

**CALIFORNIA  
BOARD OF BARBERING AND COSMETOLOGY**



**OCTOBER 22, 2017  
Board Meeting**

**Crowne Plaza San Diego-Mission Valley  
2270 Hotel Circle North  
San Diego, CA 92108**



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

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## **BOARD MEETING**

**October 22, 2017**

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

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### **MEMBERS OF THE BOARD**

Dr. Kari Williams, President  
Andrew Drabkin, Vice President  
Bobbie Jean Anderson  
Polly Codorniz  
Jacquelyn Crabtree  
Joseph Federico  
Coco LaChine  
Lisa Thong  
Steve Weeks

**Crowne Plaza San Diego – Mission Valley  
2270 Hotel Circle North  
San Diego, California 92108**

### **AGENDA**

**10:00 A. M.**



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## **UNTIL COMPLETION OF BUSINESS**

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### **OPEN SESSION:**

1. Call to Order/ Roll Call/ Establishment of Quorum **(Dr. Kari Williams)**
2. 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))*
3. Board President's Opening Remarks **(Dr. Kari Williams)**
4. Board Member Remarks – Informational only
5. Executive Officer's Report **(Kristy Underwood)**
  - a. Licensing Statistics
  - b. Examination Statistics
  - c. Disciplinary Review Committee Statistics
  - d. Enforcement Statistics
  - e. Budget Updates
  - f. Outreach Updates
  - g. Practice Status Survey Results
6. Approval of Board Meeting Minutes  
July 17, 2017
7. Board Member Appointments to Standing Committee's Vacancies
8. Proposed Board Meeting Dates/ Locations for 2018
9. Board Member Appointments to the Cosmetology Curriculum Review Advisory Committee. (BPC§7303.2)
10. Review and Adoption of the Board's Proposed Strategic Plan (2018-2022)
11. Cosmetology Occupational Analysis Report (BPC §7303.2)

12. Update on the Health and Safety Advisory Committee (BPC§ 7314.3)
13. Update on the Nail Care Scope of Practice Task Force
14. Overview on the Board's Consumer Complaint Process
15. 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. AB 1516 (Cunningham) – Healthy Nail Salon Recognition; Compliance with Article 12 commencing with Section 977 of Division 9 of the California Code of Regulations
  - d. AB 1575 (Kalra) – Cosmetic Ingredients Label
  - e. AB 1615 (Garcia) – Gender Discrimination
  - f. SB 247 (Moorlach) – Deregulation of the Barbering license and Removal of Application of Makeup from the Specialty Branch of Skincare
  - g. SB 296 (Nguyen) – Manicure Scope of Practice (Addition of Waxing Services)
  - h. SB 490 (Bradford) – Commission wages for Employees licensed under the Barbering and Cosmetology Act
  - i. SB 547 (Hill) – Apprentice Supervision
  - j. SB 715 (Newman) – Removal of Board Members from Office  
(applies to all state boards)

16. Proposed Regulations:

Status Updates:

- a. Title 16, CCR Sections 904 and 905; (Health and Safety Poster)
- b. Title 16, CCR Sections 904 (Definition of Access)
- c. Title 16, CCR Section 950.10; (Transfer of Credit or Training)
- d. Title 16, CCR Section 961; (National Interstate Council (NIC) Translation Guides)
- e. Title 16, CCR Section 974; (Administrative Fine Schedule)
- f. Title 16, CCR Section 974.3; (Citation of Establishments, Individuals for Same violation)
- g. Title 16, CCR Section 974.4; (Installment Payment Plan for Fines)
- h. Title 16, CCR Sections 978, 979, 980, 980.4, 981, 982, 984 and 989; (Health and Safety Regulations)

17. Agenda Items For the Next Meeting

18. Public Comment

*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))*

19. 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. Note: This meeting will be Webcast, provided there are no unforeseen technical difficulties or limitations. To view the Webcast, please visit <https://thedcapage.wordpress.com/webcasts/>. If you wish to participate or to have a guaranteed opportunity to observe, please plan to attend at a physical location. Adjournment, if it is the only item that occurs after a closed session, may not be webcast.*

*\*Government Code section 11125.7 provides the opportunity for the public to address each agenda item during discussion or consideration by the Board prior to the Board taking any action on said item. Members of the public will be provided appropriate opportunities to comment on any issue before the Board, but the Board President may, at his or her discretion, apportion available time among those who wish to speak. Individuals may appear before the Board to discuss items not on the agenda; however, the Board can neither discuss nor take official action on these items at the time of the same meeting (Government Code sections 11125, 11125.7(a)).*

*The meeting is accessible to the physically disabled. A person who needs disability-related accommodation or modification in order to participate in the meeting may make a request by contacting: Marcene Melliza at (916) 575-7121, email: [marcene.melliza@dca.ca.gov](mailto:marcene.melliza@dca.ca.gov), or send a written request to the Board of Barbering and Cosmetology, PO Box 944226, Sacramento, CA 94244. Providing your request is a least five (5) business days before the meeting will help to ensure availability of the requested accommodations. TDD Line: (916) 322-1700.*

*No Attachment*



**Quarterly Barbering and Cosmetology  
Licensing Statistics  
Fiscal Year 17-18**

**Applications Received**

License Type	Jul-Sept	Oct-Dec	Jan-Mar	Apr-June	YTD
<b>Establishment</b>	1,882				1,882
<b>Mobile Unit</b>	2				2
<b>Barber</b>					
Pre-App	277				277
Initial Application	404				404
Re-Exam	481				481
<b><u>Sub-Total</u></b>	<b><u>1,162</u></b>				<b><u>1,162</u></b>
Reciprocity	50				50
Apprentice	210				210
<b>Cosmetology</b>					
Pre-App	1,069				1,069
Initial Application	1,112				1,112
Re-Exam	1,617				1,617
<b><u>Sub-Total</u></b>	<b><u>3,798</u></b>				<b><u>3,798</u></b>
Reciprocity	470				470
Apprentice	203				203
<b>Electrology</b>					
Pre-App	4				4
Initial Application	1				1
Re-Exam	4				4
<b><u>Sub-Total</u></b>	<b><u>9</u></b>				<b><u>9</u></b>
Reciprocity	1				1
Apprentice	1				1
<b>Manicuring</b>					
Pre-App	588				588
Initial Application	1,014				1,014
Re-Exam	681				681
<b><u>Sub-Total</u></b>	<b><u>2,283</u></b>				<b><u>2,283</u></b>
Reciprocity	135				135
<b>Esthetician</b>					
Pre-App	699				699
Initial Application	586				586
Re-Exam	466				466
<b><u>Sub-Total</u></b>	<b><u>1,751</u></b>				<b><u>1,751</u></b>
Reciprocity	135				135
<b>Total</b>	<b>12,092</b>				<b>12,092</b>



## Licenses Issued FY 2017-2018

License Type	Jul-Sept	Oct-Dec	Jan-Mar	Apr-June	YTD
Establishment	1,942				1,942
Mobile Unit	-				-
Barber	536				536
Barber Apprentice	190				190
Cosmetology	1,680				1,680
Cosmetology Apprentice	204				204
Electrology	7				7
Electrology Apprentice	1				1
Manicuring	959				959
Esthetician	1,051				1,051
<b>Totals</b>	<b>6,570</b>				<b>6,570</b>

## License Population

Barber	28,633
Barber Apprentice	1,085
Cosmetology	313,441
Cosmetology Apprentice	1,348
Electrology	1,804
Electrology Apprentice	1
Manicuring	130,135
Esthetician	83,128
Establishment	51,124
Mobile Unit	41
<b>Total</b>	<b>610,740</b>

## Licenses Issued Last 5 Years

License Type	FY 13/14	FY 14/15	FY 15/16	FY 16/17	FY 17/18
Establishment	6,537	6,654	6,996	6,875	1,942
Mobile Unit	4	8	7	7	-
Barber	1,671	1,715	1,950	2,189	536
Barber Apprentice	383	397	511	665	190
Cosmetology	11,750	12,702	10,813	8,389	1,680
Cosmetology Apprentice	482	543	650	793	204
Electrology	33	34	35	26	7
Electrology Apprentice	1	-	-	-	1
Manicuring	5,324	5,876	6,298	6,550	959
Esthetician	4,986	5,059	4,747	4,818	1,051
<b>Totals</b>	<b>31,171</b>	<b>32,988</b>	<b>32,007</b>	<b>30,312</b>	<b>6,570</b>

\*Fiscal year 2017/2018 (FY 17/18) only includes July-September 2017



# Examination Results

(July 1, 2017-September 30, 2017)

Practical Examinations				
July 1, 2017-September 30, 2017				
License	Passed	Failed	Total	Pass Rate
Barber	1090	342	1432	76%
Cosmetologist	1667	516	2183	76%
Esthetician	1159	52	1211	96%
Electrologist	8	1	9	89%
Manicurist	1014	328	1342	76%
<b>TOTAL</b>	<b>4938</b>	<b>1239</b>	<b>6177</b>	<b>80%</b>

Practical Examinations			
Past 4 Fiscal Years			
FY 13-14*	FY 14-15	FY 15-16	FY 16-17
86%	83%	84%	86%
87%	84%	85%	81%
91%	84%	93%	96%
90%	95%	100%	100%
81%	69%	80%	79%
<b>86%</b>	<b>80%</b>	<b>85%</b>	<b>84%</b>

Written Examinations: Barber				
July 1, 2017-September 30, 2017				
Language	Passed	Failed	Total	Pass Rate
English	480	235	715	67%
Spanish	36	36	72	50%
Vietnamese	25	7	32	78%
Korean	2	0	2	100%
Interpreter	8	6	14	57%
<b>TOTAL</b>	<b>551</b>	<b>284</b>	<b>835</b>	<b>66%</b>

Written Examinations: Barber			
Past 4 Fiscal Years			
FY 13-14*	FY 14-15	FY 15-16	FY 16-17
86%	69%	55%	60%
68%	64%	40%	48%
85%	74%	41%	56%
0%	0%	0%	54%
25%	25%	24%	27%
<b>84%</b>	<b>67%</b>	<b>52%</b>	<b>58%</b>

Written Examinations: Cosmetologist				
July 1, 2017-September 30, 2017				
Language	Passed	Failed	Total	Pass Rate
English	1181	653	1834	64%
Spanish	134	285	419	32%
Vietnamese	142	109	251	57%
Korean	35	13	48	73%
Interpreter	23	45	68	34%
<b>TOTAL</b>	<b>1515</b>	<b>1105</b>	<b>2620</b>	<b>58%</b>

Written Examinations: Cosmetologist			
Past 4 Fiscal Years			
FY 13-14*	FY 14-15	FY 15-16	FY 16-17
60%	76%	82%	71%
27%	30%	33%	31%
60%	73%	87%	57%
57%	69%	75%	64%
17%	37%	39%	38%
<b>57%</b>	<b>72%</b>	<b>76%</b>	<b>63%</b>

\*Fiscal Year 2013-2014 (FY 13-14) does not include July-September 2013



# Examination Results

(July 1, 2017-September 30, 2017)

Written Examinations: Manicurist				
July 1, 2017-September 30, 2017				
Language	Passed	Failed	Total	Pass Rate
English	256	147	403	64%
Spanish	18	8	26	69%
Vietnamese	659	145	804	82%
Korean	18	7	25	72%
Interpreter	8	14	22	36%
<b>TOTAL</b>	<b>959</b>	<b>321</b>	<b>1280</b>	<b>75%</b>

Written Examinations: Manicurist			
Past 4 Fiscal Years			
FY 13-14*	FY 14-15	FY 15-16	FY 16-17
72%	79%	73%	66%
41%	52%	54%	63%
65%	76%	73%	83%
69%	85%	84%	64%
23%	47%	24%	29%
<b>66%</b>	<b>76%</b>	<b>73%</b>	<b>78%</b>

Written Examinations: Esthetician				
July 1, 2017-September 30, 2017				
Language	Passed	Failed	Total	Pass Rate
English	825	259	1084	76%
Spanish	4	3	7	57%
Vietnamese	118	56	174	68%
Korean	21	2	23	91%
Interpreter	17	17	34	50%
<b>TOTAL</b>	<b>985</b>	<b>337</b>	<b>1322</b>	<b>75%</b>

Written Examinations: Esthetician			
Past 4 Fiscal Years			
FY 13-14*	FY 14-15	FY 15-16	FY 16-17
82%	86%	82%	77%
25%	48%	60%	76%
81%	85%	78%	77%
86%	92%	92%	86%
25%	56%	31%	35%
<b>81%</b>	<b>85%</b>	<b>80%</b>	<b>76%</b>

Written Examinations: Electrologist				
July 1, 2017-September 30, 2017				
Language	Passed	Failed	Total	Pass Rate
English	7	2	9	78%
Spanish	0	0	0	N/A
Vietnamese	0	0	0	N/A
Korean	0	0	0	N/A
Interpreter	0	0	0	N/A
<b>TOTAL</b>	<b>7</b>	<b>2</b>	<b>9</b>	<b>78%</b>

Written Examinations: Electrologist			
Past 4 Fiscal Years			
FY 13-14*	FY 14-15	FY 15-16	FY 16-17
85%	68%	73%	71%
N/A	0%	N/A	N/A
N/A	57%	N/A	N/A
N/A	N/A	N/A	N/A
N/A	N/A	50%	N/A
<b>85%</b>	<b>65%</b>	<b>72%</b>	<b>71%</b>

\*Fiscal Year 2013-2014 (FY 13-14) does not include July-September 2013



# Apprentice Examination Results

Practical Examinations Apprentice				
July 1, 2017-September 30, 2017				
License	Passed	Failed	Total	Pass Rate
Barber	110	40	150	73%
Cosmetologist	90	42	132	68%
Electrologist	0	0	0	N/A
<b>TOTAL</b>	<b>200</b>	<b>82</b>	<b>282</b>	<b>71%</b>

Practical Examinations Apprentice			
Past 4 Fiscal Years			
FY 13-14*	FY 14-15	FY 15-16	FY 16-17
70%	76%	76%	72%
78%	80%	82%	72%
0%	100%	100%	N/A
<b>86%</b>	<b>80%</b>	<b>85%</b>	<b>84%</b>

Written Examinations: Barber Apprentice				
July 1, 2017-September 30, 2017				
Language	Passed	Failed	Total	Pass Rate
English	40	24	64	63%
Spanish	10	10	20	50%
Vietnamese	0	0	0	N/A
Korean	0	0	0	N/A
Interpreter	2	0	2	100%
<b>TOTAL</b>	<b>52</b>	<b>34</b>	<b>86</b>	<b>60%</b>

Written Examinations: Barber Apprentice			
Past 4 Fiscal Years			
FY 13-14*	FY 14-15	FY 15-16	FY 16-17
72%	62%	47%	47%
58%	57%	40%	44%
N/A	N/A	N/A	N/A
N/A	N/A	0%	100%
N/A	0%	40%	0%
<b>69%</b>	<b>60%</b>	<b>45%</b>	<b>46%</b>

Written Examinations: Cosmetology Apprentice				
July 1, 2017-September 30, 2017				
Language	Passed	Failed	Total	Pass Rate
English	22	25	47	47%
Spanish	43	84	127	34%
Vietnamese	1	3	4	25%
Korean	0	0	0	N/A
Interpreter	0	3	3	0%
<b>TOTAL</b>	<b>66</b>	<b>115</b>	<b>181</b>	<b>36%</b>

Written Examinations: Cosmetology Apprentice			
Past 4 Fiscal Years			
FY 13-14*	FY 14-15	FY 15-16	FY 16-17
42%	60%	70%	60%
18%	22%	34%	34%
25%	33%	100%	40%
N/A	0%	25%	20%
0%	50%	10%	100%
<b>31%</b>	<b>41%</b>	<b>48%</b>	<b>43%</b>

Written Examinations: Electrology Apprentice				
July 1, 2017-September 30, 2017				
Language	Passed	Failed	Total	Pass Rate
English	0	0	0	N/A
Spanish	0	0	0	N/A
Vietnamese	0	0	0	N/A
Korean	0	0	0	N/A
Interpreter	0	0	0	N/A
<b>TOTAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>N/A</b>

Written Examinations: Electrology Apprentice			
Past 4 Fiscal Years			
FY 13-14*	FY 14-15	FY 15-16	FY 16-17
100%	N/A	100%	N/A
N/A	N/A	N/A	N/A
N/A	N/A	N/A	N/A
N/A	N/A	N/A	N/A
N/A	N/A	N/A	N/A
<b>100%</b>	<b>N/A</b>	<b>100%</b>	<b>N/A</b>

\*Fiscal Year 2013-2014 (FY 13-14) does not include July-September 2013



# Prison Examination Results

Fiscal Year 2016/2017

Prison Practical Examinations				
Fiscal Year 2016/2017				
License	Passed	Failed	Total	Pass Rate
Cosmetologist	12	2	14	86%
Manicurist	0	0	0	N/A
<b>TOTAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>N/A</b>

Prison Written Examinations: Cosmetologist				
Fiscal Year 2016/2017				
Language	Passed	Failed	Total	Pass Rate
English	10	0	10	100%
Vietnamese	0	0	0	N/A
<b>TOTAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>N/A</b>

Prison Written Examinations: Manicurist				
Fiscal Year 2016/2017				
Language	Passed	Failed	Total	Pass Rate
English	0	0	0	N/A
Vietnamese	1	1	2	50%
<b>TOTAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>N/A</b>



Business, Consumer Services, and Housing Agency – Governor Edmund G. Brown Jr.  
 BOARD OF BARBERING AND COSMETOLOGY  
 P.O. Box 944226, Sacramento, CA 94244-2260  
 P (800) 952-5210 F (916) 575-7281 www.barbercosmo.ca.gov



## QUARTERLY BARBERING AND COSMETOLOGY DISCIPLINARY REVIEW COMMITTEE STATISTICS

Fiscal Year 17-18

Report Date: September 30, 2017

	July - September	YTD
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### NORTHERN

Heard	105	105
Received	109	109
Pending <sup>1</sup>	165	165 <sup>2</sup>

### SOUTHERN

Heard	330	330
Received	247	247
Pending <sup>1</sup>	369	369 <sup>2</sup>

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

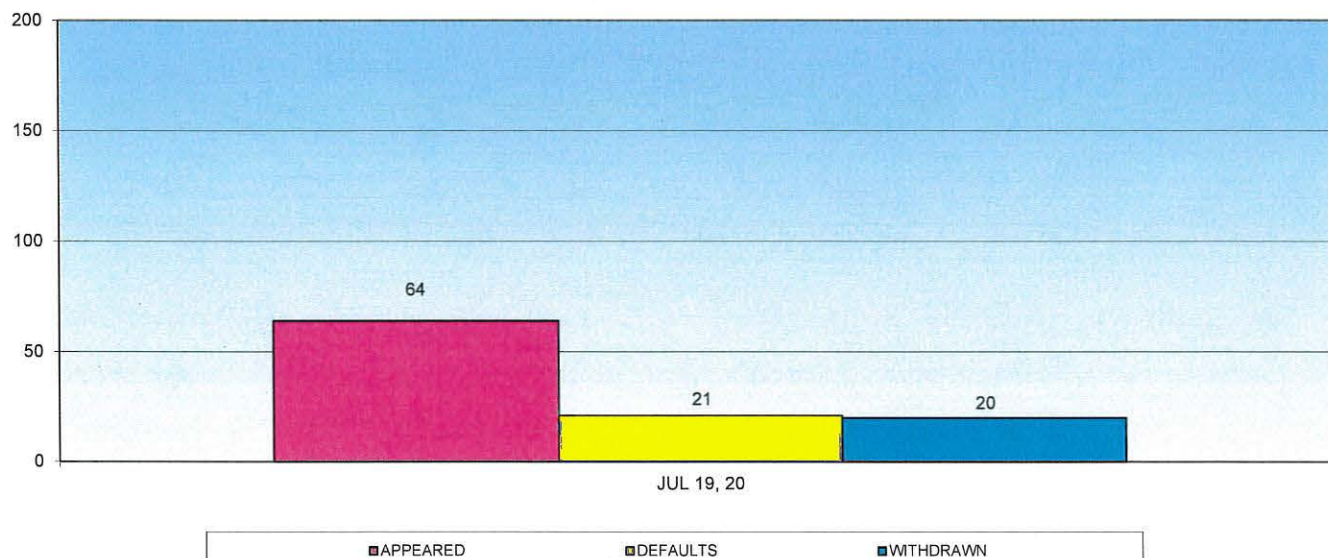
<sup>2</sup> Figure represents number of pending requests as of report date.

### 2017 - 2018 SCHEDULED HEARINGS

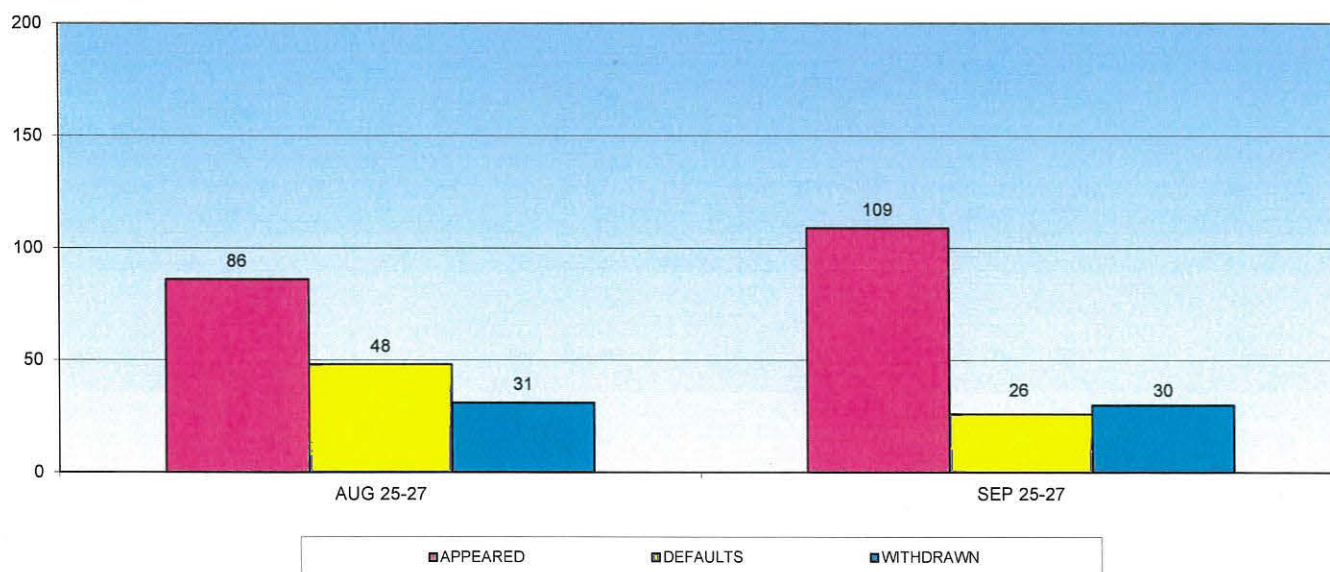
Area	Location	Date
Southern	San Diego	October 24-26, 2017
Northern	Sacramento	November 20, 21, 2017
Southern	Los Angeles	December 18-20, 2017
Northern	Sacramento	January 24, 25, 2018
Southern	San Diego	February 26-28, 2018



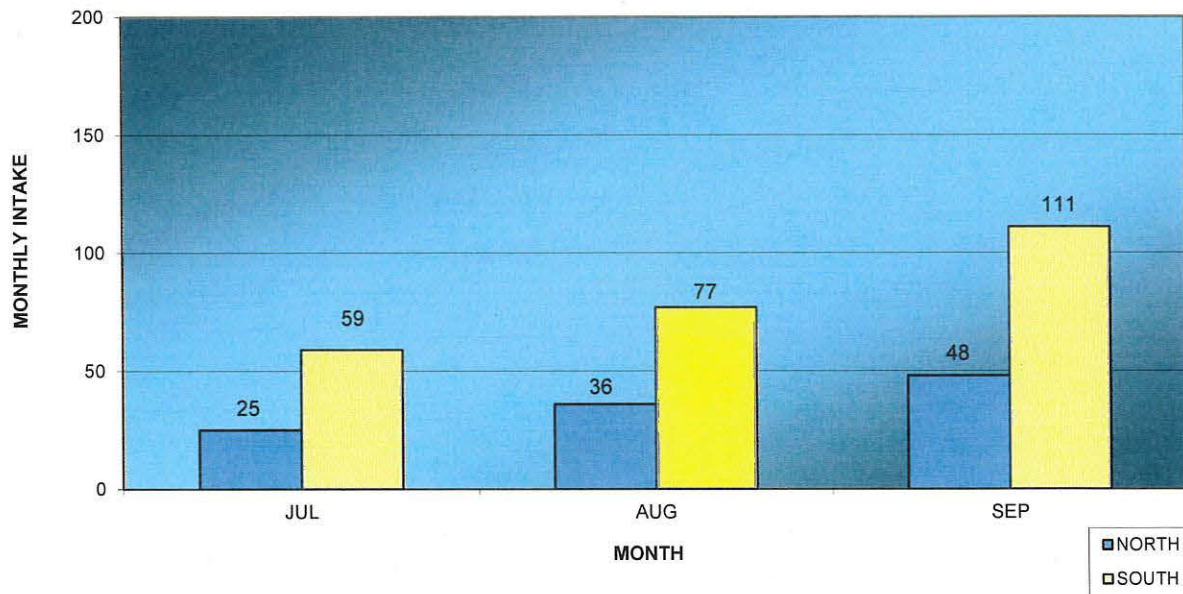
### NORTHERN APPEALS HEARD (Fiscal Year 17-18)



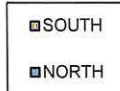
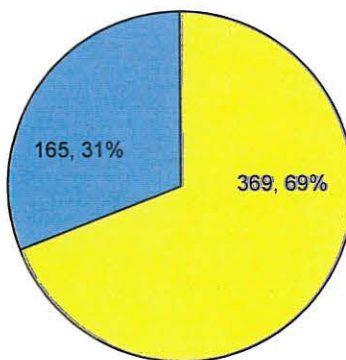
### SOUTHERN APPEALS HEARD (Fiscal Year 17-18)



**DRC MONTHLY INCOMING APPEALS (Fiscal Year 17-18)**



**DRC APPEALS WAITING TO BE HEARD/SCHEDULED  
(As of September 30, 2017)**





**QUARTERLY BARBERING AND COSMETOLOGY  
ENFORCEMENT STATISTICS Fiscal Year 17-18**

	Jul-Sept	Oct-Dec	Jan- Mar	Apr-Jun	YTD
<b>COMPLAINTS</b>					
Complaints Received	1041	0	0	0	1041
Referred to DOI	6	0	0	0	6
Complaints Closed	925	0	0	0	925
Total Complaints Pending	1156	0	0	0	
<b>APPLICATION INVESTIGATIONS*</b>					
Received	30	0	0	0	30
Pending	1	0	0	0	
Closed	34	0	0	0	34
<b>ATTORNEY GENERAL</b>					
Referred	27	0	0	0	27
Accusations Filed	5	0	0	0	5
Statement of Issues Filed	0	0	0	0	0
Total Pending	73	0	0	0	
<b>DISCIPLINARY PROCESS</b>					
Proposed Decisions	1	0	0	0	1
Default Decision	5	0	0	0	5
Stipulation	12	0	0	0	12
<b>DISCIPLINARY OUTCOMES</b>					
Revocation	6	0	0	0	6
Revoke, Stay, Probation	1	0	0	0	1
Revoke, Stay, Suspend/Prob	7	0	0	0	7
Revocation, Stay w/ Suspend	0	0	0	0	0
Probation Only	0	0	0	0	0
Suspension Only	0	0	0	0	0
Suspension & Probation	0	0	0	0	0
Suspension, Stay, Probation	2	0	0	0	2
Surrender of License	6	0	0	0	6
Public Reprimands	0	0	0	0	0
License Denied	0	0	0	0	0
Other	0	0	0	0	0
Total	22	0	0	0	22
<b>PROBATION</b>					
Active	125	0	0	0	125
<b>CITATIONS</b>					
Establishments	1365				1365
Barber	156				156
Barber Apprentice	10				10
Cosmetologist	525				525
Cosmetologist Apprentice	11				11
Electrologist	0				0
Electrologist Apprentice	0				0
Manicurist	316				316
Esthetician	56				56
Unlicensed Est.	60				60
Unlicensed Individual	81				81
Total	2580				2580
<b>INSPECTIONS</b>					
Establishments w/ violations	1229				1229
Establishments w/o violations	491				491
Total	1720				1720

\*Citations & Inspections stats only include July and August 2017



## **Budget Updates**

### **Constraints:**

On April 26, 2011, the Governor issued Executive Order B-06-11 prohibiting in state or out-of-state travel unless it is mission critical or there is no cost to the state. The Board prepared a reduction plan for FY 2016-17. The plan included reducing the amount of staff who travel to Southern California to conduct disciplinary review hearings from three (3) staff to two (2) staff. All travel must be mission critical and pre-approved by the Boards' Executive Officer.

