules and regulations to any ~~applicant or licensee~~ *locksmith* without charge. The director shall charge and collect a fee equivalent to the cost of producing such laws, rules and regulations, manuals, or guides, plus sales tax for each additional copy which may be furnished on request to any ~~applicant or licensee~~, *locksmith*, and for each copy furnished on request to any other person. All moneys derived pursuant to this section, except for any sales tax collected, shall be used to cover the costs of producing copies of these laws, rules and regulations, manuals, or guides. All moneys collected for sales tax shall be remitted to the State Board of Equalization.

SEC. 103. Section 6980.83 of the Business and Professions Code is repealed.

~~6980.83. Application or licensee fees shall not be refunded except in accordance with Section 159.~~

SEC. 104. Section 6980.84 of the Business and Professions Code is repealed.

~~6980.84.(a) There shall be a separate budget and expenditure statement, and a separate revenue statement, outlining all moneys derived from, and expended for, the licensing and regulation of locksmiths and registrants in accordance with the provisions of this chapter.~~

~~(b) If, at the end of any fiscal year, the moneys derived from the licensing of locksmiths and registrants is in surplus in an amount equal or greater than the moneys necessary for the regulation of locksmiths and registrants for the next two fiscal years, license or other fees shall be reduced during the following fiscal year by an amount that will reduce any surplus moneys derived from the licensing of locksmiths and registrants to an amount less than the moneys expended for the regulation of locksmiths and registrants for the next two fiscal years.~~

~~SEC. 5.~~ **SEC. 105.** Section 7048.5 is added to the Business and Professions Code, to read:

7048.5. This chapter does not apply to any work or operation by a C-27 landscaping contractor or D-49 tree service contractor on one undertaking or project by one or more contracts, the aggregate contract price which for labor, materials, and all other items is less than ~~twenty-five thousand dollars (\$25,000)~~ *five thousand dollars (\$5,000)*.

~~SEC. 6.~~ **SEC. 106.** Section 7316 of the Business and Professions Code is amended to read:

7316. (a) The practice of barbering is all or any combination of the following practices:

- (1) Shaving or trimming the beard or cutting the hair.
- (2) Giving facial and scalp massages or treatments with oils, creams, lotions, or other preparations either by hand or mechanical appliances.
- (3) Singeing, shampooing, arranging, dressing, curling, waving, chemical waving, hair relaxing, or dyeing the hair or applying hair tonics.
- (4) Applying cosmetic preparations, antiseptics, powders, oils, clays, or lotions to scalp, face, or neck.
- (5) Hairstyling of all textures of hair by standard methods that are current at the time of the hairstyling.

(b) The practice of cosmetology is all or any combination of the following practices:

- (1) Arranging, dressing, curling, waving, machineless permanent waving, permanent waving, cleansing, cutting, shampooing, relaxing, singeing, bleaching, tinting, coloring, straightening, dyeing, applying hair tonics to, beautifying, or otherwise treating by any means, the hair of any person.
- (2) Massaging, cleaning, or stimulating the scalp, face, neck, arms, or upper part of the human body, by means of the hands, devices, apparatus or appliances, with or without the use of cosmetic preparations, antiseptics, tonics, lotions, or creams.
- (3) Beautifying the face, neck, arms, or upper part of the human body, by use of cosmetic preparations, antiseptics, tonics, lotions, or creams.
- (4) Removing superfluous hair from the body of any person by the use of depilatories or by the use of tweezers, chemicals, or preparations or by the use of devices or appliances of any kind or description, except by the use of light waves, commonly known as rays.
- (5) Cutting, trimming, polishing, tinting, coloring, cleansing, or manicuring the nails of any person.
- (6) Massaging, cleansing, treating, or beautifying the hands or feet of any person.

(c) Within the practice of cosmetology there exist the specialty branches of skin care and nail care.

(1) Skin care is any one or more of the following practices:

- (A) Giving facials, giving skin care, removing superfluous hair from the body of any person by the use of depilatories, tweezers or waxing, or applying eyelashes to any person.

(B) Beautifying the face, neck, arms, or upper part of the human body, by use of cosmetic preparations, antiseptics, tonics, lotions, or creams.

(C) Massaging, cleaning, or stimulating the face, neck, arms, or upper part of the human body, by means of the hands, devices, apparatus, or appliances, with the use of cosmetic preparations, antiseptics, tonics, lotions, or creams.

(2) Nail care is the practice of cutting, trimming, polishing, coloring, tinting, cleansing, manicuring, or pedicuring the nails of any person or massaging, cleansing, or beautifying from the elbow to the fingertips or the knee to the toes of any person.

(d) The practice of barbering and the practice of cosmetology do not include any of the following:

(1) The mere sale, fitting, or styling of wigs or hairpieces.

(2) Natural hair braiding. Natural hair braiding is a service that results in tension on hair strands or roots by twisting, wrapping, weaving, extending, locking, or braiding by hand or mechanical device, provided that the service does not include haircutting or the application of dyes, reactive chemicals, or other preparations to alter the color of the hair or to straighten, curl, or alter the structure of the hair.

(3) Threading. Threading is a technique that results in removing hair by twisting thread around unwanted hair and pulling it from the skin and the incidental trimming of eyebrow hair.

(e) Notwithstanding paragraph (2) of subdivision (d), a person who engages in natural hairstyling, which is defined as the provision of natural hair braiding services together with any of the services or procedures defined within the regulated practices of barbering or cosmetology, is subject to regulation pursuant to this chapter and shall obtain and maintain a ~~barbering~~ or cosmetology license as applicable to the services respectively offered or performed.

(f) Electrolysis is the practice of removing hair from, or destroying hair on, the human body by the use of an electric needle only.

"Electrolysis" as used in this chapter includes electrolysis or thermolysis.

SEC. 7. SEC. 107. Section 7317 of the Business and Professions Code is amended to read:

7317. Except as provided in this article, it is unlawful for any person, firm, or corporation to engage in cosmetology, or electrolysis for compensation without a valid, unexpired license issued by the board, or in an establishment or mobile unit other than one licensed by the board, or conduct or operate an establishment, or any other place of business in which ~~barbering, cosmetology,~~ *cosmetology* or electrolysis is practiced unless licensed under this chapter. Persons licensed under this chapter shall limit their practice and services rendered to the public to only those areas for which they are licensed. Any violation of this section is subject to an administrative fine and may be subject to a misdemeanor.

SEC. 108. Section 7321 of the Business and Professions Code is amended to read:

7321. The board shall admit to examination for a license as a cosmetologist to practice cosmetology any person who has made application to the board in proper form, paid the fee required by this chapter, and is qualified as follows:

(a) Is not less than 17 years of age.

(b) Has completed the 10th grade in the public schools of this state or its equivalent.

(c) Is not subject to denial pursuant to Section 480.

(d) Has done any of the following:

(1) Completed a course in cosmetology from a school approved by the board.

(2) Practiced cosmetology as defined in this chapter outside of this state for a period of time equivalent to the study and training of a qualified person who has completed a course in cosmetology from a school the curriculum of which complied with requirements adopted by the board. Each three months of practice shall be deemed the equivalent of 100 hours of training for qualification under paragraph (1) of this subdivision.

(3) ~~Has a license as a barber in this state and has~~ Has completed a cosmetology crossover course in a school approved by the board.

(4) Completed a barbering course in a school approved by the board and has completed a cosmetology crossover course in a school approved by the board.

(5) Completed the apprenticeship program in cosmetology specified in Article 4 (commencing with Section 7332).

SEC. 109. *Section 7321.5 of the Business and Professions Code is repealed.*

~~7321.5. The board shall admit to examination for a license as a barber to practice barbering, any person who has made application to the board in proper form, paid the fee required by this chapter, and is qualified as follows:~~

~~(a) Is not less than 17 years of age.~~

~~(b) Has completed the 10th grade in the public schools of this state or its equivalent.~~

~~(c) Is not subject to denial pursuant to Section 480.~~

~~(d) Has done any of the following:~~

~~(1) Completed a course in barbering from a school approved by the board.~~

~~(2) Completed an apprenticeship program in barbering approved by the board as conducted under the provisions of the Shelley Maloney Apprentice Labor Standards Act of 1939, Chapter 4 (commencing with Section 3070) of Division 3 of the Labor Code.~~

~~(3) Practiced barbering as defined in this chapter outside of this state for a period of time equivalent to the study and training of a qualified person who has completed a course in barbering from a school the curriculum of which complied with requirements adopted by the board. Each three months of practice shall be deemed the equivalent of 100 hours of training for qualification under paragraph (1).~~

~~(4) Holds a license as a cosmetologist in this state and has completed a barber crossover course in a school approved by the board.~~

~~(5) Completed a cosmetology course in a school approved by the board and has completed a barber crossover course in a school approved by the board.~~

~~(6) Completed comparable military training as documented by submission of Verification of Military Experience and Training (V-MET) records.~~

SEC. 110. *Section 7334 of the Business and Professions Code is amended to read:*

7334. (a) The board may license as an apprentice in ~~barbering~~, cosmetology, skin care, or nail care any person who has made application to the board upon the proper form, has paid the fee required by this chapter, and who is qualified as follows:

(1) Is over 16 years of age.

(2) Has completed the 10th grade in the public schools of this state or its equivalent.

(3) Is not subject to denial pursuant to Section 480.

(4) Has submitted evidence acceptable to the board that any training the apprentice is required by law to obtain shall be conducted in a licensed establishment and under the supervision of a licensee approved by the board.

(b) The board may license as an apprentice in electrolysis any person who has made application to the board upon the proper form, has paid the fee required by this chapter, and who is qualified as follows:

(1) Is not less than 17 years of age.

(2) Has completed the 12th grade or an accredited senior high school course of study in schools of this state or its equivalent.

(3) Is not subject to denial pursuant to Section 480.

(4) Has submitted evidence acceptable to the board that any training the apprentice is required by law to obtain shall be conducted in a licensed establishment and under the supervision of a licensee approved by the board.

(c) All persons making application as an apprentice in barbering shall also complete a minimum of 39 hours of preapprentice training in a facility approved by the board prior to serving the general public.

(d) All persons making application as an apprentice in cosmetology, skin care, nail care, or electrology shall also complete minimum preapprentice training for the length of time established by the board in a facility approved by the board prior to serving the general public.

(e) Apprentices may only perform services on the general public for which they have received technical training.

(f) Apprentices shall be required to obtain at least the minimum hours of technical instruction and minimum number of practical operations for each subject as specified in board regulations for courses taught in schools approved by the board, in accordance with Sections 3074 and 3078 of the Labor Code.

SEC. 111. *Section 7396 of the Business and Professions Code is amended to read:*

7396. The form and content of a license issued by the board shall be determined in accordance with Section 164.

The license shall prominently state that the holder is licensed as a ~~barber~~, cosmetologist, esthetician, manicurist, electrologist, or apprentice, and shall contain a photograph of the licensee.

SEC. 112. *Section 7403 of the Business and Professions Code is amended to read:*

7403. (a) Notwithstanding any other provision of law, the board may revoke, suspend, or deny at any time any license required by this chapter on any of the grounds for disciplinary action provided in this article. The proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all the powers granted therein.

(b) The board may deny a license to an applicant on any of the grounds specified in Section 480.

(c) In addition to the requirements provided in Sections 485 and 486, upon denying a license to an applicant, the board shall provide a statement of reasons for the denial that does the following:

(1) Evaluates evidence of rehabilitation submitted by the applicant, if any.

(2) Provides the board's criteria relating to rehabilitation, formulated pursuant to Section 482, that takes into account the age and severity of the offense, and the evidence relating to participation in treatment or other rehabilitation programs.

(3) If the board's decision was based on the applicant's prior criminal conviction, justifies the board's denial of a license and conveys the reasons why the prior criminal conviction is substantially related to the qualifications, functions, or duties of a ~~barber or~~ cosmetologist.

