

**CALIFORNIA
BOARD OF BARBERING AND COSMETOLOGY**



**MAY 20, 2018
Board Meeting**

**Doubletree Club by Hilton
Orange County Airport
California Ballroom
7 Hutton Centre Drive
Santa Ana, CA 92707**



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

BOARD MEETING

May 20, 2018

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

MEMBERS OF THE BOARD

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

Doubletree Club By Hilton
Orange County Airport
California Ballroom
7 Hutton Centre Drive
Santa Ana, CA 92707



AGENDA

10:00 A. M.

UNTIL COMPLETION OF BUSINESS

OPEN SESSION:

1. Call to Order/ Roll Call/ Establishment of Quorum **(Dr. Kari Williams)**
2. Board President's Opening Remarks **(Dr. Kari Williams)**
3. Board Member Remarks – Informational only
4. 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))
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
February 12, 2018
7. Discussion and Possible Action Approving Board's Executive Officer to Travel Annually to the National-Interstate Council (NIC) Annual Conference
8. Discussion and Possible Action Approving the Proposed Revisions to the Inspector Protocol for Limited-English Speaking Establishments (B&P Code § 7313(d))

9. Discussion and Possible Action Approving the Proposed Recommendations from the 1600 Hour Cosmetology Curriculum Review Committee (BPC § 7303.2 (a))
10. Discussion and Possible Action Approving the Board's Legislative Report Regarding the Cosmetology Written Examination (Spanish Language) Low Pass Rate. (BPC § 7303.2 (b))
11. Discussion and Possible Action Approving the Proposed Revisions to the "Health and Safety Training Course" (BPC § 7389)

- Discussion and Possible Action Approving the Course Instructional Implementation Plan and Pilot Testing

12. Legislative Update:

Discussion and Possible Action on Proposed Bills:

- a. AB 767 (Quirk-Silva) – Master Business License Act
- b. AB 2134 (Rubio) – Cosmetology Students - Externships
- c. AB 2138 (Chiu and Low) Denial of Application, Revocation or Suspension of License: Criminal Conviction
- d. AB 2775 (Kalra) – Professional Cosmetics: Labeling Requirements
- e. SB 715 (Newman) – Removal of Board Member from Office (applies to all state boards)
- f. SB 984 (Skinner) - Board Representation: Women
- g. SB 999 (Morrell) – Cosmetology and Barbering Scope of Practice Revisions
- h. SB 1492 – (Hill) (SBP) Examination Failure Notification

13. Proposed Regulations:

Discussion and Possible Action of Proposed Regulatory Changes:

- a. Title 16, CCR Section 950.10 (Transfer of Credit or Training)
- b. Title 16, CCR Section 961 (National Interstate Council (NIC) Translation Guides)
- c. Title 16, CCR Section 974 (Administrative Fine Schedule)
- d. Title 16, CCR Section 974.1 (Disciplinary Review Committee)
- e. Title 16, CCR Section 904 (Definition of Access)
- f. Title 16, CCR Section 972 (Disciplinary Guidelines)
- g. Title 16, CCR Section 974.3 (Citation of Establishments, Individuals for Same violation)
- h. Title 16, CCR Section 974.4 (Installment Payment Plan for Fines)
- i. Title 16, CCR Sections 978, 979, 980, 980.4, 981, 982, 984 and 989 (Health and Safety Regulations)

14. Agenda Items For the Next Meeting
15. **CLOSED SESSION:**
Discussion on Reconsideration and Disciplinary Cases (Closed Pursuant to Government Code Section 11126(c)(3))

OPEN SESSION:
16. 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, 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
Establishment	1,882	1,758	1,871		5,511
Mobile Unit	2	1	3		6
Barber					
Pre-App	277	256	259		792
Initial Application	404	400	351		1,155
Re-Exam	481	399	483		1,363
Sub-Total	1,162	1,055	1,093		3,310
Reciprocity	50	40	41		131
Apprentice	210	221	221		652
Cosmetology					
Pre-App	1,069	886	717		2,672
Initial Application	1,112	996	886		2,994
Re-Exam	1,617	1,428	1,461		4,506
Sub-Total	3,798	3,310	3,064		10,172
Reciprocity	470	288	342		1,100
Apprentice	203	162	151		516
Electrology					
Pre-App	4	5	3		12
Initial Application	1	1	1		3
Re-Exam	4	3	2		9
Sub-Total	9	9	6		24
Reciprocity	1	1	-		2
Apprentice	1	-	-		1
Manicuring					
Pre-App	588	393	325		1,306
Initial Application	1,014	763	493		2,270
Re-Exam	681	647	664		1,992
Sub-Total	2,283	1,803	1,482		5,568
Reciprocity	135	108	132		375
Esthetician					
Pre-App	699	805	801		2,305
Initial Application	586	392	434		1,412
Re-Exam	466	386	463		1,315
Sub-Total	1,751	1,583	1,698		5,032
Reciprocity	135	90	125		350
Total	12,092	10,429	10,229		32,750

Licenses Issued FY 2017-2018

License Type	Jul-Sept	Oct-Dec	Jan-Mar	Apr-June	YTD
Establishment	1,942	1,816	1,698		5,456
Mobile Unit	-	1	1		2
Barber	536	565	593		1,694
Barber Apprentice	190	214	183		587
Cosmetology	1,680	1,909	1,776		5,365
Cosmetology Apprentice	204	140	176		520
Electrology	7	8	3		18
Electrology Apprentice	1	-	-		1
Manicuring	959	731	840		2,530
Esthetician	1,051	1,022	1,122		3,195
Totals	6,570	6,406	6,392		19,368

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	5,456
Mobile Unit	4	8	7	7	2
Barber	1,671	1,715	1,950	2,189	1,694
Barber Apprentice	383	397	511	665	587
Cosmetology	11,750	12,702	10,813	8,389	5,365
Cosmetology Apprentice	482	543	650	793	520
Electrology	33	34	35	26	18
Electrology Apprentice	1	-	-	-	1
Manicuring	5,324	5,876	6,298	6,550	2,530
Esthetician	4,986	5,059	4,747	4,818	3,195
Totals	31,171	32,988	32,007	30,312	19,368

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

Current License Population

License Type	Total
Barber	29,880
Barber Apprentice	1,284
Cosmetology	314,440
Cosmetology Apprentice	1,347
Electrology	1,782
Electrology Apprentice	1
Manicuring	129,948
Esthetician	84,653
Establishment	51,148
Mobile Unit	42
Total	614,525

Examination Results

(January 1, 2018-March 31, 2018)

Practical Examinations

Administered	Passed	Failed	Total	Pass Rate
Barber	1068	332	1,400	76%
Cosmetologist	1,581	586	2,167	73%
Electrologist	2	--	2	100%
Esthetician	1,088	82	1,170	93%
Manicurist	820	354	1,174	70%
Total	4,559	1,354	5,913	77%

Written Examinations

Barber	Passed	Failed	Total	Pass Rate
English	502	213	715	70%
Spanish	73	55	128	57%
Vietnamese	11	2	13	85%
Korean	2	3	5	40%
TOTAL	588	273	861	68%

Cosmo	Passed	Failed	Total	Pass Rate
English	1,328	657	1,985	67%
Spanish	162	297	459	35%
Vietnamese	71	30	101	70%
Korean	35	15	50	70%
TOTAL	1,596	999	2,595	62%

Manicurist	Passed	Failed	Total	Pass Rate
English	282	116	398	71%
Spanish	18	20	38	47%
Vietnamese	447	270	717	62%
Korean	15	5	20	75%
TOTAL	762	411	1,173	65%

Esthetician	Passed	Failed	Total	Pass Rate
English	930	320	1,250	74%
Spanish	5	4	9	56%
Vietnamese	104	24	128	81%
Korean	29	5	34	85%
TOTAL	1,068	353	1,421	75%

Electrologist	Passed	Failed	Total	Pass Rate
English	3	1	4	75%
Spanish	--	--	--	--
Vietnamese	--	--	--	--
Korean	--	--	--	--
TOTAL	3	1	4	75%

Spanish Pass Rates by Age

(July 1, 2013 - April 30, 2018)

All License Types (Written Exam)

Age	Pass	Fail	Fail %	Total
10-19	16	20	55.56%	36
20-29	499	804	61.70%	1303
30-39	1208	2032	62.72%	3240
40-49	1005	2200	68.64%	3205
50-59	278	664	70.49%	942
60-69	29	100	77.52%	129
70-79	2	14	87.50%	16
Total	3037	5834	65.76%	8871

Cosmetology Only (Written Exam)

Age	Pass	Fail	Fail %	Total
10-19	8	5	38.46%	13
20-29	367	630	63.19%	997
30-39	853	1712	66.74%	2565
40-49	730	1930	72.56%	2660
50-59	194	574	74.74%	768
60-69	11	82	88.17%	93
70-79	1	14	93.33%	15
Total	2164	4947	69.57%	7111



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: March 31, 2018

	January - March	YTD
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NORTHERN

Heard	100	310
Received	74	269
Pending ¹	114	114 ²

SOUTHERN

Heard	300	950
Received	181	636
Pending ¹	122	122 ²

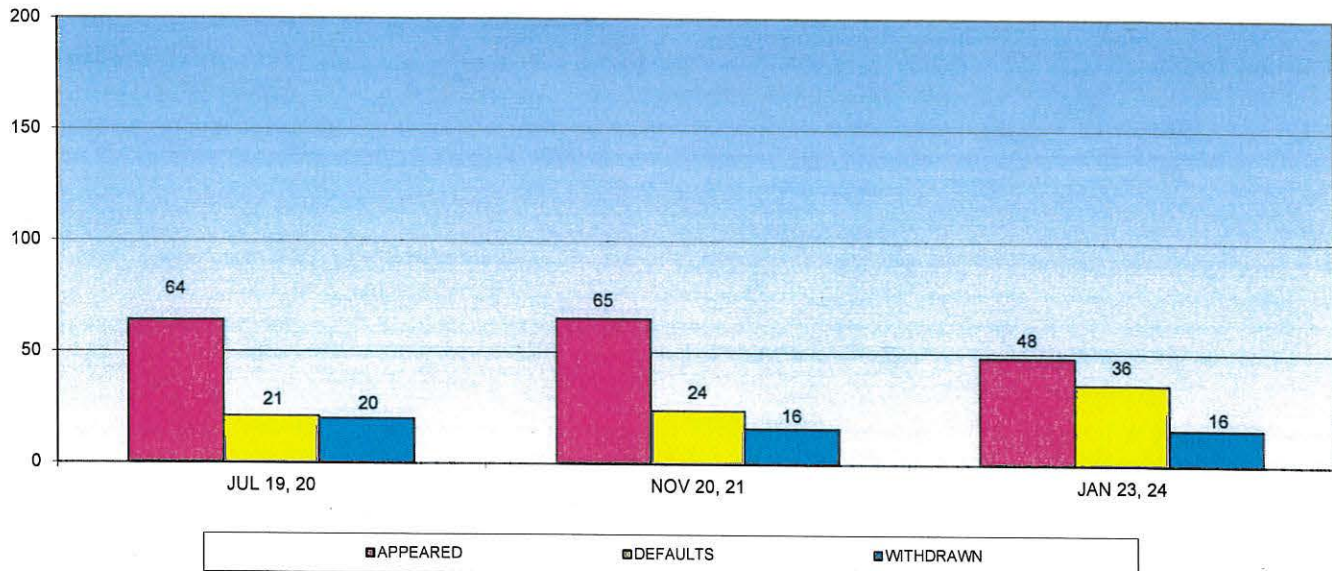
¹ Pending refers to the number of appeals received but not yet heard by DRC.

² Figure represents number of pending requests as of report date.

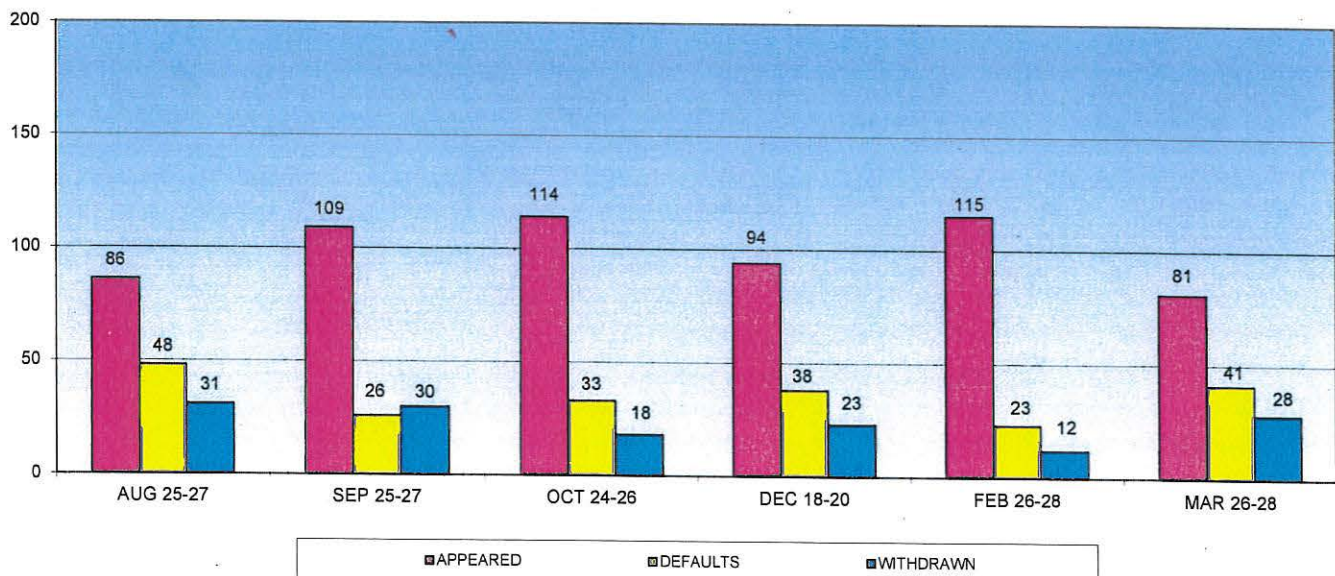
2018 SCHEDULED HEARINGS

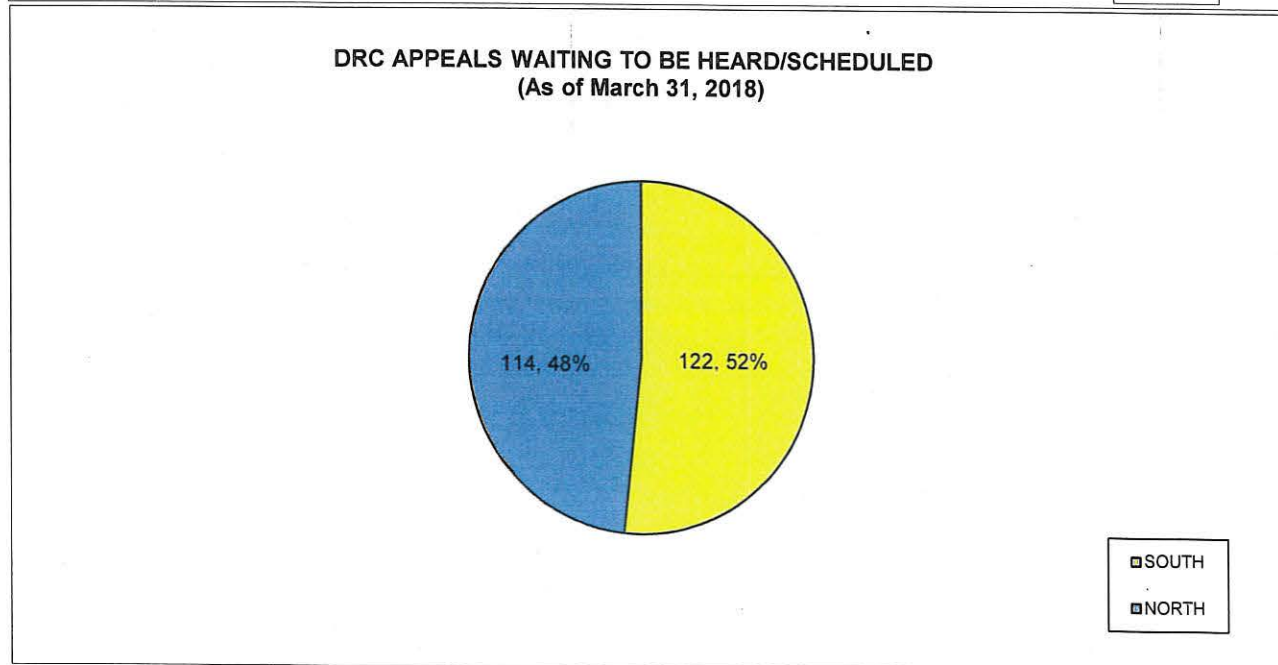
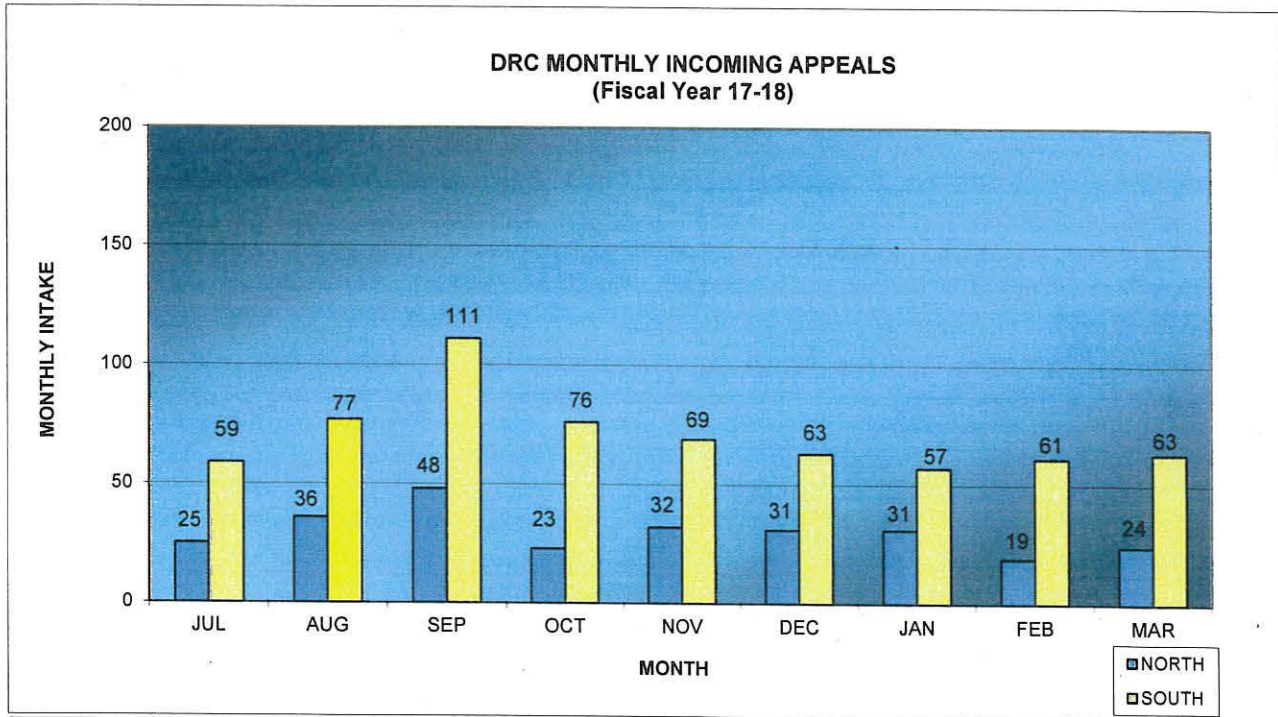
Area	Location	Date
Southern	Los Angeles	May 22, 23, 2018
Northern	Sacramento	July 23, 24, 2018