### **1. Budget 2016/17 Fiscal Year (July 2017 - June 2018):**

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



**Board of Barbering and Cosmetology**  
**Fiscal Year 2016/2017**  
**Projected Expenditures 06/30/17**

<b>Personnel Services</b>	<b>ALLOTMENT</b>	<b>BBC Projected Expenditures</b>	<b>Projected Year</b>
Permanent	4,435,000	4,026,215	408,785
Expert Examiners	452,777	476,993	(24,216)
Temporary	134,223	106,620	27,603
BL 12-03 Blanket	0	194,877	(194,877)
Statutory-Exempt	104,000	114,087	(10,087)
Board Member Commission	0	14,900	(14,900)
Overtime	0	2,678	(2,678)
<b>Total Salary &amp; Wages</b>	<b>5,126,000</b>	<b>4,936,370</b>	<b>189,630</b>
<b>Net Salary &amp; Wages</b>	<b>5,126,000</b>	<b>4,936,370</b>	<b>189,630</b>
Staff Benefits	2,458,000	2,459,030	(1,030)
<b>Total of Personnel Services</b>	<b>7,584,000</b>	<b>7,395,400</b>	<b>188,600</b>
<b>Operating Expenses &amp; Equipment (OE&amp;E)</b>	<b>Allotment</b>	<b>BBC Projected Expenditures</b>	<b>Projected Year End Balance</b>
General Expense	190,800	257,741	(66,941)
Printing	168,000	349,724	(181,724)
Communication	41,000	45,550	(4,550)
Postage	283,000	89,506	193,494
Insurance	4,000	13,089	(9,089)
Travel In State	83,000	132,966	(49,966)
Travel, Out-of-State	0	0	0
Training	11,000	296	10,704
Facilities Operations	1,289,000	904,212	384,788
Utilities	0	0	0
Consultant & Professional Svs. - Interdept.	126,000	390	125,610
Consultant & Professional Svs. - External	474,000	160,893	313,107
Depart. and Central Admin. Services	8,885,000	8,639,020	245,980
Consolidated Data Center	68,000	7	67,993
DP Maintenance	38,000	25,877	12,123
Central Admin Pro Rata	0	0	0
Examinations	1,394,000	2,464,839	(1,070,839)
Major Equipment	38,500	0	38,500
Minor Equipment	17,700	39,988	(22,288)
Other Items of Expense	5,000	1,356	3,644
Vehicle Operations	38,000	40,010	(2,010)
Enforcement	1,613,000	849,653	763,347
Special Items of Expenses	0	20,300	(20,300)
<b>Total Operating Expenses &amp; Equipment</b>	<b>14,767,000</b>	<b>14,035,417</b>	<b>731,583</b>
<b>Total Personal Services Expenses</b>	<b>7,016,000</b>	<b>7,395,401</b>	<b>269,624</b>
Total reimbursements (57,000)			
<b>Total</b>	<b>22,294,000</b>	<b>23,748,996</b>	<b>1,001,207</b>

# 0069 - Barbering and Cosmetology Analysis of Fund Condition

9/20/2017

(Dollars in Thousands)

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

## 2017 Budget Act

	Actual 2016-17	CY 2017-18	BY 2018-19
<b>BEGINNING BALANCE</b>	\$ 18,719	\$ 20,565	\$ 20,800
Prior Year Adjustment	\$ 630	\$ -	\$ -
Adjusted Beginning Balance	\$ 19,349	\$ 20,565	\$ 20,800
<b>REVENUES AND TRANSFERS</b>			
Revenues:			
125600 Other regulatory fees	\$ 5,978	\$ 6,555	\$ 6,555
125700 Other regulatory licenses and permits	\$ 4,501	\$ 4,709	\$ 4,709
125800 Renewal fees	\$ 11,844	\$ 11,247	\$ 11,247
125900 Delinquent fees	\$ 1,143	\$ 1,239	\$ 1,239
150300 Income from surplus money investments	\$ 150	\$ 92	\$ 62
160800 Escheat - unclaimed property	\$ 3	\$ -	\$ -
161000 Escheat - unclaimed checks, warrants, bonds, and coupons	\$ 10	\$ 17	\$ 17
161400 Miscellaneous revenues	\$ 13	\$ 15	\$ 15
Total Revenues	\$ 23,642	\$ 23,874	\$ 23,844
Total Revenues, Transfers, and Other Adjustments	\$ 23,642	\$ 23,874	\$ 23,844
Total Resources	\$ 42,991	\$ 44,439	\$ 44,644
<b>EXPENDITURES</b>			
Disbursements:			
1111 Program Expenditures (State Operations)	\$ 21,343	\$ 22,013	\$ 22,453
8880 Financial Information System for California (State Ops)	\$ 31	\$ 29	\$ 29
9900 Statewide General Administrative Expenditures (Pro Rata) (State Operations)	\$ 1,052	\$ 1,597	\$ 1,597
Total Disbursements	\$ 22,426	\$ 23,639	\$ 24,079
<b>FUND BALANCE</b>			
Reserve for economic uncertainties	\$ 20,565	\$ 20,800	\$ 20,565
<b>Months in Reserve</b>	10.4	10.4	10.1



### **FY 17-18 Outreach/Industry Events**

#### **Participated:**

August 26 - August 28, 2017	Face and Body Spa Conference and Expo San Jose Convention Center Attendees: Kristy Underwood and Marcene Melliza
September 17, 2017	NailPro Sacramento Convention Center Attendees: Patricia Garcia and Nina Ton

#### **Tentatively Scheduled:**

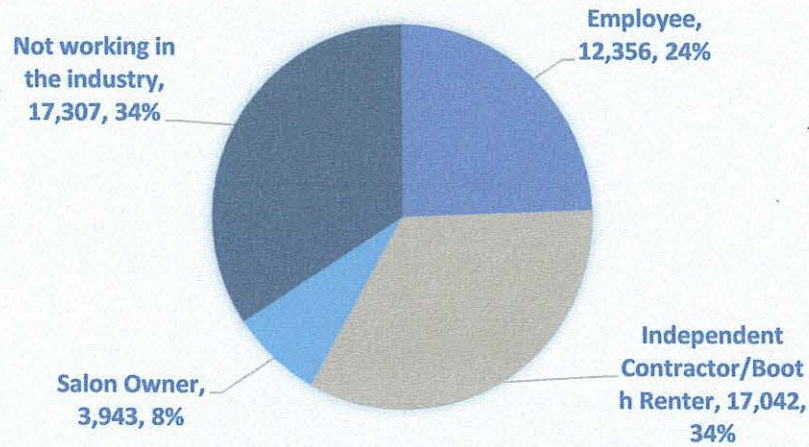
October 24, 2017	Understanding Your Workers' Rights and Responsibilities Town Hall Meeting Bellus Academy- San Diego Attendees: Kristy Underwood, Tandra Guess, Marcene Melliza, Xochitl Camargo and Vanna Trinh
October 26-29, 2017	American Electrology Association Annual Convention and Exhibitor Showcase San Diego Convention Center Attendees: Kristy Underwood and Marcene Melliza
November 6, 2017	Understanding Your Workers' Rights and Responsibilities Town Hall Meeting Department of Consumer Affairs- Sacramento Attendees: Kristy Underwood, Tandra Guess, Marcene Melliza, Vanna Trinh and James Alexander
January 27-29, 2018	International Salon and Spa Expo (ISSE) 2018 Long Beach Convention Center Attendees: TBA



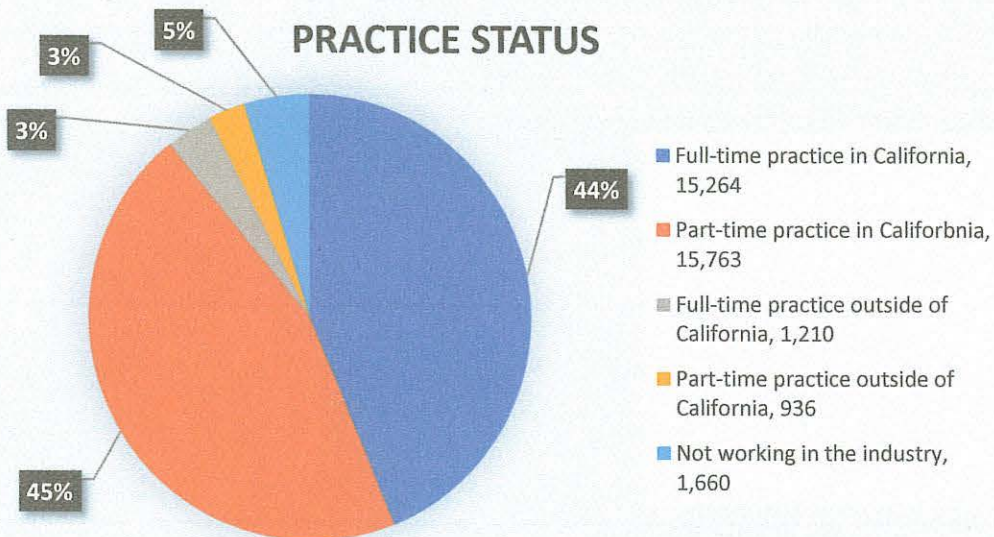
# RENEWAL QUESTIONNAIRE

January 1, 2017 to Current

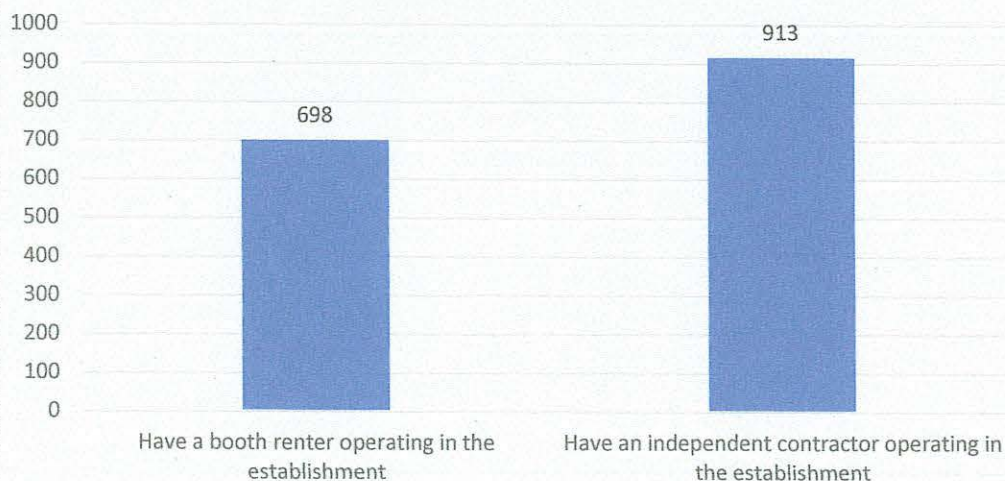
## EMPLOYMENT IDENTIFICATION



## PRACTICE STATUS



## ESTABLISHMENTS







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**BOARD OF BARBERING AND COSMETOLOGY**  
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**DRAFT**  
**CALIFORNIA STATE BOARD**  
**OF**  
**BARBERING AND COSMETOLOGY**

**BOARD MEETING**  
**MINUTES OF JULY 17, 2017**  
Department of Consumer Affairs  
1747 North Market Blvd.  
HQ2 Hearing Room 186, 1<sup>st</sup> Floor  
Sacramento, CA 95834

**BOARD MEMBERS PRESENT**

Dr. Kari Williams, President  
Andrew Drabkin, Vice President  
Polly Codorniz  
Jacquelyn Crabtree  
Joseph Federico  
Richard Hedges  
Coco LaChine  
Lisa Thong

**STAFF MEMBERS PRESENT**

Kristy Underwood, Executive Officer  
Salwa Bojack, Board Legal Representative  
Rebecca Bon, Board Legal Representative  
Tami Guess, Board Project Manager  
Marcene Melliza, Board Analyst

**BOARD MEMBER ABSENT**

Bobbie Jean Anderson

**1. Agenda Item #1, CALL TO ORDER/ ROLL CALL/ ESTABLISHMENT OF QUORUM**

Dr. Kari Williams, the Board President, called the meeting to order at approximately 10:00 a.m. and confirmed the presence of a quorum.

**2. Agenda Item #2, BOARD PRESIDENT'S OPENING REMARKS**

Dr. Williams acknowledged Dean Grafilo, the Director of the California Department of Consumer Affairs (DCA), who was in attendance at today's meeting.

Dr. Williams presented Mr. Hedges with a resolution in appreciation for his years of service with the Board.

Rebecca Bon, Board Legal Representative, introduced Salwa Bojack, who will be substituting in her place for a period of time.

**3. Agenda Item #3, PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA**

Fred Jones, Legal Counsel for the Professional Beauty Federation of California (PBFC), thanked Mr. Hedges for his service and for helping make the Board one of the best-run Boards in the DCA.

Jean Ogren, Electrologists' Association of California, thanked Mr. Hedges for his service and for improving the professionalism of the Board.

Jaime Schrabek, Precision Nails, stated her appreciation for Mr. Hedges's contributions to the industry. She suggested that the Board create a task force to regularly report on new trends, techniques, education, devices and equipment, and business practices to keep the Board up to date.

**4. Agenda Item #4, EXECUTIVE OFFICER'S REPORT**

- a. Licensing Statistics**
- b. Examination Statistics**
- c. Disciplinary Review Committee Statistics**
- d. Enforcement Statistics**
- e. Budget Updates**
- f. Outreach Updates**

Kristy Underwood, the Executive Officer, stated staff will present a multiyear report on examination pass/fail rates at the next Board meeting. She stated the statistics and update reports were included in the meeting packet.

Ms. Underwood stated the Disciplinary Review Committee will meet in Riverside on August 21 through August 23. She asked Board Members to consider volunteering to be on the DRC Committee in place of Mr. Hedges.

Mr. Hedges referred to the Examination Results statistics for April 1 through June 30, 2017, and stated the Korean pass rate should be changed from 0% to 33.333%. He noted that Spanish Cosmetologist pass rates have gone up. He stated it is difficult to learn a new written language if grammar is poor. He suggested including a grammar course in schools to help students pass the examination.

Mr. LaChine referred to the Licenses Issued Last 5 Years statistics and noted that the total licenses have dropped considerably in Fiscal Year (FY) 16/17. Ms. Underwood speculated that the decrease in licenses might be due to the closing of the Marinello Schools of Beauty.

**5. Agenda Item #5, APPROVAL OF BOARD MEETING MINUTES**

- January 22, 2017
- April 24, 2017
- May 15, 2017

**Public Comment**

Wendy Jacobs, Founder, California Aesthetic Alliance (CAA), asked to change "keratin lash/lips" to "keratin lash lift" on page 2 of the January 22<sup>nd</sup> minutes.

**MOTION:** Mr. Hedges made a motion, seconded by Mr. Federico, that the Board approves the January 22, 2017, April 24, 2017, and May 15, 2017, Meeting Minutes as revised. Motion carried 8 yes, 0 no, 0 abstain per roll call vote as follows:



The following Board Members voted "Yes": Codorniz, Crabtree, Drabkin, Federico, Hedges, LaChine, Thong, and Williams.

**6. Agenda Item #6, ESTABLISHING THE MANICURIST/HAIR REMOVAL TASK FORCE**

Ms. Underwood stated Senate Bill (SB) 296 mandated the Board to establish a task force to research increasing the manicurist scope of practice to include waxing.

Mr. Federico and Ms. Crabtree volunteered to be part of the task force.

Mr. Drabkin suggested including a public member or Board Member Emeritus on the task force.

**Public Comment**

Ms. Jacobs spoke against SB 296 and stated waxing is a large threat to public health. She stated a public petition was sent to the Board and is posted on change.org with 1,500 signatures from licensees who overwhelmingly feel this bill does not protect the public. She stated this bill is dangerous and legitimizes illegal activity.

**MOTION:** Mr. Hedges made a motion, seconded by Mr. Federico, that the Board accepts the recommendations from staff by including two Board Members and adding a public member to the task force composition. Motion carried 8 yes, 0 no, and 0 abstain per roll call vote as follows:

The following Board Members voted "Yes": Codorniz, Crabtree, Drabkin, Federico, Hedges, LaChine, Thong, and Williams.

**7. Agenda Item #7, ENFORCEMENT COMMITTEE REPORT – CONSIDERATION OF COMMITTEE RECOMMENDATION AND POSSIBLE ACTIONS**

**Proposed Amendments to Title 16, CCR Section 974.1, Relating to the Requirements for Serving on the Disciplinary Review Committee**

Mr. Federico stated the Enforcement Committee focused on restructuring the Disciplinary Review Committee (DRC) due to administrative difficulties.

Ms. Underwood stated the Committee recommended the following:

- Create multiple DRCs.
- Each DRC will be made up of one Board Member, an industry member, and an individual who is not associated professionally or financially with the industry.
- A member of the DRC may be removed before the end of his/her term by a majority vote of the Board.
- Each Committee shall meet as deemed necessary by the Board.
- Each Committee Member shall be paid a per diem pursuant to Section 103 of the BPC and shall be reimbursed for any travel expenses.

Ms. Underwood stated approval by the Board today will allow staff to begin the regulatory process.

**MOTION:** Mr. Hedges made a motion, seconded by Dr. Williams, that the Board approves staff's proposed actions as outlined in the meeting packet and the changes discussed in yesterday's Enforcement Committee meeting. Motion carried 7 yes, 0 no, and 1 abstain per roll call vote as follows:

The following Board Members voted "Yes": Codorniz, Crabtree, Drabkin, Federico, Hedges, Thong, and Williams.

The following Board Member abstained: LaChine.

**8. Agenda Item #8, LEGISLATIVE AND BUDGET COMMITTEE REPORT –  
CONSIDERATION OF COMMITTEE RECOMMENDATION AND POSSIBLE ACTIONS**

**a. Proposed Amendments to Title 16, CCR Sections 910, 919, 931, and 937,  
Relating to Application Forms**

Mr. Drabkin stated the Legislative and Budget Committee recommended that the Board approve the staff changes to the regulatory language to reflect form updates.

**MOTION:** Mr. Drabkin made a motion, seconded by Ms. Crabtree, that the Board approves the proposed changes to the regulatory language to reflect form updates as presented. Motion carried 8 yes, 0 no, and 0 abstain per roll call vote as follows:

The following Board Members voted "Yes": Codorniz, Crabtree, Drabkin, Federico, Hedges, LaChine, Thong, and Williams.

**b. Proposed Amendments to Title 16, CCR Section 904, Enforcement, to  
Define Certain Terms**

Mr. Drabkin stated the Legislative and Budget Committee recommended that the Board approve the staff updates to the regulatory language to define terms with two Committee changes as follows:

Change the term "ability of the executive officer" to "authority of the executive officer" in Section 904(e).

Remove the term "but not limited to" in Section 904(e), so it would read "including all rooms, drawers, cabinets, roll-abouts, and closets."

**Public Comment**

Mr. Jones stated concern that the term "inspect all areas" in Section 904(e) is too all-encompassing. He suggested adding "where such services are being performed," so it would read "inspect all areas within the establishment where such services are being performed."

Mr. Drabkin stated his concern that illegal items may be hidden in areas where services are not performed, such as bathrooms.



Mr. Jones agreed and stated there is a regulation that the bathroom cannot be used for storage of products and other items. He suggested adding "or believed to be related to services, products, or equipment" to the end of his proposed sentence, so it would read "inspect all areas within the establishment where such services are being performed or believed to be related to services, products, or equipment."

Mr. Hedges stated if individuals chose to use illegal items, they would be hidden in areas where inspectors are not allowed to go.

Ms. Underwood stated no additional areas of inspection are being added. The proposed change is only to define access and to clarify that access includes drawers, which is the largest complaint from licensees.

Ms. Jacobs asked if the Board can access clients records or online scheduling data.

Ms. Underwood stated the regulations do not address that. Personal client information is not relevant, but inspectors do look at appointment books.

Ms. Thong suggested adding "to inspect with the intention of consumer protection."

Ms. Bon stated the first sentence of subsection (e) addresses that and achieves the clarification that is being alluded to.

**MOTION:** Mr. Hedges made a motion, seconded by Dr. Williams, that the Board approves the proposed revised changes to the regulatory language to include a definition of "access" as presented. Motion carried 8 yes, 0 no, and 0 abstain per roll call vote as follows:

The following Board Members voted "Yes": Codorniz, Crabtree, Drabkin, Federico, Hedges, LaChine, Thong, and Williams.

**9. Agenda Item #9, LICENSING AND EXAMINATION COMMITTEE REPORT –  
CONSIDERATION OF COMMITTEE RECOMMENDATION AND POSSIBLE ACTIONS**

**Regulatory Proposal Relating to the Issuance of a Personal Service Permit**

Mr. Federico stated the Licensing and Examination Committee focused on staff's proposed regulatory language for implementation of a Personal Service Permit (PSP). The discussion devolved into issues with some of the requirements and with the PSP overall, such as how to add the new segment of PSP holders to inspectors' already overburdened inspection base.

Mr. Federico stated the Committee suggested that PSP holders be required to complete additional educational requirements, such as a bloodborne pathogens certificate. He stated the Committee also considered limiting the PSP to a specific license type, such as estheticians, but noted that waxing becomes an issue when done at home.

Mr. Federico stated he asked staff to complete a risk assessment between license types and the kind of services that would most benefit under a PSP and to report their findings at the next Committee meeting. The Committee will then begin working on regulatory language.

Mr. Federico stated he suggested that the state Board look ahead in regards to license types and take this information into the strategic planning meeting tomorrow because of the current trend of legislators creating bills that force the Board to react to them. He stated the need for the Board to be ahead of the curve on current issues.

Mr. Hedges emphasized the inability to control this whether it is licensed or not. Apps are already available. Digital technology is disrupting industries and the regulations within those industries. He suggested the first step for consumer protection is to limit the PSP to offices or workplaces, not consumers' homes.

Ms. Codorniz agreed and stated limiting the PSP to offices and workplaces increases consumer safety due to the more public environment.

Ms. Crabtree agreed and stated the PSP opens up liability issues and potential underground activity. Limiting the PSP as to location and number of permit holders per establishment will decrease consumer safety issues.

Mr. LaChine referred to PCP Application Requirement (c), maintain employment at a licensed establishment that does not have any outstanding administrative fines or disciplinary actions. He stated the concern that it punishes the applicant for the establishment's noncompliance.

Dr. Williams agreed and stated she voiced the same concern in yesterday's meeting. That, among other concerns, is the reason why the Committee did not bring recommendations to the Board today.

Mr. Hedges stated his concern that the Board has been mandated to complete a task that is almost impossible to oversee. The Board is funded for 22 inspector positions. There are currently seven openings, but they are difficult to fill due to wage issues.

Ms. Thong stated the Enforcement Manager addressed the Committee in yesterday's meeting. The attorney general's office is currently not making decisions on certain cases related to this. This situation is problematic. The Board needs to figure this out because certain situations that would apply have no enforcement were a PSP to be made available. She suggested contacting businesses in California that have moved forward with the PSP without waiting for Board regulations.

Dr. Williams stated the Enforcement Manager stated she has attempted to reach out to some of the current apps. Those businesses feel they are only facilitating the arrangement between the licensee and the consumer. They are less likely to provide enforcement because they feel it is the responsibility of the licensee to understand those issues. Dr. Williams stated the Enforcement Manager reported that she is in the process of identifying licensees on the apps but the apps only list who is currently available so it has been a difficult process.

**10. Agenda Item #10, DISCUSSION AND ACTION ON PROPOSED BILLS THAT COULD IMPACT BBC:**

Ms. Underwood summarized the Bill Analysis for the following bills, which was provided in the meeting packet.

**a. AB 326 (Salas) – Domestic Violence/Sexual Assault Awareness Training**



Ms. Underwood stated the Board took the position of Support if Amended at the May meeting. She stated Assembly Bill (AB) 326 has been amended to restructure the Board Health and Safety Advisory Committee to include this bill as part of the Committee charge, update the Health and Safety curriculum, and do a pilot testing program for instructors. The current iteration of this bill significantly impacts the Board. The Board would be required to provide training, regulation packages, and an update of the Health and Safety curriculum that was just completed a month ago. The fiscal analysis cost is approximately \$20,000 for implementation.

Mr. Hedges stated legislators are considering attaching human trafficking to this bill, as well. He stated his concern that licensees will be treated like nurses and school teachers in the future, where they will be required to notify authorities and lose their licenses if they do not.

Ms. Crabtree stated the funding would be better used to hire additional inspectors.

Ms. Underwood stated her concern that there is no mention that this training would include the apprentice program.

Tami Guess, the Board Project Manager, stated the California Department of Public Health (CDPH) already has a program in place and receive funds to provide training in this area. Ms. Underwood stated the CDPH should be the lead on this, not the Board.

Mr. LaChine agreed that it is not in the Board's scope. He stated establishment owners are required by law to provide employees with sexual harassment pamphlets. He suggested contacting the organization that provides that pamphlet to see if they can provide sexual abuse information in that same pamphlet.

Ms. Underwood stated the statute allows the Board to promote awareness of these issues on the website.

The Board agreed to maintain its current position of Support if Amended.

**b. AB 1099 (Gonzalez) – Compensation-Gratuities**

Ms. Underwood stated the Board took a "Watch" position at the May meeting. She stated the bill was amended to include a definition of "entity" and amended out the portion that named the Board of Barbering and Cosmetology.

The Board agreed to maintain its current "Watch" position.

**c. AB 1516 (Cunningham) – Healthy Nail Salon Recognition; Compliance with Article 12 commencing with Section 977 of Division 9 of the California Code of Regulations**

Ms. Underwood stated the Board position on AB 1516 is yet to be determined. She stated the bill is a technical cleanup for the language that was presented last year.

**d. AB 1575 (Katra) – Cosmetic Ingredients Label**

Ms. Underwood stated the Board position on AB 1575 is yet to be determined. AB 1575 does not impact the Board; it impacts licensees. She stated the bill inadvertently left off Electrology licensees in the definition of professional.

Mr. Federico asked how the bill defines a professional cosmetic manufacturer and if salons that manufacture their own cosmetic blends are required to follow the statute. Ms. Guess stated the bill states it is intended to apply to professionals only.

The Board agreed to take a Support if Amended position.

### **Public Comment**

Ms. Schrabek stated AB 1575 does not take into account that many products are in containers so small they would not fit a detailed label or are purchased in bulk quantities and transferred to small containers. She stated the need for the information to be available on a tear sheet.

Ms. Jacobs stated many esthetician products do not contain an ingredient list. They are generic-looking with simplified language, such as "2% lactic," on the front. Many estheticians private-label their bottles for their own use and for retail.

**MOTION:** Mr. Hedges made a motion, seconded by Ms. Crabtree, that the Board would support AB 1575, if it was amended to include all professionals licensed by the Board, including Electrologists. Motion carried 6 yes, 0 no, and 2 abstain per roll call vote as follows:

The following Board Members voted "Yes": Codorniz, Crabtree, Drabkin, Hedges, Thong, and Williams.

The following Board Members abstained: Federico and LaChine.

#### **e. SB 247 (Moorlach) – Deregulation of the Barbering License and Removal of Application of Makeup from the Specialty Branch of Skincare**

Ms. Underwood stated the Board took the position to oppose SB 247 at the May meeting. She stated this two-year bill has stalled but staff will continue to monitor it.

#### **f. SB 296 (Nguyen) – Manicure Scope of Practice (Addition of Waxing)**

Ms. Underwood stated the Board took the position to oppose SB 296 at the May meeting.

The Board agreed to maintain its position to oppose SB 296.

#### **g. SB 490 (Bradford) – Commission Wages for Employees Licensed Under the Barbering and Cosmetology Act**

Ms. Underwood stated the Board position on SB 490 is yet to be determined. She stated this bill does not impact the Board other than updating the training course.

The Board did not take a position on this bill.

#### **h. SB 547 (Hill) – Apprentice Supervision**

Ms. Underwood stated the Board took the position of Support at the May meeting. She stated it was amended to clarify apprentice supervision language.

The Board agreed to maintain its current position to support SB 547.



**i. SB 715 (Newman) – Removal of Board Members from Office**

Ms. Underwood stated the Board position on SB 715 is yet to be determined.

The Board did not take a position on this bill.

**11. Agenda Item #11, PROPOSED REGULATIONS – STATUS UPDATES**

- a. Title 16, CCR Sections 904 and 905 (Health and Safety Poster)
- b. Title 16, CCR Section 950.10 (Transfer of Credit or Training)
- c. Title 16, CCR Section 961 (National Interstate Council (NIC) Translation Guides)
- d. Title 16, CCR Section 974 (Administrative Fine Schedule)
- e. Title 16, CCR Section 974.3 (Citation of Establishments, Individuals for Same Violation)
- f. Title 16, CCR Section 974.4 (Installment Payment Plan for Fines)
- g. Title 16, CCR Section 978, 979, 980, 980.4, 981, 982, 984, and 989 (Health and Safety Regulations)

Ms. Underwood updated the Board on the regulation update process for Sections 904 and 905. No comments were received during the 15-day public comment period on the second modified text. The final rulemaking file is now under review by the Department of Consumer Affairs (DCA). The remainder regulation packages are under DCA's preliminary review.

**12. Agenda Item #12, AGENDA ITEMS FOR THE NEXT MEETING**

Mr. LaChine suggested adding an ongoing agenda item for Board Member comments that are not on the agenda.

Ms. Thong asked for a report at the next meeting on how consumer complaints compare historically and how enforcement has changed so new members can better understand how the Board has improved over time.

Mr. Federico asked for a report at the next meeting on the number of inspection reports that are generated broken down by inspector, the number of those reports that are appealed, and the number of appeals that are affirmed versus the number of appeals that went on to the next step.

Ms. Codorniz asked if the examination can be offered via headphones so students can hear the questions to help with the Spanish pass rates. Ms. Underwood stated it is not available because the examination is offered in different languages.

**13. Agenda Item #13, PUBLIC COMMENT**

Ms. Schrabek asked that the Board look at what other organizations are coming up with, including changing licensing categories and looking at the possibility of creating a 1,000-hour hairstyling-only license or a waxing-only license, for example. This is a way to reconcile what SB 296 is trying to achieve without creating the confusion of mixing licensing types. She also stated concern about students who pay for hours and about the lack of Board authority to oversee schools.

**14. Agenda Item #14, ADJOURNMENT**

There being no further business, the meeting was adjourned at approximately 12:00 p.m.



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**Board of Barbering and Cosmetology-Department of Consumer Affairs**

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## **2017 BOARD COMMITTEES- Revised July 2017**

### **DISCIPLINARY REVIEW COMMITTEE**

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

### **EDUCATION AND OUTREACH COMMITTEE**

- *Jacquelyn Crabtree*
- *Coco LaChine*
- *Lisa Thong*
- *Dr. Kari Williams*

### **ENFORCEMENT AND INSPECTIONS COMMITTEE**

- *Jacquelyn Crabtree*
- *Joseph Federico (Chairperson)*
- *Lisa Thong*

### **HEALTH AND SAFETY ADVISORY COMMITTEE**

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

### **LEGISLATIVE AND BUDGET COMMITTEE**

- *Bobbie Jean Anderson*
- *Jacquelyn Crabtree*
- *Andrew Drabkin (Chairperson)*

### **LICENSING AND EXAMINATION COMMITTEE**

- *Polly Codorniz*
- *Joseph Federico (Chairperson)*
- *Dr. Kari Williams*





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## MEMORANDUM

<b>DATE</b>	October 22, 2017
<b>TO</b>	Board Members, Board of Barbering and Cosmetology
<b>FROM</b>	Marcene Melliza, Board Analyst Board of Barbering and Cosmetology
<b>SUBJECT</b>	<b>Proposed Board Meeting Dates for 2018</b>

January 22, 2018 – Board Meeting – Sacramento  
January 23, 2018 – Reinstatement Hearing – Sacramento

April 8, 2018– Board Meeting – Los Angeles Area  
April 9, 2018 – Reinstatement Hearing- Los Angeles Area

July 16, 2018 – Board Meeting - Sacramento  
July 17, 2018 – Reinstatement Hearings – Sacramento

October 21, 2018 – Board Meeting – San Diego  
October 22, 2018 – Reinstatement Hearing – San Diego



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

**Board of Barbering and Cosmetology-Department of Consumer Affairs**  
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## MEMORANDUM

<b>DATE</b>	September 6, 2017
<b>TO</b>	Board Members Board of Barbering and Cosmetology
<b>FROM</b>	Tami Guess, Board Project Manager Board of Barbering and Cosmetology
<b>SUBJECT</b>	<b>1600-hour Cosmetology Curriculum Review</b>

Pursuant to section 7303.2 of the California Business and Professions Code, the California Board of Barbering and Cosmetology is required to conduct a review of the 1600-hour training requirement for Cosmetologists. The Board is to report the findings and recommendations to the Assembly Committee on Business and Professions and the Senate Committee on Business and Professions no later than November 1, 2018. To assist with the review process, staff is recommending formulation of a working group consisting of Board members, Board staff and Subject Matter Experts (SME).

### Action Required:

The Board, by motion, should determine:

1. Which two members will serve with the working group. Which Board Member will serve as an alternate. (Legal Note: A Board member who owns a school may not serve with the working group due to a conflict of interest).
2. If the following working group compilation, if available, meets with the Members approval:

Two Board Members and one alternate Board Member  
 Board's Executive Officer  
 Board's Project Manager  
 Board's School's Desk Analyst  
 Board's Legal Council  
 Representatives from the mainstream textbook provider(s)  
 National Interstate Council of State Board Representative(s)

Private Cosmetology School Instructor(s)  
Community College Cosmetology Instructor(s)  
Association Representative(s)  
Scientist(s)  
Disinfectant Representative(s)  
Educational Consultant(s)  
Apprenticeship Sponsor Representative(s)

3. If the following terms are acceptable:

- Working group membership is not considered employment with the State of California. Except for the Board Members, Subject Matter Experts (SME's) will serve as contract consultants for the Board.
- Working group members will receive travel reimbursement (flight, train, bus and hotel accommodations) pursuant to the State and Board travel policies and a per diem of \$100.00 per day. The Board will not reimburse for car rental services (non-Board members).

5. If Board Members should delegate the authority for the appointment of the working group members and the ability to make changes to the group's compilation to the Executive Officer and all non-substantive changes (meeting date, time, location, etc.) that may arise during the scheduling process.