(d) Commencing July 1, 2009, all of the following shall apply:

(1) If the denial of a license is due at least in part to the applicant's state or federal criminal history record, the board shall, in addition to the information provided pursuant to paragraph (3) of subdivision (c), provide to the applicant a copy of his or her criminal history record if the applicant makes a written request to the board for a copy, specifying an address to which it is to be sent.

(A) The state or federal criminal history record shall not be modified or altered from its form or content as provided by the Department of Justice.

(B) The criminal history record shall be provided in such a manner as to protect the confidentiality and privacy of the applicant's criminal history record and the criminal history record shall not be made available by the board to any employer.

(C) The board shall retain a copy of the applicant's written request and a copy of the response sent to the applicant, which shall include the date and the address to which the response was sent.

(2) The board shall make this information available upon request by the Department of Justice or the Federal Bureau of Investigation.

(e) Notwithstanding Section 487, the board shall conduct a hearing of a license denial within 90 days of receiving an applicant's request for a hearing. For all other hearing requests, the board shall determine when the hearing shall be conducted.

(f) In any case in which the administrative law judge recommends that the board revoke, suspend, or deny a license, the administrative law judge may, upon presentation of suitable proof, order the licensee to pay the board the reasonable costs of the investigation and adjudication of the case. For purposes of this section, "costs" include charges by the board for investigating the case, charges incurred by the office of the Attorney General for investigating and presenting the case, and charges incurred by the Office of Administrative Hearings for hearing the case and issuing a proposed decision.

(g) The costs to be assessed shall be fixed by the administrative law judge and shall not, in any event, be increased by the board. When the board does not adopt a proposed decision and remands the case to an administrative law judge, the administrative law judge shall not increase the amount of any costs assessed in the proposed decision.

(h) The board may enforce the order for payment in the superior court in the county where the administrative hearing was held. This right of enforcement shall be in addition to any other rights the board may have as to any licensee directed to pay costs.

(i) In any judicial action for the recovery of costs, proof of the board's decision shall be conclusive proof of the validity of the order of payment and the terms for payment.

(j) Notwithstanding any other provision of law, all costs recovered under this section shall be deposited in the board's contingent fund as a scheduled reimbursement in the fiscal year in which the costs are actually recovered.

SEC. 113. *Section 7423 of the Business and Professions Code is amended to read:*

7423. The amounts of the fees required by this chapter relating to licenses for individual practitioners are as follows:

(a) (1) Cosmetologist application and examination fee shall be the actual cost to the board for developing, purchasing, grading, and administering the examination.

(2) A cosmetologist initial license fee shall not be more than fifty dollars (\$50).

(b) (1) An esthetician application and examination fee shall be the actual cost to the board for developing, purchasing, grading, and administering the examination.

(2) An esthetician initial license fee shall not be more than forty dollars (\$40).

(c) (1) A manicurist application and examination fee shall be the actual cost to the board for developing, purchasing, grading, and administering the examination.

(2) A manicurist initial license fee shall not be more than thirty-five dollars (\$35).

~~(d)(1) A barber application and examination fee shall be the actual cost to the board for developing, purchasing, grading, and administering the examination.~~

~~(2) A barber initial license fee shall be not more than fifty dollars (\$50).~~

~~(e)~~

~~(d)~~ (1) An electrologist application and examination fee shall be the actual cost to the board for developing, purchasing, grading, and administering the examination.

(2) An electrologist initial license fee shall be not more than fifty dollars (\$50).

~~(f)~~

(e) An apprentice application and license fee shall be not more than twenty-five dollars (\$25).

~~(g)~~

(f) The license renewal fee for individual practitioner licenses that are subject to renewal shall be not more than fifty dollars (\$50).

~~(h)~~

(g) Notwithstanding Section 163.5 the license renewal delinquency fee shall be 50 percent of the renewal fee in effect on the date of renewal.

~~(i)~~

(h) Any preapplication fee shall be established by the board in an amount sufficient to cover the costs of processing and administration of the preapplication.

~~SEC. 8.~~ **SEC. 114.** Section 7533 of the Business and Professions Code is amended to read:

7533. Each licensee shall file with the bureau the complete address of his or her principal place of business including the name and number of the street, or, if the street where the business is located is not numbered, the number of the post office box. The director may require the filing of other information for the purpose of identifying the principal place of business. A California office is not required to comply with this section.

~~SEC. 9.~~ **SEC. 115.** Section 7672 of the Business and Professions Code is repealed.

SEC. 116. *Section 7672.1 of the Business and Professions Code is repealed.*

~~7672.1.(a) Registration shall be on the form prescribed by the bureau and shall include, but not be limited to, the full name of the registrant, business and residence addresses, description and identification of aircraft or boats which may be used in dispensing cremated human remains, and the area to be served. Each registration application shall be accompanied by the cremated remains disposer fee.~~

~~(b) Every registered cremated remains disposer who dispenses human remains by air shall post a copy of his or her current pilot's license, and the address of the cremated remains storage area at his or her place of business. Every registered cremated remains disposer who dispenses human remains by boat shall post a copy of his or her current boating license and the address of the cremated remains storage area at his or her place of business.~~

SEC. 117. *Section 7672.2 of the Business and Professions Code is amended to read:*

7672.2. The bureau shall prepare and deliver to each ~~registered~~ cremated remains disposer a booklet that includes, but is not limited to, the following information: ~~details about the registration and renewal requirements for cremated remains disposers;~~ requirements for obtaining state permits to dispose of cremated human remains; state storage requirements, if any; statutory duties pursuant to this article, and other applicable state laws.

SEC. 118. *Section 7672.6 of the Business and Professions Code is amended to read:*

7672.6. (a) Every cremated remains disposer shall do both of the following:

(1) Dispose of cremated remains within 60 days of the receipt of those remains, unless a written signed reason for a delay is presented to the person with the right to control the disposition of the remains under Section 7100 of the Health and Safety Code.

(2) Provide the bureau with the address and telephone number of any storage facility being used by the ~~registrant~~ cremated remains disposer to store cremated remains. Cremated remains shall be stored in a place free from exposure to the elements, and shall be responsibly maintained until disposal. The bureau and its representatives shall conduct, on an annual basis, random inspections of the operations of 5 to 10 percent of the ~~registered~~ cremated remains disposers, and is authorized to inspect any place used by a cremated remains disposer for the storage of cremated remains without notice to the cremated remains disposer.

(b) A violation of the requirements of this section is grounds for disciplinary action.

SEC. 119. *Section 7672.8 of the Business and Professions Code is repealed.*

~~7672.8. All cremated remains disposer registrations shall expire at midnight on September 30 of each year. A person desiring to renew his or her registration shall file an application for renewal on a form prescribed by the bureau accompanied by the required fee. A registration that has expired may be renewed within five years of its expiration upon payment of all accrued and unpaid renewal fees. The bureau shall not renew the registration of any person who has not filed the required annual report until he or she has filed a complete annual report with the department.~~

SEC. 120. Section 7672.9 of the Business and Professions Code is repealed.

~~7672.9.If a person fails to apply for renewal of his or her cremated remains disposer registration prior to midnight of September 30 of the year for which the registration was issued, no renewal shall be issued except upon payment of the delinquent renewal fee required under Section 7729.2.~~

SEC. 121. Section 7672.10 of the Business and Professions Code is repealed.

~~7672.10.Any person who scatters cremated human remains without a valid registration and who is not otherwise exempt from this article shall be guilty of a misdemeanor. The remains of each person scattered shall constitute a separate violation.~~

SEC. 122. Section 7730.1 of the Business and Professions Code is repealed.

~~7730.1.The cremated remains disposer registration fee shall be one hundred dollars (\$100).~~

SEC. 123. Section 7730.2 of the Business and Professions Code is repealed.

~~7730.2.The renewal fee for a cremated remains disposer registration shall be fifty dollars (\$50).~~

SEC. 124. Section 19051 of the Business and Professions Code is amended to read:

19051. Every upholstered-furniture retailer, unless he or she holds an importer’s license, a furniture and bedding manufacturer’s license, a wholesale furniture and bedding dealer’s license, ~~a custom upholsterer’s license,~~ or a retail furniture and bedding dealer’s license shall hold a retail furniture dealer’s license.

(a) This section does not apply to a person whose sole business is designing and specifying for interior spaces, and who purchases specific amenable upholstered furniture items on behalf of a client, provided that the furniture is purchased from an appropriately licensed importer, wholesaler, or retailer. This section does not apply to a person who sells “used” and “antique” furniture as defined in Sections 19008.1 and 19008.2.

(b) This section does not apply to a person who is licensed as a home medical device retail facility by the State Department of Health Services, provided that the furniture is purchased from an appropriately licensed importer, wholesaler, or retailer.

SEC. 125. Section 19059.5 of the Business and Professions Code is amended to read:

19059.5. Every sanitizer shall hold a sanitizer’s license unless he or she is licensed as a home medical device retail facility by the State Department of Health Services or as an upholstered furniture and bedding manufacturer, retail furniture and bedding dealer, ~~or retail bedding-dealer, or custom upholsterer.~~ dealer.

SEC. 126. Section 19060.6 of the Business and Professions Code is amended to read:

19060.6. (a) Except as provided in subdivision (b), every person who, on his or her own account, advertises, solicits or contracts to manufacture, repair or renovate upholstered furniture or bedding, and who either does the work himself or herself or has others do it for him or her, shall obtain the particular license required by this chapter for the particular type of work that he or she solicits or advertises that he or she will do, regardless of whether he or she has a shop or factory.

(b) Every person who, on his or her own account, advertises, solicits or contracts to repair or renovate upholstered furniture and who does not do the work himself or herself nor have employees do it for him or her ~~but does have the work done by a licensed custom upholsterer need not obtain a license as a custom upholsterer but~~ shall obtain a license as a retail furniture dealer. However, nothing in this section shall exempt a retail furniture dealer from complying with Sections 19162 and 19163.

~~SEC. 127.~~ **SEC. 127.** Section 19052 of the Business and Professions Code is repealed.

SEC. 128. Section 19170 of the Business and Professions Code is amended to read:

19170. (a) The fee imposed for the issuance and for the biennial renewal of each license granted under this chapter shall be set by the chief, with the approval of the director, at a sum not more nor less than that shown in the following table:

	Maximum fee	Minimum fee
Importer’s license	\$940	\$120

Furniture and bedding manufacturer's license	940	120
Wholesale furniture and bedding dealer's license	675	120
Supply dealer's license	675	120
Custom upholsterer's license	450	80
Sanitizer's license	450	80
Retail furniture and bedding dealer's license	300	40
Retail furniture dealer's license	150	20
Retail bedding dealer's license	150	20

(b) Individuals who, in their own homes and without the employment of any other person, make, sell, advertise, or contract to make pillows, quilts, quilted pads, or comforters are exempt from the fee requirements imposed by subdivision (a). However, these individuals shall comply with all other provisions of this chapter.

(c) Retailers who only sell "used" and "antique" furniture as defined in Sections 19008.1 and 19008.2 are exempt from the fee requirements imposed by subdivision (a). Those retailers are also exempt from the other provisions of this chapter.

(d) A person who makes, sells, or advertises upholstered furniture and bedding as defined in Sections 19006 and 19007, and who also makes, sells, or advertises furniture used exclusively for the purpose of physical fitness and exercise, shall comply with the fee requirements imposed by subdivision (a).

(e) A person who has paid the required fee and who is licensed ~~either~~ as an upholstered furniture and bedding manufacturer ~~or a custom upholsterer~~ under this chapter shall not be required to additionally pay the fee for a sanitizer's license.

~~SEC. 11.~~ **SEC. 129.** Section 1812.600 of the Civil Code is repealed.

SEC. 130. Section 1812.607 of the Civil Code is amended to read:

1812.607. Every auction company and auctioneer shall do all of the following:

(a) Disclose his or her name, trade or business name, ~~and telephone number, and bond number~~ number in all advertising of auctions. A first violation of this subdivision is an infraction subject to a fine of fifty dollars (\$50); a second violation is subject to a fine of seventy-five dollars (\$75); and a third or subsequent violation is subject to a fine of one hundred dollars (\$100). This section shall not apply to business cards, business stationery, or to any advertisement that does not specify an auction date.