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



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





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

	Jul-Sept	Oct-Dec	Jan- Mar	Apr-Jun	YTD
COMPLAINTS					
Complaints Received	1041	833	897		2771
Referred to DOI	6	2	3		11
Complaints Closed	925	857	1120		2902
Total Complaints Pending	1156	1123	899		899
APPLICATION INVESTIGATIONS*					
Received	30	575	48		653
Pending	1	403	192		192
Closed	34	101	250		385
ATTORNEY GENERAL					
Referred	27	19	29		75
Accusations Filed	5	9	30		44
Statement of Issues Filed	0	2	1		3
Total Pending	73	68	80		80
DISCIPLINARY PROCESS					
Proposed Decisions	1	3	0		4
Default Decision	5	6	2		13
Stipulation	12	11	7		30
DISCIPLINARY OUTCOMES					
Revocation	6	10	3		19
Revoke, Stay, Probation	1	4	4		9
Revoke, Stay, Suspend/Prob	7	7	3		17
Revocation, Stay w/ Suspend	0	0	0		0
Probation Only	0	0	0		0
Suspension Only	0	0	0		0
Suspension & Probation	0	0	0		0
Suspension, Stay, Probation	2	2	4		8
Surrender of License	6	4	3		13
Public Reprimands	0	0	0		0
License Denied	0	1	0		1
Other	0	0	0		0
Total	22	28	17		67
PROBATION					
Active	125	127	139		139
Jul-Sept Oct-Dec Jan- Mar Apr-Jun YTD					
CITATIONS					
Establishments	1938	1631	1485		5054
Barber	218	195	222		635
Barber Apprentice	22	19	19		60
Cosmetologist	761	578	505		1844
Cosmetologist Apprentice	14	6	12		32
Electrologist	1	0	1		2
Electrologist Apprentice	0	0	0		0
Manicurist	515	416	377		1308
Esthetician	77	49	54		180
Unlicensed Est.	84	65	61		210
Unlicensed Individual	115	103	101		319
Total	3745	3062	2837		9644
INSPECTIONS					
Establishments w/ violations	1895	1737	1946		5578
Establishments w/o violations	756	708	668		2132
Total	2651	2445	2614		7710

Complaints Received

Jan-Mar 2018

Complaint Type	Anonymous	Internal	Public	Totals
Fraud	3	1	0	4
Health & Safety	258	30	60	348
Non-Jurisdictional	40	2	46	88
Incompetence/Negligence	0	0	119	119
Other	1	3	0	4
Personal Conduct	0	1	2	3
Unlicensed Activity	183	74	78	335
App Investigation	0	44	0	44
Totals	485	155	305	945

Last 4 Fiscal Years

Category	FY 14-15	FY 15-16	FY 16-17	FY 17-18*
Fraud	44	82	61	56
Health & Safety	1347	1310	1616	1133
Non-Jurisdictional	312	294	284	227
Incompetence/Negligence	303	333	270	319
Other	20	42	35	16
Personal Conduct	13	19	20	5
Unlicensed Activity	1523	1651	1817	1065
App Investigation	1	0	0	582
Totals	3563	3731	4103	3403

*FY 17-18 only contains data from July 1, 2017 through March 31, 2018.

Board of Barbering and Cosmetology
Fiscal Year 2017/2018
Projected Expenditures 01/31/18

Personnel Services	ALLOTMENT	BBC Projected Expenditures	Projected Year
Permanent	4,518,000	4,018,498	499,502
Expert Examiners	453,000	375,442	77,558
Temporary	134,000	132,405	1,595
BL 12-03 Blanket	0	196,909	(196,909)
Statutory-Exempt	104,000	119,520	(15,520)
Board Member Commission	0	18,000	(18,000)
Overtime	0	3,000	(3,000)
Total Salary & Wages	5,209,000	4,863,774	345,226
Net Salary & Wages	5,209,000	4,863,774	345,226
Staff Benefits	2,604,000	1,701,108	902,892
Total of Personnel Services	7,813,000	6,564,882	1,248,118
Operating Expenses & Equipment (OE&E)	Allotment	BBC Projected Expenditures	Projected Year End Balance
General Expense	191,000	270,000	(79,000)
Printing	168,000	379,000	(211,000)
Communication	41,000	47,000	(6,000)
Postage	283,000	90,000	193,000
Insurance	4,000	18,106	(14,106)
Travel In State	83,000	134,000	(51,000)
Travel, Out-of-State	0	2,654	(2,654)
Training	11,000	1,126	9,874
Facilities Operations	1,289,000	907,531	381,469
Utilities	0	0	0
Consultant & Professional Svs. - Interdept.	126,000	0	126,000
Consultant & Professional Svs. - External	498,000	357,500	140,500
Depart. and Central Admin. Services	7,854,000	7,910,072	(56,072)
Consolidated Data Center	68,000	3	67,997
Information Technology	38,000	30,000	8,000
Central Admin Pro Rata	931,000	931,000	0
Examinations	1,394,000	1,698,000	(304,000)
Major Equipment	46,000	46,000	0
Minor Equipment	15,000	40,000	(25,000)
Other Items of Expense	5,000	1,500	3,500
Vehicle Operations	38,000	37,000	1,000
Enforcement	1,722,000	989,000	733,000
Special Items of Expenses	0	0	0
Total Operating Expenses & Equipment	14,805,000	13,889,492	915,508
Total Personal Services Expenses	7,813,000	6,564,882	1,248,118
Total reimbursements (57,000)			
Total	22,561,000	20,454,374	2,163,626

Total reimbursements

(57,000)

Total

22,561,000

20,454,374

2,163,626

0069 - Barbering and Cosmetology Contingency Fund

Analysis of Fund Condition

Prepared 1/10/2018

(Dollars in Thousands)

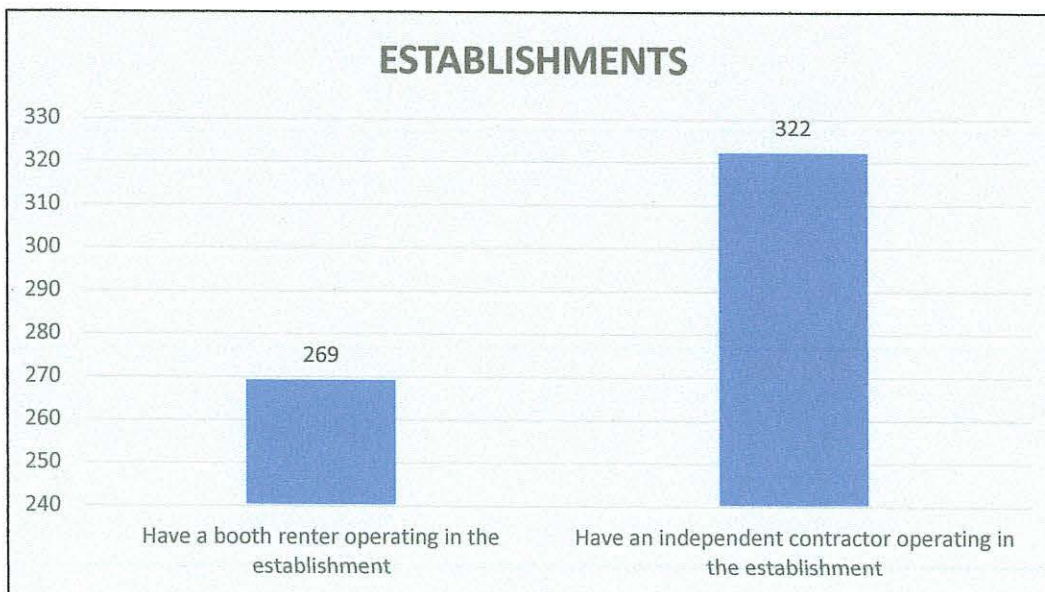
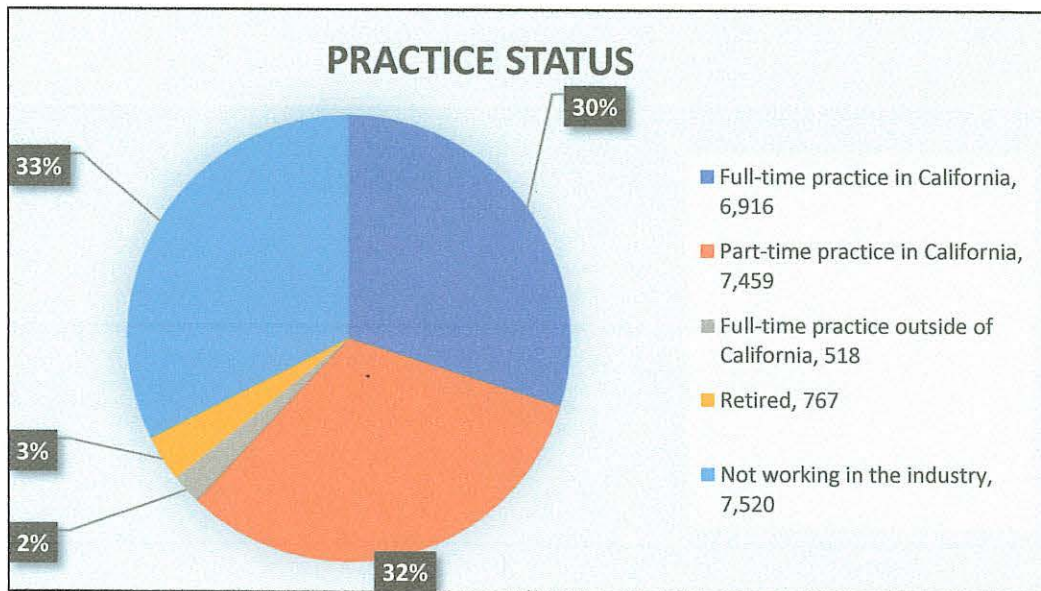
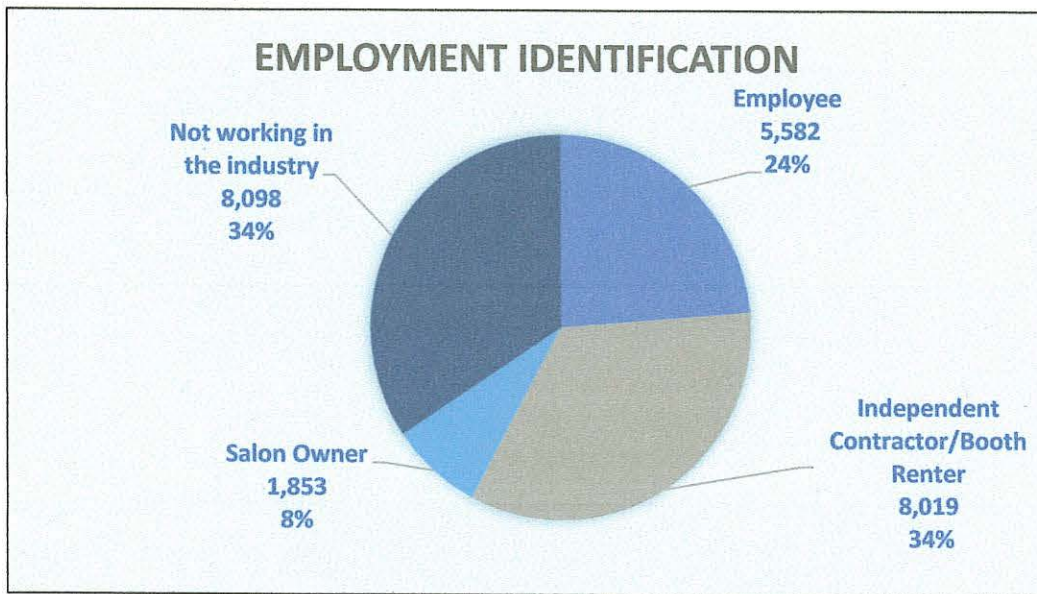
NOTE: \$21 Million General Fund Repayment Outstanding

2018-19 Governor's Budget

	ACTUAL 2016-17	CY 2017-18	Governor's Proposed Budget BY 2018-19
BEGINNING BALANCE			
Prior Year Adjustment	\$ 18,721	\$ 20,565	\$ 20,692
Adjusted Beginning Balance	\$ 628	\$ -	\$ -
	\$ 19,349	\$ 20,565	\$ 20,692
REVENUES AND TRANSFERS			
Revenues:			
4121200 Delinquent fees	\$ 1,143	\$ 1,177	\$ 1,212
4127400 Renewal fees	\$ 11,844	\$ 12,342	\$ 12,712
4129200 Other regulatory fees	\$ 5,978	\$ 6,157	\$ 6,342
4129400 Other regulatory licenses and permits	\$ 4,501	\$ 4,547	\$ 4,683
4163000 Income from surplus money investments	\$ 150	\$ 64	\$ 66
4171400 Escheat - unclaimed checks, warrants, bonds, and coupons	\$ 10	\$ 10	\$ 10
4171500 Escheat - unclaimed property	\$ 3	\$ 3	\$ 3
4172500 Miscellaneous revenues	\$ 13	\$ 13	\$ 13
Total Revenues	\$ 23,642	\$ 24,313	\$ 25,041
Total Revenues, Transfers, and Other Adjustments	\$ 23,642	\$ 24,313	\$ 25,041
Total Resources	\$ 42,991	\$ 44,878	\$ 45,733
EXPENDITURES			
1111 Department of Consumer Affairs Program Expenditures (State Operations)	\$ 21,343	\$ 22,561	\$ 21,923
8880 Financial Information System for California (State Operations)	\$ 31	\$ 28	\$ 2
9892 Supplemental Pension Payments (State Operations)	\$ -	\$ -	\$ 134
9900 Statewide General Administrative Expenditures (Pro Rata) (State Operations)	\$ 1,052	\$ 1,597	\$ 1,466
Total Disbursements	\$ 22,426	\$ 24,186	\$ 23,525
FUND BALANCE			
Reserve for economic uncertainties	\$ 20,565	\$ 20,692	\$ 22,208
Months in Reserve	10.2	10.6	11.1

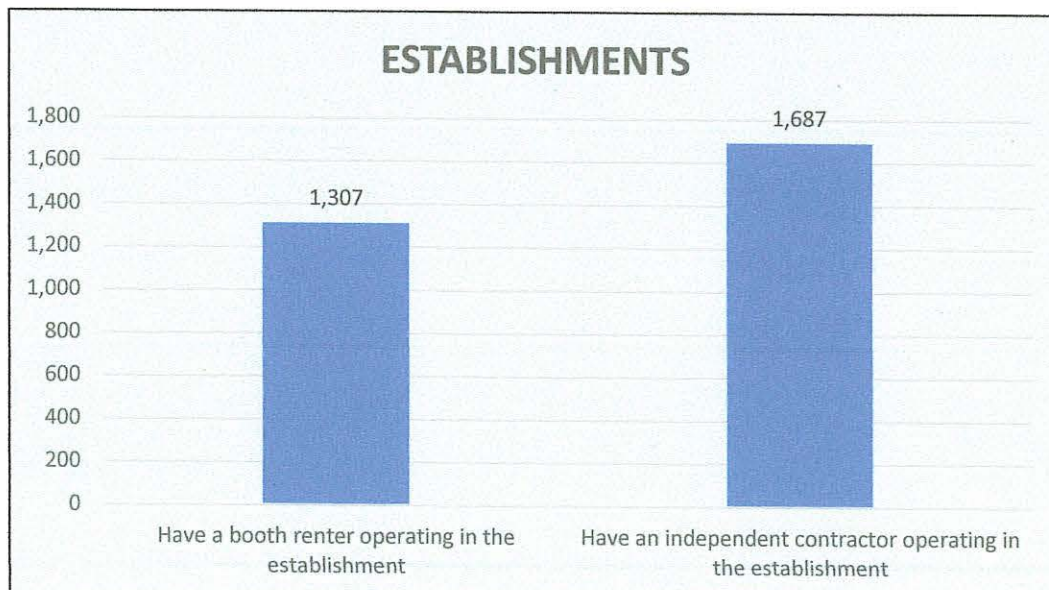
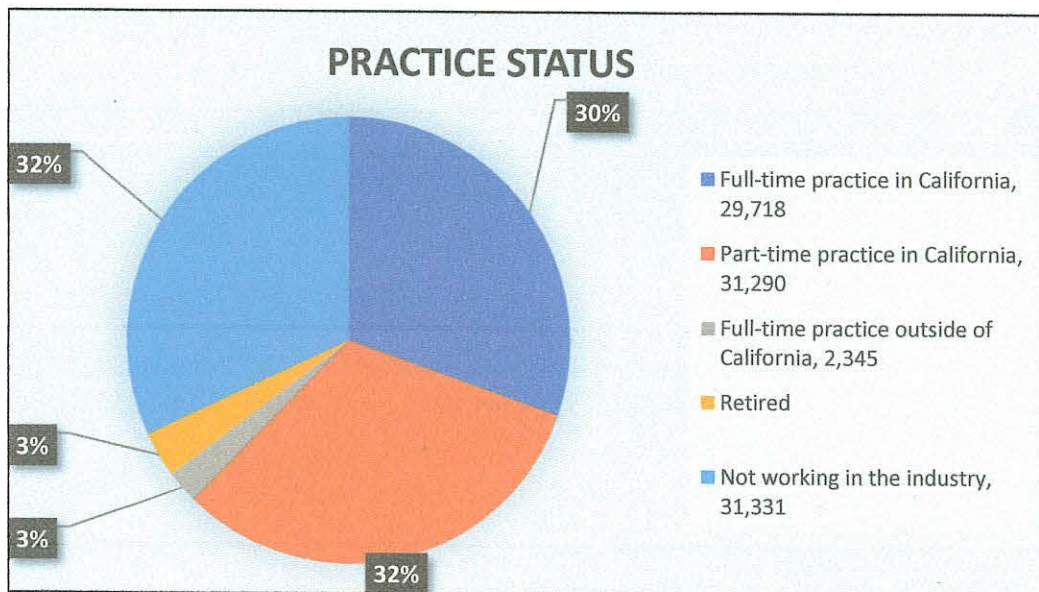
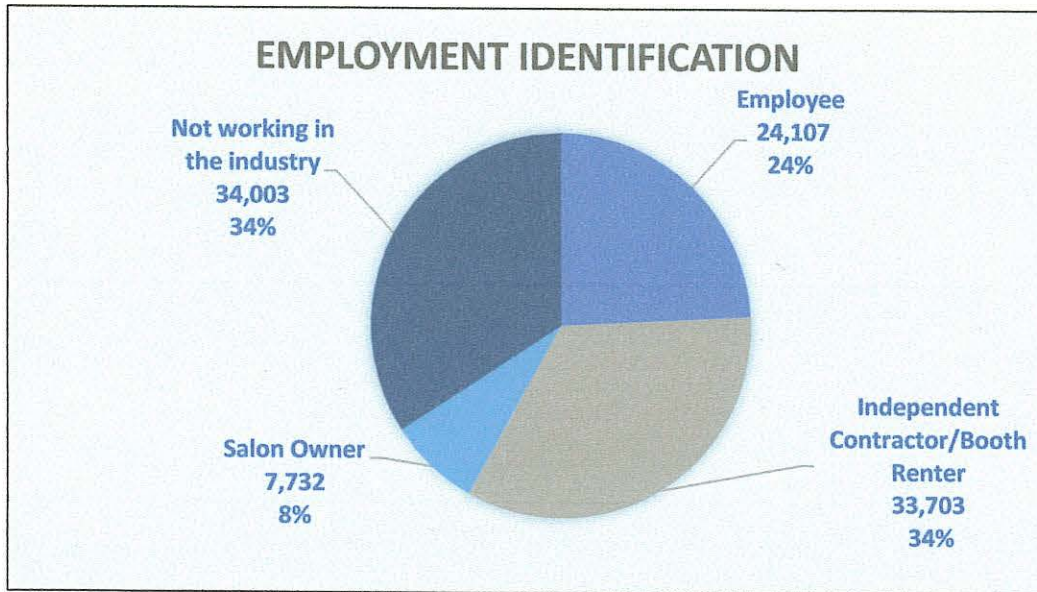
RENEWAL QUESTIONNAIRE

January 1 - March 31, 2018 (Current Quarter)



RENEWAL QUESTIONNAIRE

Year to Date





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



DRAFT
CALIFORNIA STATE BOARD
OF
BARBERING AND COSMETOLOGY
BOARD MEETING
MINUTES OF FEBRUARY 12, 2018
Department of Consumer Affairs
1747 North Market Blvd.
HQ2 Hearing Room 186, 1st Floor
Sacramento, CA 95834

BOARD MEMBERS PRESENT

Dr. Kari Williams, President
Polly Codorniz
Jacquelyn Crabtree
Joseph Federico
Coco LaChine
Lisa Thong
Steve Weeks

STAFF MEMBERS PRESENT

Kristy Underwood, Executive Officer
Michael Santiago, Board Legal Representative
Marcene Melliza, Board Analyst
Carrie Harris, Board Enforcement Manager

BOARD MEMBERS ABSENT

Bobbie Jean Anderson
Andrew Drabkin, Vice President

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

Dr. Kari Williams, 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 welcomed everyone to the first meeting of 2018.