6. If the following meeting details are acceptable:

Date: February 5-6, 2018  
Time: 10 a.m. – 4 p.m. (or until the conclusion of business)  
Location: Department of Consumer Affairs  
1747 North Market Blvd.  
HQ2 Hearing Room 186, 1<sup>st</sup> Floor  
Sacramento, CA 95834



# Strategic Plan

2018-2022



**BarberCosmo**  
Board of Barbering & Cosmetology



# Board of Barbering & Cosmetology

## **BOARD MEMBERS**

Dr. Kari Williams, President, Industry Member

Andrew Drabkin, Vice President, Public Member

Bobbie Anderson, Public Member

Charles Ching, Public Member

Polly Codorniz, Industry Member

Jacquelyn Crabtree, Industry Member

Joseph Federico, Industry Member

Lisa Thong, Public Member

Steve Weeks, Public Member

**Strategic plan adopted in October 2017.**

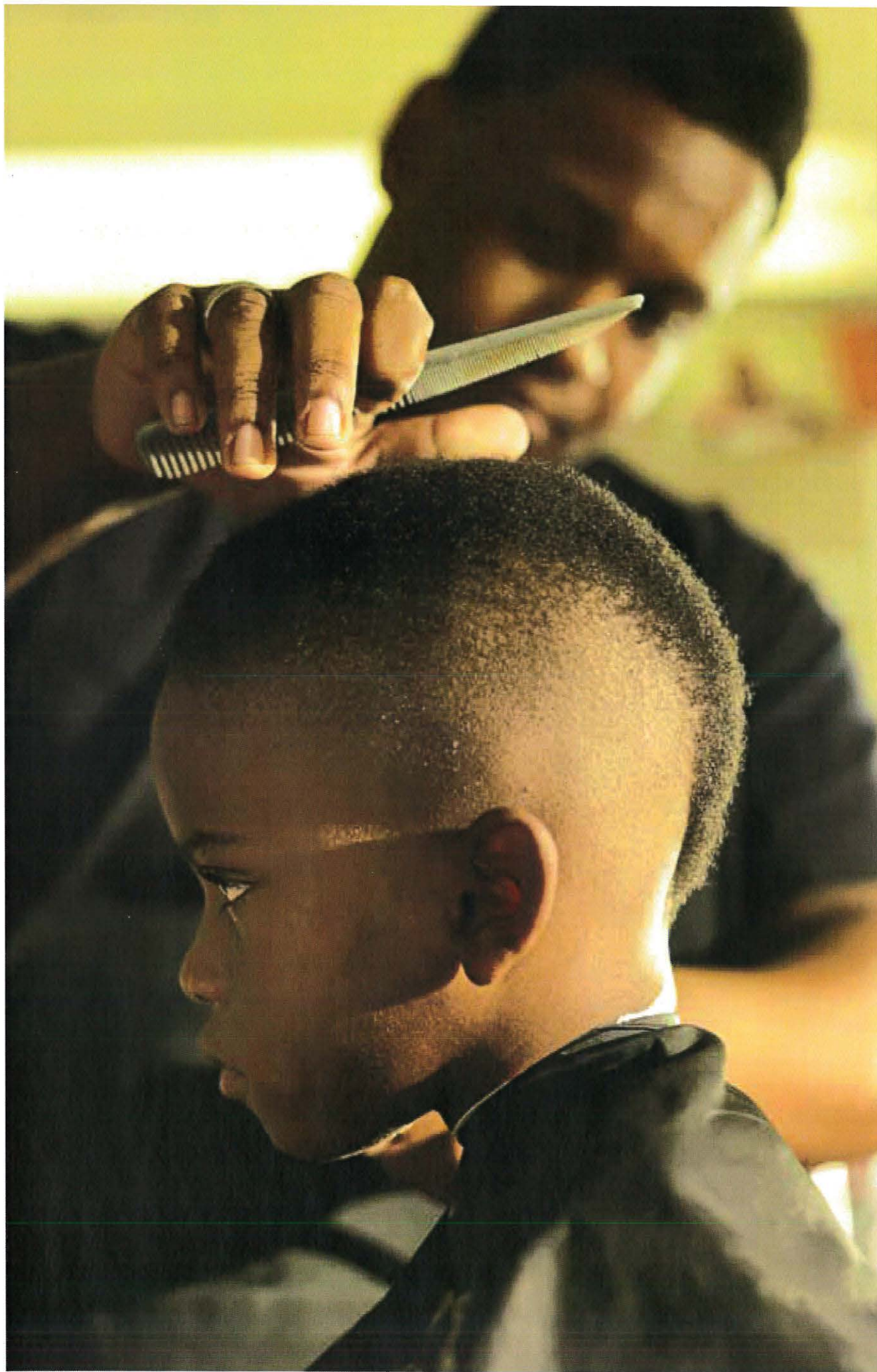


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# About the Board of Barbering & Cosmetology

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The California Board of Barbering and Cosmetology (BBC) protects and serves California consumers by promoting ethical standards and by enforcing the laws of the barbering and beauty industry.

The Board consists of nine members; seven are appointed by the Governor, one by the Senate Pro Tem, and one by the Assembly Speaker. Of the nine appointments, four members are licensees and five are public members. The Board appoints the Executive Officer. The Executive Officer oversees a staff of 107. The major areas of responsibility in the daily operations of the Board are testing and licensing applicants as barbers, cosmetologists, manicurists, estheticians, and electrologists, as well as inspecting establishments for health and safety violations; and investigating consumer complaints.

BBC protects and serves consumers in many ways, including:

- Examining and licensing individuals who have met minimum qualifications in education, experience, and examination requirements.
- Providing a proactive and diligent enforcement program that works to fight fraud and enforce the laws that govern the barbering and beauty industry. This is accomplished by:
  - » The inspection of licensed establishments, conducting random, unannounced inspections of establishments





and practitioners' workstations, and when notified that potential consumer harm may be present, conducting a directed inspection.

- » Collaborating with the Office of the Attorney General and local district attorneys to take action against unqualified individuals and unlicensed practitioners.
- » Investigating consumer complaints and, if found to be viable, actively pursuing disciplinary actions that may include probation, suspension, or revocation of a license, citations and fines, letters of reprimand, or cease-and-desist orders.
- Supporting and advocating for consumer interests before lawmakers. BBC staff review and analyze proposed legislation and regulations to ensure consumer protection.
- Conducting a prolific outreach and educational program that includes workshops, town hall meetings, instructional videos, consumer fact sheets, industry bulletins, and leveraging social media. Efforts are made to make these instructional materials available in English, Spanish, Vietnamese, and Korean.









# Our History

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In 1927, the Board of Barber Examiners and the Board of Cosmetology were established. The Board of Barber Examiners governed the barbering profession and the Board of Cosmetology governed the cosmetology profession. The Board of Barber Examiners consisted of five members, two of which were public. The Board of Cosmetology consisted of seven members, two of which were public.

Throughout the years, minor changes were made to the laws of each profession. For example, the requirement of apprenticeship prior to master barber licensing for barbers and revision to the cosmetology laws to include a separate manicurist license, electrology license, and esthetician license. In 1939, the manicurist license and the electrology license were added, and in 1978, the cosmetician (esthetician) license was added. In 1992, the Board of Barber Examiners and the Board of Cosmetology were merged to create the Board of Barbering and Cosmetology. Chapter 10, Division 3 of the Business and Professions Code (known and cited as the Barbering and Cosmetology Act) was enacted by AB 3008 (Eastin, Chapter 1672, Statutes of 1990) and became effective July 1, 1992.

In July 1997, the Board of Barbering and Cosmetology was eliminated by the California Legislature and the duties, powers, and functions of the Board were transferred directly to the Department of Consumer Affairs and were administered by the Bureau of Barbering and Cosmetology.

On January 1, 2003, SB 1482 (Polanco), Chapter 1148, Statutes of 2002, reinstated the Board of Barbering and Cosmetology (Board).



## Mission

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To ensure the health and safety of California consumers by promoting ethical standards and by enforcing the laws of the barbering and beauty industry.

## Vision

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California will 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.

# Values

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## Accountability

We are accountable to the people of California and each other as stakeholders. We operate transparently and encourage public participation in our decision-making whenever possible.

## Consumer Protection

We make effective and informed decisions in the best interest and for the safety of Californians.

## Customer Service

We acknowledge all stakeholders as our customers, listen to them, and take their needs into account.

## Diversity

We recognize and celebrate California's ever-changing diversity.

## Efficiency

We diligently identify the best ways to deliver high-quality services with the most efficient use of our resources.

## Integrity

We are honest, fair, and respectful in our treatment of everyone.

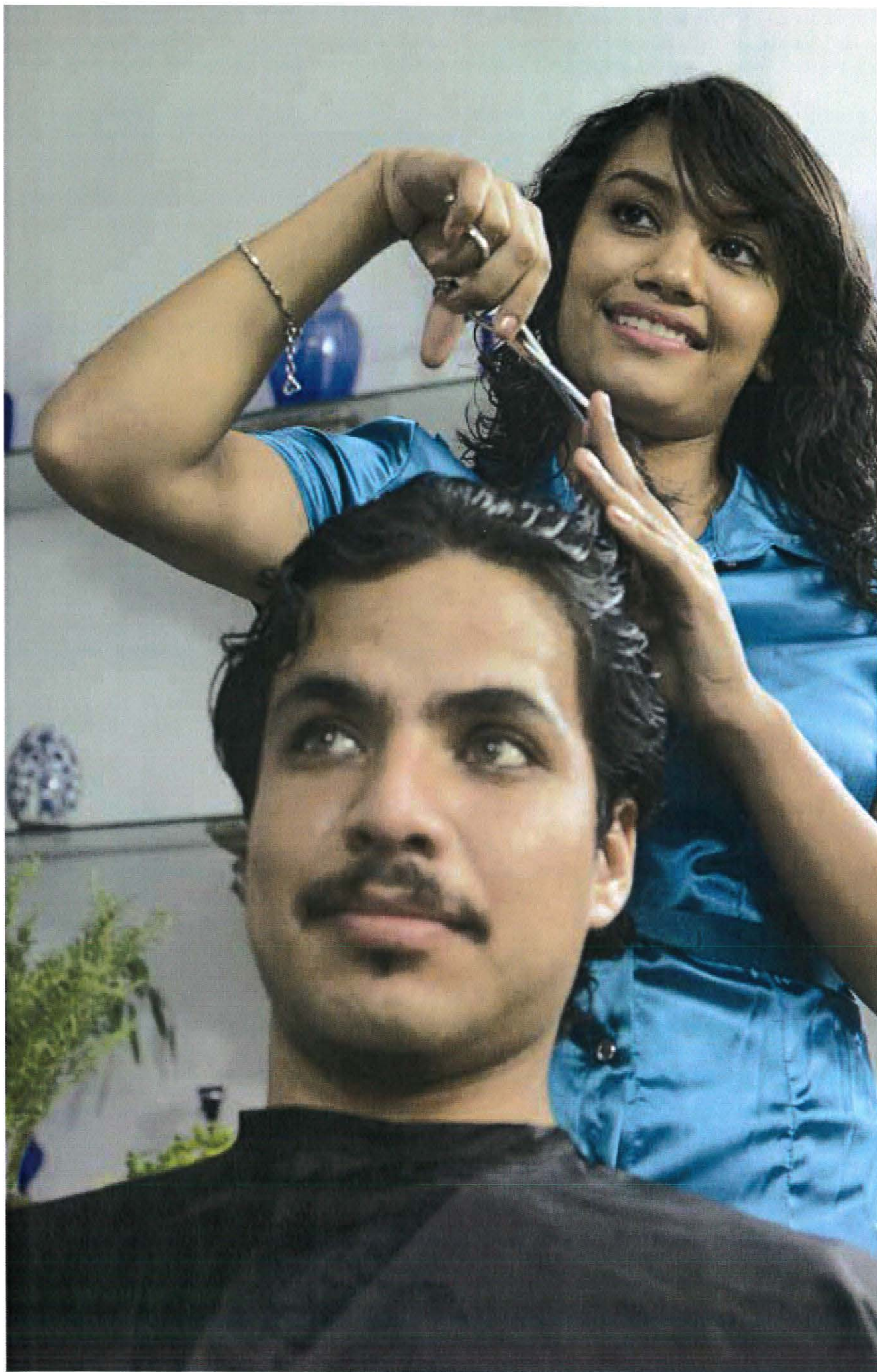
## Openness (Open-mindedness)

We will actively promote the sharing of ideas and information throughout the organization and with the public, and be receptive to new ideas.

## Quality

We will deliver service, information, and products that reflect excellence







# Strategic Goal Areas

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## GOAL 1

### Board Administration

The Board promotes organizational success through the development of staff and management.

## GOAL 2

### Legislation & Regulation

The Board supports legislation and adopts regulations, policies, and procedures that reinforce its mission, vision, and goals.

## GOAL 3

### Examinations

The Board administers written and practical examinations to ensure a candidate's minimal competency of the profession.

## GOAL 4

### Licensing

The Board provides individuals a method for obtaining and maintaining a license.

## GOAL 5

### Inspections

The Board inspects establishments to determine violations of the laws and regulations and educates individuals on how to be compliant with the laws and regulations governing safe practices in California.

## GOAL 6

### Enforcement

The Board protects the health and safety of consumer services by effectively investigating consumer complaints and violations and by promoting compliance through the issuance of citations and fines, and by educating establishments and individuals on the laws and regulations governing safe practices in California.

## GOAL 7

### Outreach

The Board educates stakeholders on the laws, regulations, and issues relevant to the industry.





# Board Administration

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The Board promotes organizational success through the development of staff and management.

- 1.1 Establish and implement a comprehensive training plan for managers and staff to strengthen and develop their skills in promoting quality customer service in the workplace and improving the experience of stakeholders and consumers when interacting with Board administration.
- 1.2 Establish and implement internal communications to notify Board members and staff of industry issues, health and safety concerns, trends, and products for the furtherance of consumer protection.
- 1.3 Deliver the Board's *Sunset Review Report* and testify at the Sunset Review Hearing for compliance with the legislative mandate and to ensure the Board's continuance.



# Legislation and Regulation

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The Board supports legislation and adopts regulations, policies, and procedures that reinforce its mission, vision, and goals.

- 2.1** Prepare, propose, and obtain approval on legislative proposals (i.e. continuing education requirements, reassessment of the license types, obtaining sole oversight of schools, revision of the scopes of practice and the assessment of appropriate licensing categories) for the continued relevancy of the professions and for consumer protection.
- 2.2** Develop and implement a proactive and transparent communications strategy (i.e. mailings and digital correspondence) to ensure consumer and licensee awareness of changes to the Board's statutes and regulations.
- 2.3** Create a greater presence by developing relationships with legislators through hosting legislative briefings and by creating policy platforms and priorities to advance the interest of the Board.
- 2.4** Establish and implement regulations for the Personal Service Permit to fulfill the Board's legislative mandate.

# Examinations

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The Board administers written and practical examinations to ensure a candidate's minimal competency of the profession.

**3.1** Conduct an audit of the National-Interstate Council (NIC) examination, including:

- Accuracy of examination translations
- Examination consistency
- Effectiveness of the examiner trainings

This is to ensure examination relevance in relation to the future professional's need and NIC's effectiveness.

**3.2** Conduct occupational analysis of the license types to determine NIC examination relevancy in relation to the profession.

**3.3** Research the relevancy of the practical examination to evaluate the effectiveness of the examination.



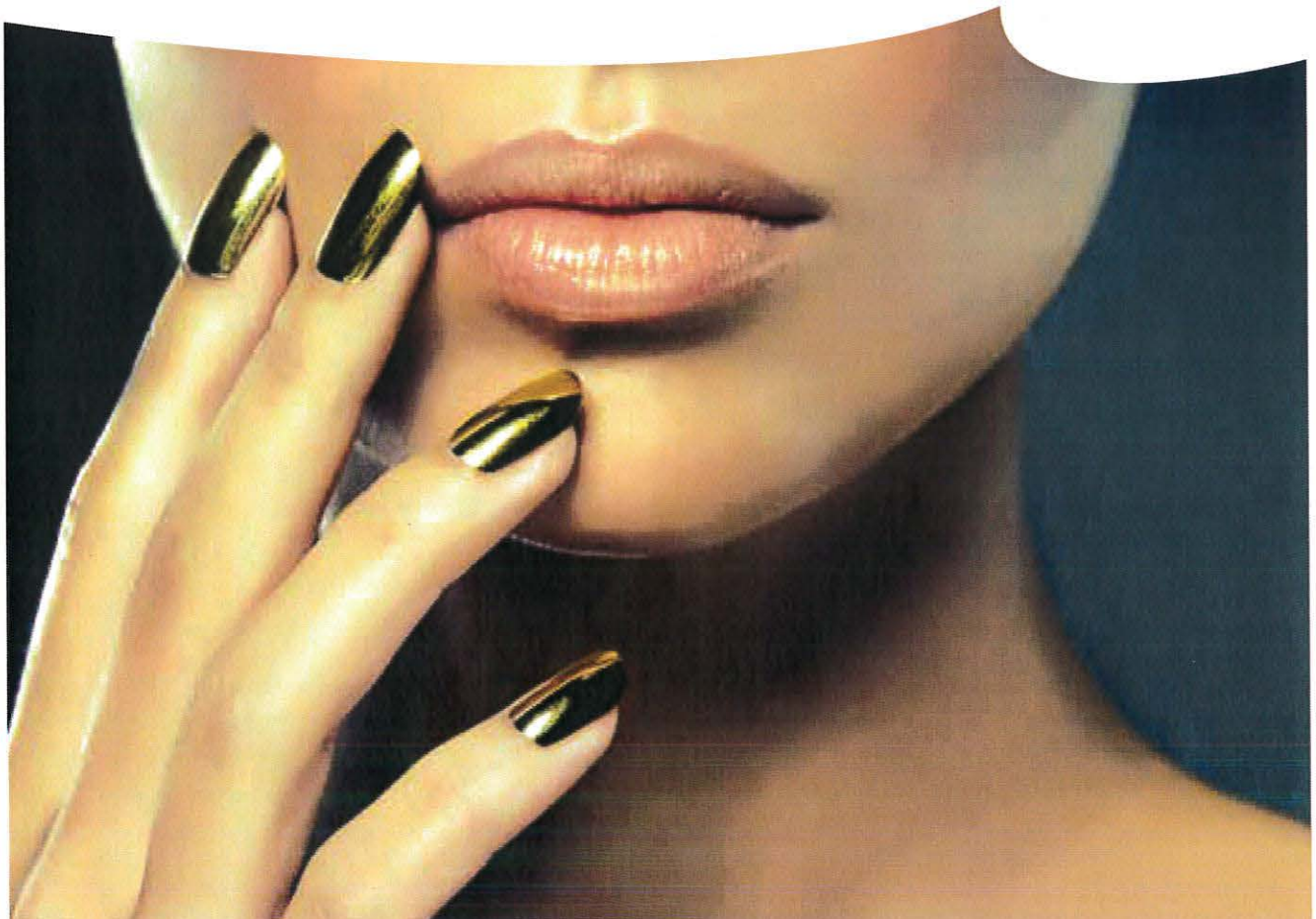
## GOAL 4

# Licensing

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The Board provides individuals a method for obtaining and maintaining a license.

- 4.1** Review and evaluate license-type curricula to ensure students are being educated in relevant subject matters.
- 4.2** Review trends that impact the scope of practice of licensees to be proactive for the industry and to protect consumers.





# Inspections

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The Board inspects establishments to determine violations of laws and regulations and educates individuals on how to be compliant with the laws and regulations governing safe practices in California.

- 5.1** Research and proceed with legislation to increase inspector wages, including the adjustment of the bargaining unit to increase the number of inspectors to accurately enforce consumer protection.
- 5.2** Conduct yearly updated training with Board inspectors to develop:
  - Relevant language access skills
  - Cultural competency
  - Customer services skills
  - Consistency in report writing

This training is to increase consistency in inspection procedures and in the criteria inspectors use to monitor compliance.

# Enforcement

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The Board protects the health and safety of consumer services by effectively investigating complaints and violations and promoting compliance through the issuance of citations and fines, and by educating businesses and individuals on the laws and regulations governing safe practices in California.

- 5.3** Investigate and report to the Board ways to mitigate the selling of hours within the regulatory authority of the Board to ensure consumer protection.
- 5.4** Evaluate and establish enforcement procedures by applying best practices consistent with the Board's mission to protect consumers.
- 5.5** Propose and create procedures and/or regulations for proactively addressing unlicensed activity, including but not limited to, activity instigated by application-based programs and web-based employment lists for the protection of consumers.
- 5.6** Research and collaborate with local municipal government and license-issuing businesses to bring awareness and encourage licensee compliance.



## GOAL 7

# Outreach

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The Board educates stakeholders on laws and regulations and other issues relevant to the industry.

- 5.7** Develop and implement proactive and effective communications strategies, accounting for the digital divide and budgetary considerations, to empower consumers and licensees.
- 5.8** Audit, update, and disseminate regulations and statutes in simple language for stakeholders (i.e. FAQs) for better understanding.
- 5.9** Develop a consumer-facing campaign to educate the public on unlicensed activity.





# Strategic Planning Process

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To understand the environment in which the Board operates as well as identify factors that could impact the Board's success in carrying out its regulatory duties, the Department of Consumer Affairs' SOLID Unit conducted an environmental scan of the Board's internal and external environments by collecting information through the following methods:

- An online survey sent to Board stakeholders in May 2017. The online survey received 530 responses.
- Phone interviews with Board members in May 2017. Seven phone interviews were conducted.
- A focus group with Board management, including the Executive Officer and Assistant Executive Officer, in May 2017. Seven managers participated.
- An online survey sent to Board staff in May 2017. The online survey received 24 responses.

The most significant themes and trends identified from the environmental scan were discussed by the Board members, Executive Officer, Assistant Executive Officer, and management during a strategic planning session facilitated by SOLID on July 18, 2017. This information guided the Board in the development of its strategic objectives outlined in this *2018–2022 Strategic Plan*.



Edmund G. Brown Jr., Governor

Alexis Podesta, Acting Secretary, Business Consumer Services and Housing Agency

Dean R. Grafilo, Director, Department of Consumer Affairs

Kristy Underwood, Executive Officer, Board of Barbering & Cosmetology

Heather Berg, Assistant Executive Officer, Board of Barbering & Cosmetology



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This strategic plan is based on stakeholder information and discussions facilitated by SOLID for the Board of Barbering & Cosmetology in July 2017.

Subsequent amendments may have been made after BBC's adoption of this plan.



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*Please see*  
*Cosmetology*  
*Occupational*  
*Analysis Report*  
*Booklet*

*(Additional Meeting Materials-Agenda Item 11)*



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## MEMORANDUM

<b>DATE</b>	September 20, 2017
<b>TO</b>	Board Members Board of Barbering and Cosmetology
<b>FROM</b>	Tami Guess, Board Project Manager Board of Barbering and Cosmetology
<b>SUBJECT</b>	<b>Update on the Health and Safety Advisory Committee (BPC §7314.3)</b>

On June 26, 2017 members of the Health and Safety Advisory Committee (Committee) met in Sacramento and conversations ensued to provide the California Board of Barbering and Cosmetology (Board) with advice and recommendations on health and safety issues before the Board that impact licensees and how to ensure licensees are aware of basic labor laws. Provided are the committee's recommendations and staff response.

### **1. Discussion and Identification of Worker Rights Concerns within the Industry and Recommendation to the Board to Improve Licensee Awareness of Labor Laws.**

The committee offered numerous edits and suggested revisions to the Board's publication, **Know Your Workers' Rights**.

*Staff is currently editing and updating this publication for inclusion and adoption at the Board's January 2018 Board meeting.*

The committee suggested the Board do outreach to the major industry shows to help promote the "Know your Workers' Rights" publication. It was suggested that the Board send the publication out to community groups, non-profit organizations, legislative offices and media contacts (specifically ethnic media) and that the DCA do a press release announcing the publication. The committee recommended that the publication be emailed to licensees at the time of their license renewal.

*Staff has included this publication in the materials it provides at outreach events. This publication was most recently given out at the 2017 Face and Body Show in San Jose in September.*

*Staff recommendation:* This document be distributed to the abovementioned organizations after the January 2018 revisions are adopted.

It was suggested the Board post to its website information pertaining to AB 1513 and piece rate law.

*Staff has posted the DIR's FAQ's to the Board in the Workers' Rights section of the CASafeSalon, Workers' Rights page.*

The committee suggested the Board hold a community event or Town Hall and elicit participation from subject matter experts from the Department of Industrial Relations (DIR), Employment Development Department (EDD) and Franchise Tax Board. It was suggested this event(s) be recorded for posting to the Board's website.

*Staff has scheduled two Understanding Your Workers' Rights and Responsibilities Town Halls (one for Northern California and one for Southern California) on October 24, 2017 and November 6, 2017. An extensive invitation campaign is being utilized to make sure licensees are aware of the event. There will be presentations by the Board, DIR, EDD and Cal OSHA to assist attendees to understand their workers' rights and responsibilities. There will be opportunity for attendees to ask questions to the panel of experts. The event will be recorded and posted to the Board's website for future reference and for viewing of those who were unable to attend. The Board will be supplying a Spanish and Vietnamese interpreter for the events. The Board will be providing attendees a copy of the Know Your Workers' Rights publication.*

The committee suggested the Board look for ways to increase its interested parties email list and that the Know Your Workers' Rights publication be sent out to the current email list.

*Staff has emailed the document to its interested parties email list. Staff is currently investigating avenues for licensees to provide their email addresses to the Board.*

The committee suggested the Board consult with the National Interstate Council of State Board's (NIC) to see if applicable labor law information might be added to the exams.

*The Executive Officer is currently consulting with NIC.*

The committee suggested the Board explore outreach avenues to encourage consumers to evaluate their role in the prevention of labor trafficking and wage theft.

*Staff is consulting with DCA on the most appropriate way to present this information.*

## **2. Discussion Regarding Potential Health and Safety Concerns within the Industry and Recommended Actions to Improve the Board's Recognition of these Concerns within the Industry.**



The committee expressed concern that licensees are not aware that it is their right to refuse service to clients if there is a health or safety concern. The committee asked staff to produce information to make licensees aware of their right's in this area.

*Staff has included a new section in the Health and Safety Training Course which offers information to service providers regarding their right to refuse service. Currently, it is expected the updated training course will be presented to the Board for adoption at the July 2018 Board meeting.*

It was noted by the committee that California law is very narrow regarding the types of disinfectant that can be used to disinfect foot spas and tools. The committee would like staff to provide more information on what types of disinfectants are effective and water efficient with the possible intent at recommended regulatory change. It was noted that there is a disconnect between how the law is written and how disinfectants are labeled. The committee asked staff to look for ways to education licensees on terms such as, "contact time", "hospital grade" or "hospital liquid" and the proper use of disinfectants.

*Staff has planned for representatives to address the Health and Safety Committee to provide additional information to the committee on safe, water efficient disinfectants available for use at the upcoming October 23, 2017, Health and Safety Advisory meeting. Staff, with the assistance of DCA is producing a video, "Proper Use of Disinfectants", to be posted to the Board's website that will offer suggestions and instructions on how licensees can properly use disinfectants. This video will be translated into Spanish and Vietnamese.*

The committee noted that safety precautions for waxing services and lash extensions are not well addressed by the Board. Due to health concerns related to wax rollers, it was suggested their use be banned in regulation.

*The Board currently has the following publications posted on its website, "Waxing Safety Tips" and "Eyelash Extension Safety Tips". [www.barbercosmo.ca.gov/consumers/index.shtml](http://www.barbercosmo.ca.gov/consumers/index.shtml) Direction should be provided to staff if the members decide more educational materials need to be developed and if regulatory language be developed banning the use of wax rollers for consideration at the next Board meeting.*

The committee recommended that all Board approved schools receive a report from the Board on how their students did in each area of the NIC exam.

*The Executive Officer is currently working with NIC to provide this information.*

The committee offered the following suggestions for the Board's outreach staff:

- Provide licensees with photos taken by Board inspectors of violations to be used as an educational tool
- Partner with the California Department of Public Health to utilize their website to get Board consumer information distributed.
- Make use of the Association of Professionals and Infection Control's videos for the reduction of disease transmission and proper hand hygiene.

- Create visual and engaging videos to be posted to the Board's website educating students proper infection control and standards.

*Outreach staff is currently considering effective ways to incorporate these suggestions.*

California Board of Barbering and Cosmetology  
**Nail Care Scope of Practice Task Force**

On September 18, 2017, the Nail Care Scope of Practice Task Force (Task Force) met to study the appropriate educational and training requirements needed for an individual licensed in California as a manicurist to possibly increase their skillset to allow these individuals to safely practice superfluous hair removal while prioritizing public health and well-being. The Task Force was assembled at the request of Senators Nguyen and Hill.

***All members of the Task Force were in unanimous agreement that public health and well-being would not be preserved by the inclusion of superfluous hair removal to the scope of practice by licensed manicurists in the State of California.***

Reasons for this belief include the following:

- The Board needs to address and stop the rampant selling of school hours by obtaining sole oversight of schools. There are serious concerns with the validity of the training provided by several schools that offer the manicurists training course.
- Manicurists continue to be the highest cited Board licensing category and wax related injuries are the highest consumer harm reported incidents\*.
- Due to limited inspector staff, the Board cannot control the unlicensed activity currently prevalent within the nail community. This problem may be exacerbated by increasing the licensing population within the community without increasing the inspector staff.
- Due to the maintenance of client privacy within treatment rooms, waxing services are historically difficult to regulate.
- Increasing the scope of practice of a manicurist does not address the concerns raised by the Senators and addressed within the Little Hoover Commissions report, *Jobs for Californians: Strategies to Ease Occupational Licensing Barriers*. Additional training would require more out of pocket fees to the trainee, whereas, if the trainee were to obtain the esthetic license, they may qualify for Federal funding assistance. Within Appendix A, this Task Force is including the Wall Street Journal article, *How Much-Criticized Occupational Licenses May Reduce Pay Inequality*.

Technical reasons why the scope should not be expanded included:

- If implemented, other licensing types would also want the inclusion of hair removal (waxing, tweezing) to their scope of practice (i.e. electrologist, barber).
- The fiscal impact to the Board would be substantial. (Appendix B)

Industry reasons why the manicurists scope of practice should not be expanded:

- No manicurist chose to attend the task force meeting to offer support of the scope expansion. It is questioned, how well received the idea will be by licensed manicurists.

\*At the request of the Task Force, the Board has provided statistical information within Appendix C.



- Estheticians feel their license scope is being encroached on and expressed concern for the degradation of their license type. All estheticians in attendance at the task force meeting publicly opposed the expansion of the manicurist scope of practice.

If the Legislature were to decide to move forward with the scope expansion against the recommendation of this Task Force, the Task Force respectfully requests the following be seriously considered:

- The methods employed to make sure previously licensed manicurists receive appropriate training to allow them to offer waxing services.
- Consideration of if waxing services should be an add-on option to the manicurist license or if it should be a stand-alone hair removal license.
- If insurance companies would be willing to insure manicurists offering waxing services.

The Task Force hesitantly and with much consternation offers the following minimal training requirements if hair removal services are included in the scope of practice of a licensed manicurist. This Task Force strongly encourages the Legislature, if it is decided to move forward with the manicurist scope expansion, to include reforms to address the concerns within this report.