(b) Post a sign, the dimensions of which shall be at least 18 inches by 24 inches, at the main entrance to each auction, stating that the auction is being conducted in compliance with Section 2328 of the Commercial Code, Section 535 of the Penal Code, and the provisions of the California Civil Code. A first violation of this subdivision is an infraction subject to a fine of fifty dollars (\$50); a second violation is subject to a fine of seventy-five dollars (\$75); and a third or subsequent violation is subject to a fine of one hundred dollars (\$100).

(c) Post or distribute to the audience the terms, conditions, restrictions, and procedures whereby goods will be sold at the auction, and announce any changes to those terms, conditions, restrictions, and procedures prior to the beginning of the auction sale. A first violation of this subdivision is an infraction subject to a fine of fifty dollars (\$50); a second violation is subject to a fine of one hundred dollars (\$100); and a third or subsequent violation is subject to a fine of two hundred fifty dollars (\$250).

(d) Notify the Secretary of State of any change in address of record within 30 days of the change. A violation of this subdivision is an infraction subject to a fine of fifty dollars (\$50).

(e) Notify the Secretary of State of any change in the officers of a corporate license within 30 days of the change. A violation of this subdivision is an infraction subject to a fine of fifty dollars (\$50).

(f) Notify the Secretary of State of any change in the business or trade name of the auctioneer or auction company within 30 days of the change. A violation of this subdivision is an infraction subject to a fine of fifty dollars (\$50).

(g) Keep and maintain, at the auctioneer's or auction company's address of record, complete and correct records and accounts pertaining to the auctioneer's or auction company's activity for a period of not less than two years. The records shall include the name and address of the owner or consignor and of any buyer of goods at any auction sale engaged in or conducted by the auctioneer or auction company, a description of the goods, the terms and conditions of the acceptance and sale of the goods, all written contracts with owners and consignors, and accounts of all moneys received and paid out, whether on the auctioneer's or auction company's own behalf or as agent, as a result of those activities. A first violation of this subdivision is a misdemeanor subject to a fine of five hundred dollars (\$500); and a second or subsequent violation is subject to a fine of one thousand dollars (\$1,000).

(h) Within 30 working days after the sale transaction, provide, or cause to be provided, an account to the owner or consignor of all goods that are the subject of an auction engaged in or conducted by the auctioneer or auction company. A first violation of this subdivision is a misdemeanor subject to a fine of five hundred dollars (\$500); and a second or subsequent violation is subject to a fine of one thousand dollars (\$1,000).

(i) Within 30 working days after a sale transaction of goods, pay or cause to be paid all moneys and proceeds due to the owner or the consignor of all goods that were the subject of an auction engaged in or conducted by the auctioneer or auction company, unless delay is compelled by legal proceedings or the inability of the auctioneer or auction company, through no fault of his or her own, to transfer title to the goods or to comply with any provision of this chapter, the Commercial Code, or the Code of Civil Procedure, or with any other applicable provision of law. A first violation of this subdivision is a misdemeanor subject to a fine of one thousand dollars (\$1,000); a second violation is subject to a fine of one thousand five hundred dollars (\$1,500); and a third or subsequent violation is subject to a fine of two thousand dollars (\$2,000).

(j) Maintain the funds of all owners, consignors, buyers, and other clients and customers separate from his or her personal funds and accounts. A violation of this subdivision is an infraction subject to a fine of two hundred fifty dollars (\$250).

(k) Immediately prior to offering any item for sale, disclose to the audience the existence and amount of any liens or other encumbrances on the item, unless the item is sold as free and clear. For the purposes of this subdivision, an item is "free and clear" if all liens and encumbrances on the item are to be paid prior to the transfer of title. A violation of this subdivision is an infraction subject to a fine of two hundred fifty dollars (\$250) in addition to the requirement that the buyer be refunded, upon demand, the amount paid for any item that is the subject of the violation.

(l) Within two working days after an auction sale, return the blank check or deposit of each buyer who purchased no goods at the sale. A first violation of this subdivision is an infraction subject to a fine of one hundred dollars (\$100); and a second or subsequent violation is subject to a fine of two hundred fifty dollars (\$250).

(m) Within 30 working days of any auction sale, refund that portion of the deposit of each buyer that exceeds the cost of the goods purchased, unless delay is compelled by legal proceedings or the inability of the auctioneer or auction company, through no fault of his or her own, to transfer title to the goods or to comply with any provision of this chapter, the Commercial Code, or the Code of Civil Procedure, or with other applicable provisions of law, or unless the buyer violated the terms of a written agreement that he or she take possession of purchased goods within a specified period of time. A first violation of this subdivision is an infraction subject to a fine of one hundred dollars (\$100); and a second or subsequent violation is subject to a fine of two hundred fifty dollars (\$250).

SEC. 131. *Section 1812.608 of the Civil Code is amended to read:*

1812.608. In addition to other requirements and prohibitions of this title, it is a violation of this title for any person to do any of the following:

(a) Fail to comply with any provision of this code, or with any provision of the Vehicle Code, the Commercial Code, any regulation of the Secretary of State, the Code of Civil Procedure, the Penal Code, or any law administered by the State Board of Equalization, relating to the auctioneering business, including, but not limited to, sales and the transfer of title of goods.

(b) Aid or abet the activity of any other person that violates any provision of this title. A violation of this subdivision is a misdemeanor subject to a fine of one thousand dollars (\$1,000).

(c) Place or use any misleading or untruthful advertising or statements or make any substantial misrepresentation in conducting auctioneering business. A first violation of this subdivision is a misdemeanor subject to a fine of five hundred dollars (\$500); and a second or subsequent violation is subject to a fine of one thousand dollars (\$1,000).

(d) Sell goods at auction before the auctioneer or auction company involved has first entered into a written contract with the owner or consignor of the goods, which contract sets forth the terms and conditions upon which the auctioneer or auction company accepts the goods for sale. The written contract shall include all of the following:

(1) The auctioneer's or auction company's name, trade or business name, business address, and business telephone number.

(2) An inventory of the item or items to be sold at auction.

(3) A description of the services to be provided and the agreed consideration for the services, which description shall explicitly state which party shall be responsible for advertising and other expenses.

(4) The approximate date or dates when the item or items will be sold at auction.

(5) A statement as to which party shall be responsible for insuring the item or items against loss by theft, fire, or other means.

~~(6) A disclosure that the auctioneer or auction company has a bond on file with the Secretary of State. A first violation of this subdivision is an infraction subject to a fine of two hundred fifty dollars (\$250); a second violation is subject to a fine of five hundred dollars (\$500); and a third or subsequent violation is subject to a fine of one thousand dollars (\$1,000).~~

(e) Sell goods at auction before the auctioneer or auction company involved has first entered into a written contract with the auctioneer who is to conduct the auction. A first violation of this subdivision is an infraction subject to a fine of one hundred dollars (\$100); and a second or subsequent violation is subject to a fine of two hundred fifty dollars (\$250).

(f) Fail to reduce to writing all amendments or addenda to any written contract with an owner or consignor or an auctioneer. A first violation of this subdivision is an infraction subject to a fine of one hundred dollars (\$100); and a second or subsequent violation is subject to a fine of two hundred fifty dollars (\$250).

(g) Fail to abide by the terms of any written contract required by this section. A first violation of this subdivision is an infraction subject to a fine of one hundred dollars (\$100); and a second or subsequent violation is subject to a fine of two hundred fifty dollars (\$250).

(h) Cause or allow any person to bid at a sale for the sole purpose of increasing the bid on any item or items being sold by the auctioneer, except as authorized by Section 2328 of the Commercial Code or by this title. A violation of this subdivision includes, but is not limited to, either of the following:

(1) Stating any increased bid greater than that offered by the last highest bidder when, in fact, no person has made such a bid.

(2) Allowing the owner, consignor, or agent thereof, of any item or items to bid on the item or items, without disclosing to the audience that the owner, consignor, or agent thereof has reserved the right to so bid.

A violation of this subdivision is an infraction subject to a fine of one hundred dollars (\$100).

(i) Knowingly misrepresent the nature of any item or items to be sold at auction, including, but not limited to, age, authenticity, value, condition, or origin. A violation of this subdivision is an infraction subject to a fine of two hundred fifty dollars (\$250). In addition, it shall be required that the buyer of the misrepresented item be refunded the purchase price of the item or items within 24 hours of return to the auctioneer or auction company of the item by the buyer, provided that the item is returned within five days after the date of the auction sale.

(j) Misrepresent the terms, conditions, restrictions, or procedures under which goods will be sold at auction. A violation of this subdivision is an infraction subject to a fine of seventy-five dollars (\$75).

(k) Sell any item subject to sales tax without possessing a valid and unrevoked seller's permit from the State Board of Equalization. A violation of this subdivision is an infraction subject to a fine of five hundred dollars (\$500).



BUSINESS, CONSUMER SERVICES, AND HOUSING AGENCY • GOVERNOR EDMUND G. BROWN JR.
Board of Barbering and Cosmetology-Department of Consumer Affairs
PO Box 944226, Sacramento, CA 94244
P (800) 952-5210 F (916) 574-7574 | www.barbercosmo.ca.gov

BOARD OF BARBERING & COSMETOLOGY BILL ANALYSIS

Author: Senate Member Nguyen

Subject: Nail Care Scope of Practice

Bill Number: SB 296

Version: April 17, 2017

Existing Law:

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

Defines the scope of practice for nail care (BP&C §7316 (c) (2)).

Requires the Board to determine by regulation the required subjects of instruction to be completed in all approved cosmetology and nail care courses (BP&C §§ 7362, 7362.1, 7362.5, 7365, 7389).

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

This Bill:

Expands the scope of practice for nail care to include superfluous hair removal by tweezing or waxing of the lip, eyebrows, area from the elbow to the fingertip, or knees to the toes of any person.

Requires the Board determine by regulation the number of training hours to be added to the manicuring curriculum for training in superfluous hair removal.

Clarifies that a licensed manicurist shall only be authorized to remove superfluous hair if the individual has met the educational requirements required by the Board in regulation.

Requires any person who has a manicurist license that has not obtained the required number of hours of training for superfluous hair removal, to obtain the required amount of training as defined by the Board in regulation and submit proof of training and take and pass a licensing examination.

Requires Board approved schools to add the required number of training hours determined by the Board to the school's curriculum for any course of manicuring.

Analysis:

This bill expands the manicurist scope of practice to include waxing and the use of tweezers on specified areas of the body. As of January 1, 2017 the Board has 129,196 licensed manicurists, 312,727 cosmetologists and 81,091 estheticians. Currently, only cosmetologists and estheticians can perform waxing procedures. The chart below summarizes the number of citations issued per licensee between the cosmetologists, estheticians and manicurists. In 2016, the percentage of citations to licensee is: Manicurist 2.35%, Cosmetologist 1.42% and Esthetician .56%.

License Type	2012	2013	2014	2015	2016
Barbers	654	543	1041	993	1205
Cosmetologists	3955	2738	4245	4273	4462
Electrologists	1	2	1	5	4
Estheticians	231	173	283	340	459
Manicurists	2452	1785	2490	2501	3037
Establishments	10031	7347	10297	10220	11271
Mobile Units	1	1	3	3	2
Schools	0	7	121	88	112

The Board has compiled the number of complaints within a five year period that have been submitted with allegation types that may be considered within the manicuring/pedicuring and waxing scope of practice.

2012*	
Allegation Types	Number of Complaints
Infection	103
Cut	43
Wax Burn	32
Skin Cut	16
Facial Burn	9
Allergic Reaction	8
Wax Infection	8
Wax Cut	6

2013*	
Allegation Types	Number of Complaints
Infection	65
Cut	33
Wax Burn	22
Skin Cut	16
Facial Burn	14
Wax Infection	6
Wax Cut	5

2014	
Allegation Types	Number of Complaints
Manicure Infection	40
Pedicure Infection	39
Manicure Burn	23
Cut	16
Manicure Allergic Reaction	16
Wax Infection	16
Facial Burn	12
Facial Infection	12

2015	
Allegation Types	Number of Complaints
Pedicure Infection	84
Manicure Infection	32
Manicure Cut	26
Pedicure Cut	21
Skin Allergic Reaction	17
Facial Burn	10
Facial Allergic Reaction	7
Wax Cut	7

2016	
Allegation Types	Number of Complaints
Pedicure Infection	87
Manicure Infection	39
Manicure Cut	26
Pedicure Cut	24
Facial Burn	8
Wax Burn	6
Skin Cut	5

*Broader allegation categories were used as the data was collected pre-BreEZe.