3. Agenda Item #3, ANNUAL ELECTION OF OFFICERS

Dr. Williams asked for nominations for Officers of the Board for 2018.

MOTION: Mr. Federico made a motion, seconded by Mr. LaChine, to elect Dr. Kari Williams as President of the Board for 2018 and Lisa Thong as Vice President of the Board for 2018. Motion carried 7 yes, 0 no, and 0 abstain per roll call vote as follows:

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

4. Agenda Item #4, BOARD MEMBER REMARKS

Mr. Weeks stated, as a new Board member, he visited the Glendale Testing Center in December. He stated he was impressed with the volume of individuals that go to the center for testing. He stated he also did a ride-along with Inspector Espinoza in Orange County. He stated seeing inspections before attending a Disciplinary Review Committee hearing is critical. It provides an opportunity to see the hard work that inspectors do to ensure the safety of the public. Inspectors have an important job. He encouraged the Board to do all they can for the inspector position and to bring on additional inspectors as soon as possible.

Mr. LaChine stated he is looking forward to implementing the sexual harassment training in the industry this year.

5. Agenda Item #5, PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA

Fred Jones, Legal Counsel for the Professional Beauty Federation of California (PBFC), reminded everyone that the 18th Annual Welcome to Our World (WOW) event is Monday, April 30, 2018, from 3:00 to 6:30 p.m.

Gary Federico brought forward the frustration that good hair stylists and barbers have and the fear that they are working harder than the agency above them. He stated concern over deregulation, Personal Service Permits, and the stripping of the industry's powers and scope. In addition, inspectors receive low pay and there are not enough of them to reasonably inspect every establishment on an annual basis. Mr. Federico stated the hope that the necessary changes will be made this year to strengthen the Board so it can support and protect the industry.

6. Agenda Item #6, DEPARTMENT OF CONSUMER AFFAIRS REPORT ON DEPARTMENTAL ACTIVITIES

Presenter: Christopher Castrillo, Deputy Director, Office of Board and Bureau Services

Christopher Castrillo, Deputy Director, Office of Board and Bureau Services, Department of Consumer Affairs, introduced himself as the new Deputy Director of the Board and Bureau Services and summarized his background. He provided updates from the Department, as follows:

- The first Director's quarterly meeting was held on January 29th. Mr. Castrillo encouraged the Board's and staff's input and participation in the Director's quarterly meetings.
- The Executive Officer Brown Bag meets on February 28th. These structured social gatherings provide a forum for transferring knowledge, building trust, and establishing networking relationships with the Executive Officers. The February 28th meeting will include presentations on employee engagement and the Future Leadership Development (FLD) Programs team projects.
- The dates have been set for the required Board Member Orientation Training for 2018: March 21, June 6, September 18, and December 5. The monthly Office of

Board and Bureau Services newsletter covers the information Mr. Castrillo discussed today.

7. Agenda Item #7, EXECUTIVE OFFICER'S REPORT

- 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

Kristy Underwood, Executive Officer, reviewed the statistics and update reports, which were included in the meeting packet.

Mr. Weeks asked about the low Spanish pass rates. Ms. Underwood summarized the work the Board has done to address this historical, nationwide issue.

Ms. Thong suggested reviewing the Spanish data by age to see if there is a correlation between first-generation and second-generation immigrants.

Mr. LaChine asked about the high barber pass rates. Ms. Underwood stated the interest in barbering and application rate has grown recently, which may account for the figures.

Ms. Crabtree asked for a breakdown on complaint topics.

8. Agenda Item #8, APPROVAL OF BOARD MEETING MINUTES

October 22, 2017

MOTION: Mr. Federico made a motion, seconded by Mr. Weeks, that the Board approves the October 22, 2017, Meeting Minutes as presented.

Motion carried 7 yes, 0 no, and 0 abstain per roll call vote as follows:

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

9. Agenda Item #9, DISCUSSION AND POSSIBLE ACTION REGARDING THE 2018 BOARD MEMBER GUIDELINES AND PROCEDURES MANUAL

Ms. Underwood summarized the changes made to the Annual Board Guidelines and Procedures Manual.

MOTION: Dr. Williams made a motion, seconded by Ms. Thong, that the Board approves the 2018 Guidelines and Procedures Manual as updated.

Motion carried 7 yes, 0 no, and 0 abstain per roll call vote as follows:

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

10. Agenda Item #10, APPOINTMENT OF COMMITTEE MEMBERS TO STANDING COMMITTEES FOR 2018-19

The 2018-2019 Committees are as follows:

Disciplinary Review Committee

- All Board members are part of this Committee

Education and Outreach Committee

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

Enforcement and Inspections Committee

- Joseph Federico (Chairperson)
- Jacquelyn Crabtree
- Lisa Thong
- Steve Weeks

Legislative and Budget Committee

- Andrew Drabkin (Chairperson)
- Bobbie Jean Anderson
- Jacquelyn Crabtree
- Steve Weeks

Licensing and Examination Committee

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

MOTION: Dr. Williams made a motion, seconded by Mr. Federico, that the Board approves the Standing Committee makeup for 2018-2019 as assigned. Motion carried 7 yes, 0 no, and 0 abstain per roll call vote as follows:

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

11. Agenda Item #11, UPDATE ON THE 2017 HEALTH AND SAFETY ADVISORY COMMITTEE AND APPOINTMENT OF 2018 COMMITTEE MEMBERS (BPC SECTION 7314.3)

MOTION: Ms. Crabtree made a motion, seconded by Dr. Williams, that the Board directs staff to develop regulatory language incorporating the Health and Safety Advisory Committee recommendations. Motion carried 7 yes, 0 no, and 0 abstain per roll call vote as follows:

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

Ms. Thong and Dr. Williams volunteered to serve on the 2018 Health and Safety Advisory Committee and Ms. Crabtree volunteered to serve as the alternate member.

MOTION: Dr. Williams made a motion, seconded by Mr. Federico, to appoint Ms. Thong and Dr. Williams to the 2018 Health and Safety

Advisory Committee and to appoint Ms. Crabtree as the alternate. Motion carried 7 yes, 0 no, and 0 abstain per roll call vote as follows:

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

MOTION: Dr. Williams made a motion, seconded by Mr. Federico, to approve the 2018 Health and Safety Advisory Committee compilation, accept the appointment terms, and delegate the authority for the appointment of the Committee members and the ability to make changes to the group's compilation to the Executive Officer and all non-substantive changes that may arise during the scheduling process. Motion carried 7 yes, 0 no, and 0 abstain per roll call vote as follows:

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

Public Comment

Caroline Barboza, a barber, asked how she could be a part of the 2018 Health and Safety Advisory Committee. Ms. Underwood stated applications for Committee membership will be posted on the website.

12. Agenda Item #12, DISCUSSION AND POSSIBLE ACTION APPROVING EDITS OF THE 2018 HEALTH AND SAFETY COURSE (BPC SECTION 7389)

Ms. Underwood summarized the edits of the 2018 Health and Safety Course, which was included in the meeting packet.

Mr. LaChine stated the need to ensure that Section 10, Physical and Sexual Abuse Awareness, covers all genders.

Public Comment

Gary Federico asked where this document would be used. Ms. Underwood stated schools and apprenticeship programs are required to teach it and it will be posted on the website.

Jaime Schrabek, Precision Nails, referred to the Tax Obligations item under Section 9, Understanding Workers' Rights and Responsibilities, and stated "an establishment owner with employees may" makes it sound like the listed responsibilities are an option.

Michael Santiago, Board Legal Representative, suggested "an establishment owner should consult with the proper regulatory entities regarding the following" so it is not directly on the Board to educate the establishment owners, but asks them to check for themselves. Board members agreed.

MOTION: Dr. Williams made a motion, seconded by Ms. Crabtree, that the Board adopts the text revisions made to the Health and Safety course, including the additional language regarding establishment owners' responsibility to consult with the proper regulatory entities, and delegates the authority and ability to make all non-substantive changes that may

arise during the editing process to the Executive Officer. Motion carried 7 yes, 0 no, and 0 abstain per roll call vote as follows:

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

13. Agenda Item #13, REPORT ON THE JANUARY 22, 2018, ENFORCEMENT AND INSPECTIONS COMMITTEE MEETING

Joseph Federico, Chair of the Enforcement and Inspections Committee, provided an overview of the January 22, 2018, meeting discussions as follows:

The Committee was updated on the inspector language access protocol and heard a report on what is being done internally to address inspection's workload with limited staff and discussed the lack of applicants for inspector positions. The Committee asked to be updated at the next Committee meeting with a timeline on working with the Department on hiring issues for the inspection's classifications.

14. Agenda Item #14, REPORT ON THE JANUARY 22, 2018, LEGISLATIVE AND BUDGET COMMITTEE MEETING

Ms. Underwood read a report from Andrew Drabkin, Board Vice President and Chair of the Legislative and Budget Committee, summarizing the meeting discussions as follows:

The Committee discussed past legislation, legislative best practices, and legislative priorities. School oversight was determined to be one of the top priorities. The Committee meeting materials are online.

15. Agenda Item #15, REPORT ON THE JANUARY 22, 2018, LICENSING AND EXAMINATION COMMITTEE MEETING

Joseph Federico, Chair of the Licensing and Examination Committee, provided an overview of the January 22, 2018, meeting discussions as follows:

The Committee discussed the risk assessment of implementing the Personal Service Permit. The Committee adopted a motion to ask staff to prepare regulatory language to implement the Personal Service Permit. This language will be presented to the Committee at the next meeting.

The Committee heard a report on Bloodborne Pathogen Training. The majority of the training is already a part of the Health and Safety course. The report is available on the website.

16. Agenda Item #16, REPORT ON THE JANUARY 22, 2018, EDUCATION AND OUTREACH COMMITTEE MEETING

Dr. Kari Williams, the Chair of the Education and Outreach Committee, provided an overview of the January 22, 2018, meeting discussions as follows:

The Committee discussed developing an outreach plan for consumers, approved a motion that asked staff to bring information back to the Committee on the development of a communications plan, and was updated on industry outreach events.

17. Agenda Item #17, DISCUSSION AND POSSIBLE ACTION RELATING TO CERTIFICATION OF STUDENT HOURS

Ms. Underwood summarized the Report on Certification of Student Hours, which was included in the meeting packet. She stated allegations of selling hours are forwarded to the California Bureau for Private Postsecondary Education (BPPE). The selling of hours has increased over the past year. Ms. Underwood will be meeting with the BPPE's new Bureau Chief this week to discuss this further.

Ms. Underwood stated the BPPE does compliance inspections and is responsible for student protection; the Board is responsible for consumer protection. Unfortunately, none of these students are complaining of harm. It is a disservice to these students to only teach them to pass the exam because later in their careers they suffer fines, which could have been avoided by learning the laws and regulations in school.

Ms. Underwood stated staff has begun conducting site visits to schools that have no allegations to compare them to schools with allegations of selling hours. The findings of the site visits are included in the staff report in the meeting packet.

Ms. Underwood listed areas where the Board can improve to help the situation, such as registering students at time of enrollment and requiring a lesson plan. The Proof of Training (POT) is an official document with a start date and end date with a signature from the school.

Questions and Discussion

Mr. LaChine stated many companies no longer use timeclocks but use programs for students to sign in. He cautioned that some of those programs allow remote clock-in.

Mr. Federico stated his school is currently updating their timeclock software. He stated remote clock-ins are typically noted in the clock stamp.

Ms. Crabtree asked if times can be edited on the timeclock software. Mr. Federico stated they can be because there are always issues such as someone forgetting to clock in or out. Manual edits are highlighted in another color.

Mr. LaChine agreed and stated timeclock software also includes who made the manual adjustment.

Mr. Federico asked if staff gives the BPPE the evidence that has been accumulated and what the BPPE's response timeline is. Ms. Underwood stated she does not know the BPPE's timeline. Staff provides them with the inspection reports and complaints.

Ms. Underwood stated the hope to partner with the new Bureau Chief to share information and to help stop the selling of hours.

Ms. Codorniz asked if this issue may be causing the low Spanish pass rates.

Ms. Underwood stated she did not think this issue affects the low passage rate. The issue most affects the manicuring population.

Carrie Harris, Board Enforcement Manager, stated the students who are taught to pass the test are doing well. The Spanish pass rates do not reflect that.

Ms. Crabtree asked if the BPPE posts reports on their website on the work they are doing on this issue. It should be a concern for them since they regulate the schools. She

asked why this issue is not more urgent for them. Ms. Underwood stated it is a concern for them. She recently met with the Department's executive team, the Bureau, and the Division of Investigation. They are concerned but Ms. Underwood stated she does not know their processes or laws of what they look for.

Mr. Federico suggested inviting the BPPE to do a presentation on their process at a future Board meeting.

Mr. Weeks stated he did not want to slow this process down since this is the most important agenda item of today's meeting. He complimented staff on their excellent job of putting together a document that proves multiple areas where there is obvious fraud. He stated it is not only fraud itself, but it is a slap in the face of tens of thousands of licensees who do not spend time with their family because they are studying or at school or work. These are also the individuals the Board has to report to on this issue. The Board has to take action and has to do something with teeth. He spoke in favor of putting together a working group to begin attacking the situation immediately.

Ms. Thong asked if it would be a benefit to send this report and memo to legislators. Ms. Underwood stated the Board has been in discussion with legislative staff on this topic for many years and it will be the biggest topic at the upcoming sunset review.

Public Comment

Mr. Jones agreed with Mr. Weeks that this is the most important issue facing the Board. He provided staff with legal references. He suggested that the Board move forward with the regulation package to require student registration with the Board within 30 days of enrollment and simultaneously pursue statutory authority. He suggested doing both now since regulation packages take two years to adopt. The Board's mandated "consumer protection" and "proof of qualifications of the applicant for examination" make up the statutory language to develop the regulations on POTs. He asked how the Board can have proof of qualifications without requiring student registration upon enrollment, especially in light of the examples provided in the staff report.

Mr. Jones suggested proposing regulations today rather than waiting to convene a working group. He cautioned that enforceability has to be a key component of any regulation created. He suggested working closely with the National Accrediting Commission of Career Arts and Sciences (NACCAS) to help with this issue.

Ms. Barboza stated she plans to open a barbering college because of the things discussed today: the lack of professionalism, ethics, management skills, and education in the workforce. She suggested letting students know that they can file a complaint with the BPPE if they feel they are not getting the proper education. The students are the individuals paying and being cheated out of an education and great career.

Ms. Schrabek thanked Ms. Barboza for bringing up that point. She stated, when she was in school, complaining about the quality of the education did not get anywhere because it was always about the money, and it still is. She stated she overheard her ex-receptionist, who was going to school to be a manicurist,

bragging about clocking in and then going shopping instead of going to school. She stated her sister was told she had to pay a \$1,000 "facilities fee," even while under the ROP program. At the end of her course, her sister complained to the Monterey Peninsula Unified School District, who was then endorsing that school for the ROP program and found that the school was selling hours. This came to light because of the money – because that college was defrauding the federal government of dollars. Ms. Schrabec stated she is disturbed by the staff report but it also reaffirms everything she has suspected for a long time. She credited staff for their hard work on this issue. She stated this is the tip of the iceberg. There are witnesses out there who are frustrated. She stated her sister was so frustrated that she was able to get the school district to cut off that school and that program ended. That school later became the Marinello Schools of Beauty.

Gary Federico agreed with Mr. Jones's comments. He stated his school has paid the oversight agency \$25,000 per year for 18 years to do an annual compliance audit and sends them paperwork that takes many hours to compile, but the school has never received a response from the agency. He stated the oversight agency has been useless for his school; they take his money but do nothing in return and they do nothing to correct the selling of hours.

MOTION: Mr. Federico made a motion, seconded by Dr. Williams, that the Board pursues regulatory and statutory authority to require schools to register students with the Board upon enrollment, and directs the Executive Officer to establish a working group to further develop the recommendations outlined in the Report on Certification of Student Hours. Motion carried 7 yes, 0 no, and 0 abstain per roll call vote as follows:

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

Mr. Weeks asked about the timeframe for assembling the working group.

Ms. Underwood stated she will put the working group together quickly and anticipated that they will present a report of their work at the next Board meeting.

Mr. Federico asked that a representative from the BPPE be a part of the working group.

18. Agenda Item #18, DISCUSSION AND POSSIBLE ACTION REGARDING PROPOSED CHANGES TO THE BOARD'S *KNOW YOUR WORKERS' RIGHTS* PUBLICATION

Ms. Underwood reviewed the proposed changes to the *Understanding Workers' Rights and Responsibilities* publication, which were included in the meeting packet.

Mr. LaChine asked for a different photograph for the cover of the pamphlet.

Ms. Thong stated her preference for no photos because the photos date the pamphlet.

Public Comment

Ms. Schrabec agreed to change or remove the photographs from the front cover and from inside the pamphlet because they do date it and make it seem less serious. She asked the Board to change the language on page 4 to the same language suggested by Mr. Santiago for the Health and Safety course in Agenda

Item 21 – “An establishment owner should consult with the proper regulatory entities regarding the following.” She stated hourly, piece rate, and commission need clear, consistent definitions among agencies before this pamphlet can be finalized.

Mr. Jones referred to page 7, Piece Rate vs. Commission Wages, and agreed with Ms. Schrabek that this area of the law is confusing. He stated commissions are illegal in the industry with two exceptions: the piece rate law and Senate Bill (SB) 490, which passed last year.

MOTION: Mr. Federico made a motion, seconded by Ms. Crabtree, that the Board adopts the *Understanding Workers' Rights and Responsibilities* publication, including the additional language regarding establishment owners' responsibility to consult with the proper regulatory entities, and delegates the authority and the ability to make all non-substantive changes, including photograph, that may arise during the editing/printing process to the Executive Officer. Motion carried 7 yes, 0 no, and 0 abstain per roll call vote as follows:

The following Board Members voted “Yes”: Codorniz, Crabtree, Federico, LaChine, Thong, Weeks, and Williams.

19. Agenda Item #19, LEGISLATIVE UPDATE

Ms. Underwood summarized the Implementation Update on Chaptered Legislation report, which was included in the meeting packet.

Implementation Update on Chaptered Legislation

- a. **AB 326 (Salas) – Domestic Violence/Sexual Assault Awareness Training**
- b. **AB 1516 (Cunningham) – Maintenance of the Codes**
- c. **AB 1615 (Garcia) – Gender Discrimination**
- d. **SB 490 (Bradford) – Commission wages for Employees licensed under the Barbering and Cosmetology Act**
- e. **SB 547 (Hill) – Apprentice Supervision**

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

Discussion and Possible Action on Proposed Bills

- a. **AB 767 (Quirk-Silva) – Master Business License Act**

MOTION: Dr. Williams made a motion, seconded by Ms. Crabtree, to watch AB 767. Motion carried 7 yes, 0 no, and 0 abstain per roll call vote as follows:

The following Board Members voted “Yes”: Codorniz, Crabtree, Federico, LaChine, Thong, Weeks, and Williams.