**Total Additional Hours Assigned for Hair Removal Component: 115 hours**  
**Total Additional Practical Operations Assigned for Hair Removal Component: 50 hours**

**Total Hours Required for Nail Care/Hair Removal License: 515 hours**

NAIL CARE / HAIR REMOVAL CURRICULUM REQUIREMENT BREAKDOWN		
SUBJECT	TECHNICAL INSTRUCTION (HOURS)	PRACTICAL OPERATIONS (ACTUAL OPERATIONS – NOT HOURS)
<b>NAIL CARE (300 hours required)</b>	<b>Minimum Hours Required</b>	<b>Minimum Operations Required</b>
<u>Manicures and Pedicures</u> Shall include, but is not limited to the following techniques and procedures: Water and oil manicures, including hand and arm massage, complete pedicure including foot and ankle massage, application of artificial nails including liquid, gel, and powder brush-ons, nail tips, nail wraps and repairs and nail analysis.	60	60  180 nails
Total Hours Completed in Nail Care: <u>300</u> hours		
<b>HEALTH AND SAFETY REQUIRED</b>	<b>Minimum Hours Required</b>	<b>Minimum Operations Required</b>
<b>Health and Safety Considerations*</b> (previously 100 hours were required)  Training in chemicals and chemistry pertaining to the practices of nail care and hair removal services including the chemical composition and purpose of nail care and wax preparations. Training in the Health and Safety Course which includes training in hazardous substances, Safety Data Sheets, protection from hazardous chemicals and preventing chemical injuries, health and safety laws and agencies, ergonomics, and communicable disease, including HIV/AIDs and Hepatitis B. Training in basic labor laws and workers' rights and responsibilities. Training in sexual/domestic violence abuse.	200	0
<ul style="list-style-type: none"> <li><u>Laws and Regulations</u> The subject of Laws and Regulations shall include, but is not limited to, the following issues: The Barbering and Cosmetology Act and the Board's Rules and Regulations.</li> </ul>	20	0

<ul style="list-style-type: none"> <li>• <b><u>Disinfection and Sanitation</u></b> Procedures to protect the health and safety of the consumer and the technician. The ten required minimum operations shall entail performing all necessary functions for disinfecting instruments and equipment as specified in Sections 979 and 980. Disinfection emphasized throughout the entire training period must be performed before use of all instruments and equipment, with special attention given to pedicure foot spa and basin disinfection procedures detailed in Sections 980.1, 980.2, 980.3 and 980.4.</li> </ul>	30	10
<ul style="list-style-type: none"> <li>• <b><u>Bacteriology, Anatomy and Physiology</u></b> Training shall include, but is not limited to, the following issues: Bacteriology, human anatomy, human physiology, skin and nail analysis and conditions.</li> </ul>	30	0
<ul style="list-style-type: none"> <li>• <b><u>Eyebrow/Lip Beautification</u></b> Eyebrow shaping, (arching), hair removal techniques, hair analysis, waxing, tweezing, manual or electrical depilatories.</li> </ul>	25	50
<b>Client Preparation</b> Shall include, but not limited to the following issues: Client Consultation, intake procedures, contraindications, professionalism, client record keeping, pre-and post-operative care, CPR/AED equipment and salon and spa skills.	15	0
<b>Business Skills</b> (Recommended, not required) Communication Skills, professional ethics, salesmanship, decorum, recordkeeping, client service record cards.	0	0

Depending on how long it takes a student to complete the required number of practical operations, a student may exceed the total number of hours required in a subject, or may not yet meet the total hours required in a subject. If a student does not yet meet the total number of hours required, the school will be responsible for making sure the student completes additional hours to meet the total hour requirement in that subject.

\*Per Business and Professions Code section 7389, a health and safety course on hazardous substances (separate from the health and safety hours required in the Board's minimum curriculum requirements) must be taught in schools approved by the Board.



Appendix A

# **WALL STREET JOURNAL**

## **How Much-Criticized Occupational Licenses May Reduce Pay Inequality**

New research shows occupational licensing conveys information to employers about skills and criminal records



A teacher in Meridian, Miss., reads to third-graders Monday on their first day back to school. Workers with occupational licenses, such teachers, surgeons and manicurists, earn more than other Americans. PHOTO: PAULA MERRITT /THE MERIDIAN STAR VIA AP



By [Ben Leubsdorf](#)

Aug 11, 2017 6:56 am ET

The rising number of U.S. workers who need a government-mandated license to do their job has become a target for [liberal](#) and [conservative](#) reformers looking for ways to revive the economy's [dynamism](#).

Advocates for overhauling the current system say it can discourage people from entering desirable careers or relocating across state lines, while raising prices for consumers. Who benefits? Those who get licensed, who [earn more](#) than other Americans. And [new research](#) shows their pay is more equal as well, with occupational licenses appearing to boost earnings for women and black men relative to higher-paid white men.

"The traditional view has been that the license is just a barrier to entry," said **Clemson University** economist [Peter Blair](#), who co-authored the paper with Clemson graduate student **Bobby Chung**. But, he said in an interview, licenses also provide potential employers with information about the workers who have them: Many require special training or [bar people with criminal records](#).

The study suggests women are rewarded because a license signals training and job skills, while black men benefit when a license signals they don't have a felony conviction.

"Licensing may not be the most efficient way to convey this information, but we need to acknowledge that licensing is providing this information," Mr. Blair said.

Occupational licenses have become a [popular and bipartisan target for policy makers](#).

President **Barack Obama**'s administration in 2015 said [a quarter of all workers](#) fell under state licensing requirements, describing an inefficient patchwork of laws and regulations that weigh on workers and the economy at large. President **Donald Trump**'s labor secretary, **Alexander Acosta**, last week urged state officials to reduce what he described as excessive licensing; "Our goal should be [to expand opportunities](#) for Americans, not limit them," he said.

The new analysis by Messrs. Blair and Chung, circulated this summer in a working paper through the [Human Capital and Economic Opportunity Global Working Group](#) at the **University of Chicago**, looked at data on worker earnings and licensing requirements. They found licensing reduced the wage gap between black men and white men by 43%, compared with nonlicensed workers, and shrank the pay gap between women and white men between 36% and 40%. They also identified likely channels for how employers took signals from occupational licenses, based on training requirements and whether licenses were limited to nonfelons.

The paper isn't a full-throated argument that licenses should be preserved in their current form. But it offers a warning that employers crave information about potential employees that licenses now provide. Well-meaning reforms to the occupational-licensing system could have the unintended consequence of worsening discrimination in hiring.



"This is helping us to understand the institution of licensing," Mr. Blair said. "In order to reform something, we need to understand it."

The new paper echoes [other recent research](#) that found "ban the box" laws intended to help Americans with criminal records apply for jobs may exacerbate racial discrimination, as some employers deprived of information about job applicants' criminal records instead discriminate broadly against men of color.

"It's a bit troubling," Mr. Blair said. "Why is it so important for black men to signal that they're not felons?"



## Appendix B

The fiscal impact of SB 296 as currently written, to the Board is substantial. The complete financial impact of implementation of this bill is unknown at this time.

The current contract with National Interstate Council of State Boards (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 are 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 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 BreEZe database will need the following adjustments and costs involved in implementation are unknown at this time. It is assumed that changes may include:

- Addition of a new license type
- Amendments to the current checklist.
- Possible new business rule or modifier.
- Possible on-demand letter(s).
- Updates to the Enforcement module.

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.

## Appendix C

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.





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## MEMORANDUM

<b>DATE</b>	October 6, 2017
<b>TO</b>	Board Members Board of Barbering and Cosmetology
<b>FROM</b>	Kristy Underwood, Executive Officer Board of Barbering and Cosmetology
<b>SUBJECT</b>	<b>Overview of the Board's Consumer Complaint Process</b>

### Purpose

At a previous meeting, members requested staff to provide an overview of the consumer complaint process including historical data to see the trends that have impacted consumer harm.

### Process

The following is the process for steps that are taken when a consumer complaint is received:

1. Complaint is received either by U.S. Mail or on-line.
2. The complaint is entered into the Board's system and an acknowledgement letter is sent to the complainant.
3. Once the complaint is entered, a case is opened and assigned to one of the Board's Enforcement Unit analysts.
4. Depending on the validity, egregiousness, and evidence of the complaint, the analyst will take necessary steps to work the complaint. These steps may include:
  - Obtaining medical documentation from the complainant.
  - Reviewing the inspection and any enforcement history of the establishment.
  - Obtaining a subject matter expert's opinion.
  - Requesting an inspection.
  - Obtaining specific information from the licensee.

The analyst will determine the course of action based on the findings.

## System Coding

Each complaint is coded by the type of harm that it is related to (i.e. manicure cut, pedicure infection, etc.). With the implementation of BreEze, the Board was able to add multiple codes in order to allow for more detailed tracking. Due to the change in coding, it is difficult to display a review of the last five years.

## Data

### Highest Consumer Harm Last 5 Years

FY 12-13	FY 13-14	FY 14-15	FY 15-16	FY 16-17
Infection*	Infection*	Manicure Infection	Pedicure Infection	Pedicure Infection
103	65	35	84	87

\*Includes all types of infections.

### Summary of FY 12-13 to FY 14-15 (Pre-BreEze)

Harm	FY 12-13	FY 13-14	FY 14-15
Infection	103	65	31
Cut	43	33	16
Wax Burn	32	22	6
Scalp Burn	21	17	12

### Summary of FY 15-16 to FY 16-17 (Post-BreEze)

Harm	FY 15-16	FY 16-17
Pedicure Infection	84	87
Over Processed	41	58
Manicure Infection	32	39
Manicure Cut	26	26
Pedicure Cut	21	24

### Other notable statistics:

In FY 15-16 the Board received 15 complaints relating to skin infection and only 1 in FY 16-17. In FY 15-16 the Board received 17 complaints relating to skin allergic reaction and only 2 in FY 16-17.

## Conclusion

Now that there are established codes, staff can provide this information on a quarterly basis to the Board.



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## 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:** August 22, 2017

### **This Bill:**

Establishes that the Health and Safety Advisory Committee shall provide the Board with advice and recommendations on how to ensure licensees receive awareness regarding health and safety issues before the Board including ensuring licensees are aware of basic labor laws and how to ensure licensees have awareness about physical and sexual abuse they/their clients may be experiencing. Upon adoption of this bill the requirements would be operative July 1, 2019.

Requires the Board develop or adopt a health and safety course on hazardous substances, basic labor laws and physical and sexual assault awareness, which shall be taught in Board approved schools. Requires board regulations be created for the requirements of the training. Upon adoption of this bill the requirements would be operative July 1, 2019.

Requires the Board provide Instructor training classes and pilot testing of the revised Health and Safety Course. Upon adoption of this bill the requirements would be operative July 1, 2019.

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. Upon adoption of this bill the requirements would be operative July 1, 2019.

### **Current Bill Status:**

On September 8, 2017 this bill was sent to the Governor. On September 27, 2017, the bill was signed by the Governor and filed with the Secretary of State. (Chapter 312, Statutes of 2017)

### **Current Board Position:**

May 15, 2017-Support if Amended: The members recommended the following amendments:



Keep section 1; amend section 2 (Department of Public Health to partner with local health departments for the education of salons in their specified areas; include language to the bill that would make it clear that licensees should be legally held harmless if they become aware of information regarding physical or sexual abuse.) Delete section 3.

June 5, 2017-A letter was sent to the Honorable Senator Jerry Hill notifying the Senator of the Board's *Support If Amended* position.

July 17, 2017- Support If Amended: Members wanted the bill modified to provide that the Board would only be responsible for promoting awareness of physical and sexual abuse to its licensees and to consumers.

### **Impact Summary:**

IMPACTED LICENSES								IMPACT		
Apprentice	Barber	Cosmo	Mani	Esti	Elect.	Establishment	Schools	Regulations	Enforceable	Fiscal
No	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	No	Yes

### **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 taught at schools approved by the Board. (BP&C § 7362 (b)).

Specifies in regulation, the curriculum requirements for barbers, cosmetologists, manicurists, estheticians and electrologists (CCR\*\* Title 16, Division 9, Article 4, Sections 950.1, 950.2, 950.3, 950.4, 950.5).

Specifies the related training requirements for apprentices (barber, cosmetology, skin care, nail care and electrolysis) (BP&C § 7334 (c), (d) and CCR Title 16, Division 9, Article 3, Section 915).

Requires the Board to establish a Health and Safety Advisory Committee to provide the Board with advice and recommendations on health, safety and labor issues impacting the industry. Operative July 1, 2017 (BP&C § 7314.3).

Requires the Board to develop or adopt a health and safety course on hazardous substances and basic labor laws to be taught in Board approved schools. The amendments to the law were operative on July 1, 2017 (BP&C § 7389).

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).

## **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.

The bill specifies that the Board develops or adopts a course on physical and sexual abuse and that it is to be taught in Board approved schools, however, it does not make provisions to require Board approved apprentice sponsors to teach the course during the completion of the required pre-apprentice related training (39 hours currently required).



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:**

The Board will be creating Section 10 (Physical and Sexual Abuse) and it will be similar to the work performed to revise Section 9 (Worker's Rights) of the [Health and Safety Training Course Textbook](#), which can be found on the Board's website. The Physical and Sexual Abuse course parameters are not as complicated as the Worker's Rights section, and the Board will be developing and pilot testing the program/course. The Board will develop the course and the Health and Safety Advisory Committee will make recommendations, as necessary, to ensure licensees have awareness about physical and sexual abuse training. Any costs associated with the development of the Physical and Sexual Abuse training will be minor and absorbable.

Amendments to the bill require instructor training and pilot testing of the revised training course. Any additional workload is anticipated to be minor and absorbable as a result of this bill. Costs involved for training instructors and pilot testing include:

- 3 training sessions (Northern, Central, Southern locations) Total cost: **\$13,500**

The costs (mailing, public meetings, etc.) involved in promulgating regulations are estimated at \$1,000.00 per regulatory package. Total cost: **\$2,000**

California Code of Regulations (CCR) Sections affected: 917, 921, 921.1, 921.2, 950.1, 950.2, 950.3, 950.4, 950.5 and possibly 950.12 – (work upon paying patrons)

The Board currently has the current Health and Safety course on compact disc (CD).

The CD packet contains the following:

- CD mailing packaging with BBC's return address affixed.
- Instructional sticker attached to inside cover on how to use the CD.
- Instructional booklet (full color) which includes:
  - course overview
  - teaching approach instructions and method in using the text curriculum
  - explanation on how the curriculum is organized
  - instructions on preparing to teach the course
  - table of contents
- The Textbook, Instructor Guide\* and the Student Exam Booklet is burned onto the CD for use.

\*The Board also has a "student version" CD without the Instructor Guide (same cost).

350 CD's purchased from Office of Publications, Design, and Editing (OPDE) at \$2.00 per unit – Total cost: **\$700**

300 CD's sent out for initial mailing at \$2.60 per unit – Total cost: **\$780**

The initial mail out (300 CD's) includes Board approved schools and apprenticeship sponsors. The number of apprenticeship sponsors is on the rise and is fluctuating weekly. The 50 extra CD accounts for this fluctuation and allows the Board to have the CD's on hand for returned CD's, staff copies, and newly approved schools and apprenticeship sponsors. The mailing costs were not accounted for as at this point it is unclear how many CD's would be returned and how many new schools/ apprentices would be approved between now and implementation.



Costs involved with mailing out printed materials: **\$1,000**

**Total Projected Fiscal Impact: \$17,980**

### **IT IMPACT**

The Department has determined that the IT impact for the workload associated with creating the requirements of physical and sexual abuse awareness training is minor and absorbable with redirection of existing maintenance resources. Also, the Department will have to update the Board's website concerning physical and sexual abuse awareness information, which is absorbable within existing resources.

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

\*\*CCR refers to the California Code of Regulations.

## Assembly Bill No. 326

### CHAPTER 312

An act to amend, repeal, and add Sections 7314.3 and 7389 of, and to add Sections 7314.5 and 7319.7 to, the Business and Professions Code, relating to professions and vocations.

[Approved by Governor September 27, 2017. Filed with  
Secretary of State September 27, 2017.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 326, 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.

Existing law requires the board to develop or adopt a health and safety course on hazardous substances which is required to be taught in schools approved by the board. Existing law, commencing July 1, 2017, requires the health and safety course to additionally cover basic labor laws.

This bill, commencing July 1, 2019, would require the health and safety course to additionally cover physical and sexual abuse awareness.

This 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 requires the board to establish a Health and Safety Advisory Committee to provide the board with advice and recommendations on health and safety issues before the board. Existing law, commencing July 1, 2017, requires the committee's advice and recommendation to be on health and safety issues before the board that impact licensees, including how to ensure licensees are aware of basic labor laws, as specified.

This bill, commencing July 1, 2019, would require the committee's advice and recommendation to additionally include how to ensure licensees have awareness about physical and sexual abuse, as specified, their clients may be experiencing.

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, commencing July 1, 2019, would specify that licensed barbers, cosmetologists, estheticians, manicurists, electrologists, and applicants for licensure who complete the physical and sexual abuse awareness training covered by the health and safety course, 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.

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

SECTION 1. Section 7314.3 of the Business and Professions Code, as amended by Section 3 of Chapter 409 of the Statutes of 2016, is amended to read:

7314.3. (a) The board shall 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 of an hourly employee.

(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) This section shall become inoperative on July 1, 2019, and, as of January 1, 2020, is repealed.

SEC. 2. Section 7314.3 is added to the Business and Professions Code, to read:

7314.3. (a) The board shall 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 and how to ensure licensees have awareness about physical and sexual abuse their clients may be experiencing.

(b) For purposes of this section, 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 of an hourly employee.



(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.

(c) For purposes of this section, physical and sexual abuse includes, but is not limited to, the following:

(1) Domestic violence.

(2) Sexual assault.

(3) Human trafficking.

(4) Elder abuse.

(d) This section shall become operative on July 1, 2019.

SEC. 3. Section 7314.5 is added to the Business and Professions Code, to read:

7314.5. (a) The board may promote awareness of physical and sexual abuse by means of mail, television, radio, motion picture, newspaper, book, Internet, or other electronic communication.

(b) For purposes of this section, physical and sexual abuse includes, but is not limited to, the following:

(1) Domestic violence.

(2) Sexual assault.

(3) Human trafficking.

(4) Elder abuse.

SEC. 4. Section 7319.7 is added to the Business and Professions Code, to read:

7319.7. (a) A licensee or an applicant for licensure who completes the physical and sexual abuse awareness training covered by the health and safety course required by Section 7389, and his or her employer, 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.

(b) This section shall become operative on July 1, 2019.

SEC. 5. Section 7389 of the Business and Professions Code, as amended by Section 6 of Chapter 409 of the Statutes of 2016, is amended to read:

7389. (a) The board shall develop or adopt a health and safety course on hazardous substances and basic labor laws, as specified in Section 7314.3, which shall be taught in schools approved by the board. Course development shall include pilot testing of the course and training classes to prepare instructors to effectively use the course.

(b) This section shall become inoperative on July 1, 2019, and, as of January 1, 2020, is repealed.

SEC. 6. Section 7389 is added to the Business and Professions Code, to read:

7389. (a) The board shall develop or adopt a health and safety course on hazardous substances, basic labor laws, as specified in Section 7314.3, and physical and sexual assault awareness, as specified in Section 7314.3, which shall be taught in schools approved by the board. Course development

shall include pilot testing of the course and training classes to prepare instructors to effectively use the course.

(b) This section shall become operative on July 1, 2019.

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## BILL ANALYSIS

**Author:** Assembly Member Gonzalez Fletcher**Subject:** Gratuities**Bill Number:** AB 1099**Version:** May 30, 2017

### This Bill:

Defines the term "entity" as referenced in this section as 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. This bill requires an entity that permits a client to pay for services performed by a worker by debit or credit card to also accept a debit or credit card for payment of a gratuity. Payment of the gratuity to the worker should not be later than the next regular payday following the date the client authorized the payment. 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.

### Current Bill Status:

This bill was in the Senate Labor and Industrial Relations Committee and the hearing was cancelled by the author.

### Current Board Position:

05/15/17 – Watch

07/17/17 – Watch

### Impact Summary:

IMPACTED LICENSES								IMPACT		
Apprentice	Barber	Cosmo	Mani	Esti	Elect.	Establishment	Schools	Regulations	Enforceable	Fiscal
No	No	No	No	No	No	No	No	No	No	No

### 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)

### **Public Utilities Code, Section 5431:**

**5431.** (a) As used in this article, a transportation network company is an organization, including, but not limited to, a corporation, limited liability company, partnership, sole proprietor, or any other entity, operating in California that provides prearranged transportation services for compensation using an online-enabled application or platform to connect passengers with drivers using a personal vehicle.

(b) As used in this article, participating driver or driver is any person who uses a vehicle in connection with a transportation network company's online-enabled application or platform to connect with passengers.

(c) As used in this article, transportation network company insurance is a liability insurance policy that specifically covers liabilities arising from a driver's use of a vehicle in connection with a transportation network company's online-enabled application or platform.

*(Added by Stats. 2014, Ch. 389, Sec. 1. Effective January 1, 2015.)*

### **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.*

TechNet (in formal opposition of the bill) writes, "While this bill presents as only requiring employers to allow for a gratuity via credit card or debit care, we oppose AB 1099 because it will classify workers of online-enabled applications or platforms as employees. The placement of this code section is squarely in the Labor Code section reserved for Employee Regulation and Supervision (sections 200-2699.5). This placement would result in a re-classification of workers from "independent contractors" to "employees". Any change regarding the classification of independent contractors, whether for an online application or platform or other business industries, should be the result of thoughtful and inclusive discussion, not in legislation regarding the permission of patrons leaving a gratuity for services."

### **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.

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



AMENDED IN ASSEMBLY MAY 30, 2017

AMENDED IN ASSEMBLY APRIL 5, 2017

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1099**

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**Introduced by Assembly Member Gonzalez Fletcher**

February 17, 2017

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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 ~~employers in specific industries~~ *an entity, as defined*, that ~~permit~~ *permits* a patron to pay for services performed by ~~an employee~~ *a worker* 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 *debit or credit card* to be made to the ~~employee~~ *worker* not later than the next regular payday following the date the patron authorized the *debit or 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.  
State-mandated local program: yes.

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

- 1 SECTION 1. Section 352 is added to the Labor Code, to read:
- 2 352. (a) As used in this section, ~~"employer"~~ *shall include only*
- 3 ~~the following employers:~~ *"entity" means an organization that uses*
- 4 *an online-enabled application or platform to connect workers with*
- 5 *customers to engage the workers to provide labor services,*
- 6 *including, but not limited to, a transportation network company*
- 7 *as defined in Section 5431 of the Public Utilities Code.*
- 8 ~~(1) A hotel. For purposes of this paragraph, "hotel" means any~~
- 9 ~~hotel, motel, bed and breakfast inn, or other similar transient~~
- 10 ~~lodging establishment.~~
- 11 ~~(2) An employer in the car washing and polishing industry~~
- 12 ~~registered pursuant to Part 8.5 (commencing with Section 2050).~~
- 13 ~~(3) An establishment licensed pursuant to the Barbering and~~
- 14 ~~Cosmetology Act (Chapter 10 (commencing with Section 7301)~~
- 15 ~~of Division 3 of the Business and Professions Code).~~
- 16 ~~(4) A massage establishment as defined in Section 4601 of the~~
- 17 ~~Business and Professions Code.~~
- 18 ~~(5) A restaurant. For purposes of this paragraph, "restaurant"~~
- 19 ~~means any retail establishment serving food or beverages for onsite~~
- 20 ~~consumption.~~

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

6 (b) An employer *entity* that permits a patron to pay for services  
7 performed by ~~an employee~~ *a worker* by debit or credit card shall  
8 also accept a debit or credit card for payment of gratuity. Payment  
9 of a gratuity made by a patron using a *debit or* credit card shall be  
10 made to ~~an employee~~ *a worker* not later than the next regular  
11 payday following the date the patron authorized the *debit or* credit  
12 card payment.

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







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## BILL ANALYSIS

**Author:** Assembly Member Cunningham

**Subject:** Maintenance of the Codes

**Bill Number:** AB 1516

**Version:** August 23, 2017

### **This Bill:**

This bill would make non-substantive changes in various provisions of law to effectuate the recommendations made by the Legislative Counsel to the Legislature. In part, as pertaining to the Board of Barbering and Cosmetology (Board), amends the California Health and Safety Code § 25257.2 (g), and clarifies that the recognized Healthy Nail Salon must be in compliance with Article 12 commencing with Section 977 of Division 9 of Title 16 of the California Code of Regulations.

### **Current Bill Status:**

On September 12, 2017 this bill was sent to the Governor. On October 7, 2017 the bill was chaptered by the Secretary of State, Chapter 561, Statutes of 2017.

### **Current Board Position:**

None

### **Impact Summary:**

IMPACTED LICENSES								IMPACT		
Apprentice	Barber	Cosmo	Mani	Esti	Elect.	Establishment	Schools	Regulations	Enforceable	Fiscal
No	No	No	No	No	No	No	No	No	No	No

### **Existing Law:**

Directs the Legislative Counsel to advise the Legislature from time to time as to legislation necessary to maintain the codes. (Government Code §10242)

### **Background:**

On September 24, 2016, AB 2125 was chaptered by Secretary of State (Chapter 564, Statutes of 2016) this law requires the State Department of Toxic Substances Control by January 1, 2018, to publish guidelines for cities, counties, and city and counties to implement local healthy nail salon recognition (HNSR) programs. This statute requires verification that potential recognized salons be in compliance

with Chapter 10 (commencing with Section 7301) of Division 3 of the Business and Professions Code and all applicable regulations enforced by the Board.

**Analysis:**

This bill clarifies the portion of Article 12 of the California Code of Regulations applicable to the requirement of maintaining the status of being a recognized Healthy Nail Salon participant.

**Fiscal Impact:**

No fiscal impact to the Board.

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

\*\*CCR refers to the California Code of Regulations.



Assembly Bill No. 1516

CHAPTER 561

An act to amend Sections 303, 2221.1, 4927, 7542, 7596.4, 10177, 19604, 19619, 22973.3, 22977.1, 24049.5, and 25600.3 of, to amend the heading of Chapter 3.5 (commencing with Section 19300) of Division 8 of, and to amend the heading of Division 8.6 (commencing with Section 22970) of, the Business and Professions Code, to amend Sections 19, 54.27, 56.06, 2079.13, and 4777 of the Civil Code, to amend Sections 9, 26, 469, 810, and 1002 of the Code of Civil Procedure, to amend Sections 2282 and 16955 of the Corporations Code, to amend Sections 8482.8, 17296, 22955.1, 35710, 41580, 44253.4, 44259.1, 44265.6, 44332.5, 44332.6, 48204, 48204.3, 48240, 51225.3, 52052.3, 56601, 60227, 60605.5, 67102, 67432, 67434, and 92965 of, and to amend and renumber the heading of Chapter 16 (commencing with Section 67380) of Part 40 of Division 5 of Title 3 of, the Education Code, to amend Sections 3017, 10010, 21534, 21535, and 23002 of the Elections Code, to amend Sections 452.5 and 754 of the Evidence Code, to amend Sections 14103, 14556, and 22370 of the Financial Code, to amend Sections 31603, 46003, 46004.1, 46013.2, 52255.5, 52289, and 67132 of the Food and Agricultural Code, to amend Sections 4216.24, 7514.7, 8590.7, 8593.2, 8920, 8921, 8922, 8924, 9111, 12587.1, 12588, 12589, 12591, 15643, 18152, 20931, 20969.3, 27521, 30025, 31462.05, 31653, 50079, 65057, 65073, 65850.6, 66474.02, 68203, 70395, and 82002 of, to amend the heading of Article 5 (commencing with Section 8585) of Chapter 7 of Division 1 of Title 2 of, and to amend and renumber Section 8455 of, the Government Code, to amend Section 655.1 of the Harbors and Navigation Code, to amend Sections 443.2, 1250.11, 1256.1, 1259, 1502, 1502.2, 1502.21, 1505, 1522.41, 1531.1, 1797.197a, 9002, 11362.775, 11375.7, 11400, 11401, 25257.2, 38530, 38561, 38562, 38562.5, 38562.7, 39713, 39730.7, 43212, 44559.13, 50833, 101993, 101996, 103526, 103527.5, 103885, 111070.5, 116555, 122450, 123955, and 128371 of the Health and Safety Code, to amend Sections 38.6, 1063.135, 1063.14, and 10235.52 of the Insurance Code, to amend Sections 139.21, 201.3, 1072, 1285, 1286, 1288, 1290, 1291, 1299, 1301, 1302, 1303, 1304, 1305, 1308, 1308.3, 1308.11, 1309, 1310, 1311, 1312, 1390, 1391, 1393, 1393.5, 1394, 1398, 1399, 1420, 1433, 4603.2, 4616.4, and 4800 of, to repeal the heading of Article 2 (commencing with Section 1285) of Chapter 2 of Part 4 of Division 2 of, and to repeal the heading of Article 2 (commencing with Section 1390) of Chapter 3 of Part 4 of Division 2 of, the Labor Code, to amend Sections 800 and 803 of the Military and Veterans Code, to amend Sections 186.22, 308, 653w, 830.3, 832.18, 987.8, 991.5, 1001.87, 1170, 1170.18, 1347.1, 3409, 11105.04, 11105.08, 11106, 11174.32, 12021.5, 12022.2, 12022.4, 13835.4, 29180, 29181, and 29182 of, the Penal Code, to amend Section 20928.2 of the Public Contract Code, to amend Sections 3357, 5795.20, 25402.12, 30960, and 33204.8 of the Public Resources Code,

to amend Sections 372, 399.4, 399.13, 454.55, 913.4, 913.8, 955.5, 972, 2827.10, 2870, 2881.4, 5445.2, 9605, 99684.5, 185020, and 185040 of the Public Utilities Code, to amend Sections 5097, 6366.4, 7094, 12206, 12258, 12491, 12636, 17058, 17220, 17851.5, 18708, 19192, 19854, 21026, 23610.5, 25128, 45153.5, 50112.1, 55042.5, 60207.5, and 60632 of, and to amend the heading of Part 20 (commencing with Section 41001) of Division 2 of, the Revenue and Taxation Code, to amend Section 5898.16 of the Streets and Highways Code, to amend Sections 1110, 2737, 11003, and 13002 of the Unemployment Insurance Code, to amend Sections 13353.6, 22513.1, 23301.5, 27427, and 34501.12 of, and to repeal Section 41501 of, the Vehicle Code, to amend Sections 366, 13321, and 71611.5 of the Water Code, to amend Sections 208.3, 361.2, 366.3, 727, 727.1, 4096.5, 4652.5, 5848.5, 5849.1, 5849.35, 5849.8, 5849.14, 5890, 5899, 10553.12, 10559, 10621, 11405, 14087.325, 14132.100, 14134.25, 14184.40, 14184.50, 14184.60, 14184.70, 14184.80, 14717.1, 14717.5, 18250, and 18986.50 of, to amend the heading of Chapter 12.86 (commencing with Section 18987.6) of Part 6 of Division 9 of, to amend and renumber Sections 18986.60, 18986.86, 18986.87, and 18986.89 of, and to amend and renumber the heading of Chapter 12.9 (commencing with Section 18986.40) and the heading of Chapter 12.95 (commencing with Section 18986.50) of Part 6 of Division 9 of, the Welfare and Institutions Code, to amend Section 5 of Chapter 10 of the Statutes of 2016, to amend Section 1 of Chapter 283 of the Statutes of 2016, to amend Section 501 of the North Fork Kings Groundwater Sustainability Agency (Chapter 392 of the Statutes of 2016), and to amend Section 3 of Chapter 535 of the Statutes of 2016, relating to the maintenance of the codes.

[Approved by Governor October 7, 2017. Filed with  
Secretary of State October 7, 2017.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 1516, Cunningham. Maintenance of the codes.

Existing law directs the Legislative Counsel to advise the Legislature from time to time as to legislation necessary to maintain the codes.

This bill would make nonsubstantive changes in various provisions of law to effectuate the recommendations made by the Legislative Counsel to the Legislature.

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

SECTION 1. Section 303 of the Business and Professions Code is amended to read:

303. There is in the department a Division of Consumer Services under the supervision and control of a chief. The chief shall be appointed by the

(b) Except as provided in subdivision (c), the term “controlled substance analog” means either of the following:

(1) A substance the chemical structure of which is substantially similar to the chemical structure of a controlled substance classified in Section 11054 or 11055 or a synthetic cannabinoid compound defined in Section 11357.5.

(2) A substance that has, is represented as having, or is intended to have a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to, or greater than, the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance classified in Section 11054 or 11055 or a synthetic cannabinoid compound defined in Section 11357.5.