In 2013, the Board underwent its scheduled sunset review and appeared before the Senate and Assembly Business and Professions Committees. One of the issues raised from the committee was regarding appropriate licensing categories. In the final recommendations of the Board's sunset review, the legislative staff's recommendation stated:

"Staff Recommendation: The Board should review the issue of recognizing specialized service providers like eyelash extension appliers, makeup artists and waxers. The Board should work with national groups, professional associations, colleagues at NIC, school owners and licensees to determine if steps are necessary to create easier paths to Board recognition for individuals performing limited services. The Board should provide the Committee with statutory recommendations by January 1, 2014."

The Board complied with this request and below is an excerpt from the final report issued to the California Legislature regarding the cosmetology scope of practice:

"The Board is confident that the existing scope of practice is sufficient and necessary to carry out the Board's priority (consumer protection). Individuals may choose to perform only one skill within the scope of practice, however, the knowledge that is learned through the curriculum and the examinations should remain intact."

In response from the report submittal the Board received the following response from the Legislature, regarding the implementation of sublicensing categories, such as waxing:

"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."

The National Interstate Council of State Boards (NIC) currently provides a written and practical waxing examination.

Fiscal Impact:

The fiscal impact to the Board is substantial. The complete financial impact of implementation of this bill is unknown at this time.

The current contract with NIC would need to be amended. NIC currently charges \$15.00 per examination. Given that it is assumed that at least 50 percent of the current manicurist licensee population, 64,598 manicurists is expected to want to expand their scope of services to offer waxing, the Board could expect to incur exam fees in the amount of \$1,937,940. This cost may be offset by exam and initial licensing fees imposed upon the applicants.

To accommodate the increased examination demand, it is assumed the Board would need to hire at least 2 waxing examiners, one for each exam site (Fairfield and Glendale, CA). It may be determined that additional space to hold the waxing examination at the Board's Glendale exam site may be required. This could result in amending the current building lease and securing an additional room in order to provide space for the examination. Additional, costs associated with increasing the size of the Glendale exam site is unknown at this time. In addition, it is unknown at this time if additional space is available for lease. If space is not available, this could result in the Board defaulting on its current contract with the Glendale leasing agent and incurring expenses in the default of lease, legal costs and costs estimated in moving the examination site and entering into another building lease agreement.

There may be a need to hire 1 temporary headquarters office technician for cashiering and application processing. This would be a temporary assignment as once the initial influx of currently licensed manicurists taking the waxing exam is satisfied; the Board may be able to absorb the additional time spent on application processing.

The costs involved in promulgation regulations are estimated at \$1,000.00 per regulatory package. It is estimated the Board may need two regulatory packages.

It is assumed that the BreZE database will need the following adjustments and costs involved in implementation are unknown at this time:

- Amendments to the current checklist.
- Possible new business rule or modifier.
- Possible on-demand letter(s).
- Possible new enforcement or compliance codes.

Since the assumed proposed regulations would impact IT work, IT requirements cannot be finalized until the regulations are implemented. It is presumed that regulations will require one year for completion. In addition, use of new contract resources will extend the development effort up to twelve months to allow for recruitment and hiring.

Board Position:

To be determined.

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



California

LEGISLATIVE INFORMATION

[Home](#)
[Bill Information](#)
[California Law](#)
[Publications](#)
[Other Resources](#)
[My Subscriptions](#)

[My Favorites](#)

SB-296 Barbering and cosmetology: nail care: superfluous hair removal. (2017-2018)

SHARE THIS:



Date Published: 04/17/2017 02:46 PM

AMENDED IN SENATE APRIL 17, 2017

CALIFORNIA LEGISLATURE— 2017-2018 REGULAR SESSION

SENATE BILL

No. 296

Introduced by Senator Nguyen

February 13, 2017

An act to amend Section ~~7401~~ 7316 of the Business and Professions Code, relating to barbering and cosmetology.

LEGISLATIVE COUNSEL'S DIGEST

SB 296, as amended, Nguyen. Barbering and ~~cosmetology~~: cosmetology: nail care: superfluous hair removal.

The Barbering and Cosmetology Act provides for the licensure and regulation of barbers, cosmetologists, estheticians, manicurists, electrologists, and apprentices by the State Board of Barbering and Cosmetology, which is within the Department of Consumer Affairs. Existing law ~~requires a licensee, at the time of license renewal, to report certain information to the board, including whether he or she is an employee, an independent contractor, a booth renter, or a salon owner.~~ defines nail care as the practice of cutting, trimming, polishing, coloring, tinting, cleansing, manicuring, or pedicuring the nails of any person or massaging, cleaning, or beautifying from the elbow to the fingertips or the knee to the toes. Existing law requires an applicant for a license as a manicurist to meet certain criteria, including that he or she has completed a course in nail care from a school approved by the board.

This bill would ~~make nonsubstantive changes to these provisions.~~ additionally define nail care as removing superfluous hair from the lip, eyebrows, the elbow to fingertips, or knees to toes by the use of tweezers or waxing. The bill would authorize a licensee as a manicurist to remove superfluous hair only if he or she meets specified educational requirements. The bill would require the board to determine, by regulation, the required number of hours to be added to the existing manicuring curriculum that will allow sufficient training in the practice of superfluous hair removal and would require an approved school to add the required number of training hours to the school's curriculum for any course in manicuring by a specified date.

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

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

SECTION 1. Section 7316 of the Business and Professions Code is amended to read:

7316. (a) The practice of barbering is all or any combination of the following practices:

- (1) Shaving or trimming the beard or cutting the hair.
- (2) Giving facial and scalp massages or treatments with oils, creams, lotions, or other preparations either by hand or mechanical appliances.
- (3) Singeing, shampooing, arranging, dressing, curling, waving, chemical waving, hair relaxing, or dyeing the hair or applying hair tonics.
- (4) Applying cosmetic preparations, antiseptics, powders, oils, clays, or lotions to scalp, face, or neck.
- (5) Hairstyling of all textures of hair by standard methods that are current at the time of the hairstyling.

(b) The practice of cosmetology is all or any combination of the following practices:

- (1) Arranging, dressing, curling, waving, machineless permanent waving, permanent waving, cleansing, cutting, shampooing, relaxing, singeing, bleaching, tinting, coloring, straightening, dyeing, applying hair tonics to, beautifying, or otherwise treating by any means, the hair of any person.
- (2) Massaging, cleaning, or stimulating the scalp, face, neck, arms, or upper part of the human body, by means of the hands, devices, apparatus or appliances, with or without the use of cosmetic preparations, antiseptics, tonics, lotions, or creams.
- (3) Beautifying the face, neck, arms, or upper part of the human body, by use of cosmetic preparations, antiseptics, tonics, lotions, or creams.
- (4) Removing superfluous hair from the body of any person by the use of depilatories or by the use of tweezers, chemicals, or preparations or by the use of devices or appliances of any kind or description, except by the use of light waves, commonly known as rays.
- (5) Cutting, trimming, polishing, tinting, coloring, cleansing, or manicuring the nails of any person.
- (6) Massaging, cleansing, treating, or beautifying the hands or feet of any person.

(c) Within the practice of cosmetology there exist the specialty branches of skin care and nail care.

(1) Skin care is any one or more of the following practices:

- (A) Giving facials, applying makeup, giving skin care, removing superfluous hair from the body of any person by the use of depilatories, ~~tweezers~~ tweezers, or waxing, or applying eyelashes to any person.
- (B) Beautifying the face, neck, arms, or upper part of the human body, by use of cosmetic preparations, antiseptics, tonics, lotions, or creams.
- (C) Massaging, cleaning, or stimulating the face, neck, arms, or upper part of the human body, by means of the hands, devices, apparatus, or appliances, with the use of cosmetic preparations, antiseptics, tonics, lotions, or creams.

(2) (A) Nail care ~~is the~~ is both of the following:

(i) The practice of cutting, trimming, polishing, coloring, tinting, cleansing, manicuring, or pedicuring the nails of any person or massaging, cleansing, or beautifying from the elbow to the fingertips or the knee to the toes of any person.

(ii) The removing of superfluous hair from the lip, eyebrows, the elbow to the fingertips, or knees to the toes of any person. An individual who is licensed by the board as a manicurist shall only be authorized to remove superfluous hair if he or she has met the educational requirements required by the board pursuant to subparagraph (C).

(B) An individual who is licensed by the board as a manicurist who desires to perform the removal of superfluous hair, as described in clause (ii) of subparagraph (A), and who has not obtained the required

number of hours of education on the removal of superfluous hair required by the board, pursuant to subparagraph (C), shall obtain the required additional education prior to performing the removal of superfluous hair, as described in clause (ii) of subparagraph (A), and shall submit proof of the completion of the required education to the board. Upon completion of the required education, the licensee shall be required to take and pass an examination.

(C) The board shall determine, by regulation, the required number of hours to be added to the existing manicuring curriculum that will allow for sufficient training in the practice of superfluous hair removal, which shall include removing superfluous hair from the lip, eyebrows, the elbows to the fingertips, and knees to toes by the use of tweezers or waxing. A licensee described in subparagraph (B) shall be required to complete the required hours of training under this subparagraph consistent with the requirements of subparagraph (B).

(D) On and after _____, an approved school shall add the required number of hours in subparagraph (C) to the school's curriculum for any course in manicuring.

(d) The practice of barbering and the practice of cosmetology do not include any of the following:

(1) The mere sale, fitting, or styling of wigs or hairpieces.

(2) Natural hair braiding. Natural hair braiding is a service that results in tension on hair strands or roots by twisting, wrapping, weaving, extending, locking, or braiding by hand or mechanical device, provided that the service does not include haircutting or the application of dyes, reactive chemicals, or other preparations to alter the color of the hair or to straighten, curl, or alter the structure of the hair.

(3) Threading. Threading is a technique that results in removing hair by twisting thread around unwanted hair and pulling it from the skin and the incidental trimming of eyebrow hair.

(e) Notwithstanding paragraph (2) of subdivision (d), a person who engages in natural hairstyling, which is defined as the provision of natural hair braiding services together with any of the services or procedures defined within the regulated practices of barbering or cosmetology, is subject to regulation pursuant to this chapter and shall obtain and maintain a barbering or cosmetology license as applicable to the services respectively offered or performed.

(f) Electrolysis is the practice of removing hair from, or destroying hair on, the human body by the use of an electric needle only.

"Electrolysis" as used in this chapter includes electrolysis or thermolysis.

~~SECTION 1. Section 7401 of the Business and Professions Code is amended to read:~~

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

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

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

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

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

~~(5) Retired.~~

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

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

~~(1) Employee.~~

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

~~(3) Salon owner.~~

~~(c) An individual licensed pursuant to Section 7347 shall, at the time of license renewal, report to the board whether either of the following is applicable to him or her:~~

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

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



BUSINESS, CONSUMER SERVICES, AND HOUSING AGENCY • GOVERNOR EDMUND G. BROWN JR.
Board of Barbering and Cosmetology-Department of Consumer Affairs
PO Box 944226, Sacramento, CA 94244
P (800) 952-5210 F (916) 574-7574 | www.barbercosmo.ca.gov

BOARD OF BARBERING & COSMETOLOGY BILL ANALYSIS

Author: Senate Member Hill

Subject: Apprentice Supervision

Bill Number: SB 547

Version: April 17, 2017

Existing Law:

Defines the term "Apprentice". (BP&C* §7332)

Provides that it is unlawful for anyone practicing barbering, cosmetology, esthetics, manicuring or electrology for compensation without a valid, unexpired license. A violation of the section is subject to administrative fines and maybe subject to a misdemeanor. (BP&C §7317)

Provides the licensure and regulation of barbers, cosmetologists, estheticians, manicurists, electrologists and apprentices by the California Board of Barbering and Cosmetology. (Board) (BP&C §§ 7312, 7334)

Authorizes an apprentice, to perform services under the supervision of a licensee approved by the Board and establishes the conditions under which an apprentice may practice. (BP&C §7336)

This Bill:

Defines the term, "under the supervision of a licensee". This term would mean a person supervised at all times by a licensee while performing services in a licensed establishment and would consider an apprentice who is not being supervised by a licensee to be practicing under the act without a license.