- b. **AB 1575 (Kalra) – Cosmetic Labeling Requirements**

The Board took no action on this bill.

c. SB 296 (Nguyen) – Manicure Scope of Practice (Addition of Waxing Services)

This bill has been pulled by the author.

d. SB 715 (Newman) – Removal of Board Member from Office (applies to all state boards)

The Board took no action on this bill.

20. Agenda Item #20, PROPOSED REGULATIONS – DISCUSSION AND POSSIBLE ACTION OF PROPOSED CHANGES

Ms. Underwood stated staff is only asking for an action on one packet today. More information on the remaining packages will be presented at the next Board meeting.

Status Updates

- a. Title 16, CCR Section 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 974.1 (Disciplinary Review Committee)

Action Needed

- f. Title 16, CCR Section 904 (Definition of Access)
- g. Title 16, CCR Section 972 (Disciplinary Guidelines)
- h. Title 16, CCR Section 974.3 (Citation of Establishments, Individuals for Same Violation)
- i. Title 16, CCR Section 974.4 (Installment Payment Plan for Fines)
- j. Title 16, CCR Section 978, 979, 980, 980.4, 981, 982, 984, and 989 (Health and Safety Regulations)

MOTION: Dr. Williams made a motion, seconded by Ms. Thong, that the Board adopts the proposed regulatory language for noticing and set for hearing, and delegates authority to the Executive Officer to make any non-substantive or technical changes. Motion carried 7 yes, 0 no, and 0 abstain per roll call vote as follows:

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

21. Agenda Item #21, AGENDA ITEMS FOR THE NEXT MEETING

Mr. LaChine asked for a presentation from the NACCAS at the next Board meeting about their experiences and work on this issue.

Public Comment

Mr. Jones stated the 1600 Cosmetology Curriculum Review working group supported adopting a new license category just for hair stylist.

John Moreno, Vice President, Bakersfield Barber College, stated he looks forward to seeing everyone on the Barbering Committee and is happy to see the Board's work.

Gary Federico invited everyone to the Barber Battle hosted by Federico Beauty Institute next Sunday from 12:00 p.m. to 6:00 p.m.

22. Agenda Item #22, ADJOURNMENT

With no further business, the meeting was adjourned.

No Attachment



BarberCosmo

Board of Barbering & Cosmetology



**2018
INSPECTOR
LANGUAGE
ACCESS
PROTOCOL**

Inspector Language Access Protocol

Introduction

It is the policy of the California Board of Barbering and Cosmetology (Board) to take reasonable steps to provide limited English Proficient (LEP) individuals with meaningful access to all Board services, programs and activities. It is the responsibility of the Board and not the LEP individual to take reasonable steps to ensure communication between the Board representative and the LEP individual are not impaired as a result of the limited English proficiency of the individual. Representatives of the Board shall take reasonable steps to effectively inform the public of the availability of the materials and services provided by the Board language access protocol. This protocol supports the Board's VALUES:

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

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.

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

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.

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

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

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

Quality – We will deliver service, information and products that reflect excellence.

Applicability

This protocol applies to all Inspector Managers, Inspector Supervisors and Inspectors employed by the California Board of Barbering and Cosmetology.

Purpose

The purpose of this protocol is to ensure compliance with Chapter 10, Article 1, Section 7313 (d) of the California Business and Professions Code.

Effective January 1, 2016, Senate Bill AB 181, (Chapter 430, Statutes of 2015) signed by Governor Edmund G. Brown Jr. became law. This legislation amended the Business and Professions Code and requires the Board to adopt a protocol for the inspection of establishments when an inspector has difficulty understanding or communicating with the establishment owner, manager, or employees due

to a language barrier. The Board is required to evaluate the protocol every two years to ensure the protocol remains current.

Authority

- Department of Consumer Affairs Bilingual Services Program Policy (EEO 04-02);
- Dymally-Alatorre Bilingual Services Act (Government Code Sections 7290-7299.80); and
- Chapter 10, Article 1, Section 7313 (d) of the California Business and Professions Code.

Definitions

Interpretation – The act of listening to a communication in one language and orally converting it to another language while retaining the same meaning.

Limited English Proficient (LEP) - Individuals whose primary language is not English and who have limited ability to write, read, speak or understand English.

Meaningful Access – Language assistance that results in accurate, timely, and effective communication at no cost to the LEP individual. For LEP individuals, meaningful access indicates access that is not significantly restricted, delayed or reduced in quality as compared to programs or activities provided to English proficient individuals.

Primary Language – The language in which an individual most effectively communicates.

Translation – The replacement of written text from one language into an equivalent written text in another language.

Vital Documents – Paper or electronic material that is critical for access to the Board's services, programs or activities.

Customer Service Standards for Non-English Speaking (LEP) Individuals

- All LEP individuals shall be treated with kindness, courtesy and respect.
- LEP individuals will be identified as early as possible during the initial contact.
- LEP individuals will be offered an opportunity to utilize an interpreter via the Language Line Services.
- Translated written materials will be provided to the LEP individual if available.

Responsibilities

The Board will establish and maintain an Inspector Language Protocol Working Group (Working Group) that is representative of the Board's services, programs and activities as appropriate. The working group will be responsible for implementing and the regular review of the Inspector Language Access Protocol for its continued relevancy. The Working Group shall be responsible for the development of training materials that will address information specific to the Inspector Language Access Protocol. The Working

Group will be composed of the Board's Inspector Manager, an Inspector Supervisor, an Inspector, a representative from the Cite and Fine unit and/or Inspections Unit and an Administrative Analyst. The Inspector Manager will establish a schedule to periodically evaluate and update the Board's LEP services and LEP protocol. The Inspector Manager will lead this working group and report key issues and information to the Board's Executive Officer or designee.

Procedures and Requirements

The following procedures and requirements are to be followed by Inspector Managers, Inspector Supervisors and Inspectors of the California Board of Barbering and Cosmetology.

- A. Inspectors who interact with the public will be trained on language access protocol and procedures, including how to access language assistance services and how to identify and work with LEP individuals and translators. This training shall be completed on a bi-yearly basis and upon accepting employment with the California Board of Barbering and Cosmetology.
- B. Upon determining the need for language assistance, Board inspectors will take reasonable steps to ensure that all communication is conducted with the use of a bilingual staff member, or when necessary through telephonic interpretation.
- C. Inspectors will take reasonable steps to ensure that vital documents related to the Board's inspection program are provided to the LEP individual, in the language of their choice, if available.
- D. Inspectors who encounter and identify LEP individuals shall maintain a record of their contact with the LEP individual and the primary language spoken on the Inspection Report and the establishment record card.
- E. Inspectors shall at all times reflect the objectives, values and standards of the Board.

Revisions

In compliance with Section 7313 (d) of the California Business and Professions Code this protocol shall be reviewed every two years to ensure the protocol remains current.

The Inspector language access protocol is intended to improve the Board's internal management of the Department of Consumer Affairs language access policy, and does not create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the Department of Consumer Affairs, its agencies, its officers or employees, or any person.



Board of Barbering and Cosmetology
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MEMORANDUM

TO: Members
Board of Barbering and Cosmetology

Date: February 15, 2018

FROM: Tami Guess, Board Project Manager
Board of Barbering and Cosmetology

SUBJECT: 2018 Inspector Language Access Protocol

On February 15, 2018, members of the Inspector Language Access Protocol Working Group (Working Group) met and reviewed the adopted 2016 Inspector Language Access Protocol. The following minor non-substantive changes were made to the protocol:

- The term 'Inspector Managers' was added for clarity.
- The 'Specialist' position was removed and replaced with the 'Inspector Manager'.
- The 'Board Outreach Analyst position' was removed and replaced with the term, 'Administrative Analyst'.

Action Required:

If the Board, by motion, adopts the text revisions made to the Inspector Language Access Protocol and if the members should delegate the authority and the ability to make all non-substantive changes that may arise during the editing process to the Executive Officer.

The Working Group makes the following recommendation to the Members:

Staff should be directed create a sheet that is comprised of common phrases used during the inspections process. (i.e. "I am an inspector of the Board of Barbering and Cosmetology." "I am here to conduct an inspection of your establishment". "Would you like for me to get an interpreter on the phone to speak with you?") These common phrases should be translated into the Spanish, Vietnamese and Korean languages. The sheet should be laminated and distributed to all inspectors during their Language Access training for use by the inspectors in the field.

Action Required:

If the Board, by motion, directs staff to create a sheet of common phrases used during an inspection that has been translated into the Spanish, Vietnamese and Korean languages for use by Board inspectors while conducting inspections.

California Board of Barbering and Cosmetology

Report to the Assembly Committee on Business and Professions and the Senate
Committee on Business, Professions and Economic Development

Review of 1600-Hour Cosmetology Curriculum

Pursuant to Section 7303.2 (a) of the Business and Professions Code (BP&C), the California Board of Barbering and Cosmetology (Board) is submitting the following report regarding the 1600-hour training requirement for cosmetologists, the occupational analysis of the cosmetology profession in California and the review of the national written and practical examinations for cosmetologists.

Background

Assembly Bill 181 (Statutes of 2015, Chapter 430) requires the Board to do the following:

- Review the 1600-hour training requirement for cosmetologists;
- Conduct an occupational analysis of the cosmetology profession in California;
- Conduct a review of the national written and practical examination for cosmetologists to determine if the exams assess critical competencies for California cosmetologists.

The findings and recommendations of the reviews shall be reported to the Assembly Committee on Business and Professions and the Senate Committee on Business, Professions and Economic Development no later than November 1, 2018.

1600-Hour Cosmetology Curricula Review Methodology

For the Board to accurately review the 1600-hour Cosmetology curricula training requirement, a working group was established. This group consisted of Board Members, Industry representatives, Community College representatives, and private Cosmetology school representatives. The working group met on February 5 – 6, 2018, and after extensive discussion agreed that 1600 hours of training should be required for a California cosmetology license.

During the discussions several recommendations were made to the Board regarding the restructuring of the cosmetology curricula for simplicity and clarity.

I. Issues

The following curriculum issues were discussed during the workshop:

- Curriculum language is confusing, out dated, and does not appear to provide enough hours to complete both the theory portion and practical instruction, as specified.
- Current curriculum does not require a student to be supervised by an instructor while performing services on a client.
- The Nail Care curricula only requires 100 hours of health and safety training as opposed to all other curriculums requiring 200 hours.
- The mandated Health and Safety Course (BP&C § 7389) is not included in the current curriculum outlines.

II. Working Group Deliberations

During the deliberations, working group participants were asked if they felt the current cosmetology curricula adequately prepares a student to take a National Interstate Council of State Board's (NIC) cosmetology licensing examination. Participants expressed concern with various aspects of the NIC examinations.

NIC Practical Examination Concerns

During a student's school instruction, a great deal of emphasis is placed on infection control. Students are required to learn extensive disinfection procedures such as how to safely mix quaternary ammonium (quats) for the disinfection of tools and the use of gloves to remove the disinfected tools from the quat solution, for worker protection. The NIC practical exam does not require examinees to demonstrate how to adequately mix up the quats solution or how to safely remove the tools from the solution. In addition, NIC has examinees use hand sanitizer to demonstrate hand sanitizing (instead of hand washing with soap and water).

It was also noted, that given California's history* regarding improperly cleaned pedicure foot spas, NIC does not require any examinee to demonstrate how to properly clean and disinfect a foot spa. Participants felt that knowing proper foot spa disinfection procedures should be considered a minimal competency for maintaining client health and safety.

Participants did not feel the use of a mannequin head/hand was an appropriate means for testing with regard to some services (such as the demonstration of a facial massage or nail enhancement application).

It was acknowledged from an exam proctor safety aspect that using odorless nail monomer may be beneficial, however this type of monomer reacts differently than a

* Winthrop Kevin L, Marcy Abrams, Mitchell Yakrus, Ira Schwartz, Janet Ely, Duncan Gillies, and Duc J. Vugia. 2002. "An Outbreak of Mycobacterial Furunculosis Associated with Footbaths at a Nail Salon." The New England Journal of Medicine.

regular monomer, so the efficacy of the test was questioned as real-world simulation is not maintained.

NIC Written Examination Concerns

It was noted by the working group participants that the NIC written exam questions are outdated and test on non-essential information such as in-depth scientific information, recognition of the disease process, in-depth information on the circulatory system, anatomy and physiology. It was felt that the extent of testing on these subjects is not relevant to the minimal competency of a service provider in day-to-day work-related operations. For instance, the NIC written exam contains questions on the names of the bones and muscles of the body, the working group stated that knowing the actual name of a bone or muscle holds no real value to the licensee, rather knowing the practical application of knowing that there is a muscle and how the service affects the muscle is of practical value. It was noted that requiring rote memorization and testing on subject matter that is of no use is pointless and a waste of resources. In addition, the written test contains questions regarding the recognition of the disease process. The working group felt this too was pointless as Board licensees should be taught that if there is something unusual, abnormal or questionable, they should be referring the consumer to a medical professional (for treatment and diagnosis). They should not be taught and tested so extensively that they are inclined to diagnose or treat the abnormality thereby engaging in out of scope medical practices. While the working group did include anatomy and physiology within some sections of the curricula, they did so with the intent that it should be taught pertaining to the specific subject as listed, for practical value, not a general memorization of information for testing.

III. Recommendations

1. Working group participants recommended the Board start regulatory change to implement a module based curriculum. A sample of the proposed Cosmetology module based curriculum appears in Appendix A. As part of the recommended module based curriculum the workgroup did not require theory hours and practical operations to be tracked individually. It was recommended to require a number of hours per subject that included both theory instruction and practical instruction and let the schools determine how many practical operations would be needed to establish the student's minimal competency. This determination would be met by several factors, including the student's natural ability, strength of student material retention and the student's long-term career plans. It was noted by the work group, that other state boards throughout the country have had success with this type of curriculum structure.

NOTE: Currently, the Board does not require proof of actual practical operations performed on the proof of training document required to sit for a licensing examination but rather only proof that the school hours were obtained.

2. It was recommended that the Board meet with NIC to encourage the exam questions be altered to reflect information that is useful to the examinee when working in the industry (such as infection control, using electrical equipment safely, chemical disposal process, etc.)
3. Participants recommended pursuing the following regulatory change to Section 950.2 of the California Code of Regulations to secure proper supervision of students while performing services on clients.

950.2. Curriculum for Cosmetology Course

(a) The curriculum for students enrolled in a cosmetology course shall consist of sixteen hundred (1600) hours of technical instruction and practical training covering all practices constituting the art of cosmetology pursuant to Section 7316 of the Barbering and Cosmetology Act.

(b) For the purpose of this section, technical instruction shall mean instruction by demonstration, lecture, classroom participation, or examination; practical operation shall mean the actual performance by the student of a complete service on another person or on a mannequin. Practical training shall mean the time it takes to perform a practical operation. **While performing services on a person, the student must be "supervised" by a designated licensee. The tasks performed by the student must be within the scope of practice of the designated licensee who is supervising the student.**

4. All participants agreed that the Board, in addition to a Cosmetology and Barber license, should pursue implementing a Hairstyling license. (Note: The **hairstyling** curricula may be met by utilizing Module A – Hairstyling and Module D – Health and Safety, see Appendix B).

Reasons for this recommendation included:

- A Hairstyling license would allow individuals who only wish to offer hair services a faster method of entry into the profession.
- Lower student loan debt since less would be charged for the hairstyling course.
- Several other state board's offer a hairstylist/hairstyling license, so having a hairstyling license in California would make entry into the California working class easier for non-state residents desiring to move to California (including spouses of active duty military personnel).

Cosmetology Occupational Analysis

For the October 2017, Occupational Analysis of the Cosmetology profession conducted by the Office of Professional Examination Services see Appendix C.

National Interstate Council of State Boards (NIC) Examination Review

For the June 2018, National Interstate Council of State Boards Cosmetology Examination audit conducted by the Office of Professional Examination Services see Appendix D.

APPENDIX A

Under the working group's proposal, the Board's curriculums (Sections 950.1, 950.2, 950.3, 950.4 and 950.5 CCR) would be folded into a single, revised Section 950.1 (see proposed regulatory language below) that would refer to six charts or "modules," each reflecting a specific area of study. These charts would be incorporated into the Board's regulations.

§ 950.1 School Curriculums.

- (a) The curriculum for students enrolled in a barbering course shall consist of fifteen hundred (1,500) hours of technical instruction and practical training in accordance with Modules A, B and F.
- (b) The curriculum for students enrolled in a cosmetology course shall consist of sixteen hundred (1,600) hours of technical instruction and practical training in accordance with Modules A, C, D and F.
- (c) The curriculum for students enrolled in a skin care course shall consist of six hundred (600) hours of technical instruction and practical training in accordance with Modules C and F.
- (d) The curriculum for students enrolled in a nail care course shall consist of four hundred (400) hours of technical instruction and practical training in accordance with Modules D and F.
- (e) The curriculum for students enrolled in an electrology course shall consist of six hundred (600) hours of technical instruction and practical training in accordance with Modules E and F.
- (f) The Board recommends that schools provide training to all students in the area of communication skills that includes professional ethics, salesmanship, decorum, record-keeping, client service record cards, basic tax responsibilities related to independent contractors, booth renters, employees and employers.

Students would qualify to sit for the respective licensing examination by completing the modules as follows:

	Barber	Cosmetologist	Skin Care	Nail Care	Electrologist
Module A – Hairstyling	1,100	1,100			
Module B – Shaving	200				
Module C – Skin Care		200	400		
Module D – Nail Care		100		300	
Module E – Electrology					400
Module F – Health & Safety	200	200	200	100*	200
TOTAL	1,500	1,600	600	400	600

***Note:** It was the working group's recommendation that the Board change the Nail Care 100-hour Health and Safety training requirement (Module F) to 200 hours for consistency with the other license types and given that nail care licensees continue to be the highest cited licensee group of the Board.