(c) The term “controlled substance analog” does not mean any of the following:

(1) A substance for which there is an approved new drug application as defined under Section 505 of the federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 355) or that is generally recognized as safe and effective for use pursuant to Sections 501, 502, and 503 of the federal Food, Drug, and Cosmetic Act (21 U.S.C. Secs. 351, 352, and 353) and Section 330 and following of Title 21 of the Code of Federal Regulations.

(2) With respect to a particular person, a substance for which an exemption is in effect for investigational use for that person under Section 505 of the federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 355), to the extent that the conduct with respect to that substance is pursuant to the exemption.

(3) A substance, before an exemption as specified in paragraph (2) takes effect with respect to the substance, to the extent the substance is not intended for human consumption.

SEC. 115. Section 25257.2 of the Health and Safety Code is amended to read:

25257.2. (a) The department shall, by January 1, 2018, publish guidelines for healthy nail salon recognition (HNSR) programs voluntarily implemented by local cities and counties.

(b) The guidelines for an HNSR program adopted pursuant to subdivision (a) may include, but shall not be limited to, all of the following:

(1) A list of specific chemical ingredients that should not be used by a nail salon seeking recognition. In determining whether to include a chemical on the list, the department shall consider:

(A) Whether the chemical is identified as a candidate chemical pursuant to the regulations adopted pursuant to Section 25252.

(B) Whether an existing healthy nail salon program has restricted the use of the chemical.

(C) The potential for exposure of nail salon workers and customers to the chemical.

(D) The availability of existing, safer alternatives to the chemical in products available to nail salons in California.



(2) Specific best practices for minimizing exposure to hazardous chemicals, including:

(A) A list of specific personal protective equipment that should be used by personnel in a salon seeking recognition and guidance on when and how to use it.

(B) Engineering controls that should be adopted by salons seeking recognition, including specific ventilation practices and equipment.

(C) Prohibiting nail polishes that contain dibutyl phthalate, formaldehyde, or toluene.

(D) Prohibiting nail polish thinners that contain methyl ethyl ketone or toluene.

(E) Prohibiting nail polish removers that contain ethyl or butyl acetate.

(3) A list of specific training topics for salon owners and staff, whether on payroll or contract, on safer practices delineated in the HNSR program guidelines.

(4) Criteria for the use of outside products brought in by clients.

(5) Verification that a salon seeking recognition is in compliance with Chapter 10 (commencing with Section 7301) of Division 3 of the Business and Professions Code, and all applicable regulations enforced by the State Board of Barbering and Cosmetology.

(6) Any other guidelines or best practices determined by the department to further the goals of an HNSR program.

(c) The guidelines adopted pursuant to subdivision (a) shall include criteria for cities and counties that adopt an HNSR program. These criteria may cover, but are not limited to:

(1) Coordination with other local HNSR programs to assist businesses in achieving and moving beyond regulatory compliance.

(2) Training and certification requirements for the salon owners and staff to ensure thorough knowledge of safe and environmentally friendly procedures.

(3) Issuance of an approved seal or certificate to salons that have met certification requirements.

(4) The process by which a salon can enroll in an HNSR program and be verified by the local entity.

(5) The frequency at which the local entity shall verify continued compliance by a salon that has previously met all specified requirements.

(d) In developing guidelines pursuant to subdivision (a), the department shall consult with the Division of Occupational Safety and Health, the State Department of Public Health, and the State Board of Barbering and Cosmetology.

(e) In collaboration with existing healthy nail salon programs, the department shall promote the HNSR guidelines developed pursuant to subdivision (a) by doing all of the following:

(1) Developing and implementing a consumer education program.

(2) Presenting the HNSR guidelines to local health officers, local environmental health departments, and other local agencies as appropriate.

(3) Developing and either distributing or posting on its Internet Web site information for local entities, including, but not limited to, suggestions for successful implementation of HNSR programs and resource lists that include names and contact information of vendors, consultants, or providers of financial assistance or loans for purchases of ventilation equipment.

(4) Developing an Internet Web site or a section on the department's Internet Web site that links to county HNSR Internet Web sites.

(f) The department may prioritize its outreach to those counties that have the greatest number of nail salons.

(g) The State Board of Barbering and Cosmetology may notify the city, county, or city and county if a recognized salon is found in violation of Article 12 (commencing with Section 977) of Division 9 of Title 16 of the California Code of Regulations. A violation shall result in the removal of healthy nail salon recognition from that salon.

(h) This section does not prevent the adoption or enforcement of any local rules or ordinances.

SEC. 116. Section 38530 of the Health and Safety Code is amended to read:

38530. (a) On or before January 1, 2008, the state board shall adopt regulations to require the reporting and verification of statewide greenhouse gas emissions and to monitor and enforce compliance with this program.

(b) The regulations shall do all of the following:

(1) Require the monitoring and annual reporting of greenhouse gas emissions from greenhouse gas emission sources beginning with the sources or categories of sources that contribute the most to statewide emissions.

(2) Account for greenhouse gas emissions from all electricity consumed in the state, including transmission and distribution line losses from electricity generated within the state or imported from outside the state. This requirement applies to all retail sellers of electricity, including load-serving entities as defined in subdivision (k) of Section 380 of the Public Utilities Code and local publicly owned electric utilities as defined in Section 224.3 of the Public Utilities Code.

(3) Where appropriate and to the maximum extent feasible, incorporate the standards and protocols developed by the California Climate Action Registry, established pursuant to former Chapter 6 (commencing with Section 42800) of Part 4 of Division 26, as added by Section 1 of Chapter 1018 of the Statutes of 2000. Entities that voluntarily participated in the California Climate Action Registry prior to December 31, 2006, and have developed a greenhouse gas emission reporting program, shall not be required to significantly alter their reporting or verification program except as necessary to ensure that reporting is complete and verifiable for the purposes of compliance with this division as determined by the state board.

(4) Ensure rigorous and consistent accounting of emissions, and provide reporting tools and formats to ensure collection of necessary data.

(5) Ensure that greenhouse gas emission sources maintain comprehensive records of all reported greenhouse gas emissions.

(c) The state board shall do both of the following:







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## BILL ANALYSIS

**Author:** Assembly Member Kalra  
**Assembly Co Author:** Chiu  
**Senate Co Author:** Jackson

**Subject:** Professional Cosmetic  
 Labeling Requirements

**Bill Number:** AB 1575

**Version:** July 10, 2017

### This Bill:

Requires a professional cosmetic manufactured on or after July 1, 2019, for sale in California, to have a label affixed on the container that satisfies all of the labeling requirements necessary for any other cosmetic pursuant to the Federal Food, Drug and Cosmetic Act and the Federal Fair Packaging and Labeling Act.

Defines the terms: Ingredient, Professional, and Professional Cosmetic. Defines "Professional" as a person that has been granted a license by the State Board of Barbering and Cosmetology to practice in the field of cosmetology, nail care, barbering or esthetics.

### Current Bill Status:

This bill was in the Senate Appropriates Committee and on September 1, 2017, was held under submission.

### Current Board Position:

None

### Impact Summary:

IMPACTED LICENSES								IMPACT		
Apprentice	Barber	Cosmo	Mani	Esti	Elect.	Establishment	Schools	Regulations	Enforceable	Fiscal
No	No	No	No	No	No	No	No	No	No	No

### Existing Law:

Defines the term 'ingredient' as any single chemical entity or mixture used as a component in the manufacture of a cosmetic product. (Section 700.3 of Part 700 of Chapter 1 of Title 21 of the Code of Federal Regulations)

Establishes that a cosmetic is adulterated if it bears or contains any poisonous or deleterious substance that may render it injurious to users under the conditions of use prescribed in the labeling or advertisement of the cosmetic, or under conditions of use as are customary or usual. (Health and Safety Code §111670)

Requires a manufacturer of any cosmetic product subject to regulation by the federal Food and Drug Administration that is sold in California shall, on a schedule and in electronic or other format, as determined by the division, provide the division with a complete and accurate list of its cosmetic products that, as of the date of submission, are sold in the state and that contain any ingredient that is a chemical identified as causing cancer or reproductive toxicity. (Health and Safety Code §111792)

Requires the label on each package of a cosmetic bear a declaration of the name of each ingredient in descending order of predominance, except that fragrance or flavor. (21 Code of Federal Regulations (CFR) 701.3)

The Federal Fair Packaging Act requires all household consumer commodities to be labeled with a statement identifying the commodity, e.g., detergent, sponges, etc.; the name and place of business of the manufacturer, packer, or distributor and the net quantity of contents in terms of weight, measure, or numerical count (measurement must be in both metric and inch/pound units). (16 CFR Parts 500, 501, 502, 503)

The Toxic Substances Control Act of 1976 (TSCA) provides the Environmental Protection Agency with authority to require reporting, record-keeping and testing requirements, and restrictions relating to chemical substances and/or mixtures. Certain substances are generally excluded from TSCA, including, among others, food, drugs, cosmetics and pesticides. (15 United States Code § 2601 et seq.)

### **Analysis:**

Board licensees working in the professions are oftentimes exposed to compounded chemicals throughout the average working day. Studies conducted to establish safe exposure limits to do not generally reflect the type of compounded exposure to multiple chemicals Board licensees experience within the average working day. Federal law does not regulate professional cosmetics in the same manner as retail cosmetics. Chemical ingredients in professional cosmetics do not have to be listed on product labels. Federal law requires that retail cosmetics have the ingredients listed on the product label. This bill would require ingredients to be listed on the professional products.

The bill's author notes, "Many employers can get information from products Safety Data Sheets (SDS). The California Division of Occupational Safety and Health's (CalOSHA) Hazard Communication Standard requires product manufacturers to provide salon owners with an SDS for each product used in the salon that may contain a hazardous chemical at 1% or more (or at 0.1% or more for chemicals that may cause cancer) or that could be released into the air above limits set by CalOSHA or the American Conference of Governmental Industrial Hygienists. The SDS explains the health risks of the product and lists precautions for worker protection. In general, the SDS must provide information about the hazard of chemicals in the product. The challenge is that employees may request SDSs from their employer, but they are difficult to obtain and do not necessarily have all the ingredients listed. Additionally, many workers are characterized as 'independent contractors' and therefore do not have the same rights under occupational safety and health law as 'employees' to demand those from salon owners."

In defining the term "Professional" the bill has inadvertently excluded the Board's Electrology licensees.

### **Fiscal Impact:**

No fiscal impact to the Board.

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

AMENDED IN SENATE JULY 10, 2017  
AMENDED IN SENATE JUNE 26, 2017  
AMENDED IN SENATE JUNE 21, 2017  
AMENDED IN ASSEMBLY MAY 30, 2017  
AMENDED IN ASSEMBLY APRIL 27, 2017  
AMENDED IN ASSEMBLY APRIL 20, 2017  
AMENDED IN ASSEMBLY MARCH 30, 2017

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1575**

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**Introduced by Assembly Member Kalra**  
**(Principal coauthor: Senator Jackson)**  
**(Coauthor: Assembly Member Chiu)**

February 17, 2017

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An act to add Section 110371 to the Health and Safety Code, relating to professional cosmetics.

LEGISLATIVE COUNSEL'S DIGEST

AB 1575, as amended, Kalra. Professional cosmetics: labeling requirements.

(1) The Sherman Food, Drug, and Cosmetic Law, among other things, regulates the labeling of cosmetics and authorizes the State Department of Public Health to require a cosmetic label to list ingredients under specified circumstances. The law generally defines the term "cosmetic" as an article, or its components, intended to be applied to the human body, or any part of the human body, for cleansing, beautifying,



promoting attractiveness, or altering the appearance. The law makes a violation of its provisions a crime.

This bill would require a professional cosmetic manufactured on or after July 1, 2019, for sale to a professional for use in this state to declare its ingredients on the container label by having the content of the container label comply with the requirements in the same manner as required for a cosmetic that is regulated by in this state to have a label affixed on the container that satisfies all of the labeling requirements required for any other cosmetic pursuant to specific federal laws. By expanding the requirements of this law, the bill would expand the scope of a crime, and thus would impose a state-mandated local program. The bill would define terms for its purposes and make legislative findings in support of its provisions.

(2) 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.  
State-mandated local program: yes.

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

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) According to the State Board of Barbering and Cosmetology,
- 4 there are over 129,000 licensed manicurists, and almost 53,000
- 5 licensed salon businesses, many of which provide manicure
- 6 services. There are over 312,000 licensed cosmetologists who are
- 7 licensed to provide nail and hair services.
- 8 (b) Most cosmetologists and manicurists are of reproductive
- 9 age and, therefore, are particularly vulnerable to chemical
- 10 exposures.
- 11 (c) It is estimated that as many as 59 to 80 percent of manicurists
- 12 in California are Vietnamese immigrants, many with limited
- 13 English skills.
- 14 (d) Existing federal law does not regulate professional cosmetics
- 15 in the same manner as cosmetics sold to consumers. Information
- 16 on the ingredients in professional salon products is essential to
- 17 ensuring that workers and owners can make safer product choices

1 and take steps to protect themselves and their customers against  
2 harmful exposures.

3 SEC. 2. Section 110371 is added to the Health and Safety Code,  
4 to read:

5 110371. (a) A professional cosmetic manufactured on or after  
6 July 1, 2019, for sale to a professional for use in this state shall  
7 ~~declare its ingredients on the container label by having the content~~  
8 ~~of the container label comply with the requirements in the same~~  
9 ~~manner as required for a cosmetic that is regulated by~~ *in this state*  
10 *shall have a label affixed on the container that satisfies all of the*  
11 *labeling requirements required for any other cosmetic pursuant*  
12 *to the Federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 301,*  
13 *et seq.), and the federal Fair Packaging and Labeling Act (15*  
14 *U.S.C. Sec. 1451, et seq.).*

15 (b) The following definitions shall apply to this section:

16 (1) "Ingredient" has the same meaning as in Section 111791.5.

17 (2) "Professional" means a person that has been granted a license  
18 by the State Board of Barbering and Cosmetology to practice in  
19 the field of cosmetology, nail care, barbering, or esthetics.

20 (3) "Professional cosmetic" means a cosmetic product as it is  
21 defined in Section 109900 that is intended or marketed to be used  
22 only by a professional on account of a specific ingredient, increased  
23 concentration of an ingredient, or other quality that requires safe  
24 handling, or is otherwise used by a professional.

25 SEC. 3. No reimbursement is required by this act pursuant to  
26 Section 6 of Article XIII B of the California Constitution because  
27 the only costs that may be incurred by a local agency or school  
28 district will be incurred because this act creates a new crime or  
29 infraction, eliminates a crime or infraction, or changes the penalty  
30 for a crime or infraction, within the meaning of Section 17556 of  
31 the Government Code, or changes the definition of a crime within  
32 the meaning of Section 6 of Article XIII B of the California  
33 Constitution.







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## MEMORANDUM

<b>DATE</b>	September 21, 2017
<b>TO</b>	Board Members Board of Barbering and Cosmetology
<b>FROM</b>	Tami Guess, Board Project Manager Board of Barbering and Cosmetology
<b>SUBJECT</b>	<b>AB 1615 – Gender Discrimination</b>

On July 31, 2017, Governor Jerry Brown Jr. signed AB 1615 into law. This bill enacts the Small Gender Discrimination in Services Compliance Act. This law becomes effective January 1, 2018 and establishes that on or before January 1, 2019, the Department of Consumer Affairs (DCA) develop a pamphlet or other informational material to explain business rights and obligations under the Small Business and Gender Discrimination in Services Compliance Act.

This Act establishes that a business is prohibited from charging different prices for services of similar or like kind based solely on the customer's gender.

This bill requires the Board to distribute the DCA created pamphlet to barber shops and hair salons at the time that the establishment applies for or renews a license and at the time of any inspection or at both times.

### Budget Impact:

Postage costs sustained by mailing out the information with the initial establishment license or renewal. \$ 5,032.44

Approximately 557 establishment licenses issued per month. (6,684 yearly)

Approximately 1,440 establishment renewals issued per month. (17,280 yearly)

It costs .21 cents per additional ounce. (allowing for approximately 4 sheets of paper)

Approximate printing costs for the distribution of the pamphlet by the inspectors.

Approximately 13,015 establishments are inspected yearly.

Estimated cost of printed pamphlets per year (at .26 apiece): \$3,383.90

### Key IT Efforts:

Update BreZE Print Portfolio to include an informational insert with BBC renewals.

Post information on the BBC website.

**Projected Fiscal Impact: \$8,416.34** (Considered minor and absorbable by the Board)



## Assembly Bill No. 1615

### CHAPTER 156

An act to add Part 2.55 (commencing with Section 55.61) to Division 1 of the Civil Code, relating to gender discrimination.

[Approved by Governor July 31, 2017. Filed with  
Secretary of State July 31, 2017.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 1615, Eduardo Garcia. Gender discrimination: civil actions.

Existing state and federal law prohibits discrimination based on sex. Existing state law, the Unruh Civil Rights Act, prohibits discrimination on a variety of personal characteristics including sex and defines sex to include pregnancy and childbirth. The act provides that sex includes gender and that gender is sex, and that gender includes gender identity and gender expression. Existing law prohibits a business from boycotting or discriminating, among other actions, based on a characteristic protected by the Unruh Civil Rights Act.

Existing law, the Gender Tax Repeal Act of 1995, prohibits a business from discriminating on the basis of a person's gender with respect to the price charged for services of similar or like kind. That existing law does not prohibit price differences based on the amount of time, difficulty, or cost of providing the services. Existing law requires specified businesses, including tailors, barbers and hair salons, and dry cleaners and laundries providing services to individuals, to post a price list in an area conspicuous to customers and to display a clearly visible sign with specified information pertaining to the prohibition on gender-based pricing discrimination.

Existing law prescribes remedies for violations of these prohibitions, which include actual damages, any amount determined by a jury or a court up to a maximum of 3 times the amount of actual damages but in no case less than \$4,000, and attorney's fees to be determined by the court.

This bill would enact the Small Business Gender Discrimination in Services Compliance Act, and would define a "gender discrimination in pricing services claim" as a civil claim in a civil action with respect to a business establishment, including, but not limited to, a claim brought under the Unruh Civil Rights Act or the Gender Tax Repeal Act of 1995, based on an alleged price difference charged for services of similar or like kind against a person because of the person's gender.

The bill would require an attorney, with each demand letter or complaint alleging gender discrimination in pricing services, to provide the defendant or potential defendant with a copy of informational materials pertaining to the prohibition against discrimination in pricing of services. The bill would require those materials to include a specified advisory notice to be adopted

by the Judicial Council and a pamphlet or informational materials to be developed by the Department of Consumer Affairs for use by tailors and businesses providing aftermarket clothing alterations, barbers and hair salons, and dry cleaners and laundries providing services to individuals that explain the business' rights and obligations under the Gender Tax Repeal Act of 1995.

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

SECTION 1. Part 2.55 (commencing with Section 55.61) is added to Division 1 of the Civil Code, to read:

**PART 2.55. SMALL BUSINESS GENDER DISCRIMINATION IN  
SERVICES COMPLIANCE ACT**

55.61. This part shall be known, and may be cited, as the Small Business Gender Discrimination in Services Compliance Act.

55.62. (a) For purposes of this part, the following definitions apply:

(1) "Gender discrimination in pricing services claim" means any civil claim in a civil action with respect to a business establishment, including, but not limited to, a claim brought under Section 51 or 51.6, based wholly or in part on an alleged price difference charged for services of similar or like kind, against a person because of the person's gender.

(2) "Demand letter" means a prelitigation written document that is provided to a business alleging a gender discrimination in pricing services claim and demanding money, whether or not the attorney intends to file a complaint, or eventually files a complaint, in state court.

(b) An attorney shall provide the following items with each demand letter or complaint sent to or served upon a defendant or potential defendant alleging gender discrimination in pricing services, including, but not limited to, claims brought pursuant to Section 51 or 51.6:

(1) A copy of the written advisory notice as specified in subdivision (c). Until the Judicial Council adopts this notice, the attorney shall provide a written statement that replicates the advisory notice described in subdivision (c).

(2) A copy of the pamphlet or other informational material specified in Section 55.63, after the pamphlet or material is developed by the Department of Consumer Affairs.

(c) On or before January 1, 2019, the Judicial Council shall adopt a written advisory notice that shall be used by a plaintiff's attorney to comply with the requirements of paragraph (1) of subdivision (b). The advisory notice shall be available in English, Spanish, Chinese, Vietnamese, and Korean, and shall include a statement that the advisory notice is available in additional languages, and the Judicial Council Internet Web site address where the different versions of the advisory notice are located. The advisory notice shall state the following:



**ADVISORY NOTICE TO DEFENDANT  
STATE LAW REQUIRES THAT YOU GET THIS IMPORTANT  
ADVISORY INFORMATION FOR BUSINESSES**

This information is available in English, Spanish, Chinese, Vietnamese, and Korean through the Judicial Council of California. Persons with visual impairments can get assistance in viewing this form through the Judicial Council Internet Web site at [www.courts.ca.gov](http://www.courts.ca.gov).

California law requires that you receive this information because the demand letter or court complaint you received with this document claims that you have discriminated, with respect to the price charged for services of similar or like kind, against a person because of that person's gender.

**YOU HAVE IMPORTANT LEGAL OBLIGATIONS.** State law requires that businesses charge the same price for the same services, or services of the same or similar kind, regardless of the customer's gender. In addition, state law requires that certain business establishments clearly and conspicuously disclose to their customers in writing the pricing for each standard service provided. The posting requirement applies to the following businesses:

- (1) Tailors or businesses providing aftermarket clothing alterations.
- (2) Barbers or hair salons.
- (3) Dry cleaners and laundries providing services to individuals.

**YOU HAVE IMPORTANT LEGAL RIGHTS.** The allegations made in the accompanying demand letter or court complaint do not mean that you are required to pay any money unless and until a court finds you liable. Moreover, **RECEIPT OF A DEMAND LETTER OR COURT COMPLAINT AND THIS ADVISORY DOES NOT NECESSARILY MEAN YOU WILL BE FOUND LIABLE FOR ANYTHING.**

You have the right to seek assistance or advice about this demand letter or complaint from any person of your choice. If you have insurance, you may also wish to contact your insurance provider. Your best interest may be served by seeking legal advice or representation from an attorney, but you may also represent yourself and file the necessary court papers to protect your interests if you are served with a court complaint. If you have hired an attorney to represent you, you should immediately notify your attorney.

**ADDITIONAL THINGS YOU SHOULD KNOW**

**WHEN YOU CAN AND CANNOT CHARGE DIFFERENT PRICES:** The Gender Tax Repeal Act of 1995 (California Civil Code Section 51.6) prohibits a business from charging a different price for the same service because of the gender of the person receiving the service. However, you may charge different prices based specifically upon the amount of time, difficulty, or cost of providing the services.

**POSTING PRICES:** The Gender Tax Repeal Act of 1995 also requires that certain businesses clearly disclose to the customer in writing the price of each standard service provided. This pricing disclosure is required for the following businesses: tailors or businesses providing aftermarket clothing alterations; barbers or hair salons; dry cleaners and laundries providing

service to individuals. The price list must be posted in a place where customers will likely see it and it must be in no less than 14-point boldface font. A business must also provide a written copy of the prices to the customer if one is requested by the customer. Finally, a business must clearly and conspicuously display a sign, in no less than 24-point font, that reads:

**"CALIFORNIA LAW PROHIBITS ANY BUSINESS ESTABLISHMENT FROM DISCRIMINATING, WITH RESPECT TO THE PRICE CHARGED FOR SERVICES OF SIMILAR OR LIKE KIND, AGAINST A PERSON BECAUSE OF THE PERSON'S GENDER. A COMPLETE PRICE LIST IS AVAILABLE UPON REQUEST."**

**RIGHT TO CORRECT A POSTING VIOLATION ONLY:** If you receive a written notice claiming that you have failed to properly post any of the above information, you have 30 days to correct the violation. If you fail to correct the violation you will be liable for a civil penalty of \$1,000. (Note that the 30-day period to correct applies only to posting violations, not to discriminatory pricing violations.)

(d) This section does not apply to an action brought by the Attorney General or any district attorney, city attorney, or county counsel.

55.63. (a) On or before January 1, 2019, the Department of Consumer Affairs shall develop a pamphlet or other informational materials for use by the following business establishments: tailors and businesses providing aftermarket clothing alterations; barbers and hair salons; and dry cleaners and laundries providing services to individuals. The pamphlet shall explain the business' rights and obligations under Section 51.6 in clear and concise language. Specifically, the pamphlet shall explain that the business is prohibited from charging different prices for services of similar or like kind based on the customer's gender, unless the price difference is based upon the amount of time, difficulty, or cost of providing the services and that the business shall disclose a price list and sign in the manner prescribed in subdivision (f) of Section 51.6. The pamphlet shall explain that a business has 30 days to correct any violation of the posting requirements in subdivision (f) of Section 51.6 and that a business that fails to correct within 30 days of receiving notice of the violation is liable for a civil penalty of one thousand dollars (\$1,000). The department may include any other information that would help the business comply with Section 51.6.

(b) The department shall provide the pamphlet or other informational materials required by subdivision (a) to an affected business establishment at the time that the business establishment applies for or renews a license, at the time of any inspection, or at both times. The department shall post a copy of the pamphlet or other informational materials on its Internet Web site.







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## BILL ANALYSIS

**Author:** Senate Member Moorlach**Subject:** Deregulation of  
Barbers/Makeup**Bill Number:** SB 247**Version:** April 17, 2017

### **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.

### **Current Bill Status:**

This is a two-year bill and staff will continue to track. On April 24, 2017 this bill failed to pass out of committee. Reconsideration granted. The reconsideration allows this bill to be heard again in Committee or on the Senate floor.

### **Current Board Position:**

May 15, 2017-Oppose

July 17, 2017-Oppose

### **Impact Summary:**

IMPACTED LICENSES								IMPACT		
Apprentice	Barber	Cosmo	Mani	Esti	Elect.	Establishment	Schools	Regulations	Enforceable	Fiscal
Yes	Yes	Yes	No	Yes	No	Yes	Yes	Yes	No	Yes

### **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)

### **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.

<b>Chart 2 - Citations Issued by Year</b>					
<b>License Type</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>
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).

<b>Chart 3 - Consumer Harm Allegations Received by Year</b>					
<b>Allegation Types</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>
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
<b>Total</b>	<b>232</b>	<b>186</b>	<b>89</b>	<b>126</b>	<b>109</b>

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 than 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 (446 per year) – \$4,014.00  
Initial license fee and exam (approximately 751 per year) – \$93,875  
Re-exam (approximately 1,093 per year) – \$81,975  
Apprentice (approximately 308 per year) – \$7,700  
Reciprocity (approximately 79 per year) - \$3,950  
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.

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

AMENDED IN SENATE APRIL 17, 2017  
AMENDED IN SENATE MARCH 20, 2017

SENATE BILL

No. 247

Introduced by Senator Moorlach

February 6, 2017

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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.  
State-mandated local program: no.

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

- 1 SECTION 1. The Legislature finds and declares as follows:
- 2 (a) Occupational licensing laws are important tools that, when
- 3 used correctly, help protect public health and safety. Many current
- 4 laws, however, do little to help public health or safety and result

1 in barriers to entry that prevent people from making a living in  
2 their chosen occupation.

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

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

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

14 460.5. (a) Notwithstanding any other law, on or after January  
15 1, 2018, a city, county, or city and county may not impose any  
16 licensing requirement or fee on any profession or vocation if that  
17 profession or vocation is not already subject to a city, county, or  
18 city and county licensing requirement or fee on January 1, 2018,  
19 but the city, county, or city and county may continue to regulate  
20 any profession or vocation that is subject to its licensing  
21 requirement or fee on January 1, 2018.

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

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

27 655.2. (a) (1) No physician and surgeon or medical  
28 corporation licensed under Chapter 5 (commencing with Section  
29 2000), nor any audiologist who is not a licensed dispensing  
30 audiologist or hearing aid dispenser shall employ any individual  
31 ~~licensed pursuant to described in Article 8 (commencing with~~  
32 ~~Section 2538.10) of Chapter 5.3 for the purpose of fitting or selling~~  
33 ~~hearing aids.~~

34 (2) No individual ~~licensed pursuant to described in Article 8~~  
35 ~~(commencing with Section 2538.10) of Chapter 5.3 shall employ~~  
36 ~~any physician and surgeon or any audiologist who is not a licensed~~  
37 ~~dispensing audiologist or a hearing aid dispenser, or contract with~~  
38 ~~a medical corporation licensed under Chapter 5 (commencing with~~  
39 ~~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."



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

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

6 2538.16. The board shall keep a record of all prosecutions for  
7 violations of this article and of all examinations held for applicants  
8 for licenses together with the names and addresses of all persons  
9 taking examinations and of their success or failure to pass them.  
10 *article.*

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

13 ~~2538.17. The board may recommend the preparation of and~~  
14 ~~administration of a course of instruction concerned with the fitting~~  
15 ~~and selection of hearing aids. The board may require applicants~~  
16 ~~to first complete the required course of instruction or otherwise~~  
17 ~~satisfy the board that the applicant possesses the necessary~~  
18 ~~background and qualifications to fit or sell hearing aids. If the~~  
19 ~~board promulgates regulations to implement this section to require~~  
20 ~~a course of instruction concerned with fitting and selling hearing~~  
21 ~~aids, the board shall obtain the advice of persons knowledgeable~~  
22 ~~in the preparation and administration of a course of instruction.~~

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

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

28 ~~2538.18. All holders of licenses to sell or fit hearing aids~~  
29 ~~hearing aid dispensers shall continue their education after receiving~~  
30 ~~the license; education. The board shall provide by regulation, as~~  
31 ~~a condition to the renewal of a license; regulation that licensees~~  
32 ~~hearing aid dispensers shall submit documentation satisfactory to~~  
33 ~~the board that they have informed themselves of current practices~~  
34 ~~related to the fitting of hearing aids by having pursued courses of~~  
35 ~~study satisfactory to the board or by other means defined as~~  
36 ~~equivalent by the board.~~

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

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

3     2538.19. (a) The board may prosecute any and all persons for  
4     any violation of this article.

5     (b) The board shall hear and decide all ~~matters, including, but~~  
6     ~~not limited to, any contested case or any petition for reinstatement~~  
7     ~~or modification of probation; matters~~ or may assign any of those  
8     matters to an administrative law judge in accordance with the  
9     Administrative Procedure Act. Except as otherwise provided in  
10    this chapter, all hearings shall be conducted in accordance with  
11    Chapter 5 (commencing with Section 11500) of Part 1 of Division  
12    3 of Title 2 of the Government Code.

13    ~~SEC. 3:~~

14    *SEC. 10. Section 2538.20 of the Business and Professions Code*  
15    *is repealed.*

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

18    2538.23. (a) Hearing aids may be sold by catalog or direct  
19    mail provided that:

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

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

25    (3) The seller has received a statement which is signed by a  
26    physician and ~~surgeon, audiologist, surgeon licensed by the State~~  
27    ~~of California, audiologist licensed by the State of California,~~ or a  
28    hearing aid dispenser, ~~licensed by the State of California~~ which  
29    verifies that Section 2538.36 and ~~subdivision (b) of Section~~  
30    ~~2538.49~~ *have* has been complied with.

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

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

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

39    ~~2538.24. Each person desiring to obtain a license to engage in~~  
40    ~~the practice of fitting or selling hearing aids shall make application~~

1 to the board. The application shall be made upon a form and shall  
2 be made in the manner as is provided by the board and shall be  
3 accompanied by the fee provided for in Section 2538.57.