Analysis:

The Board currently cites an apprentice for unlicensed activity (BC&P 7317) if an apprentice is performing services on a client for compensation without the supervision of a Board approved trainer. This bill adds clarity to that action and provides the Board substantiation for the action.

Fiscal Impact:

No fiscal impact to the Board.

Board Position:

To be determined.

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




California

LEGISLATIVE INFORMATION

[Home](#)
 [Bill Information](#)
 [California Law](#)
 [Publications](#)
 [Other Resources](#)
 [My Subscriptions](#)
[My Favorites](#)

SB-547 Professions and vocations: weights and measures. (2017-2018)

SHARE THIS: 

Date Published: 04/17/2017 09:00 PM



AMENDED IN SENATE APRIL 17, 2017

CALIFORNIA LEGISLATURE— 2017-2018 REGULAR SESSION

SENATE BILL

No. 547

Introduced by Senator Hill

February 16, 2017

An act to amend ~~Section 7332 of~~ Sections 5063.3, 5096.9, 5810, 7332, 11302, 11321, 11323, 11324, 11345, 11345.6, 11422, 12241, 12304, 12305, 12310, and 12500 of, to add Sections 11345.5 and 11345.8 to, and to repeal and add Section 11345.3 of, the Business and Professions Code, relating to ~~barbering and cosmetology~~ professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

SB 547, as amended, Hill. ~~Barbering, cosmetology, or electrolysis: apprentice supervision~~ Professions and vocations: weights and measures.

(1) Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs.

(A) Existing law provides for the licensure and regulation of accountants by the California Board of Accountancy, which is within the Department of Consumer Affairs. Existing law prohibits confidential information obtained by a licensee concerning a client from being disclosed by the licensee without the written permission of the client, except when the disclosure is made by a licensee or a licensee's duly authorized representative to another licensee in connection with a proposed sale or merger of the licensee's professional practice.

This bill would additionally authorize that disclosure in that same connection to another person, provided the parties enter into a written nondisclosure agreement.

Existing law, until January 1, 2019, authorizes an individual otherwise meeting a condition for a practice privilege to perform certain audit and financial statement review services only through a firm of certified public

accountants that is required to be registered with the board and authorizes such an individual qualified for the practice privilege to practice public accountancy in this state without the imposition of a notice, fee, or any other requirements. Existing law authorizes the board to adopt regulations to carry out the practice privilege provisions and regulations have been adopted, which become inoperative on January 1, 2019.

To ensure uninterrupted implementation of the practice privilege provisions, this bill would authorize the board to adopt or amend regulations to remove or extend the inoperative date of these regulations. The bill would require the Office of Administrative Law to consider the board's action to remove or extend the inoperative dates of these regulations as a change without regulatory effect and would exempt the board from complying with the Administrative Procedure Act with respect to that removal or extension.

(B) Existing law authorizes a certified interior designer, as defined, to obtain a stamp from an interior design organization, as defined, that uniquely identifies the designer and certifies that he or she meets certain qualifications and requires the use of that stamp on all drawings and documents submitted to any governmental agency by the designer. Existing law provides that these provisions are repealed on January 1, 2018.

This bill would instead repeal those provisions on January 1, 2022.

Existing

(C) Existing law, the Barbering and Cosmetology Act, provides for the licensing and regulation of persons engaging in the practice of barbering, cosmetology, or electrolysis, as specified. Existing law authorizes an apprentice, as defined, to perform services under the supervision of a licensee approved by the State Board of Barbering and Cosmetology, as specified. Practicing barbering, cosmetology, or electrolysis without being properly licensed is a crime.

This bill would define the term "under the supervision of a licensee" for these provisions to mean a person supervised at all times by a licensee while performing services in a licensed establishment. The bill would also prohibit an apprentice from being the only person working in an establishment and would deem an apprentice who is not being supervised by a licensee to be practicing under the act without a license. *Because this bill would expand the scope of a crime, it would impose a state-mandated local program.*

~~Because this bill would expand the scope of a crime, it would impose a state-mandated local program.~~

(D) Existing state law, the Real Estate Appraisers' Licensing and Certification Law, provides for the licensure, certification, and regulation of real estate appraisers and appraisal management companies by the Bureau of Real Estate Appraisers within the Department of Consumer Affairs, which is headed by the Chief of the Bureau of Real Estate Appraisers. Existing state law prohibits a person from engaging in federally related real estate appraisal activity without an active license. Existing state law defines "federally related transaction" as any real estate-related financial transaction which a federal financial institutions regulatory agency engages in, contracts for, or regulates, and which requires the services of a state licensed real estate appraiser.

Existing state law prohibits a person or entity from acting in the capacity of an appraisal management company without first obtaining a certificate of registration from the bureau. Existing state law defines an "appraisal management company" as a person or entity that maintains an approved list or lists, containing 11 or more independent contractor licensed or certified appraisers, or employs 11 or more licensed or certified appraisers, receives requests for appraisals from one or more clients, and for a fee paid by one or more of its clients, delegates appraisal assignments for completion by its independent contractor or employee appraisers.

Existing federal law, the Dodd-Frank Wall Street Reform and Consumer Protection Act, requires the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the National Credit Union Administration Board, the Federal Housing Finance Agency, and the Bureau of Consumer Financial Protection to jointly, by rule, establish minimum requirements to be applied by a state in the registration of appraisal management companies. These minimum requirements include a requirement that an appraisal management company (1) register with and be subject to supervision by a state appraiser certifying and licensing agency in each state in which that company operates, (2) verify that only licensed or certified appraisers are used for federally related transactions, (3) require that appraisals coordinated by an appraisal management company comply with the Uniform Standards of Professional Appraisal Practice, and (4) require that appraisals are conducted independently and free from inappropriate influence and coercion, as provided. Existing federal law does not prohibit states from establishing additional requirements.

Existing federal law prohibits an appraisal management company from being registered by a state or included on the national registry if the company is owned by any person whose appraiser license or certificate was refused, denied, canceled, surrendered in lieu of revocation, or revoked in any state.

This bill would conform to federal law by, among other things, redefining an "appraisal management company" as a person that (1) provides appraisal management services to creditors or to secondary mortgage market participants, including affiliates, (2) provides those services in connection with valuing a consumer's principal dwelling as security for a consumer credit transaction or incorporating such transactions into securitizations, and (3) within a given 12-month period, oversees an appraiser panel of more than 15 State-certified or State-licensed appraisers in a State or 25 or more State-certified or State-licensed appraisers in two or more States. The bill would define "appraiser panel" and prescribe the method for determining whether an appraiser is a part of the appraisal management company's appraiser panel.

Existing state law prohibits a person other than a licensee from signing an appraisal and authorizes a specified trainee to sign an appraisal if it is also signed by the licensee. Existing law authorizes an individual who is not a licensee to assist in the preparation of an appraisal under certain conditions.

This bill would prohibit a person other than a licensee from signing an appraisal in a federally related transaction. The bill would authorize a trainee to sign an appraisal in such a transaction if it is also signed by a licensee. The bill would authorize an individual who is not a licensee to assist in the preparation of an appraisal in a federally related transaction under certain conditions.

Existing state law prohibits the chief from issuing a certificate of registration to an appraisal management company unless the appraisal management company confirms in its application for registration that all of its contracts with clients include specified standard business practices.

This bill would delete that provision and require all appraisal management companies to, among other things, direct the appraiser to perform the assignment in accordance with the Uniform Standards of Professional Appraisal Activity and engage appraisal panel members with an engagement letter that shall include terms of payment.

Existing federal law requires a federally regulated appraisal management company to report to the State or States in which it operates the information required to be submitted by the State pursuant to the policies of the Appraisal Subcommittee of the Federal Financial Institutions Examination Council regarding the determination of the fee imposed by the AMC National Registry, which is the registry of State-registered appraisal management companies and federally regulated appraisal management companies maintained by the Appraisal Subcommittee.

This bill would require a federally regulated appraisal management company operating in California to report to the bureau the information required to be submitted by the bureau to the Appraisal Subcommittee. The bill would authorize the bureau to charge the federally regulated appraisal management company a fee in an amount not exceed the reasonable regulatory cost to the board for processing the information.

This bill would also define various other terms for purposes of carrying out these provisions.

This bill would make various other nonsubstantive and technical changes.

(2) (A) Existing law provides for the regulation of commercial weighing and measuring devices by the Department of Food and Agriculture, and provides for the enforcement of those provisions by the State Sealer and by county sealers of weights and measures in each county. Existing law requires the department to keep the standards of the state for weights and measures in a suitable laboratory location or, if transportable, to maintain the standards under appropriate environmental conditions and requires the department to have the standards directly certified by the National Institute of Standards and Technology or by any measurement assurance procedures approved by that institute. Existing law requires the department to use the standards of the state to certify similar standards and any dissimilar standards which are dependent on the values represented by the state standards. Existing law requires the department, or a certified laboratory designated by the department, to certify standards of the county sealers at specified intervals.

Existing law, until January 1, 2019, requires the Secretary of Food and Agriculture to establish by regulation an annual administrative fee to recover reasonable administrative and enforcement costs incurred by the Department of Food and Agriculture for exercising supervision over and performing investigations in connection with specified activities performed by sealers, and requires the administrative fee to be collected for every device registered with each county office of weights and measures and paid annually to the Department of Food and Agriculture Fund.

This bill would additionally require the annual administrative fee to be used to recover reasonable costs incurred by the department for the safekeeping and certification of the state standards, for using the state standards to certify other standards, and for certifying the standards of county sealers.

(B) Existing law defines various terms for purposes of regulating weighing and measuring devices, including the term "commercial purposes."

This bill would provide that commercial purposes does not include the determination of the weight of any animal or human by a healing arts licensee for the purposes of determining the appropriate dosage of any medication or treatment of the volume, duration, or application of any medical procedure.

~~The~~

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

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

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

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

SECTION 1. *Section 5063.3 of the Business and Professions Code is amended to read:*

5063.3. (a) No confidential information obtained by a licensee, in his or her professional capacity, concerning a client or a prospective client shall be disclosed by the licensee without the written permission of the client or prospective client, except the following:

- (1) Disclosures made by a licensee in compliance with a subpoena or a summons enforceable by order of a court.
 - (2) Disclosures made by a licensee regarding a client or prospective client to the extent the licensee reasonably believes it is necessary to maintain or defend himself or herself in a legal proceeding initiated by the client or prospective client.
 - (3) Disclosures made by a licensee in response to an official inquiry from a federal or state government regulatory agency.
 - (4) Disclosures made by a licensee or a licensee's duly authorized representative to another licensee or person in connection with a proposed sale or merger of the licensee's professional ~~practice~~ practice, provided the parties enter into a written nondisclosure agreement with regard to all client information shared between the parties.
 - (5) Disclosures made by a licensee to either of the following:
 - (A) Another licensee to the extent necessary for purposes of professional consultation.
 - (B) Organizations that provide professional standards review and ethics or quality control peer review.
 - (6) Disclosures made when specifically required by law.
 - (7) Disclosures specified by the board in regulation.
- (b) In the event that confidential client information may be disclosed to persons or entities outside the United States of America in connection with the services provided, the licensee shall inform the client in writing and obtain the client's written permission for the disclosure.