For the purposes of this report, only the modules (A, C, D and F) relating to the Cosmetology curriculum breakdown is provided as follows, as recommended by the working group:

MODULE A – HAIRSTYLING	
The Board's Hairstyling Module shall consist of a total of 1,100 hours of technical and practical instruction.	
<p><u>Hairstyling</u></p> <p>The subject of Hairstyling shall include, but is not limited to, the following techniques and procedures:</p> <ul style="list-style-type: none"> • Client Consultation (hair and scalp analysis) • Draping and Shampooing • Principles of hair design • Wet hairstyling (such as finger waving, pin curls, hair wrapping and roller sets) • Braiding • Thermal Styling (such as blow dry styling, flat iron styling, styling with a curling iron, press and curl styling, hot comb styling, and thermal straightening) • Hair extensions applied using reactive chemicals • Health and safety considerations as it relates to hairstyling services • Anatomy and physiology as it relates to hairstyling services • Chemistry as it relates to hairstyling products 	250 Hours
<p><u>Chemical Texture Services</u></p> <p>The subject of Chemical Texture Services shall include, but is not limited to, the following techniques and procedures:</p> <ul style="list-style-type: none"> • Client Consultation (hair and scalp analysis) • Chemical Draping and Shampooing • Predisposition test; safety precautions • Chemical permanent waving (acid and alkaline) • Curl reformation • Chemical Straightening (such as sodium hydroxide based relaxers, thio-based straighteners, keratin and thermal straighteners) • Health and safety considerations as it relates to chemical texture services • Anatomy and physiology as it relates to chemical texture services • Chemistry as it relates to chemical texturing products 	250 Hours

<p><u>Hair Coloring and Hair Lightening</u></p> <p>The subject of Hair Coloring and Hair lightening shall include, but is not limited to, the following techniques and procedures:</p> <ul style="list-style-type: none"> • Client Consultation (hair and scalp analysis) • Chemical Draping and Shampooing • Predisposition and strand tests; safety precautions • Formula mixing • Use of semi-permanent, demi-permanent, permanent, direct color and temporary colors • Dimensional colors (such as highlights, low lights, foiling, ballayage) • Lash/Brow Tinting (only FDA approved products may be used; otherwise, student should learn tinting via simulation) • Bleaching • Use of color removers • Color correction • Health and safety considerations as it relates to hair coloring and hair lightening services • Anatomy and physiology as it relates to hair coloring and hair lightening services • Chemistry as it relates to hair coloring and hair lightening products 	<p>250 Hours</p>
<p><u>Hair Cutting</u></p> <p>The subject of Hair Cutting shall include, but is not limited to, the following topics:</p> <ul style="list-style-type: none"> • Client Consultation (hair and scalp analysis) • Draping and Shampooing • Principles of hair design • Use of shears, texturizing shears and razor • Electrical clippers/trimmers • Health and safety considerations as it relates to hair cutting services • Anatomy and physiology as it relates to hair cutting services 	<p>250 Hours</p>
<p><u>Miscellaneous Hours</u></p> <p>To be implemented at the discretion of the school to strengthen student performance in curriculum related areas; or for supervised field trips and other course related training.</p>	<p>100 Hours</p>

MODULE C – SKIN CARE (Cosmetologist)	
Skin Care Students: The Board's Cosmetology Skin Care Module shall consist of a total of 200 hours of technical instruction and practical training.	
<p><u>Manual, Electrical and Chemical Facials</u></p> <p>The subject of Manual, Electrical and Chemical Facials shall include, but is not limited to, the following techniques and procedures:</p> <ul style="list-style-type: none"> • Client Consultation (skin analysis) • Client Protection • Draping • Client Preparation (such as intake procedures, contraindications, professionalism, client record keeping, pre- and post-service care, CPR/AED equipment) • Manual Facials: cleansing, scientific manipulations, packs, and masks • Electrical Facials: Use of electrical modalities, dermal lights and electrical equipment for facials and skin beautification purposes within the limits set by Section 991 CCR • Chemical Facials: Chemical skin peels, packs, masks, scrubs and contraindications • Health and safety considerations as it relates to facial services • Anatomy and physiology as it relates to facial services • Chemistry as it relates to skin care products <p>All facial training shall emphasize that only the non-living, uppermost layer of facial skin, known as the epidermis, may be removed, and only for the purpose of beautification.</p>	75 Hours
<p><u>Hair Removal</u></p> <p>The subject of Hair Removal shall include, but is not limited to, the following techniques and procedures:</p> <ul style="list-style-type: none"> • Client Consultation (hair and skin analysis) • Client Protection • Draping • Eyebrow shaping and hair removal techniques • Waxing (strip or non-strip wax), sugaring, tweezing • Manual or electrical depilatories. • Health and safety considerations as it relates to hair removal services • Anatomy and physiology as it relates to hair removal services • Chemistry as it relates to hair removal products 	75 Hours

<p><u>Make-up</u></p> <p>The subject of Make-up shall include, but is not limited to, the following techniques and procedures:</p> <ul style="list-style-type: none"> • Client Consultation (skin analysis) • Client Protection • Draping • Basic and Corrective make up application • Application of artificial eyelashes (such as strip lashes, individual lashes and lash extensions) • Health and safety considerations as it relates to the application of makeup services • Anatomy and physiology as it relates to make up services • Chemistry as it relates to make up products 	<p>50 Hours</p>
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MODULE D – NAIL CARE (Cosmetologist)

Nail Care Students: The Board's Cosmetology Nail Care Module shall consist of a total of 100 hours of technical instruction and practical training.

<p><u>Natural Nails</u></p> <p>The subject of Natural Nails shall include, but is not limited to, the following techniques and procedures:</p> <ul style="list-style-type: none"> • Skin and nail analysis • Client Preparation • Manicures • Pedicures • Elbow to fingertip massage • Knee to toe massage • Health and safety considerations as it relates to natural nail services • Anatomy and physiology as it relates to natural nail services • Chemistry as it relates to natural nail products 	<p>40 Hours</p>
<p><u>Nail Enhancements</u></p> <ul style="list-style-type: none"> • Skin and nail analysis • Client Preparation • Application of nail enhancements (such as gel, acrylic liquid and powder, nail tips) • Nail wraps and repairs • Health and safety considerations as it relates to nail enhancement services 	

<ul style="list-style-type: none"> • Anatomy and physiology as it relates to nail enhancement services • Chemistry as it relates to nail enhancement products 	60 Hours
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MODULE F – HEALTH AND SAFETY

Barbering, Cosmetology, Skin Care, Nail Care and Electrology Students: The Board's Health and Safety Module shall consist of a total of 200 hours of technical instruction and practical training.

Laws and Regulations

The subject of Laws and Regulations shall include, but is not limited to, the Barbering and Cosmetology Act and the Board's regulations.

20 Hours

Health and Safety Course for Licensees

Pursuant to section 7389 of the California Business and Professions Code, the Health and Safety Course shall be taught in all schools approved by the Board.

20 Hours

Safety Considerations

The subject of Safety Considerations shall include, but is not limited to, the following:

- Hazardous Substances/Chemical Safety (such as Safety Data Sheets, injury prevention, chemical transportation and storage, disposal of chemical substances, chemical overexposure)
- Electrical Safety: Electrical current, principles of operating electrical devices, and the various safety precautions when operating electrical equipment
- Fire Safety

60 Hours

Infection Control:

The subject of Infection Control shall include, but is not limited to, the following topics:

- General Principles: Proper procedures and techniques to protect the health of the consumer and service provider
- Transmission and Prevention of Communicable Diseases
- Disinfecting Tools: Cleaning and disinfection of electrical and non-electrical tools according to the regulations of the California State Board of Cosmetology (Section 979, 980, 980.1, 980.2, 980.3, 980.4 and 981 CCR).
- Sterilizing Equipment: Operation and maintenance of autoclaves and dry-heat sterilizers.

100 Hours

APPENDIX B

The working group recommended the Hairstyling license training be composed of Modules A and F.

MODULE A – HAIRSTYLING	
The Board's Hairstyling Module shall consist of a total of 1,100 hours of technical and practical instruction.	
<p><u>Hairstyling</u></p> <p>The subject of Hairstyling shall include, but is not limited to, the following techniques and procedures:</p> <ul style="list-style-type: none"> • Client Consultation (hair and scalp analysis) • Draping and Shampooing • Principles of hair design • Wet hairstyling (such as finger waving, pin curls, hair wrapping and roller sets) • Braiding • Thermal Styling (such as blow dry styling, flat iron styling, styling with a curling iron, press and curl styling, hot comb styling, and thermal straightening) • Hair extensions applied using reactive chemicals • Health and safety considerations as it relates to hairstyling services • Anatomy and physiology as it relates to hairstyling services • Chemistry as it relates to hairstyling products 	250 Hours
<p><u>Chemical Texture Services</u></p> <p>The subject of Chemical Texture Services shall include, but is not limited to, the following techniques and procedures:</p> <ul style="list-style-type: none"> • Client Consultation (hair and scalp analysis) • Chemical Draping and Shampooing • Predisposition test; safety precautions • Chemical permanent waving (acid and alkaline) • Curl reformation • Chemical Straightening (such as sodium hydroxide based relaxers, thio-based straighteners, keratin and thermal straighteners) • Health and safety considerations as it relates to chemical texture services • Anatomy and physiology as it relates to chemical texture services • Chemistry as it relates to chemical texturing products 	250 Hours

<p><u>Hair Coloring and Hair Lightening</u></p> <p>The subject of Hair Coloring and Hair lightening shall include, but is not limited to, the following techniques and procedures:</p> <ul style="list-style-type: none"> • Client Consultation (hair and scalp analysis) • Chemical Draping and Shampooing • Predisposition and strand tests; safety precautions • Formula mixing • Use of semi-permanent, demi-permanent, permanent, direct color and temporary colors • Dimensional colors (such as highlights, low lights, foiling, ballayage) • Lash/Brow Tinting (only FDA approved products may be used; otherwise, student should learn tinting via simulation) • Bleaching • Use of color removers • Color correction • Health and safety considerations as it relates to hair coloring and hair lightening services • Anatomy and physiology as it relates to hair coloring and hair lightening services • Chemistry as it relates to hair coloring and hair lightening products 	<p>250 Hours</p>
<p><u>Hair Cutting</u></p> <p>The subject of Hair Cutting shall include, but is not limited to, the following topics:</p> <ul style="list-style-type: none"> • Client Consultation (hair and scalp analysis) • Draping and Shampooing • Principles of hair design • Use of shears, texturizing shears and razor • Electrical clippers/trimmers • Health and safety considerations as it relates to hair cutting services • Anatomy and physiology as it relates to hair cutting services 	<p>250 Hours</p>
<p><u>Miscellaneous Hours</u></p> <p>To be implemented at the discretion of the school to strengthen student performance in curriculum related areas; or for supervised field trips and other course related training.</p>	<p>100 Hours</p>

MODULE F – HEALTH AND SAFETY	
Barbering, Cosmetology, Skin Care, Nail Care and Electrology Students: The Board's Health and Safety Module shall consist of a total of 200 hours of technical instruction and practical training.	
<u>Laws and Regulations</u> The subject of Laws and Regulations shall include, but is not limited to, the Barbering and Cosmetology Act and the Board's regulations.	20 Hours
<u>Health and Safety Course for Licensees</u> Pursuant to section 7389 of the California Business and Professions Code, the Health and Safety Course shall be taught in all schools approved by the Board.	20 Hours
<u>Safety Considerations</u> The subject of Safety Considerations shall include, but is not limited to, the following: <ul style="list-style-type: none"> • <u>Hazardous Substances/Chemical Safety</u> (such as Safety Data Sheets, injury prevention, chemical transportation and storage, disposal of chemical substances, chemical overexposure) • <u>Electrical Safety</u>: Electrical current, principles of operating electrical devices, and the various safety precautions when operating electrical equipment • <u>Fire Safety</u> 	60 Hours
<u>Infection Control:</u> The subject of Infection Control shall include, but is not limited to, the following topics: <ul style="list-style-type: none"> • <u>General Principles</u>: Proper procedures and techniques to protect the health of the consumer and the service provider • <u>Disinfecting Tools</u>: Cleaning and disinfection of electrical and non-electrical tools according to the regulations of the California State Board of Cosmetology (Section 979(a) through (h), 980, 980.1, 980.2, 980.3, 980.4 and 981 CCR). • <u>Sterilizing Equipment</u>: Operation and maintenance of autoclaves and dry-heat sterilizers. 	100 Hours

APPENDIX C

APPENDIX D

California Board of Barbering and Cosmetology

Report to the Assembly Committee on Business and Professions and the Senate
Committee on Business, Professions and Economic Development

Review of the Low Pass Rate of Spanish Written Examinations

The Board has been experiencing low passing rates for candidates that are taking the written examination in Spanish. Recent legislation (AB 181, chapter 430, statutes of 2016) specifically addressed this issue by stating:

The Board shall review the Spanish language examination if, by January 1, 2016, the pass rate for Spanish speakers did not increase to the average pass rate for all other language examinations during the two-year period prior to January 1, 2016.

Background

For the last two-years, the Spanish pass rates have not increased. Therefore, pursuant to the statute above the Board must conduct a review to determine a cause for the low rate. Board staff has been reviewing this issue for several months and this report will provide information on the findings.

Data Review

Initially, staff believed we could determine a pattern in the low pass rates. For example, are the candidates coming from a specific school, a specific geographical area, etc. Numerous reviews of data were conducted, and no pattern was found. It was determined that the low pass rates include candidates who went to a California school, came from out of state, came from out of country or completed an apprenticeship program. In fact, the failure rate is an average of 82% regardless of where the initial education was determined.

Data collected on Spanish written examinations from October 3, 2013 through October 24, 2017 revealed the following:

Board Approved School Applicants				
Exam Type	Fail	Pass	Grand Total	Pass %
Barber Written Exam	367	372	739	50.34%
Cosmetology Written Exam	2446	1230	3676	33.46%
Electrology Written Exam	1	0	1	0.00%
Esthetician Written Exam	32	39	71	54.93%
Manicurist Written Exam	130	165	295	55.93%
Grand Total	2976	1806	4782	37.77%

Out of Country Applicants				
Exam Type	Fail	Pass	Grand Total	Pass %
Barber Written Exam	77	67	144	46.53%
Cosmetology Written Exam	825	287	1112	25.81%
Esthetician Written Exam	5	10	15	66.67%
Manicurist Written Exam	2	2	4	50.00%
Grand Total	909	366	1275	28.71%

Apprentice Applicants				
Exam Type	Fail	Pass	Grand Total	Pass %
Barber Written Exam	84	77	161	47.83%
Cosmetology Written Exam	735	318	1053	30.20%
Grand Total	819	395	1214	32.54%

The Board started reporting pass rates by language type in 2009, when the national written examination was adopted. Data was able to be pulled from previous years to review the prior passage rate. The prior examination was developed by the Board (in conjunction with the Department of Consumer Affairs) and was provided in Spanish. The pass rates are listed below:

Fiscal Year	Pass Rate
09/10	31%
10/11	33%
11/12	24%
12/13	29%

One item that the data review did provide was that Spanish test takers are passing the practical portion of the examination. For the last two fiscal years (2013/14 and 2014/15) the pass rate for Spanish test takers of the practical examination is 82%.

Translation Review

As the Board provides a national examination developed by the National Interstate Council of State Boards of Cosmetology (NIC), the NIC also is responsible for the translations of all examinations. The Board contacted the NIC to express the concern with the low passage rate in the Spanish examinations and asked the NIC to consider a possible translation issue. The NIC responded that there is a lack of statistical evidence that the translated examination items are flawed and that leads to the conclusion that the Spanish version of the examination measures competence with the same degree of accuracy as the English examination.

Since there are many different Spanish dialects used in the United States (U.S.) the Board asked NIC to identify which one they use (Mexican Spanish, New Mexican Spanish, Caribbean Spanish, Central American Spanish, or perhaps a different Spanish dialect). The Board was interested in seeing if the dialect chosen for the examination was the most *commonly understood*, or *most widely-used* one. NIC provided the following response:

“Translators describe the dialect used to translate English into Spanish as U.S. Spanish. The Spanish spoken along the border from Texas to California is referred to as Mexican Spanish. U.S. Spanish is Mexican Spanish made neutral. Various dialects of Spanish have different meanings for the same Spanish word. In numerous instances, a word used in one dialect may be offensive, inflammatory or simply not have the intended meaning in another. U. S. Spanish selects those words for translation that avoid the potential of multiple or unintended meaning. This is also referred to as American Neutral Spanish.

American Neutral Spanish, with its emphasis on the use of neutral terms instead of specific terms from a specific locale accommodates a broad variety of Spanish speakers in the U.S.

Castilian Spanish is Spanish for Spain and is intended for the European market. When it was brought to the American continent, various dialects, now referred to as locales, developed that are now quite different from the original Castilian Spanish. Since we translate our examinations for administration in the United States, this more generic version of Spanish is appropriate for a broader audience in the U.S.

Our translators work to create a translation into Spanish that is, as far as is reasonably possible, neutral with respect to locales, or regional dialects. Translation is necessarily a compromise as one translation dictionary provides a term that is selected over another dictionary, but the intent of the compromise here is to maximize comprehension of the translation by the greatest number of individuals who take our examinations."

Pass Rates by Examination Content Area

Staff reached out to NIC and requested an audit of Spanish written exam pass rates by exam content area. The intent was to determine if there was a trend on which area of the exam Spanish exam takers were failing. NIC conducted the audit. It was determined across all four exam domains, Spanish candidates performed lower, on average, than the English candidates. Overall there did not seem to be a performance difference within the domains for English and Spanish candidates.

Other States

According to the NIC, only one other state has expressed concern over pass rates for Spanish speaking applicants (North Carolina). The Board reached out to the State Board of North Carolina. The results are noted below. In addition, the Board has reached out to Texas, Arizona and New Mexico. As these states border Mexico, it was assumed that these States may have a larger population of Spanish speaking individuals taking the written/practical exam in the Spanish language.

North Carolina

The North Carolina Board of Cosmetic Art Examiners notes the following statistics but is currently not addressing low Spanish exam pass rates. Cosmetology 50% (142 administrations), Nail Technology 36.23% (69 administrations). These statistics include the original exam and re-exams.

Texas

The Texas Department of Licensing and Regulation does not use the NIC written exam. The current pass rate for the 2015 written Barber exam is 73% (56 administrations given), the Cosmetology written exam is 66% (1224 administrations given), and the Cosmetology Manicurist written exam is 60% (75 administrations given).

New Mexico

The New Mexico Board of Barbers and Cosmetologists report that they do use the NIC examination and are currently not having problems with their Spanish examination pass rates.

Arizona

The Arizona Board of Cosmetology does use the NIC exam; however, they only offer the examination in English.

Candidate Survey

To further gather data Board staff added a survey that must be responded to at the end of each computer-based examination. Below are the survey questions and the responses:

Question:	Answered Yes	Answered No
Was it easy to understand the translated exam?	62%	38%
Did you use Spanish text books in school?	89%	11%
Were you taught in Spanish at school?	72%	28%
Is Spanish your natural/first language?	98%	2%
Would you take this exam in Spanish again?	93%	7%
Would you consider taking the exam in English?	69%	31%

School Survey

In April 2014, the Board reached out to cosmetology schools to determine if they had any input on this issue. The Board developed a survey and mailed it to all approved schools. Unfortunately, the responses received were minimal however; some of the information provided may be helpful. The survey questions and responses are noted below:

Question:	# of Responses	Yes	No
1. Do you have Spanish speaking students?	48	54%	46%
2. Do you instruct and/or provide textbooks and learning material in Spanish?	23	40%	60%
3. What areas do you find most challenging for these students?	23	*	*
4. What suggestions do you have for the Board to assist your Spanish speaking students?	20	*	*
5. Would you send an instructor to participate in a Q & A session concerning this topic at the Boards Sacramento Office?	23	48%	52%

*Questions 3 and 4 were open-ended questions that allowed the respondent to type in the comments. See Appendix A for the written responses that were received. Please note: the survey responses are pulled directly from the survey database and appear as they were submitted by the respondents.

Bureau of Private Postsecondary Education

The Board reached out to the Bureau of Private Postsecondary Education (BPPE) to determine if they have authority over passage rates as the BPPE does regulate private cosmetology schools. The BPPE noted that their authority is to ensure the school is operating legally which would require each school to:

- Require proof of high school graduation
- Hire competent teachers

The BPPE requires a student that does not have a certificate of graduation from a school providing high school education or the recognized equivalent of the certificate, take and pass an independently administered Ability to Benefit (ATB) examination. The ATB exam measures a student's basic verbal and quantitative skills. The Board approved school is required, prior to executing an enrollment agreement with an ATB student, to have the student take and pass an independently administered examination from the list of examinations prescribed by the United States Department of Education (as required by the California Education Code (CEC) Section 94904). A list of ATB examinations that are approved for use is available on the BPPE's website. The approved school must maintain a student file that includes the information related to how the student was admitted into the Board approved school (CEC, Section 71920). The BPPE can take administrative action if during a compliance inspection the student and/or institutional records are reviewed and found out of compliance with the law or regulation. A citation or administrative action may be taken. If a student was not properly enrolled, the BPPE may seek a refund of the tuition paid to the school.

Office of Professional Examination Services

In September 2016, staff reached out to the Office of Professional Examination Services (OPES) to inquire on the feasibility that the examination administration vendor, PSI be able to provide an option for candidates taking the cosmetology written examination in the Spanish, Vietnamese or Korean versions, have the English version of the examination displayed as well during the examination. The Board was informed that PSI did have the capabilities to perform this request. However, OPES provided the following response in a memo dated December 22, 2016, expressing concern for the request:

"The Office of Professional Examination Services (OPES) has several concerns about the requested change. The proposed change would require extra time for candidates to take the NIC examination, and BBC candidates already receive more time on the NIC examination than candidates in other states. There are also psychometric issues of fairness involved; candidates who take the Korean and Vietnamese versions of the examination would have to be provided the English examination and extra time as well. This may not be fair to the applicants who receive the English examination only."