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

6 ~~2538.25. (a) The board shall prepare, approve, grade, and~~  
7 ~~conduct examinations of applicants for a hearing aid dispenser's~~  
8 ~~license. The board may provide that the preparation and grading~~  
9 ~~of the examination be conducted by a competent person or~~  
10 ~~organization other than the board, provided, however, that the~~  
11 ~~board shall establish the guidelines for the examination and shall~~  
12 ~~approve the actual examination.~~

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

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

20 ~~2538.26. The board shall issue a license to all applicants who~~  
21 ~~have satisfied this chapter, who are at least 18 years of age, who~~  
22 ~~possess a high school diploma or its equivalent, who have not~~  
23 ~~committed acts or crimes constituting grounds for denial of~~  
24 ~~license under Section 480, and who have paid the fees provided~~  
25 ~~for in Section 2538.57. No license shall be issued to any person~~  
26 ~~other than an individual.~~

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

29 ~~2538.27. (a) An applicant who has fulfilled the requirements~~  
30 ~~of Section 2538.24 and has made application therefor, may have~~  
31 ~~a temporary license issued to him or her upon satisfactory proof~~  
32 ~~to the board that the applicant holds a hearing aid dispenser's~~  
33 ~~license in another state, that the licensee has not been subject to~~  
34 ~~formal disciplinary action by another licensing authority, and that~~  
35 ~~the applicant has been engaged in the fitting and sale of hearing~~  
36 ~~aids for the two years immediately prior to application.~~

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

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

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

7 ~~2538.28. (a) An applicant who has fulfilled the requirements~~  
8 ~~of Section 2538.24, and has made application therefor, and who~~  
9 ~~proves to the satisfaction of the board that he or she will be~~  
10 ~~supervised and trained by a hearing aid dispenser who is approved~~  
11 ~~by the board may have a temporary license issued to him or her.~~  
12 ~~The temporary license shall entitle the temporary licensee to fit or~~  
13 ~~sell hearing aids as set forth in regulations of the board. The~~  
14 ~~supervising dispenser shall be responsible for any acts or omissions~~  
15 ~~committed by a temporary licensee under his or her supervision~~  
16 ~~that may constitute a violation of this chapter.~~

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

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

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

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

37 ~~2538.29. A temporary licensee under Section 2538.28 shall~~  
38 ~~take the license examination within the first 10 months after the~~  
39 ~~temporary license is issued. Failure to take the license examination~~  
40 ~~within that time shall result in expiration of the temporary license;~~



1 and it shall not be renewed unless the temporary licensee has first  
2 taken the licensure examination. The board, however, may in its  
3 discretion renew the temporary license if the licensee failed to take  
4 the necessary examination due to illness or other hardship.

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

7 ~~2538.30. (a) A temporary licensee shall not be the sole~~  
8 ~~proprietor of, manage, or independently operate a business which~~  
9 ~~engages in the fitting or sale of hearing aids.~~

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

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

14 ~~2538.31. Practical examinations shall be held by the board at~~  
15 ~~least twice a year. The time and place of any practical examination~~  
16 ~~shall be fixed by the board at least 45 days prior to the date it is to~~  
17 ~~be held.~~

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

20 ~~2538.32. Every applicant who obtains a passing score~~  
21 ~~determined by the Angoff criterion-referenced method of~~  
22 ~~establishing the point in each examination shall be deemed to have~~  
23 ~~passed that examination. An applicant shall pass the written~~  
24 ~~examination before he or she may take the practical examination.~~  
25 ~~An applicant shall obtain a passing score on both the written and~~  
26 ~~the practical examination in order to be issued a license.~~

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

29 2538.33. (a) Before engaging in the practice of fitting or selling  
30 hearing aids, each licensee *hearing aid dispenser* shall notify the  
31 board in writing of the address or addresses where he or she is to  
32 engage, or intends to engage, in the practice of fitting or selling  
33 hearing aids, and of any changes in his or her place of business  
34 within 30 days of engaging in that practice.

35 (b) If a street address is not the address at which the licensee  
36 *hearing aid dispenser* receives mail, the licensee *hearing aid*  
37 *dispenser* shall also notify the board in writing of the mailing  
38 address for each location where the licensee *hearing aid dispenser*  
39 is to engage, or intends to engage, in the practice of fitting or

1 selling hearing aids, and of any change in the mailing address of  
2 his or her place or places of business.

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

5 2538.34. (a) Every ~~licensee~~ *hearing aid dispenser* who engages  
6 in the practice of fitting or selling hearing aids shall have and  
7 maintain an established retail business address to engage in that  
8 fitting or selling, routinely open for service to customers or clients.  
9 The address of the ~~licensee's~~ *hearing aid dispenser's* place of  
10 business shall be registered with the ~~bureau~~ *board* as provided in  
11 Section 2538.33.

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

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

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

29 2538.35. A ~~licensee~~ *hearing aid dispenser* shall, upon the  
30 consummation of a sale of a hearing aid, deliver to the purchaser  
31 a written receipt, signed by or on behalf of the ~~licensee~~, *hearing*  
32 *aid dispenser*, containing all of the following:

33 (a) The date of consummation of the sale.

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

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

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

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

8 ~~(f)~~

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

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

14 2538.36. (a) Whenever any of the following conditions are  
15 found to exist either from observations by the ~~licensee~~ *hearing aid*  
16 *dispenser* or on the basis of information furnished by the  
17 prospective hearing aid user, a ~~licensee~~ *hearing aid dispenser* shall,  
18 prior to fitting or selling a hearing aid to any individual, suggest  
19 to that individual in writing that his or her best interests would be  
20 served if he or she would consult a licensed physician specializing  
21 in diseases of the ear or if no such licensed physician is available  
22 in the community then to a duly licensed physician:

23 (1) Visible congenital or traumatic deformity of the ear.

24 (2) History of, or active drainage from the ear within the  
25 previous 90 days.

26 (3) History of sudden or rapidly progressive hearing loss within  
27 the previous 90 days.

28 (4) Acute or chronic dizziness.

29 (5) Unilateral hearing loss of sudden or recent onset within the  
30 previous 90 days.

31 (6) Significant air-bone gap (when generally acceptable  
32 standards have been established).

33 (7) Visible evidence of significant cerumen accumulation or a  
34 foreign body in the ear canal.

35 (8) Pain or discomfort in the ear.

36 (b) No referral for medical opinion need be made by any ~~licensee~~  
37 *hearing aid dispenser* in the instance of replacement only of a  
38 hearing aid that has been lost or damaged beyond repair within  
39 one year of the date of purchase. A copy of the written  
40 recommendation shall be retained by the ~~licensee~~ *hearing aid*

1 *dispenser* for the period provided for in Section 2538.38. A person  
2 receiving the written recommendation who elects to purchase a  
3 hearing aid shall sign a receipt for the same, and the receipt shall  
4 be kept with the other papers retained by the ~~licensee~~ *hearing aid*  
5 *dispenser* for the period provided for in Section 2538.38. Nothing  
6 in this section required to be performed by a ~~licensee~~ *hearing aid*  
7 *dispenser* shall mean that the ~~licensee~~ *hearing aid dispenser* is  
8 engaged in the diagnosis of illness or the practice of medicine or  
9 any other activity prohibited by the provisions of this code.

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

12 2538.37. No hearing aid shall be sold by ~~an individual licensed~~  
13 ~~under this chapter, a hearing aid dispenser;~~ to a person 16 years  
14 of age or younger, unless within the preceding six months a  
15 recommendation for a hearing aid has been made by both a  
16 board-certified, or a board-eligible physician specializing in  
17 otolaryngology, and by a state licensed audiologist. A replacement  
18 of an identical hearing aid within one year shall be an exception  
19 to this requirement.

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

22 2538.38. A ~~licensee~~ *hearing aid dispenser* shall, upon the  
23 consummation of a sale of a hearing aid, keep and maintain records  
24 in his or her office or place of business at all times and each record  
25 shall be kept and maintained for a seven-year period. All records  
26 related to the sale and fitting of hearing aids shall be open to  
27 inspection by the bureau or its authorized representatives upon  
28 reasonable notice. The records kept shall include:

29 (a) Results of test techniques as they pertain to fitting of the  
30 hearing aid.

31 (b) A copy of the written receipt required by Section 2538.35  
32 and the written recommendation and receipt required by Section  
33 2538.36 when applicable.

34 (c) Records of maintenance or calibration of equipment used in  
35 the practice of fitting or selling hearing aids.

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

38 2538.39. A hearing aid dispenser who is the owner, manager,  
39 or franchisee at a location where hearing aids are fit or sold, shall  
40 be responsible for the adequacy of the fitting or selling of any



1 hearing aid fit and sold by any ~~licensee or licensees~~ hearing aid  
2 dispenser at that location.

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

5 ~~2538.40. Upon denial of an application for license, the board~~  
6 ~~shall notify the applicant in writing, stating (1) the reason for the~~  
7 ~~denial and (2) that the applicant has a right to a hearing under~~  
8 ~~Section 2533.2 if he or she makes written request therefor within~~  
9 ~~60 days after notice of denial. Service of the notice required by~~  
10 ~~this section may be made by certified mail addressed to the~~  
11 ~~applicant at the latest address filed by the applicant in writing with~~  
12 ~~the board in his or her application or otherwise.~~

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

15 ~~2538.41. Before setting aside the revocation or suspension of~~  
16 ~~any license or modifying the probation of any licensee, the board~~  
17 ~~may require the petitioner to pass the regular examination given~~  
18 ~~for applicants for licenses.~~

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

21 ~~2538.42. Any person who violates any of the provisions of this~~  
22 ~~article is guilty of a misdemeanor and, upon conviction thereof,~~  
23 ~~shall be punished by imprisonment in the county jail for not less~~  
24 ~~than 10 days nor more than one year, or by a fine of not less than~~  
25 ~~one hundred dollars (\$100) nor more than one thousand dollars~~  
26 ~~(\$1,000), or by both such fine and imprisonment.~~

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

29 ~~2538.43. It is unlawful to sell or barter, or offer to sell or barter,~~  
30 ~~any license issued by the board.~~

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

33 ~~2538.44. It is unlawful to purchase or procure by barter any~~  
34 ~~license issued by the board with intent to use the same as evidence~~  
35 ~~of the holder's qualification to practice the fitting or selling of~~  
36 ~~hearing aids.~~

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

39 ~~2538.45. It is unlawful to alter with fraudulent intent in any~~  
40 ~~material regard a license issued by the board.~~

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

3     ~~2538.46. It is unlawful to use or attempt to use any license~~  
4     ~~issued by the board that has been purchased, fraudulently issued,~~  
5     ~~counterfeited, or materially altered as a valid license.~~

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

8     ~~2538.47. It is unlawful to willfully make any false statement~~  
9     ~~in a material regard in an application for an examination before~~  
10    ~~the board for a license.~~

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

13    ~~2538.48. It is unlawful to engage in the practice of fitting or~~  
14    ~~selling hearing aids in this state without having at the time of so~~  
15    ~~doing a valid, unrevoked, and unexpired license or temporary~~  
16    ~~license.~~

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

19    2538.49. It is unlawful for a licensed hearing aid dispenser to  
20    fit or sell a hearing aid unless he or she first does all of the  
21    following:

22    (a) Complies with all provisions of state laws and regulations  
23    relating to the fitting or selling of hearing aids.

24    (b) Conducts a direct observation of the purchaser's ear canals.

25    (c) Informs the purchaser of the address and office hours at  
26    which the licensee hearing aid dispenser shall be available for  
27    fitting or postfitting adjustments and servicing of the hearing aid  
28    or aids sold.

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

31    ~~2538.50. It is unlawful to advertise by displaying a sign or~~  
32    ~~otherwise or hold himself or herself out to be a person engaged in~~  
33    ~~the practice of fitting or selling hearing aids without having at the~~  
34    ~~time of so doing a valid, unrevoked license or temporary license.~~

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

37    2538.51. It is unlawful to engage in the practice of fitting or  
38    selling hearing aids without the licensee hearing aid dispenser  
39    having and maintaining an established business address, routinely  
40    open for service to his or her clients.

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

3     2538.52. When tests are conducted by persons licensed hearing  
4     aid dispensers under this article in connection with the fitting and  
5     selling of hearing aids, the provisions of this article shall apply.

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

8     ~~2538.53. (a) A license issued under this article expires at~~  
9     ~~midnight on its assigned renewal date.~~

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

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

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

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

24    ~~2538.54. Except as otherwise provided in this article, an expired~~  
25    ~~license may be renewed at any time within three years after its~~  
26    ~~expiration on filing of an application for renewal on a form~~  
27    ~~prescribed by the board, and payment of all accrued and unpaid~~  
28    ~~renewal fees. If the license is renewed after its expiration the~~  
29    ~~licensee, as a condition precedent to renewal, shall also pay the~~  
30    ~~delinquency fee prescribed by this article. Renewal under this~~  
31    ~~section shall be effective on the date on which the application is~~  
32    ~~filed, on the date on which the renewal fee is paid, or on the date~~  
33    ~~on which the delinquency fee, if any, is paid, whichever last occurs.~~  
34    ~~If so renewed, the license shall continue in effect through the date~~  
35    ~~provided in Section 2538.53 which next occurs after the effective~~  
36    ~~date of the renewal, when it shall expire if it is not again renewed.~~

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

39    ~~2538.55. A license which has been suspended is subject to~~  
40    ~~expiration and shall be renewed as provided in this article but such~~

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

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

14 ~~2538.56.~~ A license that is not renewed within three years after  
15 its expiration may not be renewed, restored, reissued, or reinstated  
16 thereafter, but the holder of the expired license may apply for and  
17 obtain a new license if all of the following apply:

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

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

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

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

32 ~~2538.57.~~ The amount of fees and penalties prescribed by this  
33 article shall be those set forth in this section unless a lower fee is  
34 fixed by the board:

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



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

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

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

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

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

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

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

19 ~~(i) The fee for official certification of licensure is fifteen dollars~~  
20 ~~(\$15).~~

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

23 2539.1. (a) (1) On and after January 1, 2010, in addition to  
24 satisfying the licensure and examination requirements described  
25 in Sections 2532 and 2532.2, no licensed audiologist shall sell  
26 hearing aids unless he or she completes an application for a  
27 dispensing audiology license, pays all applicable fees, and passes  
28 an examination, approved by the board, relating to selling hearing  
29 aids.

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

32 ~~(b) (1) On and after January 1, 2010, a licensed audiologist~~  
33 ~~with an unexpired license to sell hearing aids pursuant to Article~~  
34 ~~8 (commencing with Section 2538.10) may continue to sell hearing~~  
35 ~~aids pursuant to that license until that license expires pursuant to~~  
36 ~~Section 2538.53, and upon that expiration the licensee shall be~~  
37 ~~deemed to have satisfied the requirements described in subdivision~~  
38 ~~(a) and may continue to sell hearing aids pursuant to his or her~~  
39 ~~audiology license subject to the provisions of this chapter. Upon~~  
40 ~~the expiration of the audiologist's license to sell hearing aids, the~~

1 board shall issue him or her a dispensing audiology license pursuant  
2 to paragraph (2) of subdivision (a). This paragraph shall not prevent  
3 an audiologist who also has a hearing aid dispenser's license from  
4 maintaining dual or separate licenses if he or she chooses to do  
5 so.

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

12 (c)

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

17 (d)

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

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

27 6980. The following terms as used in this chapter have the  
28 meaning expressed in this article:

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

38 (b)

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

- 1     ~~(e)~~  
2     (b) "Chief" means the Chief of the Bureau of Security and  
3     Investigative Services.  
4     ~~(d)~~  
5     (c) "Department" means the Department of Consumer Affairs.  
6     ~~(e)~~  
7     (d) "Director" means the Director of the Department of  
8     Consumer Affairs.  
9     ~~(f)~~  
10    (e) "Employer" means a person who employs an individual for  
11    wages or salary, lists the individual on the employer's payroll  
12    records, and withholds all legally required deductions and  
13    contributions.  
14    ~~(g)~~  
15    (f) "Employee" means an individual who works for an employer,  
16    is listed on the employer's payroll records, and is under the  
17    employer's direction and control. An independent contractor is  
18    not an employee pursuant to this chapter.  
19    ~~(h)~~  
20    (g) "Employer-employee relationship" means an individual who  
21    works for another and where the individual's name appears on the  
22    payroll records of the employer.  
23    ~~(i) "Licensee" means a business entity, whether an individual,~~  
24    ~~partnership, or corporation, licensed under this chapter.~~  
25    ~~(j)~~  
26    (h) "Locksmith" means any person who, for any consideration  
27    or compensation whatsoever, engages, directly or indirectly and  
28    as a primary or secondary object, in the business of rekeying,  
29    installing, repairing, opening, modifying locks, or who originates  
30    keys for locks, including, but not limited to, electronic cloning of  
31    transponder keys and any other electronic programming of  
32    automotive keys and electronic operating devices, such as key  
33    fobs, door and ignition key devices, and successive electronic and  
34    other high-security key technology. *A locksmith may be a business*  
35    *entity, whether an individual, partnership, or corporation. A*  
36    "locksmith" does not mean a person whose activities are limited  
37    to making a duplicate key from an existing key.  
38    ~~(k)~~  
39    (i) "Person" means any individual, firm, company, association,  
40    organization, partnership, or corporation.

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

3 ~~(m)~~

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

9 ~~(n)~~

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

12 ~~(o)~~

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

17 ~~(p)~~

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

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

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

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

32 ~~(q)~~

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

35 ~~(r)~~

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

38 (1) Bottom pins.

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

40 (3) Springs.



1 (4) Plug follower.

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

4 (s)

5 (p) "Locksmith tool" means (1) any tool designed for the  
6 purpose of opening, bypassing, altering, rekeying, servicing, or  
7 repairing any lock, or (2) any burglar tool, as described in Section  
8 466 of the Penal Code.

9 (t)

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

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

16 ~~6980.4. The chief shall gather evidence of violations of this~~  
17 ~~chapter and of any rule or regulation established under this chapter~~  
18 ~~by unlicensed persons who engage in a business for which a license~~  
19 ~~is required under this chapter, and shall furnish the evidence to~~  
20 ~~prosecuting officers of any county, city, or city and county for the~~  
21 ~~purpose of prosecuting those violations.~~

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

24 ~~6980.7. (a) The director may adopt and enforce rules and~~  
25 ~~regulations as may be reasonable and necessary for issuing licenses~~  
26 ~~to applicants, for the conduct of the licensees, or for the general~~  
27 ~~enforcement of this chapter in the protection of the public.~~

28 ~~(b) These rules and regulations shall be adopted in accordance~~  
29 ~~with the provisions of Chapter 3.5 (commencing with Section~~  
30 ~~11340) of Part 1 of Division 3 of Title 2 of the Government Code.~~

31 ~~SEC. 4.~~

32 *SEC. 50. Section 6980.10 of the Business and Professions Code*  
33 *is repealed.*

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

36 6980.12. This chapter does not apply to the following persons:

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

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

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

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

12 (e) (1) A person registered with the bureau pursuant to Chapter  
13 11 (commencing with Section 7500) if the duties of that person's  
14 position that constitute locksmithing are ancillary to the primary  
15 duties and functions of that person's position.

16 (2) A person licensed, certified, or registered pursuant to Chapter  
17 11.6 (commencing with Section 7590) if the duties of that person's  
18 position that constitute locksmithing are performed in combination  
19 with the installation, maintenance, moving, repairing, replacing,  
20 servicing, or reconfiguration of an alarm system, as defined in  
21 subdivision (n) of Section 7590.1, and limited to work on electronic  
22 locks or access control devices that are controlled by an alarm  
23 system control device, including the removal of existing hardware.

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

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

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

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

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

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

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

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

10 (A) Standard key duplication machines.

11 (B) Key blanks.

12 (C) Pin kits.

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

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

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

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

26 6980.13. (a) Any person who violates any provision of this  
27 chapter, or who conspires with another person to violate any  
28 provision of this chapter, or who knowingly engages a nonexempt  
29 ~~or unlicensed~~ locksmith after being notified in writing by the  
30 bureau of the individual's ~~unlicensed~~ status with the bureau, is  
31 guilty of a misdemeanor, punishable by a fine of ten thousand  
32 dollars (\$10,000), or by imprisonment in a county jail for not more  
33 than one year, or by both that fine and imprisonment, except as  
34 otherwise provided in this chapter.

35 (b) A proceeding to impose the fine specified in subdivision (a)  
36 may be brought in any court of competent jurisdiction in the name  
37 of the people of the State of California by the Attorney General  
38 or by any district attorney or city attorney, or with the consent of  
39 the district attorney, the city prosecutor in any city or city and  
40 county having a full-time city prosecutor for the jurisdiction in

1 which the violation occurred. If the action is brought by the district  
2 attorney, the penalty collected shall be paid to the treasurer of the  
3 county in which the judgment is entered. If the action is brought  
4 by a city attorney or city prosecutor, one-half of the penalty  
5 collected shall be paid to the treasurer of the city in which the  
6 judgment was entered and one-half to the treasurer of the county  
7 in which the judgment was entered. If the action is brought by the  
8 Attorney General, all of the penalty collected shall be deposited  
9 in the Private Security Services Fund.

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

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

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

21 6980.14. (a) The superior court in and for the county where  
22 any person has engaged or is about to engage in any act that  
23 constitutes a violation of this chapter, ~~or where any person engages~~  
24 ~~in the business of a locksmith after the revocation or expiration of~~  
25 ~~any license or during the period of suspension of any license;~~  
26 ~~chapter,~~ may, upon application of the chief or any person licensed  
27 locksmith under these provisions or any association representing  
28 those licensees locksmiths or any member of the general public,  
29 issue an injunction or other appropriate order restraining this  
30 conduct and may impose civil fines not exceeding ten thousand  
31 dollars (\$10,000). The proceedings under this section shall be  
32 governed by Chapter 3 (commencing with Section 525) of Title 7  
33 of Part 2 of the Code of Civil Procedure, except that there shall be  
34 no requirement to allege facts necessary to show or tending to  
35 show lack of adequate remedy at law or irreparable injury.

36 (b) During the period of revocation, expiration, or suspension,  
37 any business telephone number used to conduct, direct, operate,  
38 dispatch, manage, or utilize an ~~illegal, nonexempt, or unlicensed~~  
39 ~~illegal or nonexempt~~ locksmith business, locksmith service, service



1 provider, or related activity, may be disconnected by ruling of the  
2 chief.

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

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

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

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

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

32 6980.15. No person engaged in performing any *locksmith*  
33 ~~service requiring a license under this chapter~~ may bring or maintain  
34 any action in any court of this state for the collection of  
35 compensation for the performance of any act or agreement, without  
36 alleging and proving, that the person was ~~duly licensed a locksmith~~  
37 at all times during the performance of the act or agreement.

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

1     ~~6980.17. (a) An application for a locksmith license shall be~~  
2     ~~made in writing to, and filed with, the chief in the form as may be~~  
3     ~~required by the director, and shall be accompanied by the~~  
4     ~~application fee prescribed by this chapter. The chief may require~~  
5     ~~the submission of any other relevant information, evidence,~~  
6     ~~statements, or documents.~~

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

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

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

20    ~~SEC. 56. Section 6980.19 of the Business and Professions Code~~  
21    ~~is repealed.~~

22    ~~6980.19. If the applicant for a license is an individual, the~~  
23    ~~application shall state the full name of the individual, the full~~  
24    ~~residence address of the applicant, and that the applicant is to be~~  
25    ~~personally and actively in charge of the business for which the~~  
26    ~~license is sought. The application shall be subscribed, verified,~~  
27    ~~and signed by the applicant, under penalty of perjury.~~

28    ~~SEC. 57. Section 6980.20 of the Business and Professions Code~~  
29    ~~is repealed.~~

30    ~~6980.20. If the applicant for a license is a partnership, the~~  
31    ~~application shall state the true names and addresses of all the~~  
32    ~~general partners and the name of the partner to be actively in charge~~  
33    ~~of the business for which the license is sought. The application~~  
34    ~~shall be subscribed, verified, and signed under penalty of perjury~~  
35    ~~by all of the general partners.~~

36    ~~SEC. 58. Section 6980.21 of the Business and Professions Code~~  
37    ~~is repealed.~~

38    ~~6980.21. (a) If the applicant for a license is a corporation, the~~  
39    ~~application shall state the true names and complete residence~~  
40    ~~addresses of the chief executive officer, secretary, chief financial~~

1 officer, and any other corporate officer who will be active in the  
2 business to be licensed. The corporation identification number  
3 issued by the Secretary of State shall be indicated on the  
4 application. The application shall also state the name and address  
5 of a designated person to be actively in charge of the business for  
6 which the license is sought. The application shall be subscribed,  
7 verified, and signed by a duly authorized officer of the applicant  
8 under penalty of perjury.

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

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

16 6980.22. No new or original license shall be issued to any  
17 applicant pending final disposition of any disciplinary action  
18 previously filed against the person or applicant or partner, or officer  
19 of the applicant, or pending final disposition of any disciplinary  
20 action related to the locksmith business previously filed in another  
21 state against the person or applicant or partner, or officer of the  
22 applicant.

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

25 6980.24. The director shall issue a license, the form and content  
26 of which shall be determined in accordance with Section 164. In  
27 addition, the director shall issue a "Certificate of Licensure" to  
28 any licensee, upon request, with the fee prescribed in this chapter.  
29 A "Certificate of Licensure" shall include an embossed seal of the  
30 State of California and the signature of the chief or his or her  
31 designated representative.

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

34 6980.26. (a) Each locksmith license, together with the current  
35 renewal certificate, if any, shall at all times be conspicuously  
36 displayed at the place of business, each branch office, and in each  
37 mobile service vehicle for which the license is issued.

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

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

3     ~~6980.27. Every locksmith license shall expire at 12 midnight~~  
4     ~~of the last day of the month two years following the date of~~  
5     ~~issuance unless renewed; provided however, that the bureau may~~  
6     ~~establish procedures, pursuant to Sections 152.5 and 152.6, for the~~  
7     ~~administration of a staggered license renewal program. To renew~~  
8     ~~an unexpired license or registration, the licensee shall apply for~~  
9     ~~renewal on a form prescribed by the director, pay any and all fines~~  
10    ~~assessed by the chief or the director which are not pending appeal,~~  
11    ~~and pay the renewal fee prescribed by this chapter. On renewal,~~  
12    ~~such evidence of renewal of the license or registration as the~~  
13    ~~director may prescribe shall be issued to the licensee. The bureau~~  
14    ~~shall send to each licensee a notice of renewal at least 45 calendar~~  
15    ~~days prior to the expiration of each unexpired license.~~

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

18    ~~6980.28. A locksmith license not renewed within three years~~  
19    ~~following its expiration may not be renewed thereafter. Renewal~~  
20    ~~of the license within three years, or issuance of an original license~~  
21    ~~thereafter, shall be subject to payment of any and all fines assessed~~  
22    ~~by the chief or the director which are not pending appeal and all~~  
23    ~~other applicable fees.~~

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

26    ~~6980.29. A suspended locksmith license is subject to expiration~~  
27    ~~and shall be renewed as provided in this article, but renewal of the~~  
28    ~~license does not entitle the licensee, while the license remains~~  
29    ~~suspended and until it is reinstated, to engage in the licensed~~  
30    ~~activity, or in any other activity or conduct in violation of the order~~  
31    ~~or judgment by which the license was suspended. The bureau shall~~  
32    ~~not issue a license renewal certificate on a suspended license until~~  
33    ~~the period of suspension has terminated.~~

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

36    ~~6980.30. A locksmith whose license has been canceled pursuant~~  
37    ~~to this article, may obtain a new license only upon compliance~~  
38    ~~with all of the provisions of this chapter relating to the issuance~~  
39    ~~of an initial license.~~



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

3     ~~6980.31. No license issued pursuant to this chapter shall be~~  
4     ~~transferred to another person.~~

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

7     ~~6980.32. Every licensee shall notify the bureau, in writing,~~  
8     ~~within 30 days, of any change of residence or business address.~~

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

11    6980.33. A licensee, locksmith, or a partner or officer of a  
12    licensee, locksmith, shall carry a valid pocket identification card,  
13    issued by the bureau pursuant to Section 6980.23, and either a  
14    valid driver's license issued pursuant to Section 12811 of the  
15    Vehicle Code or a valid identification card issued pursuant to  
16    Section 13000 of the Vehicle Code, at all times the licensee,  
17    locksmith, or partner or officer, is engaged in the work of a  
18    locksmith, as defined in this chapter, whether on or off the premises  
19    of the licensee's locksmith's place of business. Every person, while  
20    engaged in any locksmith activity for which licensure is required,  
21    shall display his or her valid pocket card, and driver's license or  
22    identification card, as provided by regulation.

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

25    ~~6980.34. (a) Every application for a locksmith license in which~~  
26    ~~the person applying desires to have the license issued under a~~  
27    ~~fictitious business name shall include a certified copy of the~~  
28    ~~fictitious business name statement filed with the county clerk~~  
29    ~~pursuant to Chapter 5 (commencing with Section 17900) of Part~~  
30    ~~3 of Division 7.~~

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

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

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

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

3     ~~6980.35. A locksmith desiring to operate a locksmith business~~  
4     ~~at a location other than the principal place of business shall apply~~  
5     ~~for a branch office registration for each additional location as set~~  
6     ~~forth in this chapter.~~

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

9     ~~6980.37. A locksmith who maintains or proposes to maintain~~  
10    ~~a branch office as defined in this article, shall apply and qualify~~  
11    ~~for a branch office registration.~~

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

14    ~~6980.38. An application for a branch office registration under~~  
15    ~~this article shall be on a form prescribed by the director and shall~~  
16    ~~be accompanied by the fee as set forth in this chapter.~~

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

19    ~~6980.39. An application for a branch office registration shall~~  
20    ~~include:~~

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

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

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

27    ~~6980.40. Upon receipt of the application for a branch office~~  
28    ~~registration, the chief shall issue a "Branch Office Registration."~~  
29    ~~The registration shall be posted in a conspicuous place at the branch~~  
30    ~~office location.~~

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

33    ~~6980.41. Every branch office registration issued under this~~  
34    ~~chapter shall be subject to the same renewal provisions which~~  
35    ~~apply to a license as provided in this chapter.~~

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

38    6980.42. (a) Within seven days after commencing employment,  
39    any employee of a locksmith who is not currently registered with  
40    the bureau and who is performing the services of a locksmith shall

1 submit to the bureau a completed application for registration; two  
2 classifiable fingerprint cards, one set of which shall be forwarded  
3 to the Federal Bureau of Investigation for purposes of a background  
4 check, and the appropriate registration fee. *check*. No application  
5 is required to be submitted if the employee terminated employment  
6 within seven days. "Within seven days" means 168 hours from  
7 the time an employee provides any service for which he or she  
8 shall be compensated by a licensee. *locksmith*.

9 ~~(b) Except as provided in subdivision (c), an employee of a~~  
10 ~~licensee may be assigned to work with a temporary registration~~  
11 ~~card issued by the licensee until the bureau issues a registration~~  
12 ~~card or denies the application for registration. A temporary~~  
13 ~~registration card shall in no event be valid for more than 120 days.~~  
14 ~~However, the director may extend the expiration date beyond the~~  
15 ~~120 days if there is an abnormal delay in processing applications~~  
16 ~~for locksmith employees. For purposes of this section, the 120-day~~  
17 ~~period shall commence on the date the applicant signs the~~  
18 ~~application.~~

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

28 ~~(d)~~

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

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

35 6980.44. The application shall be verified and shall include  
36 the following:

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

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

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

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

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

7 6980.47. If the director determines that continued employment  
8 of an ~~applicant or registrant~~, *employee*, in his or her current  
9 capacity, may present an undue hazard to public safety, the  
10 ~~licensee~~, *locksmith*, upon proper notification from the director,  
11 shall suspend the ~~applicant or registrant employee~~ from  
12 employment in that capacity.

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

15 6980.48. (a) Upon determining that the applicant is qualified  
16 for registration pursuant to this chapter, the bureau shall issue a  
17 pocket registration card to the employee. The applicant may request  
18 to be issued an enhanced pocket card that shall be composed of  
19 durable material and may incorporate technologically advanced  
20 security features. The bureau may charge a fee sufficient to  
21 reimburse the department for costs for furnishing the enhanced  
22 pocket card. The fee charged may not exceed the actual cost for  
23 system development, maintenance, and processing necessary to  
24 provide the service, and may not exceed six dollars (\$6). If the  
25 applicant does not request an enhanced card, the department shall  
26 issue a standard card at no cost to the applicant.