SEC. 2. *Section 5096.9 of the Business and Professions Code is amended to read:*

- 5096.9.** (a) The board is authorized to adopt regulations to implement, interpret, or make specific the provisions of this article.
- (b) The board shall adopt emergency regulations in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) to establish policies, guidelines, and procedures to initially implement this article as it goes into effect on July 1, 2013. The adoption of the regulations shall be considered by the Office of Administrative Law to be necessary for the immediate preservation of the public peace, health and safety, or general welfare. The emergency regulations

shall be submitted to the Office of Administrative Law for filing with the Secretary of State in accordance with the Administrative Procedure Act.

(c) (1) Notwithstanding any other law, to ensure uninterrupted implementation of this article, the board may adopt or amend regulations consistent with Section 100 of Title 1 of the California Code of Regulations to remove or extend the inoperative date of its regulations in Article 3 (commencing with Section 18) of Division 1 of Title 16 of the California Code of Regulations, or to remove the inoperative dates for the regulations in Article 4 (commencing with Section 26) of Division 1 of Title 16 of the California Code of Regulations.

(2) Notwithstanding any other law, the Office of Administrative Law shall consider the board's action to remove or extend the inoperative dates of these regulations as a change without regulatory effect as described in Section 100 of Title 1 of the California Code of Regulations that exempts the board from complying with the rulemaking procedure specified in the Administrative Procedure Act (Article 5 (commencing with Section 11346) of Chapter 3.5 Part 1 of Division 3 of Title 2 of the Government Code).

SEC. 3. Section 5810 of the Business and Professions Code is amended to read:

5810. (a) This chapter shall be subject to review by the appropriate policy committees of the Legislature.

(b) This chapter shall remain in effect only until January 1, ~~2018~~, 2022, and as of that date is ~~repealed, unless a later enacted statute, that is enacted before January 1, 2018, deletes or extends that date.~~ repealed.

~~SECTION 1.~~ **SEC. 4.** Section 7332 of the Business and Professions Code is amended to read:

7332. (a) An apprentice is any person who is licensed by the board to engage in learning or acquiring a knowledge of barbering, cosmetology, skin care, nail care, or electrology, in a licensed establishment under the supervision of a licensee approved by the board.

(b) For purposes of this section, "under the supervision of a licensee" means that the apprentice shall be supervised at all times by a licensee approved by the board while performing services in a licensed establishment. At no time shall an apprentice be the only individual working in the establishment. An apprentice that is not being supervised by a licensee, that has been approved by the board to supervise an apprentice, shall be deemed to be practicing unlicensed under this chapter.

SEC. 5. Section 11302 of the Business and Professions Code is amended to read:

11302. For the purpose of applying this part, the following terms, unless otherwise expressly indicated, shall mean and have the following definitions:

~~(a) "Department" means the Department of Consumer Affairs.~~

(a) "Affiliate" means any entity that controls, is controlled by, or is under common control with another entity.

(b) "Appraisal" means ~~a written statement independently and impartially prepared by a qualified appraiser setting forth an opinion in a federally related transaction as to the market value of an adequately described property as of a specific date, supported by the presentation and analysis of relevant market information. the act or process of developing an opinion of value for real property.~~

The term "appraisal" does not include an opinion given by a real estate licensee or engineer or land surveyor in the ordinary course of his or her business in connection with a function for which a license is required under Chapter 7 (commencing with Section 6700) or Chapter 15 (commencing with Section 8700) of Division 3, or Chapter 3 (commencing with Section 10130) or Chapter 7 (commencing with Section 10500) and the opinion shall not be referred to as an appraisal. This part does not apply to a probate referee acting pursuant to Sections 400 to 408, inclusive, of the Probate Code unless the appraised transaction is federally related.

(c) "Appraisal Foundation" means the Appraisal Foundation that was incorporated as an Illinois not-for-profit corporation on November 30, 1987.

(d) (1) "Appraisal management company" means any person or entity that satisfies all of the following conditions:

~~(A) Maintains an approved list or lists, containing 11 or more independent contractor appraisers licensed or certified pursuant to this part, or employs 11 or more appraisers licensed or certified pursuant to this part.~~

~~(B) Receives requests for appraisals from one or more clients.~~

~~(C) For a fee paid by one or more of its clients, delegates appraisal assignments for completion by its independent contractor or employee appraisers.~~

~~(2) "Appraisal management company" does not include any of the following, when that person or entity directly contracts with an independent appraiser:~~

~~(A) Any bank, credit union, trust company, savings and loan association, or industrial loan company doing business under the authority of, or in accordance with, a license, certificate, or charter issued by the United States or any state, district, territory, or commonwealth of the United States that is authorized to transact business in this state.~~

~~(B) Any finance lender or finance broker licensed pursuant to Division 9 (commencing with Section 22000) of the Financial Code, when acting under the authority of that license.~~

~~(C) Any residential mortgage lender or residential mortgage servicer licensed pursuant to Division 20 (commencing with Section 50000) of the Financial Code, when acting under the authority of that license.~~

~~(D) Any real estate broker licensed pursuant to Part 1 (commencing with Section 10000) of Division 4 of the Business and Professions Code, when acting under the authority of that license.~~

~~(3) "Appraisal management company" does not include any person licensed to practice law in this state who is working with or on behalf of a client of that person in connection with one or more appraisals for that client.~~

(A) Provides appraisal management services to creditors or to secondary mortgage market participants, including affiliates.

(B) Provides those services in connection with valuing a consumer's principal dwelling as security for a consumer credit transaction or incorporating such transactions into securitizations.

(C) Within a given 12 calendar month period oversees an appraiser panel of more than 15 State-certified or State-licensed appraisers in a state or 25 or more State-certified or State-licensed appraisers in two or more States, as described in Section 11345.5.

(2) An appraisal management company does not include a department or division of an entity that provides appraisal management services only to that entity.

(3) An appraisal management company that is a subsidiary of an insured depository institution and regulated by a federal financial institution is not required to register with the bureau.

(e) "Appraisal management services" means one or more of the following:

(1) Recruiting, selecting, and retaining appraisers.

(2) Contracting with state-certified or state-licensed appraisers to perform appraisal assignments.

(3) Managing the process of having an appraisal performed, including providing administrative services such as receiving appraisal orders and appraisal reports, submitting completed appraisal reports to creditors and secondary market participants, collecting fees from creditors and secondary market participants for services provided, and paying appraisers for services performed.

(4) Reviewing and verifying the work of appraisers.

(f) "Appraiser panel" means a network, list, or roster of licensed or certified appraisers approved by an appraisal management company to perform appraisals as independent contractors for the appraisal management company. Appraisers on an appraisal management company's "appraiser panel" under this part include both appraisers accepted by the appraisal management company for consideration for future appraisal assignments in covered transactions or for secondary mortgage market participants in connection with covered transactions, and appraisers engaged by the appraisal management company to perform one or more appraisals in covered transactions or for secondary mortgage market participants in connection with covered transactions. An appraiser is an independent contractor for purposes of this part if the appraiser is treated as an independent contractor by the appraisal management company for purposes of federal income taxation.

(e)

(g) "Appraisal Subcommittee" means the Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

(h) "Consumer credit" means credit offered or extended to a consumer primarily for personal, family, or household purposes.

~~(f)~~

(i) "Controlling person" means one or more of the following:

(1) An officer or director of an appraisal management company, or an individual who holds a 10 percent or greater ownership interest in an appraisal management company.

(2) An individual employed, appointed, or authorized by an appraisal management company that has the authority to enter into a contractual relationship with clients for the performance of appraisal services and that has the authority to enter into agreements with independent appraisers for the completion of appraisals.

(3) An individual who possesses the power to direct or cause the direction of the management or policies of an appraisal management company.

(j) "Course provider" means a person or entity that provides educational courses related to professional appraisal practice.

(k) "Covered transaction" means any consumer credit transaction secured by the consumer's principal dwelling.

(l) "Creditor" means:

(1) A person who regularly extends consumer credit that is subject to a finance charge or is payable by written agreement in more than four installments, not including a down payment, and to whom the obligation is initially payable, either on the face of the note or contract, or by agreement when there is no note or contract.

(2) A person regularly extends consumer credit if, in any 12-month period, the person originates more than one credit extension for transactions secured by a dwelling.

(m) "Department" means the Department of Consumer Affairs.

~~(g)~~

(n) "Director" or "chief" means the Chief of the Bureau of Real Estate Appraisers.

(o) "Dwelling" means:

(1) A residential structure that contains one to four units, whether or not that structure is attached to real property. The term includes an individual condominium unit, cooperative unit, mobile home, and trailer, if it is used as a residence.

(2) A consumer can have only one "principal" dwelling at a time. Thus, a vacation or other second home is not a principal dwelling. However, if a consumer buys or builds a new dwelling that will become the consumer's principal dwelling within a year or upon the completion of construction, the new dwelling is considered the principal dwelling for purposes of this section.

~~(h)~~

(p) "Federal financial institutions regulatory agency" means the Federal Reserve Board, Federal Deposit Insurance Corporation, Office of the Comptroller of the Currency, Federal Home Loan Bank System, National Credit Union Administration, and any other agency determined by the director to have jurisdiction over transactions subject to this part.

(q) "Federally regulated appraisal management company" means an appraisal management company that is owned and controlled by an insured depository institution, as defined in Section 1813 of Title 12 of the United States Code and regulated by the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, or the Federal Deposit Insurance Corporation.

~~(i)~~

(r) "Federally related real estate appraisal activity" means the act or process of making or performing an appraisal on real estate or real property in a federally related transaction and preparing an appraisal as a result of that activity.

~~(j)~~

(s) "Federally related transaction" means any real estate-related financial transaction which a federal financial institutions regulatory agency engages in, contracts for or regulates and which requires the services of a state licensed real estate appraiser regulated by this part. This term also includes any transaction identified as such by a federal financial institutions regulatory agency.

~~(k)~~

(t) "License" means any license, certificate, permit, registration, or other means issued by the bureau authorizing the person to whom it is issued to act pursuant to this part within this state.

~~(l)~~

(u) "Licensure" means the procedures and requirements a person shall comply with in order to qualify for issuance of a license and includes the issuance of the license.

~~(m)~~

(v) "Office" or "bureau" means the Bureau of Real Estate Appraisers.

~~(n)~~

(w) "Registration" means the procedures and requirements with which a person or entity shall comply in order to qualify to conduct business as an appraisal management company.

(x) "Secondary mortgage participant" means a guarantor or insurer of mortgage-backed securities, or an underwriter or issuer of mortgage-backed securities. Secondary mortgage market participant only includes an individual investor in a mortgage-backed security if that investor also serves in the capacity of a guarantor, insurer, underwriter, or issuer for the mortgage-backed security.

~~(o)~~

(y) "State licensed real estate appraiser" is a person who is issued and holds a current valid license under this part.

~~(p)~~

(z) "Uniform Standards of Professional Appraisal Practice" are the standards of professional appraisal practice established by the Appraisal Foundation.

~~(q) "Course provider" means a person or entity that provides educational courses related to professional appraisal practice.~~

SEC. 6. Section 11321 of the Business and Professions Code is amended to read:

11321. (a) No person other than a state licensed real estate appraiser may assume or use that title or any title, designation, or abbreviation likely to create the impression of state licensure as a real estate appraiser in this state.

(b) No person other than a licensee may sign an ~~appraisal~~ appraisal in a federally related transaction. A trainee licensed pursuant to Section 11327 may sign an appraisal in a federally related transaction if it is also signed by a licensee.

(c) No person other than a licensee holding a current valid license at the residential level issued under this part to perform, make, or approve and sign an appraisal may use the abbreviation SLREA in his or her real property appraisal business.

(d) No person other than a licensee holding a current valid license at a certified level issued under this part to perform, make, or approve and sign an appraisal may use the term "state certified real estate appraiser" or the abbreviation SCREA in his or her real property appraisal business.

SEC. 7. Section 11323 of the Business and Professions Code is amended to read:

11323. No licensee shall engage in any appraisal activity ~~in connection with the purchase, sale, transfer, financing, or development of real property~~ if his or her compensation is dependent on or affected by the value conclusion generated by the appraisal.