Conclusions

High School Graduation or Equivalent

The Board's requirement for an applicant for a cosmetology license is that they must self-certify that they have completed the 10th grade. However, the BPPE requires all private schools enroll students that have graduated high-school or have the equivalent (ATB exam). Since the ATB exam is not required by the Board to sit for the Cosmetology/Barbering examination, it may be that students are sitting for the examination without a minimal level of education as required by the BPPE. There could be a conflict that schools are enrolling students that do not have a minimal level of education to enter the field of cosmetology.

Language Access

The Board's survey results do not demonstrate that language access is a concern. Applicants taking the examination in Spanish responded that 69% would take it again in Spanish.

Quality of Education

The quality of education that is taught in schools could be a potential reason for low pass rates, however, there is very little jurisdiction over quality of education by either the Board or the BPPE. The Board has minimal authority over the education of the students. While the Board sets the curriculum, and can ensure that schools are maintaining the curriculum, the Board does not have access to student records and cannot verify each student is being fully taught all aspects of the curriculum.

Practical vs. Written Examination

The Spanish speaking applicants have a high pass rate on the practical examination. This could be for a couple of reasons: 1) the students are more hands-on and visual learners and therefore are more successful in the demonstration aspect of the examination or 2) the students are being taught in school only how to pass the examination and not focusing on the theory aspect of education.

Solutions

The NIC examinations are translated into the most universal or neutral version of each language offered. Therefore, the Board feels that providing students with a list of common industry terms that may not be commonly referenced in their primary language (or dialect) may provide students with a greater understanding of what is being asked on the examination questions. The NIC agreed to provide a vocabulary list of common industry terms translated into the words that examinees will see on the actual written and practical exam. On January 10, 2017, the Spanish vocabulary list was posted to the NIC website with the Vietnamese and Korean vocabulary lists soon to follow. On February 21, 2017, the Board sent out a circular letter instructing all schools who have students being instructed in the various languages to make the vocabulary lists available to the students early in the education process, so that they may become familiar with terms they will see coming on the licensing exam.

In September 2017, internet links were added to the Board's examination admission letters and to the PSI instructional booklet, encouraging students to review the NIC translation guides prior to taking the licensing examination.

In expectation of the NIC vocabulary lists, on July 17, 2016, members adopted the proposed regulatory changes below to California Code of Regulations Title 16, Division 9, Article 7, section 961 and the Board has commenced with the regulatory process. On April 24, 2017, the Board was presented with the following regulatory language for adoption:

§ 961. Online Training and Text and Reference Books for Students.

(a) In teaching, approved schools shall use text and reference books approved by the National Interstate Council of State Boards of Cosmetology (NIC). Approved schools may use other teaching material or on-line training programs, in lieu of the text book, under the condition that they have been approved by the NIC.

(b) Each student shall possess the following:

(1) At least one (1) of the textbooks approved by the NIC or has access to a NIC-approved online program.

(2) The Barbering and Cosmetology Act and the Rules and Regulations of the Board of Barbering and Cosmetology.

(c) There shall be available for the use of students in the school:

(1) A list of the text and reference books approved by the NIC.

(2) Any two approved texts other than the one text or online program access, possessed by the student. (Shall not apply to barber schools if there are less than three approved texts.)

(3) A vocabulary list (produced by NIC) of common industry terms that may appear on the NIC examinations translated into the languages offered by the California Board of Barbering and Cosmetology.

Note: Authority cited: Sections 7312 and 7362, Business and Professions Code. Reference: Section 7362, Business and Professions Code.

Additionally, to help educate examination candidates, the Board updated its examination application to include the following language:

These examinations are translated into the most universal or neutral version of each language to be acceptable to the widest possible audience.

In July 2015, the following information was provided to all approved schools:

The Board is continuing to see very low pass rates for students taking the cosmetology examination in Spanish. The Board would like all schools to remind their students that examinations are translated into the most universal or neutral version of the specified language. If a student has been taught the curriculum in English, they may be more successful if they take the examination in English.

Future Actions

It will take a measure of time to determine if the current actions taken by the Board will produce a higher pass rate in the exams. It is the Board's determination to continue to look for additional methods to mitigate the low pass exam rate (such as obtaining sole oversight of the schools). In addition, the Board continues to closely monitor the pass/fail rates of the Spanish written examinations at every Board meeting.

Appendix A

Q3: What areas do you find most challenging for these students?

Answered: 25 Skipped: 26

1. not enough printed material for student learning 5/31/2016 4:47 PM
2. The written portion of their education is the most challenging. 6/24/2014 1:45 PM
3. We haven't had a challenge w/our spanish speaking students understanding English instructions. 6/18/2014 2:36 PM
4. The majority of our students speak "conversational Spanish" which is very different than that on print. I have been in the industry for 20 years and consider myself fluent in the Spanish language although it is not my first language. However the cosmetology field is not foreign to me and reading the Spanish textbook and any materials provided seems to be confusing. here are so many dialects, depending on region, that I believe that my be part of the problem. For this, I don't believe there is too much that can be done, but I do believe the Board has a way to help. 6/18/2014 2:34 PM
5. The most difficult part of the Spanish speaking is the written exam is complicated, the student's how speak spanish do not understand some of the wording in the exam confusing their answers. 6/18/2014 2:19 PM
6. We do not teach in Spanish, we advice to purchase spanish textbooks and try to group them together. All spanish language varries from different parts of Mexico. 6/18/2014 2:17 PM
7. We go through Hancock College and they require taking a start test and they set the guidelines for entrance. We don't seem to have a problem-unless the student chooses not to study. 6/18/2014 2:15 PM
8. All of our students have a high school diploma. Therefore, all of our students speak & read English. 6/18/2014 2:13 PM
9. N/A 6/18/2014 2:05 PM
10. None. My Spanish speaking students also speak English, and usually take the exam in English. 6/18/2014 2:05 PM
11. All classes at Borner's Barber College are taught in the English Language only. 6/18/2014 2:04 PM
12. It is difficult to reinforce concepts through verbal instruction. Practical skills can be taught but they rely on the text for their written knowledge. 6/18/2014 2:04 PM
13. Theory Aspect-Anatomy and Physiology, structure growth and nutrition for skin and nails, disorders and skin diseases, concepts of chemical. Practical aspect: color, haircuts, artificial nails 6/18/2014 2:02 PM
14. Misinterpretation of phrases from English to Spanish. Language barrier 6/18/2014 1:59 PM
15. Theory/textbook subjects 6/18/2014 1:56 PM
16. Language 6/18/2014 1:30 PM
17. Theory, Chemical Straightning, Haircolor, Chemistry 6/18/2014 1:13 PM

18. The vocabulary used in the textbooks are too complicated. The Spanish speaking students are from different nationalities. The reading level of textbook and tests should be at a 6th grade reading level.
6/12/2014 12:19 PM
19. Comprehension of the technical areas seems to be most challenging for our students. Our college offers ESL classes and we recommend and refer all of our non-English speaking students of our Counseling Department so they can be assisted with any learning challenges they may have. Often, students will complete ESL classes before enrolling into cosmetology (which we highly recommend). We do our best to offer assistance to ESL students: tutoring, note takers and embedded tutors to name a few support services. Most students are visual learners and with most languages there is no translation for a great number of cosmetology terminologies they must know for licensure. Some students do try to memorize and do a pretty good job of it. We continually complete assessments of our students so the student knows and we know ahead of time the technical and practical areas where improvement(s) is required. Some students are more selfdirected than others to do what it takes to make the needed improvements. Although we use the English version of textbooks and learning materials, Spanish versions are available upon request through the college bookstore. 6/12/2014 11:47 AM
20. The translation of certain terminology from English to Spanish sometimes changes the context of the question being asked. Also, chapters with more specific terminology (anatomy & physiology, bacteriology, color theory, etc) tends to be more difficult. 6/4/2014 9:41 AM
21. Reading 5/27/2014 9:49 AM
22. Our surveys indicate that our students are not understanding the Vocabulary that is used in the test. Our Students say that the questions on the Test are not related on the Text Book. 5/21/2014 3:28 PM
23. STUDENT ARE HAVING A HARD TIME WHEN TAKING THE EXAM BECAUSE THE TERMINOLOGY USED AT STATEBOARD EXAM IS DIFFERENT BECAUSE OF THE LANGUAGE ISSUES. SPANSIH IS DIFFERENT IN MEXICO THAN IT IS IN SPAIN. AND WHEN THE STUDENTS TESTS WHOEVER WRITES THE TEST, WHAT SPANSIH ARE THEY WRITING IT IN? MEXICAN SPANISH, SPAIN SPANISH, CUBAN SPANISH, ETC.
5/20/2014 4:21 PM
24. The written exam. They learn the terminology in English but then opt to take the exam in Spanish and they get confused. 5/19/2014 8:40 AM
25. Our Spanish students here are bilingual. However, we teach them in one language which is English.
5/17/2014 10:12 AM

Q4: What suggestions do you have for the Board to assist your Spanish speaking students?

Answered: 22 Skipped: 29

1. Keep updated with changes that might affect students 5/31/2016 4:47 PM
2. I think providing the option to have their exam in Spanish is great. The difficulty for students is that English is their second language and schools cannot afford or have the instructors that are Spanish speaking. 6/24/2014 1:45 PM
3. non 6/18/2014 2:36 PM
4. First of all as you are aware there are MANY people who are horrible test takers especially under stressful situations, such as the one they are faced with when they are at the test sites (this is nothing new) We must not dismiss the fact most people that make up our industry are more creative than academic (a fact not a stereotype) and therefore have a difficult time with some of the subjects that get covered throughout their training. With that said, it is already left to the school to make sure the students have met the standards required to graduate. It is clear what the students need to have under their belt to do this. It is up to the Board to measure whether the student is qualified to work on the consumer. It is pretty difficult for them to be able to evaluate this in one day. The schools are already required to meet so many standards with the DOE that when a student completes it is already established that they have met the governing standards of our industry. I don't believe the test makes a fair assessment. The test questions have so many questions that only people who have been working for years can possibly have enough experience to answer, and to top it off add the stress, and a language that is not in a format of their everyday conversation. Also, I don't see why the big "mystery" for the test. The DMV has a manual and so much study material that drivers can study beforehand and this is for operating a vehicle putting so many people's lives at risk. A written exam shouldn't be the reason why someone should not be granted a license to work. I don't believe it necessarily proves that these people will not make good hairdressers. The test either needs to be re-evaluated or more supportive material be provided. A book that takes a year to cover is too vague for the candidates to have as support material. And believe me when I tell you that this is coming from someone who wishes to keep integrity in our industry. With more people licensed, we can continue to fulfill more jobs and boost the economy. So many people get discouraged after failing part of the test that they no longer go back and begin to work illegally. This causes violations for many, defaults in student loans and so on and so forth. 6/18/2014 2:34 PM
5. What we need is to make the exam more understandable in the questions in the spanish exam, are not the same has in the textbook making it more difficult to answer correctly. Some question have two answers to the same question in the Board. 6/18/2014 2:19 PM
6. Online examples of spanish dialects. 6/18/2014 2:17 PM
7. The students have always refused the spanish speaking test, when they have been given the choice. 6/18/2014 2:15 PM
8. None 6/18/2014 2:13 PM
9. N/A 6/18/2014 2:05 PM

10. I don't know if it's a problem with the Board. We try to accomodate Spanish speaking students, but there's no way that it's optimal. 6/18/2014 2:04 PM
11. We tend to have alot of students complain about the questions not being clear. The questions translated in spanish do not seem to be translated correctly. Most students have also mentioned that they feel like they do not have enough time. 6/18/2014 2:02 PM
12. We have bilingual instructors which helps tremendously. Having a translator or a bilingual instructor. 6/18/2014 1:59 PM
13. Tutorials-free online on what to study-practical demo's etc. We teach only in English. Our student's must be able to read/write & communicate in English-we counsel students before they sign up that they may have to work harder than others. I don't think we have many fail becuase of language. 6/18/2014 1:56 PM
14. The Board needs to have better understanding of Spanish directions for students taking exam. The words are different and the students do not understand. 6/18/2014 1:30 PM
15. n/a 6/18/2014 1:13 PM
16. Instructions (verbal and written) in should be in plain simple Spanish (including written test). 6/12/2014 12:19 PM
17. We recommend that the Board continue to do the amazing service that is currently provided for our students. Thank you. 6/12/2014 11:47 AM
18. Have someone who is bilingual proctor the exam and clarify any questions the student may have without actually giving away any answers. 6/4/2014 9:41 AM
19. The Board Should Guide the Schools and inform the schools with more information about the test, or create a guideline for them. 5/21/2014 3:28 PM
20. CHOOSE ONE TEXTBOOK AND ONE VERSION OF IT EITHER MILADY OR PIVOT POINT. HAVE A MEXICAN READ YOUR QUESTIONS SO THAT THEY CAN UNDERSTAND ALL THE WORDS AND TERMS. I THINK THE QUESTIONS SHOULD BE STRAIGHT FORWARD. EITHER THEY KNOW THE INFORMATION OR THEY DONT. NO CONFUSING QUESTIONS. 5/20/2014 4:21 PM
21. Do not use formal Spanish language, it needs to be casual conversational Spanish. 5/19/2014 8:40 AM
22. N/A 5/17/2014 10:12 AM

*Please see
the
Health and Safety
Training Course
Booklets*



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MEMORANDUM

TO: Members
 Board of Barbering and Cosmetology

Date: March 1, 2018

FROM: Tami Guess, Board Project Manager
 Board of Barbering and Cosmetology

SUBJECT: 2018 Health and Safety Course Pilot Testing and Instructor Training

Section 7389 of the California Business and Professions Code requires the Board to pilot test the Health and Safety Course and provide training classes to prepare Instructors to effectively use the course.

Pilot Testing

The purpose of pilot testing the Health and Safety Course is to determine if the material has been written and delivered accurately, clearly and concisely and if the material is current and relevant to future professionals. In addition, Board staff will also be able to determine how long it takes to complete the entire course in real time. This information will be useful for future proposed curriculum changes. Modifications and revisions to the Health and Safety Course should be expected during pilot testing. Pilot testing the Health and Safety Course will ensure the course is complete, accurate and ready for implementation in the school or apprenticeship environment.

Pilot testing may commence upon Board Member approval of the 2018 Health and Safety Course. Pilot testing will be performed prior to the development of the Instructor Training Course.

Pilot Testing Process

Board staff will utilize a School Based Evaluation method for the completion of the Health and Safety Course pilot testing. Course evaluation will be completed by four selected school Instructors and one apprenticeship sponsor. Instructors will evaluate the course content, design, and practical operation of the training course. Each participating Instructor will select between five and ten students for participation. It is suggested that the same students be used throughout the entire pilot testing period. Selected students will be varied as much as possible regarding length of time in the school, preferred learning methods and cultural/gender/age variety. Pilot testing shall occur over a ten-week period with one section of the Health and Safety Course being completed per week.

The Board shall supply the school with all Health and Safety Course textbooks, Instructor Guides, Exam booklets (in text and CD format), and evaluation forms needed to complete the pilot testing.

The participating Instructor will develop a syllabus and lesson plans for the course prior to starting classroom instruction. The syllabus and lesson plans will be submitted via email to the Board liaison for review. This is a requirement to participation in the pilot testing process. By submitting the syllabus and lesson plans to the Board liaison, participants agree that the information submitted is non-proprietary and may be used and/or combined with other information submitted by other pilot testing

Instructors, to be used by Board staff in the development of "SAMPLE" materials that may be used by other schools or apprentice sponsorships for teaching the Health and Safety Course.

After each course class, the Instructor will have the participating students fill out a *Student Course Evaluation form* (form attached). In addition, the Instructor will complete an *Instructor Course Evaluation form* (form attached). These evaluation forms will be returned to the Board for course evaluation. Recommendations will be incorporated into the Health and Safety Course, as appropriate.

Upon completion of the pilot testing, Board members will receive an update on the pilot testing program and will be presented with the revised Health and Safety Course for approval.

Instructor Training Course

The goal of the Instructor Training Class is to have instructional consistency throughout Board schools and apprentice sponsorships by making sure that Instructors using the Health and Safety Course understand the text, activities, and teaching approach/methods suggested while teaching the course.

Upon Board approval of the Health and Safety Course, staff will develop an Instructor Training Class. Schools and apprentice program sponsors will be invited to attend the training class located in Sacramento. The live class will be webcast and video recorded. The video recording of the class will be posted to the Board's website to be used as a training session for school Instructors. Board members will be presented with the Instructor Training Class materials, for approval, no later than the May 2019 Board meeting. As mandated by law, the 2018 Health and Safety Course will be made available to the schools for use by July 1, 2019. The course will be posted to the Board website.

Action Required:

The Board, by motion, will need to establish if:

- the proposed pilot testing and Instructor training proposal, as outlined above is acceptable;
- if all technical decisions regarding the pilot testing process, procedures and implementation may be made by the Executive Officer (including the selection of the schools and Instructors used for the pilot testing).

Student Health and Safety Course Evaluation Form

Name		School Name				
Textbook Section						
Date of Training		Instructor Name				
	Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree	Not Applicable
1. The content was organized and easy to follow.						
2. The learning objectives were defined and easily followed.						
3. The text was clear, concise and easy to read.						
4. I feel I was able to understand the information.						
5. I feel like the information presented will be useful in my future career.						
6. The items in the Training Materials were useful.						

What did you learn in the class and how will you apply it to your job.

Please provide any edits, suggestions or advice you have to improve the Health and Safety Course.



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Instructor Health and Safety Course Evaluation Form

Name		School Name				
Textbook Section						
Date of Training		Instructor Name				
Class start time		Class end time				
	Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree	Not Applicable
1. The content was organized and easy to follow.						
2. Learning objectives were clearly defined and easily followed.						
3. The methods of delivery accomplished the learning objectives that were set.						
4. The text was clear, concise and easy to read.						
5. The items in the Training Materials were useful.						
6. The teaching methodologies used in this section are varied enough to be compatible with the different learning styles of the students in my classroom.						
7. The interactive projects were helpful and informative. (flash cards, case studies, Q&A's, etc.)						

Do you think this section of the Health and Safety Course is up-to-date, practical and useful in educating your students? Why/Why not?

Please provide any edits, suggestions or advice you have for improving this section of the Health and Safety Course.



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

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BOARD OF BARBERING & COSMETOLOGY

BILL ANALYSIS

Author: Assembly Member Quirk-Silva**Subject:** Master Business License**Bill Number:** AB 767**Version:** April 5, 2018

IMPACTED LICENSES								IMPACT		
Apprentice	Barber	Cosmo	Mani	Esti	Elect.	Establishment	Schools	Regulations	Enforceable	Fiscal
No	No	No	No	No	No	Yes	No	No	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 any person, firm or corporation operating an establishment where activity regulated under the Board is practiced, to apply for an establishment license. Existing law prohibits the Board from issuing a license to any applicant who has committed specified acts or crimes which are grounds for denial of licensure. (BP&C § 7347)

Establishes the Governor's Office of Business and Economic Development (GO-Biz) to serve the Governor as the lead entity for economic strategy and the marketing of California on issues relating to business development, private sector investment, and economic growth. (Government Code §12096.2)

Creates within the Governor's Office of Business and Economic Development the Office of Small Business Advocate to advocate for the causes of small business and to provide small businesses with the information they need to survive in the marketplace. (Government Code §12098)

This Bill:

- Creates within the Governor's Office of Business and Economic Development (office), or its successor, a business license center to develop and administer an online master business license system to simplify the process of engaging in business in this state and sets forth the duties and responsibilities of the business license center. Requires office to establish a uniform business identification number (UBIN) for each business. The UBIN is to be used by all affected state agencies for facilitating information sharing between state agencies and improving customer service to businesses.
- Authorizes a person that applies for 2 or more business licenses that have been incorporated into the master business license system to submit a master application to the office requesting the issuance of the licenses. Requires the office to develop and adopt an Internet-based platform that allows the business to electronically submit the master application to the office, as well as the payment of every fee required to obtain each requested license and a master

application fee, which would be deposited into the Master License Fund, which would be created by the bill.