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

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

39 ~~6980.49. A licensee shall at all times be responsible for~~  
40 ~~ascertaining that his or her employees subject to registration are~~



1 currently registered or have made proper application for registration  
2 as provided in this article. The licensee shall not have in his or her  
3 employment a person performing the services of a locksmith whose  
4 registration has expired, or been revoked, denied, suspended, or  
5 canceled.

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

8 ~~6980.50. (a) All registrations shall be placed on a cyclical~~  
9 ~~renewal and shall expire two years following the date of issuance~~  
10 ~~or assigned renewal date.~~

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

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

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

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

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

35 6980.53. A locksmith licensed by the bureau shall be subject  
36 to the provisions of Sections 466.6 and 466.8 of the Penal Code  
37 requiring verification of identification of clients and maintenance  
38 of work orders containing required client information. A copy of  
39 each work order completed pursuant to Sections 466.6 and 466.8  
40 of the Penal Code shall be retained for two years, shall include the

1 name and license number of the locksmith performing the service,  
2 and shall be open to inspection by the bureau or any peace officer  
3 during business hours or submitted to the bureau upon request.

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

6 6980.54. (a) A locksmith ~~licensed by the bureau~~ shall be  
7 subject to the provisions of Section 466.6 of the Penal Code, and  
8 shall be able to duplicate any key for any vehicle from another  
9 key.

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

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

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

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

23 6980.55. (a) Any locksmith who knowingly and willfully  
24 opens any residence, or commercial establishment for another by  
25 any method involving an on-site inspection of a door or entrance,  
26 whether or not for compensation, shall obtain the street address of  
27 the residence or commercial establishment, and the signature of  
28 the person for whom the residence or commercial establishment  
29 was opened on a work order form. The following information  
30 regarding the person requesting entry to the residence or  
31 commercial property shall be recorded on a work order form:

32 (1) Name.

33 (2) Address.

34 (3) Telephone Number.

35 (4) Date of Birth.

36 (5) Driver's license or identification number. A copy of each  
37 work order form shall be retained for two years, shall include the  
38 name and license number of the locksmith performing the service,  
39 and shall be open for inspection by any peace officer or by the

1 bureau during business hours or submitted to the bureau upon  
2 request.

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

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

19 6980.58. A licensee *locksmith* shall at all times be responsible  
20 for those actions of his or her employees performed in violation  
21 of this chapter, when acting within the course and scope of his or  
22 her employment.

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

25 ~~6980.59. (a) A licensee shall notify the bureau within 30 days~~  
26 ~~of any change of its officers required to be named pursuant to~~  
27 ~~Section 6980.21 and of the addition of any new partners.~~  
28 ~~Applications, on forms prescribed by the director, shall be~~  
29 ~~submitted by all new officers and partners. The director may deny~~  
30 ~~the application of a new officer or partner if the director determines~~  
31 ~~that the officer or partner has committed any act which constitutes~~  
32 ~~grounds for the denial of a license pursuant to Section 6980.71.~~

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

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

38 ~~6980.60. No licensee or employee shall conduct business from~~  
39 ~~any location other than the location for which a license or branch~~  
40 ~~office registration was issued.~~

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

3     ~~6980.61. No licensee shall conduct a business as an individual,~~  
4     ~~partnership, or corporation, unless the licensee holds a valid license~~  
5     ~~issued to the same individual, partnership, or corporation.~~

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

8     6980.62. (a) Each licensee *locksmith* shall maintain a file or  
9     record containing the name, address, commencing date of  
10    employment, and position of each employee, and the date of  
11    termination of employment when an employee is terminated. The  
12    files and records, together with usual payroll records, shall be  
13    available for inspection by the bureau, and copies thereof and  
14    information pertaining thereto or contained therein shall be  
15    submitted to the bureau upon written request.

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

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

21    ~~6980.63. Within seven days, each locksmith shall verify proof~~  
22    ~~of current and valid registration issued by the bureau for each~~  
23    ~~employee who is subject to registration, or shall require an~~  
24    ~~employee to complete and submit an application for registration,~~  
25    ~~pursuant to Section 6980.42, after employing an individual who~~  
26    ~~does not possess a current and valid registration from the bureau.~~

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

29    6980.64. (a) Every advertisement by a licensee *locksmith*  
30    soliciting or advertising business shall contain his or her business  
31    name, business address, or business telephone number, and license  
32    number as they appear in the records of the bureau: *number.*

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

37    (c) The director may assess a fine of five hundred dollars (\$500)  
38    for the first violation of this section and one thousand dollars  
39    (\$1,000) for each subsequent violation. These fines shall be  
40    deposited in the Private Security Services Fund.



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

3     ~~6980.65. No licensee or person shall aid and abet an unlicensed~~  
4     ~~or nonexempt locksmith in any activity for which a license is~~  
5     ~~required. For purposes of this section, to aid or abet includes, but~~  
6     ~~is not limited to, the falsification of documents or facilitation of~~  
7     ~~the acquisition of locksmith tools. Any licensee or person found~~  
8     ~~in violation of this section shall be subject to Section 6980.14. A~~  
9     ~~person shall not be subject to this section if he or she reasonably~~  
10    ~~relied on a copy of a license, registration, pocket registration, or~~  
11    ~~pocket identification card.~~

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

14    6980.68. No licensee *locksmith* shall willfully or deliberately  
15    disregard any building or safety laws of the state or any political  
16    subdivision thereof.

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

19    6980.69. No licensee *locksmith* shall fail in any material respect  
20    to complete the installation, repair, opening, or modification of a  
21    lock for the price stated in the contract for services.

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

24    ~~6980.71. (a) The director may deny a license or registration~~  
25    ~~regulated by this chapter on the grounds that the applicant has done~~  
26    ~~any of the following:~~

27    ~~(1) Knowingly made a false statement of fact required to be~~  
28    ~~revealed in the application for a license;~~

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

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

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

3 ~~(5) Been refused a license under this chapter or had a license~~  
4 ~~revoked:~~

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

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

12 ~~(c) The denial of a license or registration shall be in writing and~~  
13 ~~shall describe the basis for the denial. The denial shall inform the~~  
14 ~~applicant that if he or she desires a hearing in accordance with~~  
15 ~~Chapter 5 (commencing with Section 11500) of Part 1 of Division~~  
16 ~~3 of Title 2 of the Government Code, the review shall be requested~~  
17 ~~within 30 days of the issuance of the denial:~~

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

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

28 ~~6980.72. (a) When considering the denial, suspension, or~~  
29 ~~revocation of a license or registration for which application has~~  
30 ~~been made under this chapter, the chief, in evaluating the~~  
31 ~~rehabilitation of the applicant and his or her present eligibility for~~  
32 ~~a license or registration, shall consider all the following criteria:~~

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

35 ~~(2) The applicant's total criminal record:~~

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

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

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

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

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

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

13 ~~6980.73. (a) The license or registration of a locksmith shall~~  
14 ~~be automatically suspended if the locksmith is convicted of any~~  
15 ~~crime which is substantially related to the functions, duties, and~~  
16 ~~responsibilities of a locksmith. The automatic suspension shall be~~  
17 ~~effectuated by the mailing of a notice of conviction and suspension~~  
18 ~~of license to be sent by the bureau to the licensee at his or her~~  
19 ~~address of record.~~

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

24 ~~(c) In enacting this section, the Legislature finds and declares~~  
25 ~~that locksmiths convicted of crimes reasonably related to the~~  
26 ~~functions, duties, and responsibilities of a locksmith shall be subject~~  
27 ~~to automatic suspension of their license and that summary~~  
28 ~~suspension is justified by compelling state interests of public safety~~  
29 ~~and security within the meaning of the California Supreme Court's~~  
30 ~~decision in Eye Dog Foundation v. State Board of Guide Dogs for~~  
31 ~~the Blind, 67 Cal. 2d 536.~~

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

34 ~~6980.74. (a) The bureau may suspend or revoke a license~~  
35 ~~issued pursuant to this chapter for acts including, but not limited~~  
36 ~~to, any of the following acts which shall also be unlawful:~~

37 ~~(1) Misrepresentation or concealment of a material fact in a~~  
38 ~~license application.~~

39 ~~(2) Interference with authorized personnel engaged in the~~  
40 ~~enforcement or administration of this chapter.~~

1     ~~(3) Knowingly using or permitting the use of any of his or her~~  
2     ~~skills, tools, or facilities for the commission of any crime.~~

3     ~~(4) Conviction of a crime substantially related to the~~  
4     ~~qualifications, functions, or duties of a locksmith.~~

5     ~~(5) A violation of this chapter or the rules and regulations~~  
6     ~~adopted under the authority of this chapter.~~

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

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

13    ~~6980.76. The proceedings of the bureau to deny a license~~  
14    ~~application, or to revoke or suspend a license, shall be conducted~~  
15    ~~in accordance with Chapter 5 (commencing with Section 11500)~~  
16    ~~of Part 1 of Division 3 of the Government Code.~~

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

19    ~~6980.79. The fees prescribed by this chapter are those fixed in~~  
20    ~~the following schedule:~~

21    ~~(a) A locksmith license application fee may not exceed thirty~~  
22    ~~dollars (\$30).~~

23    ~~(b) An original license and renewal fee for a locksmith license~~  
24    ~~may not exceed forty-five dollars (\$45).~~

25    ~~(c) A branch office registration fee and branch office renewal~~  
26    ~~fee may not exceed thirty-five dollars (\$35).~~

27    ~~(d) Notwithstanding Section 163.5, the reinstatement fee as~~  
28    ~~required by Section 6980.28 is the amount equal to the renewal~~  
29    ~~fee plus a penalty of 50 percent thereof.~~

30    ~~(e) An initial registration fee for an employee may not exceed~~  
31    ~~twenty dollars (\$20).~~

32    ~~(f) A registration renewal fee for an employee performing the~~  
33    ~~services of a locksmith may not exceed twenty dollars (\$20).~~

34    ~~(g) The fingerprint processing fee is that amount charged the~~  
35    ~~bureau by the Department of Justice.~~

36    ~~(h) All applicants seeking a license pursuant to this chapter shall~~  
37    ~~also remit to the bureau the fingerprint fee that is charged to the~~  
38    ~~bureau by the Department of Justice.~~

39    ~~(i) The fee for a "Certificate of Licensure" may not exceed~~  
40    ~~twenty dollars (\$20).~~



1 ~~(j) A delinquency fee is the amount equal to the renewal fee~~  
2 ~~plus a penalty of 50 percent thereof.~~

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

5 ~~6980.80. The initial application fee is considered an earned fee~~  
6 ~~at the time an application for a license is received by the bureau.~~  
7 ~~No refund shall be made to the applicant in the event that the~~  
8 ~~applicant is found to lack the required qualifications, or is otherwise~~  
9 ~~denied a license pursuant to this chapter.~~

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

12 6980.82. The director shall furnish one copy of the licensing  
13 law ~~this chapter~~ and rules and regulations to any applicant or  
14 licensee ~~locksmith~~ without charge. The director shall charge and  
15 collect a fee equivalent to the cost of producing such laws, rules  
16 and regulations, manuals, or guides, plus sales tax for each  
17 additional copy which may be furnished on request to any applicant  
18 ~~or licensee, locksmith~~, and for each copy furnished on request to  
19 any other person. All moneys derived pursuant to this section,  
20 except for any sales tax collected, shall be used to cover the costs  
21 of producing copies of these laws, rules and regulations, manuals,  
22 or guides. All moneys collected for sales tax shall be remitted to  
23 the State Board of Equalization.

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

26 ~~6980.83. Application or licensee fees shall not be refunded~~  
27 ~~except in accordance with Section 158.~~

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

30 ~~6980.84. (a) There shall be a separate budget and expenditure~~  
31 ~~statement, and a separate revenue statement, outlining all moneys~~  
32 ~~derived from, and expended for, the licensing and regulation of~~  
33 ~~locksmiths and registrants in accordance with the provisions of~~  
34 ~~this chapter.~~

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

1 ~~derived from the licensing of locksmiths and registrants to an~~  
2 ~~amount less than the moneys expended for the regulation of~~  
3 ~~locksmiths and registrants for the next two fiscal years.~~

4 ~~SEC. 5.~~

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

7 7048.5. This chapter does not apply to any work or operation  
8 by a C-27 landscaping contractor or D-49 tree service contractor  
9 on one undertaking or project by one or more contracts, the  
10 aggregate contract price which for labor, materials, and all other  
11 items is less than ~~twenty-five thousand dollars (\$25,000).~~ *five*  
12 *thousand dollars (\$5,000).*

13 ~~SEC. 6.~~

14 SEC. 106. Section 7316 of the Business and Professions Code  
15 is amended to read:

16 7316. (a) The practice of barbering is all or any combination  
17 of the following practices:

18 (1) Shaving or trimming the beard or cutting the hair.

19 (2) Giving facial and scalp massages or treatments with oils,  
20 creams, lotions, or other preparations either by hand or mechanical  
21 appliances.

22 (3) Singeing, shampooing, arranging, dressing, curling, waving,  
23 chemical waving, hair relaxing, or dyeing the hair or applying hair  
24 tonics.

25 (4) Applying cosmetic preparations, antiseptics, powders, oils,  
26 clays, or lotions to scalp, face, or neck.

27 (5) Hairstyling of all textures of hair by standard methods that  
28 are current at the time of the hairstyling.

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

31 (1) Arranging, dressing, curling, waving, machineless permanent  
32 waving, permanent waving, cleansing, cutting, shampooing,  
33 relaxing, singeing, bleaching, tinting, coloring, straightening,  
34 dyeing, applying hair tonics to, beautifying, or otherwise treating  
35 by any means, the hair of any person.

36 (2) Massaging, cleaning, or stimulating the scalp, face, neck,  
37 arms, or upper part of the human body, by means of the hands,  
38 devices, apparatus or appliances, with or without the use of  
39 cosmetic preparations, antiseptics, tonics, lotions, or creams.

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

4 (4) Removing superfluous hair from the body of any person by  
5 the use of depilatories or by the use of tweezers, chemicals, or  
6 preparations or by the use of devices or appliances of any kind or  
7 description, except by the use of light waves, commonly known  
8 as rays.

9 (5) Cutting, trimming, polishing, tinting, coloring, cleansing,  
10 or manicuring the nails of any person.

11 (6) Massaging, cleansing, treating, or beautifying the hands or  
12 feet of any person.

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

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

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

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

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

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

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

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

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

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

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

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

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

17 ~~SEC. 7.~~

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

20 7317. Except as provided in this article, it is unlawful for any  
21 person, firm, or corporation to engage in cosmetology, or  
22 electrolysis for compensation without a valid, unexpired license  
23 issued by the board, or in an establishment or mobile unit other  
24 than one licensed by the board, or conduct or operate an  
25 establishment, or any other place of business in which ~~barbering,~~  
26 ~~cosmetology,~~ *cosmetology* or electrolysis is practiced unless  
27 licensed under this chapter. Persons licensed under this chapter  
28 shall limit their practice and services rendered to the public to only  
29 those areas for which they are licensed. Any violation of this  
30 section is subject to an administrative fine and may be subject to  
31 a misdemeanor.

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

34 7321. The board shall admit to examination for a license as a  
35 cosmetologist to practice cosmetology any person who has made  
36 application to the board in proper form, paid the fee required by  
37 this chapter, and is qualified as follows:

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

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



- 1 (c) Is not subject to denial pursuant to Section 480.
- 2 (d) Has done any of the following:
- 3 (1) Completed a course in cosmetology from a school approved
- 4 by the board.
- 5 (2) Practiced cosmetology as defined in this chapter outside of
- 6 this state for a period of time equivalent to the study and training
- 7 of a qualified person who has completed a course in cosmetology
- 8 from a school the curriculum of which complied with requirements
- 9 adopted by the board. Each three months of practice shall be
- 10 deemed the equivalent of 100 hours of training for qualification
- 11 under paragraph (1) of this subdivision.
- 12 (3) ~~Holds a license as a barber in this state and has~~ Has
- 13 completed a cosmetology crossover course in a school approved
- 14 by the board.
- 15 (4) Completed a barbering course in a school approved by the
- 16 board and has completed a cosmetology crossover course in a
- 17 school approved by the board.
- 18 (5) Completed the apprenticeship program in cosmetology
- 19 specified in Article 4 (commencing with Section 7332).
- 20 *SEC. 109. Section 7321.5 of the Business and Professions Code*
- 21 *is repealed.*
- 22 ~~7321.5. The board shall admit to examination for a license as~~
- 23 ~~a barber to practice barbering, any person who has made application~~
- 24 ~~to the board in proper form, paid the fee required by this chapter,~~
- 25 ~~and is qualified as follows:~~
- 26 ~~(a) Is not less than 17 years of age.~~
- 27 ~~(b) Has completed the 10th grade in the public schools of this~~
- 28 ~~state or its equivalent.~~
- 29 ~~(c) Is not subject to denial pursuant to Section 480.~~
- 30 ~~(d) Has done any of the following:~~
- 31 ~~(1) Completed a course in barbering from a school approved~~
- 32 ~~by the board.~~
- 33 ~~(2) Completed an apprenticeship program in barbering approved~~
- 34 ~~by the board as conducted under the provisions of the~~
- 35 ~~Shelley-Maloney Apprentice Labor Standards Act of 1939, Chapter~~
- 36 ~~4 (commencing with Section 3070) of Division 3 of the Labor~~
- 37 ~~Code.~~
- 38 ~~(3) Practiced barbering as defined in this chapter outside of this~~
- 39 ~~state for a period of time equivalent to the study and training of a~~
- 40 ~~qualified person who has completed a course in barbering from a~~

1 ~~school the curriculum of which complied with requirements~~  
2 ~~adopted by the board. Each three months of practice shall be~~  
3 ~~deemed the equivalent of 100 hours of training for qualification~~  
4 ~~under paragraph (1).~~

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

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

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

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

16 7334. (a) The board may license as an apprentice in ~~barbering,~~  
17 cosmetology, skin care, or nail care any person who has made  
18 application to the board upon the proper form, has paid the fee  
19 required by this chapter, and who is qualified as follows:

20 (1) Is over 16 years of age.

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

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

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

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

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

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

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

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

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

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

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

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

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

19 7396. The form and content of a license issued by the board  
20 shall be determined in accordance with Section 164.

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

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

26 7403. (a) Notwithstanding any other provision of law, the  
27 board may revoke, suspend, or deny at any time any license  
28 required by this chapter on any of the grounds for disciplinary  
29 action provided in this article. The proceedings under this article  
30 shall be conducted in accordance with Chapter 5 (commencing  
31 with Section 11500) of Part 1 of Division 3 of Title 2 of the  
32 Government Code, and the board shall have all the powers granted  
33 therein.

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

36 (c) In addition to the requirements provided in Sections 485 and  
37 486, upon denying a license to an applicant, the board shall provide  
38 a statement of reasons for the denial that does the following:

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

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

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

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

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

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

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

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

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

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

35 (f) In any case in which the administrative law judge  
36 recommends that the board revoke, suspend, or deny a license, the  
37 administrative law judge may, upon presentation of suitable proof,  
38 order the licensee to pay the board the reasonable costs of the  
39 investigation and adjudication of the case. For purposes of this  
40 section, "costs" include charges by the board for investigating the



1 case, charges incurred by the office of the Attorney General for  
2 investigating and presenting the case, and charges incurred by the  
3 Office of Administrative Hearings for hearing the case and issuing  
4 a proposed decision.

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

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

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

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

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

24 7423. The amounts of the fees required by this chapter relating  
25 to licenses for individual practitioners are as follows:

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

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

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

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

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

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

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

4 ~~(2) A barber initial license fee shall be not more than fifty dollars~~  
5 ~~(\$50).~~

6 ~~(e)~~

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

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

12 ~~(f)~~

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

15 ~~(g)~~

16 (f) The license renewal fee for individual practitioner licenses  
17 that are subject to renewal shall be not more than fifty dollars  
18 (\$50).

19 ~~(h)~~

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

23 ~~(i)~~

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

27 ~~SEC. 8.~~

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

30 7533. Each licensee shall file with the bureau the complete  
31 address of his or her principal place of business including the name  
32 and number of the street, or, if the street where the business is  
33 located is not numbered, the number of the post office box. The  
34 director may require the filing of other information for the purpose  
35 of identifying the principal place of business. A California office  
36 is not required to comply with this section.

37 ~~SEC. 9.~~

38 *SEC. 115.* Section 7672 of the Business and Professions Code  
39 is repealed.

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

3     ~~7672.1. (a) Registration shall be on the form prescribed by the~~  
4     ~~bureau and shall include, but not be limited to, the full name of~~  
5     ~~the registrant, business and residence addresses, description and~~  
6     ~~identification of aircraft or boats which may be used in dispensing~~  
7     ~~cremated human remains, and the area to be served. Each~~  
8     ~~registration application shall be accompanied by the cremated~~  
9     ~~remains disposer fee.~~

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

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

19    7672.2. The bureau shall prepare and deliver to each registered  
20    cremated remains disposer a booklet that includes, but is not limited  
21    to, the following information: ~~details about the registration and~~  
22    ~~renewal requirements for cremated remains disposers; requirements~~  
23    for obtaining state permits to dispose of cremated human remains;  
24    state storage requirements, if any; statutory duties pursuant to this  
25    article, and other applicable state laws.

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

28    7672.6. (a) Every cremated remains disposer shall do both of  
29    the following:

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

34    (2) Provide the bureau with the address and telephone number  
35    of any storage facility being used by the ~~registrant cremated~~  
36    ~~remains disposer~~ to store cremated remains. Cremated remains  
37    shall be stored in a place free from exposure to the elements, and  
38    shall be responsibly maintained until disposal. The bureau and its  
39    representatives shall conduct, on an annual basis, random  
40    inspections of the operations of 5 to 10 percent of the registered

1 cremated remains disposers, and is authorized to inspect any place  
2 used by a cremated remains disposer for the storage of cremated  
3 remains without notice to the cremated remains disposer.

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

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

8 ~~7672.8. All cremated remains disposer registrations shall expire~~  
9 ~~at midnight on September 30 of each year. A person desiring to~~  
10 ~~renew his or her registration shall file an application for renewal~~  
11 ~~on a form prescribed by the bureau accompanied by the required~~  
12 ~~fee. A registration that has expired may be renewed within five~~  
13 ~~years of its expiration upon payment of all accrued and unpaid~~  
14 ~~renewal fees. The bureau shall not renew the registration of any~~  
15 ~~person who has not filed the required annual report until he or she~~  
16 ~~has filed a complete annual report with the department.~~

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

19 ~~7672.9. If a person fails to apply for renewal of his or her~~  
20 ~~cremated remains disposer registration prior to midnight of~~  
21 ~~September 30 of the year for which the registration was issued, no~~  
22 ~~renewal shall be issued except upon payment of the delinquent~~  
23 ~~renewal fee required under Section 7729.2.~~

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

26 ~~7672.10. Any person who scatters cremated human remains~~  
27 ~~without a valid registration and who is not otherwise exempt from~~  
28 ~~this article shall be guilty of a misdemeanor. The remains of each~~  
29 ~~person scattered shall constitute a separate violation.~~

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

32 ~~7730.1. The cremated remains disposer registration fee shall~~  
33 ~~be one hundred dollars (\$100).~~

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

36 ~~7730.2. The renewal fee for a cremated remains disposer~~  
37 ~~registration shall be fifty dollars (\$50).~~

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



1 19051. Every upholstered-furniture retailer, unless he or she  
2 holds an importer's license, a furniture and bedding manufacturer's  
3 license, a wholesale furniture and bedding dealer's license, ~~a~~  
4 ~~custom-upholsterer's license~~, or a retail furniture and bedding  
5 dealer's license shall hold a retail furniture dealer's license.

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

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

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

19 19059.5. Every sanitizer shall hold a sanitizer's license unless  
20 he or she is licensed as a home medical device retail facility by  
21 the State Department of Health Services or as an upholstered  
22 furniture and bedding manufacturer, retail furniture and bedding  
23 dealer, ~~or retail bedding dealer, or custom-upholsterer dealer.~~

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

26 19060.6. (a) Except as provided in subdivision (b), every  
27 person who, on his or her own account, advertises, solicits or  
28 contracts to manufacture, repair or renovate upholstered furniture  
29 or bedding, and who either does the work himself or herself or has  
30 others do it for him or her, shall obtain the particular license  
31 required by this chapter for the particular type of work that he or  
32 she solicits or advertises that he or she will do, regardless of  
33 whether he or she has a shop or factory.

34 (b) Every person who, on his or her own account, advertises,  
35 solicits or contracts to repair or renovate upholstered furniture and  
36 who does not do the work himself or herself nor have employees  
37 do it for him or her ~~but does have the work done by a licensed~~  
38 ~~custom-upholsterer need not obtain a license as a custom~~  
39 ~~upholsterer but shall obtain a license as a retail furniture dealer.~~

1 However, nothing in this section shall exempt a retail furniture  
2 dealer from complying with Sections 19162 and 19163.

3 ~~SEC. 10.~~

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

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

8 19170. (a) The fee imposed for the issuance and for the  
9 biennial renewal of each license granted under this chapter shall  
10 be set by the chief, with the approval of the director, at a sum not  
11 more nor less than that shown in the following table:

	Maximum fee	Minimum fee
13 Importer's license .....	\$940	\$120
14 Furniture and bedding manufacturer's 15 license .....	940	120
16 Wholesale furniture and bedding 17 dealer's license .....	675	120
18 Supply dealer's license .....	675	120
19 Custom upholsterer's license .....	<del>450</del>	<del>80</del>
20 Sanitizer's license .....	450	80
21 Retail furniture and bedding dealer's license .....	300	40
22 Retail furniture dealer's license .....	150	20
23 Retail bedding dealer's license .....	150	20

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

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

34 (d) A person who makes, sells, or advertises upholstered  
35 furniture and bedding as defined in Sections 19006 and 19007,  
36 and who also makes, sells, or advertises furniture used exclusively  
37

1 for the purpose of physical fitness and exercise, shall comply with  
2 the fee requirements imposed by subdivision (a).

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

7 ~~SEC. 11.~~

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

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

11 1812.607. Every auction company and auctioneer shall do all  
12 of the following:

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

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

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

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

1 (e) Notify the Secretary of State of any change in the officers  
2 of a corporate license within 30 days of the change. A violation  
3 of this subdivision is an infraction subject to a fine of fifty dollars  
4 (\$50).

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

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

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

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

1 fine of one thousand five hundred dollars (\$1,500); and a third or  
2 subsequent violation is subject to a fine of two thousand dollars  
3 (\$2,000).

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

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

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

22 (m) Within 30 working days of any auction sale, refund that  
23 portion of the deposit of each buyer that exceeds the cost of the  
24 goods purchased, unless delay is compelled by legal proceedings  
25 or the inability of the auctioneer or auction company, through no  
26 fault of his or her own, to transfer title to the goods or to comply  
27 with any provision of this chapter, the Commercial Code, or the  
28 Code of Civil Procedure, or with other applicable provisions of  
29 law, or unless the buyer violated the terms of a written agreement  
30 that he or she take possession of purchased goods within a specified  
31 period of time. A first violation of this subdivision is an infraction  
32 subject to a fine of one hundred dollars (\$100); and a second or  
33 subsequent violation is subject to a fine of two hundred fifty dollars  
34 (\$250).

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

37 1812.608. In addition to other requirements and prohibitions  
38 of this title, it is a violation of this title for any person to do any  
39 of the following:



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

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

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

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

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

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

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

29 (4) The approximate date or dates when the item or items will  
30 be sold at auction.

31 (5) A statement as to which party shall be responsible for  
32 insuring the item or items against loss by theft, fire, or other means.

33 ~~(6) A disclosure that the auctioneer or auction company has a~~  
34 ~~bond on file with the Secretary of State. A first violation of this~~  
35 ~~subdivision is an infraction subject to a fine of two hundred fifty~~  
36 ~~dollars (\$250); a second violation is subject to a fine of five~~  
37 ~~hundred dollars (\$500); and a third or subsequent violation is~~  
38 ~~subject to a fine of one thousand dollars (\$1,000).~~

39 (e) Sell goods at auction before the auctioneer or auction  
40 company involved has first entered into a written contract with the

1 auctioneer who is to conduct the auction. A first violation of this  
2 subdivision is an infraction subject to a fine of one hundred dollars  
3 (\$100); and a second or subsequent violation is subject to a fine  
4 of two hundred fifty dollars (\$250).

5 (f) Fail to reduce to writing all amendments or addenda to any  
6 written contract with an owner or consignor or an auctioneer. A  
7 first violation of this subdivision is an infraction subject to a fine  
8 of one hundred dollars (\$100); and a second or subsequent violation  
9 is subject to a fine of two hundred fifty dollars (\$250).

10 (g) Fail to abide by the terms of any written contract required  
11 by this section. A first violation of this subdivision is an infraction  
12 subject to a fine of one hundred dollars (\$100); and a second or  
13 subsequent violation is subject to a fine of two hundred fifty dollars  
14 (\$250).

15 (h) Cause or allow any person to bid at a sale for the sole  
16 purpose of increasing the bid on any item or items being sold by  
17 the auctioneer, except as authorized by Section 2328 of the  
18 Commercial Code or by this title. A violation of this subdivision  
19 includes, but is not limited to, either of the following:

20 (1) Stating any increased bid greater than that offered by the  
21 last highest bidder when, in fact, no person has made such a bid.

22 (2) Allowing the owner, consignor, or agent thereof, of any item  
23 or items to bid on the item or items, without disclosing to the  
24 audience that the owner, consignor, or agent thereof has reserved  
25 the right to so bid.

26 A violation of this subdivision is an infraction subject to a fine  
27 of one hundred dollars (\$100).

28 (i) Knowingly misrepresent the nature of any item or items to  
29 be sold at auction, including, but not limited to, age, authenticity,  
30 value, condition, or origin. A violation of this subdivision is an  
31 infraction subject to a fine of two hundred fifty dollars (\$250). In  
32 addition, it shall be required that the buyer of the misrepresented  
33 item be refunded the purchase price of the item or items within 24  
34 hours of return to the auctioneer or auction company of the item  
35 by the buyer, provided that the item is returned within five days  
36 after the date of the auction sale.

37 (j) Misrepresent the terms, conditions, restrictions, or procedures  
38 under which goods will be sold at auction. A violation of this  
39 subdivision is an infraction subject to a fine of seventy-five dollars  
40 (\$75).

- 1 (k) Sell any item subject to sales tax without possessing a valid
- 2 and unrevoked seller's permit from the State Board of Equalization.
- 3 A violation of this subdivision is an infraction subject to a fine of
- 4 five hundred dollars (\$500).





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## BILL ANALYSIS

**Author:** Senate Member Nguyen**Subject:** Nail Care Scope of Practice**Bill Number:** SB 296**Version:** April 17, 2017**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.

**Current Bill Status:**

This is a two-year bill and staff will continue to track.

**Current Board Position:**

05/15/17 – Oppose

07/17/17 – Oppose

**Impact Summary:**

IMPACTED LICENSES								IMPACT		
Apprentice	Barber	Cosmo	Mani	Esti	Elect.	Establishment	Schools	Regulations	Enforceable	Fiscal
Yes	No	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes



### **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).

### **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 applicers, 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 BreEZe 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 Update: On September 18, 2017, the Nail Care Scope of Practice Task Force (Task Force) met to study the appropriate educational and training requirements needed for an individual licensed in California as a manicurist to possibly increase their skillset to allow these individuals to safely practice superfluous hair removal while prioritizing public health and well-being. The Task Force was assembled at the request of Senators Nguyen and Hill. The findings and recommendations of the Task Force are included in the October 22, 2017, Board meeting materials, agenda item 13.

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

AMENDED IN SENATE APRIL 17, 2017

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.  
State-mandated local program: no.