SEC. 8. Section 11324 of the Business and Professions Code is amended to read:

11324. An individual who is not a licensee may assist in the preparation of an appraisal *in a federally related transaction* under the following conditions:

(a) The assistance is under the direct supervision of an individual who is a licensed appraiser and the final conclusion as to value is made by a licensed appraiser.

(b) The final appraisal document *in a federally related transaction* is approved and signed, with acceptance of full responsibility, by the supervising individual who is licensed by the state pursuant to this part, identifies the assisting individual, and identifies the scope of work performed by the individual who assisted in preparation of the ~~appraisal~~ *appraisal in a federally related transaction*.

SEC. 9. Section 11345 of the Business and Professions Code is amended to read:

11345. The director shall adopt regulations governing the process and procedure of applying for registration as an appraisal management company. Applications for a certificate of registration shall require, at a minimum, all of the following:

(a) The name of the person or entity seeking registration.

(b) The business address and telephone number of the person or entity seeking registration.

(c) If the applicant is not a person or entity domiciled in this state, the name and contact number of a person or entity acting as agent for service of process in this state, along with an irrevocable consent to service of process in favor of the office.

(d) The name, address, and contact information for each controlling person ~~employed by~~ *associated with* the applicant who has operational authority to direct the management of, and establish policies for, the applicant. If the applicant employs more than 10 individuals meeting the criteria of this subdivision, the applicant may list the names, addresses, and contact information for the 10 individuals meeting the criteria who hold the greatest level of management responsibility within its organization.

SEC. 10. Section 11345.3 of the Business and Professions Code is repealed.

~~11345.3. The director may not issue a certificate of registration to an appraisal management company unless the appraisal management company confirms in its application for registration that all of its contracts with clients include provision of each of the following as standard business practices, as and where applicable:~~

~~(a) Ensuring that employee appraisers and independent contractor appraisers contracted by the applicant possess all required licenses and certificates from the office.~~

~~(b) Reviewing the work of all employee appraisers and independent contractor appraisers contracted by the applicant to ensure that appraisal services are performed in accordance with the Uniform Standards of Professional Appraisal Practice.~~

~~(c) Maintaining records of each of the following for each service request:~~

~~(1) Date of receipt of the request.~~

~~(2) Name of the person from whom the request was received.~~

~~(3) Name of the client for whom the request was made, if different from the name of the person from whom the request was received.~~

~~(4) The appraiser or appraisers assigned to perform the requested service.~~

~~(5) Date of delivery of the appraisal product to the client.~~

SEC. 11. Section 11345.3 is added to the Business and Professions Code, to read:

11345.3. All appraisal management companies shall do all of the following:

(a) Ensure that all contracted appraisal panel members possess all required licenses and certificates from the office.

(b) Establish and comply with processes and controls reasonably designed to ensure that the appraisal management company, in engaging an appraiser, selects an appraiser who is independent of the transaction

and who has the requisite license, education, expertise, and experience necessary to competently complete the appraisal assignment for the particular market and property type.

(c) Direct the appraiser to perform the assignment in accordance with the Uniform Standards of Professional Appraisal Activity.

(d) Establish and comply with processes and controls reasonably designed to ensure that the appraisal management company conducts its appraisal management services in accordance with the requirements of Section 129E(a) through (i) of the Truth in Lending Act, 15 U.S.C. 1639e(a) through (i), and regulations thereunder.

(e) Engage appraisal panel members with an engagement letter that shall include terms of payment.

SEC. 12. Section 11345.5 is added to the Business and Professions Code, to read:

11345.5. For purposes of subdivision (d) of Section 11302 and determining whether, within a 12-month period, an appraisal management company oversees an appraiser panel of more than 15 State-certified or State-licensed appraisers in a State or 25 or more State certified or State licensed appraisers in two or more States:

(a) An appraiser is deemed part of the appraisal management company's appraiser panel as of the earliest date on which the appraisal management company does either of the following:

(1) Accepts the appraiser for the appraisal management company's consideration for future appraisal assignments in covered transactions or for secondary mortgage market participants in connection with covered transactions.

(2) Engages the appraiser to perform one or more appraisals on behalf of a creditor for a covered transaction or secondary mortgage market participant in connection with covered transactions.

(b) An appraiser who is deemed part of the appraisal management company's appraiser panel pursuant to subdivision (a) is deemed to remain on the panel until the date on which the appraisal management company does either of the following:

(1) Sends written notice to the appraiser removing the appraiser from the appraiser panel, with an explanation of its action.

(2) Receives written notice from the appraiser asking to be removed from the appraiser panel or notice of the death or incapacity of the appraiser.

(c) If an appraiser is removed from an appraisal management company's appraiser panel pursuant to subdivision (b), but the appraisal management company subsequently accepts the appraiser for consideration for future assignments or engages the appraiser at any time during the 12 months after the appraisal management company's removal, the removal will be deemed not to have occurred, and the appraiser will be deemed to have been part of the appraisal management company's appraiser panel without interruption.

SEC. 13. Section 11345.6 of the Business and Professions Code is amended to read:

11345.6. (a) No ~~registered~~ appraisal management company may alter, modify, or otherwise change a completed appraisal report submitted by an ~~employee appraiser or an independent contractor appraiser, including, without limitation, by doing either of the following:~~ appraiser.

~~(1) Permanently removing the appraiser's signature or seal.~~

~~(2) Adding information to, or removing information from, the appraisal report with an intent to change the value conclusion.~~

(b) No ~~registered~~ appraisal management company may require an ~~employee or independent contractor~~ appraiser to provide it with the appraiser's digital signature or seal. However, nothing in this subdivision shall be deemed to prohibit an appraiser from voluntarily providing his or her digital signature or seal to another person, to the extent permissible under the Uniform Standards of Professional ~~Appraiser~~ Appraisal Practice.

SEC. 14. Section 11345.8 is added to the Business and Professions Code, to read:

11345.8. A federally regulated appraisal management company operating in California shall report to the bureau the information the bureau is required to submit to the Appraisal Subcommittee, pursuant to the Appraisal Subcommittee's policies regarding the determination of the Appraisal Management Company Registry fee. The

bureau may charge the federally regulated appraisal management company a state fee in an amount not exceed the reasonable regulatory cost to the board for processing and submitting the information. This fee shall be deposited in the Real Estate Appraisers Regulation Fund.

SEC. 15. Section 11422 of the Business and Professions Code is amended to read:

11422. The office shall, on or before February 1, 1994, and at least annually thereafter, transmit to the appraisal subcommittee specified in subdivision ~~(e)~~ (g) of Section 11302 a roster of persons licensed pursuant to this part.

SEC. 16. Section 12241 of the Business and Professions Code is amended to read:

12241. ~~On or before January 1, 2012, the~~ The secretary shall establish by regulation an annual administrative fee to recover reasonable administrative and enforcement costs incurred by the department for exercising supervision over and performing investigations in connection with the activities performed pursuant to Sections 12210 and ~~12211~~. 12211 and to recover reasonable costs incurred by the department for the safekeeping and certification of the state standards pursuant to Section 12304 and for certification services provided pursuant to Sections 12305 and 12310. This administrative fee shall be collected for every device registered with each county office of weights and measures, and paid to the Department of Food and Agriculture ~~Fund beginning January 1, 2012, and annually thereafter.~~ Fund.

SEC. 17. Section 12304 of the Business and Professions Code is amended to read:

12304. The department shall keep the standards of the state ~~shall be kept~~ in a suitable laboratory location or, if transportable, shall ~~be maintained~~ maintain the standards under environmental conditions appropriate for maintaining the integrity of the unit of measure represented by the standard. The department shall have the standards ~~shall be~~ directly certified by the National ~~Bureau~~ Institute of Standards and Technology or by any measurement assurance procedures approved by the National ~~Bureau of Standards~~. Institute of Standards and Technology.

SEC. 18. Section 12305 of the Business and Professions Code is amended to read:

12305. The department shall use the standards of the state ~~shall be used~~ to certify similar standards and any dissimilar standards ~~which that~~ are dependent on the values represented by the state standards. Copies of the standards ~~which that~~ have been compared and certified against the state standards shall become working standards ~~which that~~ shall be used in the certification, calibration, and sealing of county field standards, and in the certification, calibration, and sealing of measurement devices submitted by state and local government agencies or by industry.

SEC. 19. Section 12310 of the Business and Professions Code is amended to read:

12310. The department, or a laboratory designated by the department ~~which that~~ has been certified pursuant to Section ~~12500-7~~, 12314, shall certify the standards of the county sealers as often as may be deemed by the ~~director~~ secretary to be necessary, based upon a review of statistical data resulting from previous certifications, but in no event shall the period of time between certifications exceed 10 years. In the absence of statistical data, standards shall be certified at least every two years. Sealers shall, upon the request of the department, deliver for testing those standards in their possession ~~which that~~ are used in the discharge of their duties. Direct expenses incurred in the certification process shall be borne by the ~~state~~, state or recovered pursuant to Section 12241, while any incidental expense, such as the cost of transportation, shall be borne by the county whose standards have been certified.

SEC. 20. Section 12500 of the Business and Professions Code is amended to read:

12500. As used in this chapter the following terms mean:

(a) "Weighing instrument" means any device, contrivance, apparatus, or instrument used, or designed to be used, for ascertaining weight and includes any tool, appliance, or accessory used or connected therewith.

(b) "Measuring instrument" means any device, contrivance, apparatus, or instrument used, or designed to be used, for ascertaining measure and includes any tool, appliance, or accessory used or connected therewith.

(c) "Correct" means any weight or measure or weighing, measuring, or counting instrument which meet all of the tolerance and specification requirements established by the director pursuant to Section 12107.

(d) "Incorrect" means any instrument which fails to meet all of the requirements of Section 12107.

(e) "Commercial purposes" include the determination of the weight, measure, or count of any commodity or thing which is sold on the basis of weight, measure, or count; or the determination of the weight, measure, or count of any commodity or thing upon which determination a charge for service is based. Devices used in a determination upon which a charge for service is based include, but are not limited to, taximeters, odometers, timing devices, parcel scales, shipping scales, and scales used in the payment of agricultural workers.

"Commercial purposes" do not include the determination of the weight, measure, or count of any commodity or thing which is performed within a plant or business as a part of the manufacturing, processing, or preparing for market of that commodity or thing, or the determination of charges for the transmission of letters or parcels of less than 150 pounds, except when that determination is made in the presence of the customer charged for the ~~service~~. *service, or the determination of the weight of any animal or human by a healing arts licensee for the purposes of determining the appropriate dosage of any medication or treatment of the volume, duration, or application of any medical procedure.*

~~SEC. 2.~~SEC. 21. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.



Board of Barbering and Cosmetology-Department of Consumer Affairs
PO Box 944226, Sacramento, CA 94244
P (800) 952-5210 F (916) 574-7574 | www.barbercosmo.ca.gov



MEMORANDUM

Table with 2 columns: Field (DATE, TO, FROM, SUBJECT) and Value (May 15, 2017, Members, Board of Barbering and Cosmetology, Kristy Underwood, Executive Officer, Proposed Regulations)

Action Needed

- Health and Safety Poster: Staff had made revisions to the new "Message to the Consumer" poster as well as the regulatory language of Sections 904 and 905 of the California Code of Regulations (CCR).

Action: In order to launch the necessary 15-day notice, Staff asks that the Board make and approve motions to:

1. Adopt the second modified text language and the document added to the rulemaking file (the poster), and
2. Delegate to the executive officer the authority to make any technical or non-substantive changes that may be required in completing the rulemaking file.

- Transfer of Credit: The Board has amended Section 950.10 CCR regarding the transfer of credit from one barbering and cosmetology program to another.

Action: Staff asks that the Board approve the proposed regulatory language for submission to DCA for approval, noticing and set it for hearing.

- Citation of Establishments, Individuals for Same Violation and Installment Payment Plan: This language, which would implement the mandate of SB 1044 and requires the Board to describe in regulation the circumstances under which establishments and individuals are cited for the same violation, has been further revised. This language also requires the Board to create an installment payment plan for certain citations.