- Requires the director to encourage each state regulatory agency to participate in the online master business license system but allows a state agency to deny or limit the ability of the Office to establish an application to obtain multiple licenses from that state regulatory agency.
- Authorizes the Office to borrow up to \$140,000 from the General Fund and implement this bill and other state agencies, with the approval of the office, to also borrow general funds to support reasonable costs of integrating into the system. These general fund monies shall be deposited into the Master License Fund. The monies in the fund may only be expended to administer the bill or be transferred to the appropriate licensing agency. Requires upon the issuance of a license(s), the office transfer the fees, except the Master License Fee to the appropriate regulatory agency.
- Requires the Director of Small Business Advocate to work with small business owners and all regulatory agencies to ensure the state's implementation of a consolidated business license and permit system.

Background

(as noted by Assembly Appropriations Analyst Daisy Gonzales):

In April 2010, the Governor's Office of Economic Development was established to provide a one-stop-shop for serving the needs of businesses and economic developers. Existing law establishes GO-Biz to serve the Governor as the lead entity for economic strategy and the marketing of California on issues relating to business development, private sector investment, and economic growth. Among other duties, GO-Biz is authorized to make recommendations to the Governor and the Legislature on new state policies, programs, and actions, or amendments to existing programs, in order to advance statewide economic goals, respond to emerging economic problems, and ensure that all state policies and programs conform to the state economic and business development goals.

The Permit Assistance Unit within GO-Biz provides businesses with comprehensive permit, regulatory, and compliance assistance. Among other services, the unit schedules pre-application meetings between businesses and the appropriate regulatory agencies to help streamline the permitting process. In some instances, GO-Biz can assign a project manager to personally guide an applicant through the entire permit process. Services are confidential and provided without cost. The goal of the unit is to help businesses solve permitting and regulatory challenges.

The Office of Permit Assistance works in partnership with the California Business Investment Service and other GO-Biz units in serving employers, corporate executives, business owners, and site location consultants who are considering California for business investment and expansion. In July 2015, GO-Biz launched the California Business Portal, which expands on the utility and availability of a searchable online application that could provide individualized information to businesses.

(as noted by Assembly Analyst Toni Symonds):

Cost of Regulations on Business: There are two major sources of data on the cost of regulatory compliance on businesses, the federal Small Business Administration (SBA) and the Office of the Small Business Advocate (OSBA). For the last 10 years, the federal SBA has conducted a peer reviewed study that analyzes the cost of federal government regulations on different size businesses. This research shows that small businesses continue to bear a disproportionate share of the federal regulatory burden. On a per employee basis, it costs about \$2,400, or 45% more, for small firms to comply with federal regulations than their larger counterparts.

The first study on the impact of California regulations on small businesses was released by the OSBA in 2009. This first in-the-nation study found that the total cost of regulations to small businesses averaged about \$134,000 per business in 2007. Of course, no one would advocate that there should be no regulations in the state. The report, however, importantly identifies that the cost of regulations can provide a significant cost to the everyday operations of California businesses and should therefore be a consideration among the state's economic development policies.

Regulatory costs are driven by a number of factors including the lack of e-commerce solutions to address outdated paperwork requirements. Implementation of this bill provides an opportunity for the state to use technology to reduce the real cost of regulatory compliance.

Analysis:

The Office determines which regulatory agencies have a license and fee that is appropriate for the inclusion of the Master License system. Approval is needed from the director, prior to obtaining funds to implement the integration of the online licensing system. Prior to build outs or upgrading the system, the Director will determine if funding is available for the project and in alignment with the state planning projects for the development of state information technology projects.

Since the Office is designated to develop and administering the online licensing system, it is unknown at this time the means being used to accomplish the interaction with the online licensing system and the BreEZe database or the extent of costs that will be allocated to the Board regarding the implementation of the system. The workforce impact for staff consultation is unknown but assumed minor and absorbable by the Board.

It is assumed that regulatory language would need to be implemented to change the form numbers used by the Board and designated within the California Code of Regulations.

Fiscal Impact:

Costs (mailing, public meetings, etc.) involved in promulgating regulations are estimated at \$1,000.00 per regulatory package. **Projected Fiscal Impact:** \$1,000.00

Workforce impact for staff consultation(s). **Projected Fiscal Impact:** Assumed minor and absorbable by the Board.

Fiscal impact for establishing a BreEZe (IT) interface. **IT Fiscal Impact:** Unknown

Current Bill Status:

Progress:

Senate:								1st	Cmt
Assembly:	1st	Cmt	2nd	Cmt	2nd	3rd	Pass		

Committee Location: Senate Business, Professions and Economic Development Committee

Last Historical Action: From committee chair, with author's amendments: Amend, and re-refer to committee. Read second time, amended, and re-referred to Senate Business, Professions and Economic Development Committee.

Board Position:

2/12/18 - Watch position.

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

AMENDED IN SENATE APRIL 5, 2018

AMENDED IN ASSEMBLY MAY 3, 2017

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL

No. 767

Introduced by Assembly Member Quirk-Silva

February 15, 2017

An act to add Part 12.5 (commencing with Section 15930) to Division 3 of Title 2 of the Government Code, relating to economic development.

LEGISLATIVE COUNSEL'S DIGEST

AB 767, as amended, Quirk-Silva. Master Business License Act.

Existing law authorizes various state agencies to issue permits and licenses in accordance with specified requirements to conduct business within this state. Existing law establishes the Governor's Office of Business and Economic Development to serve the Governor as the lead entity for economic strategy and the marketing of California on issues relating to business development, private sector investment, and economic growth. Existing law creates within the Governor's Office of Business and Economic Development the Office of Small Business Advocate to advocate for the causes of small businesses and to provide small businesses with the information they need to survive in the marketplace.

This bill would create within the Governor's Office of Business and Economic Development, or its successor, a business license center to develop and administer an online master business license system to simplify the process of engaging in business in this state. The bill would set forth the duties and responsibilities of the business license center. The bill would require each state regulatory agency to cooperate and

provide reasonable assistance to the office to implement these ~~provisions~~ *provisions, except as specified.*

This bill would authorize a person that applies for 2 or more business licenses that have been incorporated into the master business license system to submit a master application to the office requesting the issuance of the licenses. The bill would require the office to develop and adopt an Internet-based platform that allows the businesses to electronically submit the master application to the office, as well as the payment of every fee required to obtain each requested license and a master application fee, which would be deposited into the Master License Fund, which would be created by the bill. The bill would authorize the office to borrow up to \$140,000 from the General Fund. ~~Fund.~~ *Fund, as specified.* The bill would authorize a state agency that the office has determined to have a license and fee that is appropriate for inclusion in the master business license system to borrow money as needed from the General Fund to support the reasonable costs of integrating into the ~~system.~~ *system, as specified.* The bill would require these General Fund moneys to be deposited into the Master License Fund. The bill would authorize moneys in the fund, upon appropriation, to be expended only to administer this bill or be transferred to the appropriate licensing agencies. The bill would also require, upon issuance of the license or licenses, the office to transfer the fees, except for the master license fee, to the appropriate accounts under the applicable statutes for those regulatory agencies' licenses.

~~The bill would require the office to establish a reasonable fee for each master license application and to collect those fees for deposit into the Master License Fund established by this bill. Funds derived from the master license application fees would be expended to administer the master business license program upon appropriation by the Legislature. The bill would require the license fees of the regulatory agencies deposited into the fund to be transferred to the appropriate accounts of the regulatory agencies, as provided.~~

The bill would require the office, in consultation with other regulatory agencies, to establish a uniform business identification number for each business that would be recognized by all affected state agencies and used to facilitate the information sharing between state agencies and to improve customer service to businesses.

The bill would also require the office, including the Director of Small Business Advocate, to work with small business owners and all

regulatory agencies to ensure the state's implementation of a consolidated business license and permit system.

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

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

SECTION 1. Part 12.5 (commencing with Section 15930) is added to Division 3 of Title 2 of the Government Code, to read:

PART 12.5. MASTER BUSINESS LICENSE ACT

CHAPTER 1. GENERAL PROVISIONS

15930. This part may be known, and may be cited as, the Master Business License Act.

15931. As used in this part, the following words shall have the following meanings:

(a) "Business license center" means the business registration and licensing center established by this part and located in and under the administrative control of the office.

(b) "Director" means the Director of the Governor's Office of Business and Economic Development.

(c) "License information packet" means a collection of information about licensing requirements and application procedures custom assembled for each request.

(d) "License" means the whole or part of any state agency permit, license, certificate, approval, registration, charter, or any form or permission required by law, including agency regulation, to engage in any activity.

(e) "Master application" means a document incorporating pertinent data from existing applications for licenses covered under this part.

(f) "Master business license system" or "system" means the mechanism by which licenses are issued, license and regulatory information is disseminated, and account data is exchanged by state agencies.

(g) "Office" means the Governor's Office of Business and Economic Development or its successor.

(h) "Person" means any individual, sole proprietorship, partnership, association, cooperative, corporation, nonprofit organization, state or local government agency, and any other organization required to register with the state to do business in the state and to obtain one or more licenses from the state or any of its agencies.

(i) "Regulatory" means all licensing and other governmental or statutory requirements pertaining to business activities.

(j) "Regulatory agency" means any state agency, board, commission, or division that regulates one or more industries, businesses, or activities.

CHAPTER 2. BUSINESS LICENSE CENTER

15932. (a) There is created within the office a business license center.

(b) The duties of the center shall include, but not be limited to, all of the following:

(1) Developing and administering an online master business license system capable of storing, retrieving, and exchanging license information with due regard to privacy statutes.

(2) Providing a license information service detailing requirements to establish or engage in business in this state.

(3) Identifying types of licenses appropriate for inclusion in the master business license system.

~~(4) Recommending in reports to the Governor and the Legislature the elimination, consolidation, or other modification of duplicative, ineffective, or inefficient licensing.~~

~~(5)~~

(4) Incorporating licenses into the master business license system.

15933. (a) The office shall adopt regulations as may be necessary to effectuate the purposes of this part.

(b) The director shall encourage state regulatory ~~entities~~ agencies to participate in the online master business license system.

(c) The office shall adopt and periodically update a schedule for the buildout and upgrading of the master business license system to allow for the integration of additional licenses into the Internet-based platform of the system. The office shall integrate additional licenses to the Internet-based platform after the director

1 *determines that funding for this project is available and the project*
2 *is in alignment with required elements of the state planning*
3 *practices for the development of state information technology*
4 *projects.*

5 15934. Each state regulatory agency shall cooperate and provide
6 reasonable assistance to the office in the implementation of this
7 ~~part.~~ *part, except that a state regulatory agency may deny or limit*
8 *the ability of the office to establish an application to obtain multiple*
9 *licenses from that state regulatory agency through the system.*

10
11 CHAPTER 3. MASTER LICENSE
12

13 15935. (a) Any person that applies for two or more business
14 licenses that have been incorporated into the master business
15 license system may submit a master application to the office
16 requesting the issuance of the licenses. The office shall develop
17 and adopt an Internet-based platform that allows the business to
18 electronically submit the master application to the office, as well
19 as the payment of every fee required to obtain each requested
20 license and a master application fee established pursuant to Section
21 15936.

22 (b) Irrespective of any authority delegated to the office to
23 implement this part, the authority for approving the issuance and
24 renewal of any requested license that requires a precensing or
25 renewal investigation, inspection, testing, or other judgmental
26 review by the regulatory agency otherwise legally authorized to
27 issue the license shall remain with that agency.

28 (c) Upon receipt of the application and proper fee payment for
29 any license for which issuance is subject to regulatory agency
30 action under subdivision (a), the office shall immediately notify
31 the business of receipt of the application and fees.

32 15936. (a) The office shall establish a fee for each master
33 application that does not exceed the reasonable costs of
34 administering this part and collect that fee.

35 (b) ~~The Subject to subdivision (d),~~ the office may borrow up to
36 one hundred forty thousand dollars (\$140,000) from the General
37 Fund in the State Treasury.

38 (c) ~~A Subject to subdivision (d),~~ a state agency that the office
39 has determined to have a license and fee that is appropriate for
40 inclusion in the master business license system may borrow money

1 from the General Fund in the State Treasury in an amount
2 necessary to support the reasonable cost of integrating into the
3 system.

4 (d) *Before the office or a state agency may request a loan*
5 *pursuant to this section, the director shall make a determination*
6 *that both the project to integrate a license into the system is ready*
7 *to be moved forward and that with the addition of the loan funds*
8 *there is sufficient funding to implement the project.* The loans made
9 pursuant to subdivisions (b) and (c) shall be repaid with interest,
10 calculated at the rate earned by the Pooled Money Investment
11 Account at the time of the transfer from the General Fund, from
12 the fees collected pursuant to this section.

13 15937. All fees collected under the master business license
14 system, including the master license application fee and the fees
15 of the regulatory agencies, and all moneys borrowed under Section
16 15936 shall be deposited into the Master License Fund, which is
17 hereby created in the State Treasury. Moneys in the fund from
18 master application fees may, upon appropriation by the Legislature,
19 be expended only to administer this part or be transferred to the
20 appropriate licensing agencies. Moneys in the fund from other fees
21 shall be transferred to the appropriate accounts under the applicable
22 statutes for those regulatory agencies' licenses.

23
24 CHAPTER 4. UNIFORM BUSINESS IDENTIFICATION NUMBER
25

26 15940. (a) The office, in consultation with other regulatory
27 agencies, shall establish a uniform business identification number
28 for each business. The uniform business identification number
29 shall be recognized by all affected state agencies and shall be used
30 by state agencies to facilitate information sharing between state
31 agencies and to improve customer service to businesses.

32 (b) It is the intent of the Legislature that the uniform business
33 number would permit the office to do both of the following:

34 (1) Register a business with multiple state agencies electronically
35 as licenses and permits are processed.

36 (2) Input and update information regarding a business once,
37 thereby reducing the number of duplicate or conflicting records
38 from one state agency to another.

CHAPTER 5. OVERSIGHT

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7

15945. The office, including the Director of Small Business Advocate from the Governor's Office of Business and Economic Development shall work with small business owners and all regulatory agencies to ensure the state's implementation of a consolidated business license and permit system under this part.

O



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BOARD OF BARBERING & COSMETOLOGY

BILL ANALYSIS

Author: Assembly Member Rubio**Subject:** Externships**Bill Number:** AB 2134**Version:** April 26, 2018

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

Existing Law:

Authorizes a student who is enrolled in a school of cosmetology approved by the Bureau for Private Post-Secondary Education, in a course approved by the Board, to work as an unpaid extern in a cosmetology establishment participating in the educational program of the school. (BP&C* §7395.1)

This Bill:

Authorizes a student who is enrolled in a school of cosmetology or barbering that provides a course of instruction approved by the Board, to work as an unpaid extern.

Background:

Senate Bill 1498 was chaptered on September 30, 1994, establishing cosmetology extern program. Minor amendments to the program have occurred throughout the years (AB 2888 Statutes of 2000, SB 362 Statutes of 2003). Most recently, AB 181, Statutes of 2015 removed the school's requirement of submitting a syllabus to the participating establishment and extern for signature.

Analysis:

This bill will allow for public schools and schools approved by the Bureau of Private Post-Secondary Education, to participate in an extern program. The bill extends the extern program to include students of barbering and cosmetology (manicuring, esthetics). The bill states that the licensees in a participating establishment are required to be "in good standing" with the Board. Section 962 (a) (1-3) of the California Code of Regulations defines the term "in good standing" to mean a licensee that:

- maintains a valid, current license issued by the Board;
- has no current or pending discipline against the licensee;
- has no unpaid fines.

Fiscal Impact:

Costs (mailing, public meetings, etc.) involved in promulgating regulations are estimated at \$1,000.00 per regulatory package (CCR 962.1 – Cosmetology Extern Program would be changed to Extern Program and 962, subsection b – refers only to cosmetology curriculum hours). It is estimated the Board may need one regulatory package.

Current Bill Status:**Progress:**

Senate:				
Assembly:	1st	Cmt	2nd	Cmt

Committee Location:

Assembly Appropriations Committee

Last Historical Action:

Re-referred to the Appropriations Committee.

Board Position:

No declared position.

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

AMENDED IN ASSEMBLY APRIL 26, 2018

AMENDED IN ASSEMBLY MARCH 23, 2018

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL

No. 2134

Introduced by Assembly Member Rubio

February 12, 2018

An act to amend Sections 7349 and 7395.1 of, and to add Section 7395.2 to, the Business and Professions Code, relating to barbering and cosmetology.

LEGISLATIVE COUNSEL'S DIGEST

AB 2134, as amended, Rubio. Cosmetology students: externships.

Existing law, the Barbering and Cosmetology Act, authorizes a student who is enrolled in a school of cosmetology approved by the Bureau for Private Postsecondary Education in a course approved by the State Board of Barbering and Cosmetology to work as an unpaid extern in a cosmetology establishment participating in the educational program of the school, subject to certain requirements and conditions. ~~Existing law makes a violation of the act a misdemeanor.~~

This bill would ~~also~~ authorize a student who is enrolled in a public school in this state that provides a course of instruction in cosmetology approved by the board to work as an extern in ~~a cosmetology~~ an establishment pursuant to those provisions. The bill would also provide a similar authorization for a student enrolled in an approved course of instruction in a school of barbering approved by the board to work as an extern in ~~a barbering~~ an establishment participating in the educational program of the school.

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

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

1 SECTION 1. Section 7349 of the Business and Professions
2 Code is amended to read:

3 7349. It is unlawful for any person, firm, or corporation to hire,
4 employ, or allow to be employed, or permit to work, in or about
5 an establishment, any person who performs or practices any
6 occupation regulated under this chapter and is not duly licensed
7 by the ~~bureau~~, board, except that a licensed ~~cosmetology~~
8 establishment may utilize a student extern, as described in Section
9 ~~7395.1, and a licensed barbering establishment may utilize a~~
10 ~~student extern, as described in Section 7395.1 or 7395.2.~~

11 Any person violating this section is subject to citation and fine
12 pursuant to Section 7406 and is also guilty of a misdemeanor.

13 SEC. 2. Section 7395.1 of the Business and Professions Code
14 is amended to read:

15 7395.1. (a) A student who is enrolled in an approved course
16 of instruction in a school of cosmetology approved by the board
17 pursuant to subdivision (a) of Section 7362 may, upon completion
18 of a minimum of 60 percent of the clock hours required for
19 graduation in the course, work as an unpaid extern in ~~a cosmetology~~
20 ~~an establishment~~ participating in the educational program of the
21 school.

22 (b) A person working as an extern shall receive clock hour credit
23 toward graduation, but that credit shall not exceed eight hours per
24 week and shall not exceed 10 percent of the total clock hours
25 required for completion of the course.

26 (c) The externship program shall be conducted in ~~cosmetology~~
27 ~~establishments~~ *an establishment* meeting all of the following
28 criteria:

29 (1) The establishment is licensed by the board.

30 (2) The establishment has a minimum of four licensees working
31 at the establishment, including employees and owners or managers.

32 (3) All licensees at the establishment are in good standing with
33 the board.

34 (4) Licensees working at the establishment work for salaries or
35 commissions rather than on a space rental basis.