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

- 1    SECTION 1. Section 7316 of the Business and Professions
- 2    Code is amended to read:
- 3    7316. (a) The practice of barbering is all or any combination
- 4    of the following practices:
- 5      (1) Shaving or trimming the beard or cutting the hair.
- 6      (2) Giving facial and scalp massages or treatments with oils,
- 7    creams, lotions, or other preparations either by hand or mechanical
- 8    appliances.
- 9      (3) Singeing, shampooing, arranging, dressing, curling, waving,
- 10   chemical waving, hair relaxing, or dyeing the hair or applying hair
- 11   tonics.
- 12      (4) Applying cosmetic preparations, antiseptics, powders, oils,
- 13   clays, or lotions to scalp, face, or neck.
- 14      (5) Hairstyling of all textures of hair by standard methods that
- 15   are current at the time of the hairstyling.
- 16   (b) The practice of cosmetology is all or any combination of
- 17   the following practices:
- 18      (1) Arranging, dressing, curling, waving, machineless permanent
- 19   waving, permanent waving, cleansing, cutting, shampooing,
- 20   relaxing, singeing, bleaching, tinting, coloring, straightening,
- 21   dyeing, applying hair tonics to, beautifying, or otherwise treating
- 22   by any means, the hair of any person.
- 23      (2) Massaging, cleaning, or stimulating the scalp, face, neck,
- 24   arms, or upper part of the human body, by means of the hands,
- 25   devices, apparatus or appliances, with or without the use of
- 26   cosmetic preparations, antiseptics, tonics, lotions, or creams.
- 27      (3) Beautifying the face, neck, arms, or upper part of the human
- 28   body, by use of cosmetic preparations, antiseptics, tonics, lotions,
- 29   or creams.

1 (4) Removing superfluous hair from the body of any person by  
2 the use of depilatories or by the use of tweezers, chemicals, or  
3 preparations or by the use of devices or appliances of any kind or  
4 description, except by the use of light waves, commonly known  
5 as rays.

6 (5) Cutting, trimming, polishing, tinting, coloring, cleansing,  
7 or manicuring the nails of any person.

8 (6) Massaging, cleansing, treating, or beautifying the hands or  
9 feet of any person.

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

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

13 (A) Giving facials, applying makeup, giving skin care, removing  
14 superfluous hair from the body of any person by the use of  
15 depilatories, ~~tweezers~~ *tweezers*, or waxing, or applying eyelashes  
16 to any person.

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

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

24 (2) ~~(A) Nail care is the~~ *is both of the following:*

25 (i) *The practice of cutting, trimming, polishing, coloring, tinting,*  
26 *cleansing, manicuring, or pedicuring the nails of any person or*  
27 *massaging, cleansing, or beautifying from the elbow to the*  
28 *fingertips or the knee to the toes of any person.*

29 (ii) *The removing of superfluous hair from the lip, eyebrows,*  
30 *the elbow to the fingertips, or knees to the toes of any person. An*  
31 *individual who is licensed by the board as a manicurist shall only*  
32 *be authorized to remove superfluous hair if he or she has met the*  
33 *educational requirements required by the board pursuant to*  
34 *subparagraph (C).*

35 (B) *An individual who is licensed by the board as a manicurist*  
36 *who desires to perform the removal of superfluous hair, as*  
37 *described in clause (ii) of subparagraph (A), and who has not*  
38 *obtained the required number of hours of education on the removal*  
39 *of superfluous hair required by the board, pursuant to*  
40 *subparagraph (C), shall obtain the required additional education*

1 prior to performing the removal of superfluous hair, as described  
2 in clause (ii) of subparagraph (A), and shall submit proof of the  
3 completion of the required education to the board. Upon  
4 completion of the required education, the licensee shall be required  
5 to take and pass an examination.

6 (C) The board shall determine, by regulation, the required  
7 number of hours to be added to the existing manicuring curriculum  
8 that will allow for sufficient training in the practice of superfluous  
9 hair removal, which shall include removing superfluous hair from  
10 the lip, eyebrows, the elbows to the fingertips, and knees to toes  
11 by the use of tweezers or waxing. A licensee described in  
12 subparagraph (B) shall be required to complete the required hours  
13 of training under this subparagraph consistent with the  
14 requirements of subparagraph (B).

15 (D) On and after \_\_\_\_\_, an approved school shall add the  
16 required number of hours in subparagraph (C) to the school's  
17 curriculum for any course in manicuring.

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

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

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

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

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

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

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

6 ~~SECTION 1. Section 7401 of the Business and Professions~~  
7 ~~Code is amended to read:~~

8 ~~7401. (a) An individual licensed pursuant to Section 7396~~  
9 ~~shall, at the time of license renewal, report to the board his or her~~  
10 ~~practice status, designated as one of the following:~~

11 ~~(1) Full-time practice in California;~~

12 ~~(2) Full-time practice outside of California;~~

13 ~~(3) Part-time practice in California;~~

14 ~~(4) Not working in the industry;~~

15 ~~(5) Retired;~~

16 ~~(6) Other practice status, as may be further defined by the board.~~

17 ~~(b) An individual licensed pursuant to Section 7396 shall, at the~~  
18 ~~time of license renewal, identify himself or herself on the~~  
19 ~~application as one of the following:~~

20 ~~(1) Employee;~~

21 ~~(2) Independent contractor or booth renter;~~

22 ~~(3) Salon owner;~~

23 ~~(c) An individual licensed pursuant to Section 7347 shall, at the~~  
24 ~~time of license renewal, report to the board whether either of the~~  
25 ~~following is applicable to him or her:~~

26 ~~(1) He or she has a booth renter operating in the establishment;~~

27 ~~(2) He or she has an independent contractor operating in the~~  
28 ~~establishment.~~







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## BILL ANALYSIS

**Author:** Senate Member Bradford**Subject:** Commission Wages**Bill Number:** SB 490**Version:** August 24, 2017

### This Bill:

Allows establishment owners and employees to agree to a percentage or flat sum commission in addition to a base hourly rate if the following requirements are met:

- The employee is a licensee of the Board and is paid for providing services where a license is required.
- The employee's base hourly rate is at least two times the state minimum wage rate in addition to commissions paid.
- The employee's wages are paid at least twice during each calendar month on a day designated in advance by the employer as the regular pay day.

If adopted, this bill would take effect on January 1, 2018.

### Current Bill Status:

On September 11, 2017 this bill was been sent to the Governor.

### Current Board Position:

None

### Impact Summary:

IMPACTED LICENSES								IMPACT		
Apprentice	Barber	Cosmo	Mani	Esti	Elect.	Establishment	Schools	Regulations	Enforceable	Fiscal
Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	No	Yes

### **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 "commission wages" as compensation paid to any person for services rendered in the sale of such employer's property or services and based proportionately upon the amount or value of the property or services, and requires that commission wages are due and payable once during each calendar month on a day designated in advance by the employer as the regular payday. (Labor Code § 204.1)

Requires that, when an employee is compensated on a "piece rate" basis, the employer must include the employee's wage stub and the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis. (Labor Code § 226 (e))

Requires that nonproductive time, rest breaks, and recovery breaks are separately compensated and set requirements for how they should be compensated. (Labor Code § 226.2)

### **Analysis:**

Within the barbering and beauty industry employers usually utilize either an hourly rate of pay structure, a piece rate (unit) pay structure or a commission based pay structure.

Making the distinction between piece rate (units) wages and commission wages is very difficult. Piece rate payment is generally used as a payment for items such as a basket of strawberries or a sewn piece of clothing. On the other hand, a commission payment is usually a percentage of the value of a sale, such as a percentage of hair care products that a stylist may sell. Under current law, a base rate of minimum wage is only necessary if a salon pays for all rest periods and pays a flat "piece" of the service on top of the minimum wage.

Concern develops in using the piece rate method in the salon environment because a stylist can sell a bottle of shampoo, a monthly lash extension service, all while providing a haircut, which creates extreme difficulty in appropriately breaking down how the work hours and payment should be made to the stylist under the piece rate pay structure.

This bill allows licensees to have a 'ground floor' rate of pay (twice the states minimum wage) and negotiate a commission percentage on products or services sold while performing actual services.

This bill does not require establishments to adopt this pay model but offers it as an alternate rate of wage structure. Salons are still able to pay licensees on an hourly basis, or by the piece rate rules or by the twice the minimum wage/commission method.

The amendments presented in the bill clarify that Board-licensed employees, that are paid on a commission basis are entitled to rest periods per existing law.

### **Fiscal Impact:**

The fiscal impact to the Board is considered minor and absorbable by the Board. The Board does not enforce the California labor law therefore there are no fiscal enforcement impacts.

Any fiscal impact results from the changes to the labor law requiring the statutorily mandated Health and Safety Course (BP& C § 7389) to be revised. This will require the Board to send out the training course to all Board approved schools and apprentice sponsors.

Estimated Fiscal Impact

Production costs of a CD copy of the Training course for 246 schools and 35 apprentice sponsors = \$562.00

Shipping costs: \$674.40

**Total Estimated Fiscal Impact: \$1,236.40**

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

## CHAPTER \_\_\_\_\_

An act to add Section 204.11 to the Labor Code, relating to employment.

## LEGISLATIVE COUNSEL'S DIGEST

SB 490, Bradford. Wages: Barbering and Cosmetology Act: licensees.

Existing law requires, with certain exceptions, that all wages be paid twice during each calendar month on days designated in advance by the employer as the regular paydays and requires the minimum wage for all industries to be \$10. Existing law makes it a crime for any person to willfully refuse to pay wages due and payable after demand has been made. 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.

This bill would require commission wages paid to any employee who is licensed under the Barbering and Cosmetology Act to be due and payable at least twice during each calendar month on a day designated in advance by the employer as the regular payday and would authorize the employee and employer to agree to a commission in addition to the base hourly rate. The bill would provide that commission wages are wages paid to an employee who is licensed under that act for providing services for which a license is required when paid as a percentage or a flat sum portion of the sums paid to the employee by the client receiving the service, and for selling goods, provided that the employee is paid a regular base hourly rate of at least 2 times the state minimum wage rate in addition to commissions paid. The bill would specify that the employee may be compensated for rest and recovery periods at a rate of pay not less than the employee's regular base hourly rate. By expanding the scope of an existing crime, this bill would result in 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.

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

SECTION 1. Section 204.11 is added to the Labor Code, to read:

204.11. Commission wages paid to any employee who is licensed pursuant to the Barbering and Cosmetology Act (Chapter 10 (commencing with Section 7301) of Division 3 of the Business and Professions Code) are due and payable at least twice during each calendar month on a day designated in advance by the employer as the regular payday. For any employee who is licensed pursuant to the Barbering and Cosmetology Act (Chapter 10 (commencing with Section 7301) of Division 3 of the Business and Professions Code), wages that are paid to that employee for providing services for which such a license is required, when paid as a percentage or a flat sum portion of the sums paid to the employer by the client recipient of such service, and for selling goods, constitute commissions, provided that the employee is paid, in every pay period in which hours are worked, a regular base hourly rate of at least two times the state minimum wage rate for all hours worked in addition to commissions paid. The employee and employer may agree to a commission in addition to the base hourly rate. An employee may be compensated for rest and recovery periods at a rate of pay not less than the employee's regular base hourly rate. Nothing in this section shall be interpreted to limit any rights or remedies otherwise available under state or federal law, including the right to overtime compensation.

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.







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## BILL ANALYSIS

**Author:** Senate Member Hill**Subject:** Apprentice Supervision**Bill Number:** SB 547**Version:** September 11, 2017

### 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.

### Current Bill Status:

On September 20, 2017 this bill was sent to the Governor. On October 2, 2017, the bill was signed by the Governor and filed with the Secretary of State (Chapter 429, Statutes of 2017).

### Board Position:

May 15, 2017-Support

July 17, 2017-Support

### Impact Summary:

IMPACTED LICENSES								IMPACT		
Apprentice	Barber	Cosmo	Mani	Esti	Elect.	Establishment	Schools	Regulations	Enforceable	Fiscal
Yes	Yes	Yes	No	No	Yes	Yes	No	No	Yes	No

### 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)

**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.

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

AMENDED IN ASSEMBLY SEPTEMBER 11, 2017

AMENDED IN ASSEMBLY SEPTEMBER 08, 2017

AMENDED IN ASSEMBLY AUGUST 21, 2017

AMENDED IN ASSEMBLY JULY 05, 2017

AMENDED IN SENATE APRIL 17, 2017

CALIFORNIA LEGISLATURE— 2017-2018 REGULAR SESSION

SENATE BILL

No. 547

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Introduced by Senator Hill

February 16, 2017

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An act to amend Sections 27, 156, 2499.5, 2570.16, 2715, 2760.1, 2987, 4008, ~~4840.5~~, 4887, 5063.3, 5096.9, 5810, 7332, 7583.23, 7583.24, 7583.47, 7635, 11302, 11320.5, 11321, 11323, 11324, 11345, 11345.2, 11345.6, 11422, 12241, 12304, 12305, 12310, and 12500 of, to amend, repeal, and add Sections 6980.79, 7506.10, 7511, 7574.11, 7574.13, 7582.11, 7582.17, 7583.12, 7583.17, 7583.20, 7585.16, 7588, 7596.5, 7598.14, 7598.17, and 7599.70 of, to add Sections 1006, ~~6980.9~~, ~~7501.9~~, ~~7574.09~~, 7574.35, ~~7581.6~~, ~~7591.14~~, ~~9882.6~~, 11345.5, and 11345.8 to, to repeal Section 303 of, and to repeal and add Section 11345.3 of, the Business and Professions Code, and to amend an initiative act entitled "An act prescribing the terms upon which licenses may be issued to practitioners of chiropractic, creating the State Board of Chiropractic Examiners and declaring its powers and duties, prescribing penalties for violation thereof, and repealing all acts and parts of acts inconsistent therewith" approved by electors November 7, 1922, by amending Section 12 thereof, relating to professions and vocations, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 547, as amended, Hill. Professions and vocations: weights and measures.

(1) Existing law establishes the Department of Consumer Affairs within the Business, Consumer Services, and Housing Agency and provides that the department is under the control of the Director of Consumer Affairs. ~~Existing~~

(A) ~~Existing~~ law establishes within the department a Division of Consumer Services under the supervision and control of a chief who is appointed by the Governor. ~~Existing~~

*This bill would repeal the provision establishing the Division of Consumer Services.*

(B) ~~Existing~~ law authorizes the Department of Consumer Affairs to enter into a contract with a vendor for the licensing and enforcement of the BreEZe system, which is a specified integrated, enterprisewide enforcement case management and licensing system, no sooner than 30 days after written notification to certain committees of the Legislature.

~~This bill would repeal the provision establishing the Division of Consumer Services.~~ The bill would require the director to report progress on release 3 entities' transition to the new licensing technology platform to the appropriate committees of the Legislature, as specified.



*(C) Existing law establishes a motor vehicle inspection and maintenance program, commonly known as smog check, that is administered by the Department of Consumer Affairs. Existing law, the Automotive Repair Act provides for the licensure and regulation of automotive repair dealers, among others, by the Chief of the Bureau of Automotive Repair under the supervision and control of the Director of Consumer Affairs. The act requires the director, on the director's initiative or in response to a complaint, to investigate a violation of the act, or of any regulation adopted pursuant to the act, by any automotive repair dealer, automotive technician, or employee, partner, officer, or member of any automotive repair dealer. Existing law establishes the Consumer Affairs Fund, and generally authorizes withdrawal of funds without furnishing vouchers and itemized statements when used on matters requiring confidentiality.*

*This bill would authorize the enforcement programs established by the department and the bureau to investigate violations of the Automotive Repair Act and the Motor Vehicle Inspection and Maintenance Program and to purchase motor vehicles of various makes, models, and condition when purchasing vehicles used for evidentiary purposes as part of these investigations. The bill would also exempt these acquisitions from various laws, including, but not limited to, labor and public contracting laws.*

(2) Existing law, the Chiropractic Act, enacted by initiative, provides for the licensure and regulation of chiropractors by the State Board of Chiropractic Examiners. Under the act, each person practicing chiropractic, after a license has been issued, is annually required to pay the board a renewal fee not exceeding \$250. Existing law authorizes the Legislature to fix these fees. Existing law directs the deposit of these funds into the State Board of Chiropractic Examiners' Fund, a continuously appropriated fund.

This bill, until ~~July~~ *January* 1, 2019, would require a licensee to pay an annual renewal fee of \$300. By increasing the amount deposited in the State Board of Chiropractic Examiners' Fund, the bill would make an appropriation. The bill would also require the State Board of Chiropractic Examiners to submit a report to the appropriate policy and fiscal committees of the Legislature by July 1, 2018, that contains, at a minimum, the status of the board's fee audit and an update on the board's plans for restructuring its license fees.

(3) 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 certification and regulation of podiatrists by the California Board of Podiatric Medicine within the jurisdiction of the Medical Board of California and requires certain fees to be paid to the board, including a fee for the application and issuance of a certificate to practice podiatric medicine.

This bill would revise the fees, as specified.

(B) Existing law, the Occupational Therapy Practice Act, provides for the licensure and regulation of occupational therapists and occupational therapy assistants by the California Board of Occupational Therapy and requires certain fees to be paid to the board, including a fee to collect fingerprints for a criminal history record check.

This bill would prohibit the fee for the criminal history record check from exceeding the amount charged by the agency providing the criminal history record check. The bill would also require the board to charge a fee to query the National Practitioner Data Bank for applicants for licensure and renewal of licensure and would prohibit that fee from exceeding the amount charged per query.

(C) Existing law, the Nursing Practice Act, establishes the Board of Registered Nursing within the Department of Consumer Affairs and sets forth its powers and duties regarding the licensure and regulation of registered nurses. That act authorizes a registered nurse whose license has been revoked or suspended or who has been placed on probation to petition the board for reinstatement or modification of penalty.

This bill would authorize the board to hear the petition or to assign the petition to an administrative law ~~judge, as specified~~ *of the Office of Administrative Hearings and would require the administrative law judge to submit a proposed decision in a specified manner.*

(D) Existing law, the Psychology Licensing Law, establishes the Board of Psychology to license and regulate the practice of psychology and authorizes the board to collect specified fees, including a delinquency fee of \$25.

This bill would instead make the delinquency fee 50 percent of the renewal fee for each license type, not to exceed \$150.

(E) Existing law, the Pharmacy Law, provides for the licensure and regulation of pharmacists by the California State Board of Pharmacy and authorizes the board to employ inspectors of pharmacy.



This bill would also authorize the board to employ legal counsel.

(F) Existing law, the Veterinary Medicine Practice Act, provides for the licensure and regulation of ~~veterinarians~~ *veterinarians, veterinary technicians*, and the practice of veterinary medicine by the Veterinary Medical Board and authorizes a person whose license or registration has been revoked or placed on probation to petition the board for reinstatement or modification of penalty after a period of not less than one year. *Existing law authorizes a registered veterinary technician, under conditions of emergency, to render lifesaving care to an animal and defines "emergency" for these purposes as the animal has been placed in a life-threatening condition and immediate treatment is necessary to sustain life. Existing law requires certain boards and bureaus under the Department of Consumer Affairs to provide on the Internet information regarding the status of every license issued by that board or bureau, as specified.*

This bill would instead provide that a person may petition the board for reinstatement or modification of penalty after at least 3 years for reinstatement of a surrendered or revoked license, at least 2 years for early termination or modification of probation of 3 years or more, or at least one year for modification of a condition or termination of probation of less than 3 years. The bill would authorize the board, upon a showing of good cause, to specify in an order imposing probation of more than 3 years that the person may petition for reissuement, modification, or termination of probation after one year. *The bill would revise the above-described definition of "emergency" to mean the animal has been placed in a life-threatening condition and immediate treatment is necessary. This bill would additionally require the Veterinary Medical Board to provide information regarding the status of every license issued by it on the Internet.*

(G) 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.

(H) 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.

(I) 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.



(J) Existing law, the Private Security Services Act, provides for the licensing and regulation of private patrol operators by the Bureau of Security and Investigative Services. Existing law requires the bureau to issue a firearms permit to a licensee, a qualified manager of a licensee, or a registered security guard if certain conditions are met. Existing law, beginning on January 1, 2018, requires an applicant for a firearms permit if he or she is a registered security guard to complete an assessment, as defined, and be found capable of exercising appropriate judgment, restraint, and self-control, as specified.

This bill would instead make those requirements applicable beginning either on January 1, 2018, or upon a date determined by the bureau, but not later than July 1, 2018.

(K) The Cemetery and Funeral Act provides for the licensure and regulation of cemeteries, crematories, funeral establishments, and their personnel by the Cemetery and Funeral Bureau, and requires any person employed by, or an agent of, a licensed funeral establishment who consults with the family or representatives of the family of a deceased person for the purpose of arranging certain services to receive documented training, as specified.

This bill would require that training to be completed at least once every 3 years.

(L) Existing law provides for the licensure and regulation of locksmiths and their employees, repossessioners and their employees and contractors, proprietary private security officers, proprietary private security employers, private security officers, private security employers, and alarm companies by the Department of Consumer Affairs and the Bureau of Security and Investigative Services. Existing law requires the payment of various fees for the application, issuance, renewal, and reinstatement of licenses and registrations for those vocations.

This bill, commencing July 1, 2018, would increase these fees, as specified. The bill, commencing July 1, 2018, would require a verification document to include specified information, and would impose a fee of a specified amount for an endorsed verification of licensure. The bill, commencing July 1, 2018, would impose a fee of a specified amount for the replacement of a lost or destroyed registration card, license, or certificate and would require the request for the replacement be made in the manner prescribed by the bureau. *The bill would state it is the intent of the Legislature that the bureau not maintain a reserve balance of funds greater than the amount necessary to fund operating expenses and that the bureau periodically review fees charged for the regulation of the above-described professions and vocations to evaluate the appropriateness of each fee and the regulatory cost associated with each fee.*

(M) 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. The bill would additionally prohibit a person or entity from representing itself to the public as an appraisal management company, either in advertising or through its business name, without a certificate of registration.

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 Practice 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 to 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.

(4) (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 qualified health provider, California-licensed veterinarian, licensed physician and surgeon, or staff members within the business operations of and under the supervision of a California-licensed veterinarian, or licensed physician and surgeon for the purposes of determining the appropriate dosage of any medication or medical treatment or the volume, duration, or application of any medical procedure.

*(5) This bill would incorporate additional changes to Sections 7583.20 and 7598.17 of the Business and Professions Code proposed by SB 800 to be operative as specified.*

*(6) Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.*

*This bill would make legislative findings to that effect.*

~~(5)~~

*(7) 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.

## DIGEST KEY

Vote: MAJORITY Appropriation: YES Fiscal Committee: YES Local Program: YES

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

### SECTION 1.

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

#### 27.

(a) Each entity specified in subdivisions (c), (d), and (e) shall provide on the Internet information regarding the status of every license issued by that entity in accordance with the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) and the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code). The public information to be provided on the Internet shall include information on suspensions and revocations of licenses issued by the entity and other related enforcement action, including accusations filed pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) taken by the entity relative to persons, businesses, or facilities subject to licensure or regulation by the entity. The information may not include personal information, including home telephone number, date of birth, or social security number. Each entity shall disclose a licensee's address of record. However, each entity shall allow a licensee to provide a post office box number or other alternate address, instead of his or her home address, as the address of record. This section shall not preclude an entity from also requiring a licensee, who has provided a post office box number or other alternative mailing address as his or her address of record, to provide a physical business address or residence address only for the entity's internal administrative use and not for disclosure as the licensee's address of record or disclosure on the Internet.

(b) In providing information on the Internet, each entity specified in subdivisions (c) and (d) shall comply with the Department of Consumer Affairs' guidelines for access to public records.

(c) Each of the following entities within the Department of Consumer Affairs shall comply with the requirements of this section:

(1) The Board for Professional Engineers, Land Surveyors, and Geologists shall disclose information on its registrants and licensees.

(2) The Bureau of Automotive Repair shall disclose information on its licensees, including auto repair dealers, smog stations, lamp and brake stations, smog check technicians, and smog inspection certification stations.

(3) The Bureau of Electronic and Appliance Repair, Home Furnishings, and Thermal Insulation shall disclose information on its licensees and registrants, including major appliance repair dealers, combination dealers (electronic and appliance), electronic repair dealers, service contract sellers, and service contract administrators.

(4) The Cemetery and Funeral Bureau shall disclose information on its licensees, including cemetery brokers, cemetery salespersons, cemetery managers, crematory managers, cemetery authorities, crematories, cremated remains disposers, embalmers, funeral establishments, and funeral directors.

(5) The Professional Fiduciaries Bureau shall disclose information on its licensees.

(6) The Contractors' State License Board shall disclose information on its licensees and registrants in accordance with Chapter 9 (commencing with Section 7000) of Division 3. In addition to information related to licenses as specified in subdivision (a), the board shall also disclose information provided to the board by the Labor Commissioner pursuant to Section 98.9 of the Labor Code.

(7) The Bureau for Private Postsecondary Education shall disclose information on private postsecondary institutions under its jurisdiction, including disclosure of notices to comply issued pursuant to Section 94935 of the Education Code.

(8) The California Board of Accountancy shall disclose information on its licensees and registrants.

(9) The California Architects Board shall disclose information on its licensees, including architects and landscape architects.

(10) The State Athletic Commission shall disclose information on its licensees and registrants.

(11) The State Board of Barbering and Cosmetology shall disclose information on its licensees.

(12) The State Board of Guide Dogs for the Blind shall disclose information on its licensees and registrants.

(13) The Acupuncture Board shall disclose information on its licensees.

(14) The Board of Behavioral Sciences shall disclose information on its licensees, including licensed marriage and family therapists, licensed clinical social workers, licensed educational psychologists, and licensed professional clinical counselors.

(15) The Dental Board of California shall disclose information on its licensees.

(16) The State Board of Optometry shall disclose information on its licensees and registrants.

(17) The Board of Psychology shall disclose information on its licensees, including psychologists, psychological assistants, and registered psychologists.

*(18) The Veterinary Medical Board shall disclose information on its licensees, registrants, and permitholders.*

(d) The State Board of Chiropractic Examiners shall disclose information on its licensees.

(e) The Structural Pest Control Board shall disclose information on its licensees, including applicators, field representatives, and operators in the areas of fumigation, general pest and wood destroying pests and organisms, and wood roof cleaning and treatment.

(f) The Bureau of Medical Cannabis Regulation shall disclose information on its licensees.

(g) "Internet" for the purposes of this section has the meaning set forth in paragraph (6) of subdivision (f) of Section 17538.



**~~SEC. 16.~~ SEC. 19.**

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.





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

**Board of Barbering and Cosmetology-Department of Consumer Affairs**

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## BILL ANALYSIS

**Author:** Senate Member Newman**Subject:** Removal of Board Members**Bill Number:** SB 715**Version:** April 25, 2017

### This Bill:

Adds the failure to attend board meetings to the justification for removal of an appointed board member by the Governor.

### Current Bill Status:

On September 14, 2017 this bill was order to the Assembly Inactive File.

### Current Board Position:

None

### Impact Summary:

IMPACTED LICENSES								IMPACT		
Apprentice	Barber	Cosmo	Mani	Esti	Elect.	Establishment	Schools	Regulations	Enforceable	Fiscal
No	No	No	No	No	No	No	No	No	No	No

### Existing Law:

Authorizes the Governor to remove any member of any board under the Department of Consumer Affairs (DCA) that the Governor has appointed for continued neglect of duties required by law or for incompetence or unprofessional or dishonorable conduct. (BP&C\* §106)

Authorizes the Governor to remove a board member if it is shown that the member has knowledge of the specific questions to be asked on the licensing entity's next examination and directly or indirectly discloses any such question(s) in advance of or during the examination to any applicant. (BP&C\* §106.5)

Requires newly appointed board members to complete a training and orientation program offered by the DCA within one year of appointment. This training includes an explanation of the board member's functions, responsibilities and obligations as a member of the board. (BP&C § 453)

Defines "meeting", for the purpose of the Bagley-Keene Open Meeting Act which sets forth perimeters for public meetings of all state boards, as any congregation of a majority of the members of a state body at the same time and place to hear, discuss, or deliberate upon any item that is within the subject matter jurisdiction of the state body to which it pertains. (Government Code § 11122.5)

**Analysis:**

The California Board of Barbering and Cosmetology (BBC) currently has nine board members serving in appointed positions (four Industry members and five public members). Seven of the members are Governor appointed, one member is appointed by the Senate Rules Committee and the final member is appointed by the Speaker of the Assembly. BBC is subject to the Bagley-Keene Open Meetings Act which requires a quorum for the Board to meet and conduct official business or take official actions such as voting on an agenda item. Repeated failure to attend board meetings negatively impacts the Board and may be a detriment to the member's ability to successfully serve.

The bill author states, "discretion for the removal of board members for instances of absences is a good government approach to ensuring the effectiveness and efficiency of the important regulatory boards within the DCA. Member absences can impact the professionals and public alike, as key decisions are made and votes taken at board meeting directly related to oversight of licensees. The Governor should have authority to remove board members from their position when their absences impact their ability to successfully serve."

**Fiscal Impact:**

None.

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

AMENDED IN SENATE APRIL 25, 2017

SENATE BILL

No. 715

Introduced by Senator Newman

February 17, 2017

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~~An act to amend Section 5503 of the Public Resources Code, relating to park districts. An act to amend Section 106 of the Business and Professions Code, relating to consumer affairs.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 715, as amended, Newman. ~~Park and open-space districts. Department of Consumer Affairs: regulatory boards: removal of board members.~~

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs. Existing law authorizes the Governor to remove from office any member of any board within the department appointed by him or her, on specific grounds, including continued neglect of duties required by law.

This bill would specifically include the failure to attend meetings of the board as one example of continued neglect of duties required by law that the Governor can use as a reason to remove a member from a board.

~~Existing law provides a procedure for the formation of a regional park district, regional park and open-space district, or a regional open-space district.~~

~~This bill would make nonsubstantive changes to one of those provisions.~~

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



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

1     SECTION 1. Section 106 of the Business and Professions Code  
2     is amended to read:

3     106. The Governor has power to remove from office at any  
4     time, any member of any board appointed by him or her for  
5     continued neglect of duties required by law, *which may include*  
6     *the failure to attend board meetings*, or for incompetence, or  
7     unprofessional or dishonorable conduct. Nothing in this section  
8     shall be construed as a limitation or restriction on the power of the  
9     Governor, conferred on him or her by any other provision of law,  
10    to remove any member of any board.

11    ~~SECTION 1. Section 5503 of the Public Resources Code is~~  
12    ~~amended to read:~~

13    ~~5503. Whenever it is desired to form a district under this article;~~  
14    ~~a petition requesting the creation and maintenance of a district;~~  
15    ~~and describing the exterior boundaries of the proposed district~~  
16    ~~shall be signed by at least 5,000 electors residing within the~~  
17    ~~territory proposed to be included in the district. The petition shall~~  
18    ~~be presented to the board of supervisors of the county containing~~  
19    ~~the largest area within the proposed district.~~

## MEMORANDUM

DATE	October 22, 2017
TO	Members, Board of Barbering and Cosmetology
FROM	Kristy Underwood, Executive Officer
SUBJECT	Regulations Update

- **Title 16, CCR Sections 904 and 905; (Health and Safety Poster):** This rulemaking has been filed with the Office of Administrative Law.
- The follow rulemaking packages are under pre-filing review by the Department of Consumer Affairs:

**Title 16, CCR Sections 904 (Definition of Access)**

**Title 16, CCR Section 950.10; (Transfer of Credit or Training)**

**Title 16, CCR Section 961; (National Interstate Council (NIC) Translation Guides)**

**Title 16, CCR Section 974; (Administrative Fine Schedule)**

**Title 16, CCR Section 974.3; (Citation of Establishments, Individuals for Same violation)**

**Title 16, CCR Section 974.4; (Installment Payment Plan for Fines)**

**Title 16, CCR Sections 978, 979, 980, 980.4, 981, 982, 984 and 989; (Health and Safety Regulations)**

*No Attachment*