Action: Staff asks that the Board approve the proposed regulatory language for submission to DCA for approval, noticing and set it for hearing.

- Text and Reference Books: Staff is proposing to revise Section 961 CCR to require that schools ensure that students who intend to take the examination in one of the foreign languages offered by the Board have the appropriate NIC translations guide. Other amendments were made to clarify the section.

Action: Staff asks that the Board approve the proposed regulatory language for submission to DCA for approval, noticing and set it for hearing.



MESSAGE TO THE CONSUMER

TO FILE A COMPLAINT, PLEASE CONTACT THE BOARD AT
www.barbercosmo.ca.gov
(800) 952-5210

The Board's laws and regulations can be found on the Board's Web site at
www.barbercosmo.ca.gov
or in B&P Code Sections 7301-7426.5 and Title 16 CCR Sections 901-999.



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

SECOND MODIFIED TEXT

LEGEND

<u>Underline</u>	Indicates proposed amendments or additions to the existing regulation.
Strikeout	Indicates proposed deletions to the existing regulation.
<u>Double Underline</u>	Indicates an addition to the originally proposed text of regulations.
Double Strikeout	Indicates a deletion to the originally proposed text of regulations.
<u>Red Text & Underline</u>	Indicates proposed amendments or additions to the first modified text of regulations
Red Text & Strikeout	Indicates a deletion to the first modified text of regulations

904. Enforcement

~~(a) A copy of the board's Health and Safety Rules, as specified in Article 12 of the Rules and Regulations, shall be conspicuously posted in:~~

- ~~(1) Reception areas of both schools and establishments, and~~
- ~~(2) Theory rooms of schools.~~

(a) Article 12 of the board's regulations, within Title 16, Division 9 of the California Code of Regulations, contains the board's "Health and Safety Rules".

~~(a) (b) (b)~~ The holder or holders of an establishment license or a mobile unit license, and the person in charge of any such establishment or mobile unit, shall ~~be responsible for~~ implement~~ing~~ and maintain~~ing~~ the Health and Safety Rules in such establishment or mobile unit individually and jointly with all persons in or employed by or working in or on the premises of such establishment or mobile unit.

~~(b) (c) (c)~~ All licensed barbers, cosmetologists, estheticians, manicurists, electrologists, instructors, or apprentices shall ~~be held~~ individually ~~responsible for implementation and maintenance of~~ implement and maintain the Health and Safety Rules.

~~(c) (d) (d)~~ All persons performing acts of a barber, cosmetologist, esthetician, manicurist or electrologist, except students in schools, shall, upon request of an authorized representative

of the board, present satisfactory proof of identification. Satisfactory proof shall be in the form of a photographic driver's license or photographic identification card issued by any state, federal, or other recognized government entity.

~~(d)~~ ~~(e)~~ (e) Failure to present valid proof of identification shall be grounds for disciplinary action.

NOTE: Authority cited: Section 7312, Business and Professions Code. Reference: Sections 7312, ~~7313, 7317~~ and 7404, Business and Professions Code.

905. Posting of Consumer Information Message

Approved-school owners and licensed-establishment owners both shall post a copy of the board's "Message to the Consumer" (BBC-CP01(2/2017)) conspicuously in the reception areas of their schools and establishments.

~~(a) The following consumer information message shall be included at the bottom of the front page of the copy of the Health and Safety Rules, which must be conspicuously posted in reception areas of both schools and establishments; accordance with Section 904, in all establishments:~~

MESSAGE TO THE CONSUMER

~~This establishment is licensed by the California State Board of Barbering and Cosmetology. The board can address the following problems:~~

- ~~• Health and Safety (including unsanitary conditions and failure to disinfect instruments after each use)~~
- ~~• Incompetence and Negligence~~
- ~~• Misrepresentation or False Advertising of Services~~
- ~~• Unlicensed Practice of Barbering, Cosmetology or Electrology~~ If you would like to receive a Consumer Complaint Guide or if you have any unresolved questions regarding services provided in this establishment, please call or write the Board of Barbering and Cosmetology at (800) 952-5210; P.O. Box 944226, Sacramento, California 94244-2260. This establishment is licensed by the California State Board of Barbering and Cosmetology To file a complaint, please contact the Board at www.barbercosmo.ca.gov or (800) 952-5210 The Board's laws and regulations can be found on the Board's Web site at www.barbercosmo.ca.gov or in B & P Code Sections 7301-7426.5 and Title 16 CCR Sections 901-999

~~(b) The heading of the consumer information message, "Message to the Consumer," shall be printed in at least 36 point boldface type. The body of the consumer information message must be printed in at least 14 point boldface type. The notice shall be printed on paper that measures 8 ½ X 11 inches.~~

NOTE: Authority cited: Section 7312, Business and Professions Code. Reference: Sections 129(e), and ~~7404(b)~~, Business and Professions Code

BOARD OF BARBERING AND COSMETOLOGY

Division 9, Title 16, of the California Code of Regulations.

SPECIFIC LANGUAGE

LEGEND

<u>Underlined</u>	Indicates proposed amendments or additions to the existing regulation.
Strikeout	Indicates proposed deletions to the existing regulation.

- Amend Section 950.10, Title 16, California Code of Regulations, as follows:

§ 950.10. ~~Credit for Special License and Transfer of Training~~ Transfer of Student Credit.

(a) ~~The board shall grant full credit for identical training a student has already completed in one program of instruction when that student transfers to another program of instruction. A student transferring from one course of study to another, or a holder of a special license (e.g., manicurist or esthetician) who enrolls in a general course of study (e.g., cosmetologist), shall receive credit for total clock hours completed and credit for and a balance of the minimum hours of technical instruction and the minimum practical operations required in each applicable subject as follows:~~

~~(1) Total Clock Hours Credit.~~

~~(A) Cosmetologist course to esthetician course. A student transferring from the cosmetologist course to the esthetician course shall receive a credit of 35 percent of the total clock hours earned while enrolled in the cosmetologist course.~~

~~(B) Cosmetologist course to manicurist course. A student transferring from the cosmetologist course to the manicurist course shall receive a credit of 20 percent of the total clock hours earned while enrolled in the cosmetologist course.~~

~~(C) Esthetician course to cosmetologist course. A student transferring from the esthetician course to the cosmetologist course shall receive a credit of 65 percent of the total clock hours earned while enrolled in the esthetician course. A holder of a esthetician license enrolling in the cosmetologist course shall receive a credit of 65 percent of the total clock hours required for the esthetician course.~~

~~(D) Manicurist course to cosmetologist course. A student transferring from the manicurist course to the cosmetologist course shall receive a credit of 70 percent of the total clock hours earned while enrolled in the manicurist course. A holder of a manicurist license enrolling in the cosmetologist course shall receive a credit of 70 percent of the total clock hours required for the manicurist course.~~

~~(2) Credit and balance for the minimum hours of technical instruction and minimum practical operations required. A student transferring from one course of study to another, or a holder of a special license who enrolls in a general course of study, shall receive a credit and balance for the minimum hours of technical instruction and minimum practical operations required by subtracting the number of hours and operations earned by the student or licensee while enrolled in the prior course from the minimum hours of technical instruction and minimum practical operations required for the new course in each applicable subject. If the student has earned more hours or operations in the prior course than are required in a specific subject of the new~~

course, then that student's balance of hours and operations required in that subject shall be zero.

~~(b) Credit for a special course shall not be given to a student in the cosmetologist course until completion of the number of hours of instruction and training in a school of cosmetology which, when added to the number of hours for which the student is entitled to credit for the special course, will equal the minimum number of hours required for completion of the cosmetologist course.~~

~~(c) Effective until January 1, 2009, training received as an apprentice may be credited toward a course of training in a school. The maximum amount of hours that can be transferred from an apprenticeship program to a course of training in school shall not exceed 800 hours as reasonably determined by the school to which the apprentice is transferring and shall not exceed 50% credit for each hour earned as an apprentice. After January 1, 2009, training received as an apprentice shall not be credited toward a course of training in a school.~~

~~(d) (b) Training received in a school shall not be credited toward training in an apprenticeship program, nor shall training received in an apprenticeship program be credited toward training in a school.~~

Note: Authority cited: Section 7312, Business and Professions Code. Reference: Section 7367, Business and Professions Code.

BOARD OF BARBERING AND COSMETOLOGY

Division 9, Title 16, of the California Code of Regulations.

SPECIFIC LANGUAGE

LEGEND

<u>Underlined</u>	Indicates proposed amendments or additions to the existing regulation.
Strikeout	Indicates proposed deletions to the existing regulation.

- Adopt Section 974.3, Title 16, California Code of Regulations, as follows:

§ 974.3. Fining of Establishments, Individuals for Same Violation.

- The board may fine both the holder of the establishment license and an individual licensee working in that establishment for the same violation, unless the board's evidence establishes that the individual bears direct, sole responsibility for the violation and that the holder of the establishment license could not have been expected to know or anticipate that the violation had occurred.
- In determining whether the individual bears direct, sole responsibility for the violation and that the holder of the establishment license could not have been expected to know or anticipate that the violation had occurred, pursuant to subsection (a), the board shall consider the seriousness of the violation and whether the violation is a repeated offense by licensees within the same establishment.

Note: Authority cited: Section 7312, Business and Professions Code. Reference: Section 7407.1, Business and Professions Code.

- Adopt Section 974.4, Title 16, California Code of Regulations, as follows:

§ 974.4. Installment Payment Plan.

(a) Licensees with administrative fines exceeding \$500 may request to pay their fines on a payment plan consisting of monthly installments. Any payment plan is subject to the following terms and conditions:

- (1) The licensee must request the payment plan in writing.
- (2) All fines subject to a payment plan shall be paid in full in not more than twelve (12) installments.
- (3) After the licensee requests a payment plan, the board will provide to the licensee a schedule of payments indicating the amount of the payment and the due date of each payment.

(b) Licensees who fail to meet any of the terms and conditions listed in (a) shall have their payment plan cancelled by the board and will be unable to renew any board-issued license they hold until all outstanding fines are paid in full.

(c) Licensees who fail to successfully follow or complete the terms and conditions of the payment plan for one citation may be ineligible to participate in the board's payment plan for future citations.

(d) Licensees who are paying a citation's fines in accordance with the provisions of this section shall be permitted to renew their licenses even if the fines have not been paid in full by the renewal date.

(e) Licensees participating in the payment plan are responsible for keeping track of their payments' due date and fine balance and paying fines according to the payment plan.

*Note: Authority cited: Section 7312, 7408.1 and 7414, Business and Professions Code.
Reference: Sections 7408.1 and 7414, Business and Professions Code.*

BOARD OF BARBERING AND COSMETOLOGY

Division 9, Title 16, of the California Code of Regulations.

SPECIFIC LANGUAGE

LEGEND

<u>Underlined</u>	Indicates proposed amendments or additions to the existing regulation.
Strikeout	Indicates proposed deletions to the existing regulation.

- Amend Section 961, Title 16, California Code of Regulations, as follows:

§ 961. ~~Online Training and Text and Reference Books~~ or Online Training for Students.

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

(b) ~~Each student shall possess~~ Approved schools shall ensure each student has the following:

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

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

(1) A printed copy of at least one (1) of the textbooks approved by the NIC, or access to a NIC-approved online program, for the student's personal, private use both inside and outside the school.

(2) A printed copy of, or electronic access to, the Barbering and Cosmetology Act and the Rules and Regulations of the Board of Barbering and Cosmetology.

(3) A printed copy of, or electronic access to, the appropriate translation guide approved by the NIC, after the school determines if the student intends to take the board licensing examination in one of the languages other than English that are offered by the board.

(c) ~~There shall be~~ Approved schools shall make available for the use of students ~~in the school:~~

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

(2) Any two NIC-approved texts other than the one text or online program to which the student already has access, under (b)(1) of this section ~~possessed by the student.~~ (Shall not apply to barber schools if there are ~~less~~ fewer than three approved texts.)

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

No Attachment