(5) No more than one extern shall work in an establishment for every four licensees working in the establishment. No regularly employed licensee shall be displaced or have his or her work hours reduced or altered to accommodate the placement of an extern in an establishment. Prior to placement of the extern, the establishment shall agree, in writing sent to the school and to all affected licensees, that no reduction or alteration of any licensee's current work schedule shall occur. This shall not prevent a licensee from voluntarily reducing or altering his or her work schedule.

(6) Externs shall wear conspicuous school identification at all times while working in the establishment, and shall carry a school laminated identification, that includes a picture, in a form approved by the board.

(d) (1) No less than 90 percent of the responsibilities and duties of the extern shall consist of the acts included within the practice of cosmetology as defined in Section 7316.

(2) The establishment shall consult with the assigning school regarding the extern's progress during the unpaid externship. The owner or manager of the establishment shall monitor and report on the student's progress to the school on a regular basis, with assistance from supervising licensees.

(3) A participating school shall assess the extern's learning outcome from the externship program. The school shall maintain accurate records of the extern's educational experience in the externship program and records that indicate how the extern's learning outcome translates into course credit.

(e) Participation in an externship program made available by a school shall be voluntary, may be terminated by the student at any time, and shall not be a prerequisite for graduation.

(f) ~~The cosmetology~~ establishment that chooses to utilize the extern is liable for the extern's general liability insurance, as well as cosmetology malpractice liability insurance, and shall furnish proof to the participating school that the establishment is covered by both forms of liability insurance and that the extern is covered under that insurance.

(g) (1) It is the purpose of the externship program authorized by this section to provide students with skills, knowledge, and attitudes necessary to acquire employment in the field for which they are being trained, and to extend formalized classroom instruction.

1 (2) Instruction shall be based on skills, knowledge, attitudes,
2 and performance levels in the area of cosmetology for which the
3 instruction is conducted.

4 (3) An extern may perform only acts listed within the definition
5 of the practice of cosmetology as provided in Section 7316, if a
6 licensee directly supervises those acts, except that an extern may
7 not use or apply chemical treatments unless the extern has received
8 appropriate training in application of those treatments from an
9 approved cosmetology school. An extern may work on a paying
10 client only in an assisting capacity and only with the direct and
11 immediate supervision of a licensee.

12 (4) The extern shall not perform any work in a manner that
13 would violate the law.

14 SEC. 3. Section 7395.2 is added to the Business and Professions
15 Code, to read:

16 7395.2. (a) A student who is enrolled in an approved course
17 of instruction in a school of barbering approved by the board
18 pursuant to subdivision (a) of Section 7362 may, upon completion
19 of a minimum of 60 percent of the clock hours required for
20 graduation in the course, work as an unpaid extern in ~~a barbering~~
21 ~~an~~ establishment participating in the educational program of the
22 school.

23 (b) A person working as an extern shall receive clock hour credit
24 toward graduation, but that credit shall not exceed eight hours per
25 week and shall not exceed 10 percent of the total clock hours
26 required for completion of the course.

27 (c) The externship program shall be conducted in ~~a barbering~~
28 ~~an~~ establishment meeting all of the following criteria:

29 (1) The establishment is licensed by the board.

30 (2) The establishment has a minimum of four licensees working
31 at the establishment, including employees and owners or managers.

32 (3) All licensees at the establishment are in good standing with
33 the board.

34 (4) Licensees working at the establishment work for salaries or
35 commissions rather than on a space rental basis.

36 (5) No more than one extern shall work in an establishment for
37 every four licensees working in the establishment. No regularly
38 employed licensee shall be displaced or have his or her work hours
39 reduced or altered to accommodate the placement of an extern in
40 an establishment. Prior to placement of the extern, the

1 establishment shall agree, in writing sent to the school and to all
2 affected licensees, that no reduction or alteration of any licensee's
3 current work schedule shall occur. This shall not prevent a licensee
4 from voluntarily reducing or altering his or her work schedule.

5 (6) Externs shall wear conspicuous school identification at all
6 times while working in the establishment, and shall carry a school
7 laminated identification, that includes a picture, in a form approved
8 by the board.

9 (d) (1) No less than 90 percent of the responsibilities and duties
10 of the extern shall consist of the acts included within the practice
11 of barbering as defined in Section 7316.

12 (2) The establishment shall consult with the assigning school
13 regarding the extern's progress during the unpaid externship. The
14 owner or manager of the establishment shall monitor and report
15 on the student's progress to the school on a regular basis, with
16 assistance from supervising licensees.

17 (3) A participating school shall assess the extern's learning
18 outcome from the externship program. The school shall maintain
19 accurate records of the extern's educational experience in the
20 externship program and records that indicate how the extern's
21 learning outcome translates into course credit.

22 (e) Participation in an externship program made available by a
23 school shall be voluntary, may be terminated by the student at any
24 time, and shall not be a prerequisite for graduation.

25 (f) The ~~barbering~~ establishment that chooses to utilize the extern
26 is liable for the extern's general liability insurance, as well as
27 barbering malpractice liability insurance, and shall furnish proof
28 to the participating school that the establishment is covered by
29 both forms of liability insurance and that the extern is covered
30 under that insurance.

31 (g) (1) It is the purpose of the externship program authorized
32 by this section to provide students with skills, knowledge, and
33 attitudes necessary to acquire employment in the field for which
34 they are being trained, and to extend formalized classroom
35 instruction.

36 (2) Instruction shall be based on skills, knowledge, attitudes,
37 and performance levels in the area of barbering for which the
38 instruction is conducted.

39 (3) An extern may perform only acts listed within the definition
40 of the practice of barbering as provided in Section 7316, if a

- 1 licensee directly supervises those acts, except that an extern may
2 not use or apply chemical treatments unless the extern has received
3 appropriate training in application of those treatments from an
4 approved barbering school. An extern may work on a paying client
5 only in an assisting capacity and only with the direct and immediate
6 supervision of a licensee.
- 7 (4) The extern shall not perform any work in a manner that
8 would violate the law.



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BOARD OF BARBERING & COSMETOLOGY

BILL ANALYSIS

Author: Assembly Members Chiu and Low**Subject:** Denial of Application,
Revocation or Suspension of
License: Criminal Convictions**Bill Number:** AB 2138**Version:** April 2, 2018

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

Existing Law:

Establishes the Department of Consumer Affairs (DCA) and provides for the licensure and regulation of various professions and vocations by boards/bureaus/commissions/committees within the Department of Consumer Affairs. (BP&C* §§101,101.6)

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)

Authorizes a board to deny a license on the grounds that the applicant has been convicted of a crime. (BP&C §480)

Provides that a person shall not be denied a license solely on the basis that the person has been convicted of a felony if her or she has obtained a certification of rehabilitation or that the person has been convicted of a misdemeanor if he or she has met applicable requirements of rehabilitation developed by the Board. (BP&C §480)

Prohibits a person from being denied a license solely based on a conviction that has been dismissed. (BP&C §480)

Authorizes a board to deny a license because an applicant knowingly made a false statement of fact that is required to be revealed in the application for licensure. (BP&C §480)

This Bill:

- Requires a board to follow certain procedures when requesting or acting on an applicant's or licensee's criminal history information.
- Authorizes a board to deny, revoke, or suspend a license because the applicant or licensee has been convicted of a crime and is incarcerated or if the conviction occurred within the preceding

five years (except for violent felonies) and would require the crime to be directly and adversely related to the qualifications, functions, or duties of the business or profession.

- Prohibits a board from denying a person a license based on the conviction of a crime if the conviction has been dismissed or expunged or if the person has made a show of rehabilitation, or if the person has been granted clemency or a pardon, or if an arrest resulted in a disposition other than a conviction.
- Requires a board to find that a person has made a showing of rehabilitation if certain conditions are met.
- Prohibits a board from denying a license based on an applicant's failure to disclose a fact that would not have been cause for denial of the license had the fact been disclosed.
- Repeals a boards authorization to suspend a license if a licensee is not in compliance with a child support order or judgement.
- Authorizes a board, after a specified hearing requested by an applicant for licensure to take various actions, this includes the authority to grant the license and immediately issue a public reproval.
- Requires a board to develop the following types of criterium:
 - Criteria for establishing if a crime is directly and adversely related to the qualifications, functions, or duties of the business or profession (summary of criteria to be posted on the board's website).
 - Criteria on the imposition of probationary conditions and the determination of what conditions may be imposed (disciplinary guidelines).
 - Criteria to evaluate rehabilitation.
- Prohibits a board from taking disciplinary action against a licensee or denying a license for professional misconduct if the licensee has successfully completed certain diversion programs or alcohol and drug problem assessment programs or deferred entry of judgement.
- Limits probationary terms or restrictions placed on a licensee by a board to two years or less and authorizes additional conditions to be imposed if a board determines that there is clear and convincing evidence that additional conditions are necessary to address a risk shown by the evidence.
- Authorizes a licensee, who has been placed on probation, to petition a board for a change to the probation one year from the effective date of the board's decision, requires the board to issue a decision on the petition within ninety days, and would deem the petition granted if a board does not file a decision denying the petition within ninety days.
- Requires a board to annually submit a report to the Legislature and post the report on its Internet Web site containing specified deidentified information regarding the actions taken by a board based on an applicant or licensee's criminal history information.

Analysis:

This bill applies to the agencies under the Department of Consumer Affairs. On an average, the Board does not deny, revoke or suspend more than 62 licenses per year. Rarely have these denials, revocations or suspensions been based solely on a criminal conviction.

Year	Licenses Disciplined due to Criminal Convictions	Enforcement Cases	Percent Disciplined due to Criminal Convictions
2013	3	55	5.5%
2014	--	58	--
2015	3	54	5.6%
2016	--	45	--
2017	--	100	--
Total	6	312	1.9%

Very rarely does it become necessary to deny a licensing applicant due to a criminal conviction (see table below). Applicant denials represent .009% of the licensing examination applications received over the last five years.

Year	Initial Applications Received	Application Denials Due to Criminal Convictions	Percent of Application Denials due to Criminal Convictions
2013	15714	4	.025%
2014	27484	1	.003%
2015	26264	2	.007%
2016	25296	1	.003%
2017	23830	3	.125%
Total	118588	11	.009%

The Board currently reviews licensing applications and licensure denials, revocations and suspensions on a case by case basis. The Board takes a big picture approach and considers numerous facets and complexities surrounding the individual's circumstances, prior to deciding to revoke or suspend a license or deny a licensing examination application.

Additionally, the Board makes the following option available to applicants with criminal convictions:

- Prior to starting school, the applicant may submit their licensing examination application, have it reviewed by enforcement unit staff, and be informed if the criminal convictions would prevent the Board from approving his/her licensing application.

All applicants that are denied by the Board have the option of requesting an appeal review by an Administrative Law Judge.

The Board works with the Department of Corrections to make sure inmates do not face barrier to entry issues upon prison release. One way this is accomplished is by administering the licensing examination at participating prisons, prior to an inmate's release from prison.

Application Process

Currently, the Board's applications ask questions regarding the applicant's criminal history. The Board relies on good faith that the applicant is supplying all information requested. If this bill is passed, the Board will be unable to ask criminal conviction questions on any applications and will be required to access criminal records from the Department of Justice (DOJ). The new process will include requiring applicants to submit a live scan record (fingerprinting) to the DOJ (at an approximate cost of \$22.00 to the applicant). At the time of exam application submittal, license renewal and licensing reinstatement, subsequent arrest reports will be reviewed by Board staff, creating a significant increased workload. In addition, the Board will be required to conduct annual training with staff and each staff member will need to complete the Criminal Offender Record Information (CORI) Annual Employee Statement Form. All employees with access to CORI must undergo a fingerprint background record clearance review and complete training on the proper handling and storage of CORI. The Department of Investigations (DOI) receives subsequent arrest information on Board employees cleared for CORI access. The DOI reviews the subsequent arrest information and will advise the Board if an employee is disqualified from CORI access. If an employee is disqualified from CORI access the Executive Officer must restructure the employee's duties. CORI may only be used for licensing purposes. Use of CORI for a purpose not

associated with licensing, constitutes a misuse of CORI. Maintenance of the CORI records include destruction of the CORI hard copy when once the purpose for which CORI was obtained no longer exists. In addition, the Board will need to issue No Longer Interested (NLI) forms to DOJ to discontinue subsequent arrest information. The NLI forms are submitted when a former licensee no longer holds at least one valid Board license, an applicant whose application was denied and at the time period when all appeals have exhausted or an applicant with an abandoned application.

Staff Notes: Since the Board currently does not have access to subsequent arrest reports, the bill as written, may have the unintended consequence of more license revocations, suspensions and licensing examination application denials by this Board, as the Board will then have access to the arrest/conviction history of an applicant or licensee on file with the DOJ and FBI.

Out of State Applicants

The definition of the term, *violent felony* differs among the states. The bill does not clarify how to reconcile the different interpretations of the term when individuals are coming into the State of California as applicants. The definition of a violent felony in California may not include violations that may be of use to consider during the licensing process (i.e. perjury, prostitution, threats made to a peace officer, violation of a domestic violence restraining order, etc.).

Personal Service Permit (PSP)

The Board is in the process of developing regulations for the personal service permit which would allow licensees to come into the homes of clients to perform select services. As currently written, the Board would not be able to deny the PSP to individuals that may have been convicted of a non-violent felony, which is not directly related to the industry. For instance, this may include approving the applications of individuals with a conviction history of theft and prostitution.

Probation

Upon the receipt of a modification/termination of probation petition, a petitioner is scheduled to be heard by the Board members at the next available hearing (hearings are scheduled quarterly, alternating between northern and southern California locations). Hearings are presided by an Administrative Law Judge (ALJ) in association with the Board members. After hearing the appellant's testimony, and reviewing the evidence, the ALJ renders a proposed decision. It takes approximately 45 days from the date of the hearing to receive the ALJ's proposed decision. The proposed decision is sent out for mail vote to the entire Board member panel for adoption. Upon adoption, the decision is mailed out to the appellant. The entire process could take up to six months, well past the bill's ninety-day limitation. This in effect would allow all probationers to apply for and receive a modification/termination of probation, simply due to process constraints not within the control of the Board.

As written, the bill limits probationary terms or restrictions placed on a licensee by the Board to two years or less (authorizes additional conditions to be imposed if the Board determines that there is clear and convincing evidence that additional conditions are necessary to address a risk shown by the evidence). Currently, the average length of time that a Board probationer stays on probation is three and a half years. In most cases, this would be a reduction of time available to be imposed to Board probationers by the Board members.

Staff Recommendations:

- Given that this bill pertains to **all** DCA entities, and will have a IT impact upon the Board, staff recommends suggesting to the bill's author a delayed implementation of one year to allow for interface implementation and changes to be made to the BreEZe system.
- Given that holders of the Personal Service Permit would be allowed into the personal residences of consumers, staff recommends suggesting to the bill's author that applications that allow access to individuals homes be excluded in the current licensing application denial process.

Fiscal Impact:

The bill as written will have a significant workload impact to the Board.

Workload impact:

- The Board's applications will need to be revised and reposted to the website
- Training and implementation of the DOJ record inquiry/tracking process (staff recruitment needed)
- Review of subsequent arrest reports prior to approving exam applications, license renewals, licensing restatement requests and probationers. (staff recruitment needed)
- Submittal of No longer Interested reports to DOJ. (staff recruitment needed)
- Applicant and licensee statistical tracking
- Creation and adoption of three specified criteria
- Legislative reports compilation, submittal and posting to the Board's website

Regulatory impact:

The costs involved in the promulgation of regulations are estimated at \$1,000.00 per regulatory package. It is estimated the Board may need two regulatory packages.

BreEZe impact:

While DCA maintains an interface with the DOJ, the Board would need access implementation. In addition, three to five new activity codes will need to be constructed and implemented within the BreEZe system. At this point, the complete extent of the IT adjustments is unknown, but it is assumed work effort should be absorbable within existing maintenance resources. However, given that it is possible that several DCA entities will need interfacing and implementation, it can be assumed that it may take some time for the IT department to fully implement all of the work requests.

Current Bill Status:**Progress:**

Senate:	1st	Cmt
Assembly:		

Committee Location:

Assembly Appropriations Committee

Last Historical Action:

From committee: Do pass and re-refer to Com. on APPR. (Ayes 11. Noes 5.) Re-referred to Appropriations Committee.

Board Position:

No declared position.

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

ASSEMBLY BILL

No. 2138

Introduced by Assembly Members Chiu and Low

February 12, 2018

An act to amend ~~Sections 480 and~~ Sections 7.5, 480, 481, 482, 488, 490, 492, 493, 1005, and 11345.2 ~~of of~~, to add Section 481.5 to, and to repeal Section 490.5 of, the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

AB 2138, as amended, Chiu. Licensing boards: denial of application: *revocation or suspension of licensure*: criminal conviction.

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer ~~Affairs and Affairs~~. Existing law authorizes a board to ~~deny deny~~, *suspend, or revoke a license or take disciplinary action against a licensee* on the grounds that the applicant *or licensee* has, among other things, been convicted of a crime, as specified. Existing law provides that a person shall not be denied a license solely on the basis that the person has been convicted of a felony if he or she has obtained a certificate of rehabilitation or that the person has been convicted of a misdemeanor if he or she has met applicable requirements of rehabilitation developed by the board, as specified. Existing law also prohibits a person from being denied a license solely on the basis of a conviction that has been dismissed, as specified. *Existing law requires a board to develop criteria to aid it when considering the denial, suspension, or revocation of a license to determine whether a crime is substantially related to the qualifications, functions, or duties of the*

business or profession the board regulates and requires a board to develop criteria to evaluate the rehabilitation of a person when considering the denial, suspension, or revocation of a license.

This bill would instead prohibit a person from being denied a license solely on the basis that he or she has been convicted of a nonviolent crime and would make conforming changes: revise and recast those provisions to instead authorize a board to, among other things, deny, revoke, or suspend a license on the grounds that the applicant or licensee has been convicted of a crime only if the applicant or licensee is presently incarcerated or if the conviction, as defined, occurred within the preceding 5 years, except for violent felonies, and would require the crime to be directly and adversely related to the qualifications, functions, or duties of the business or profession. The bill would prohibit a board from denying a person a license based on the conviction of a crime, or on the basis of acts underlying a conviction for a crime, if the conviction has been dismissed or expunged, if the person has made a showing of rehabilitation, if the person has been granted clemency or a pardon, or if an arrest resulted in a disposition other than a conviction. The bill would provide that these provisions relating to denial, revocation, or suspension of a license would supersede contradictory provisions in specified existing law.

The bill would require the board to develop criteria for determining whether a crime is directly and adversely related to the qualifications, functions, or duties of the business or profession. The bill would require a board to find that a person has made a showing of rehabilitation if certain conditions are met. The bill would require a board to follow certain procedures when requesting or acting on an applicant's or licensee's criminal history information. The bill would also require a board to annually submit a report to the Legislature and post the report on its Internet Web site containing specified deidentified information regarding actions taken by a board based on an applicant or licensee's criminal history information.

Existing law authorizes a board to deny a license on the grounds that an applicant knowingly made a false statement of fact that is required to be revealed in the application for licensure.

This bill would prohibit a board from denying a license based solely on an applicant's failure to disclose a fact that would not have been cause for denial of the license had the fact been disclosed.

Existing law authorizes a board to suspend a license if a licensee is not in compliance with a child support order or judgment.

This bill would repeal that authorization.

Existing law authorizes specified agencies to take disciplinary action against a licensee or deny a license for professional misconduct if the licensee has successfully completed certain diversion programs or alcohol and drug problem assessment programs.

This bill would instead prohibit a board from taking disciplinary action against a licensee or denying a license for professional misconduct if the licensee has successfully completed certain diversion programs or alcohol and drug problem assessment programs or deferred entry of judgment.

Existing law authorizes a board after a specified hearing requested by an applicant for licensure to take various actions, including imposing probationary conditions on the license.

This bill would additionally authorize a board to grant the license and immediately issue a public reproof. The bill would limit probationary terms or restrictions placed on a license by a board to 2 years or less and would authorize additional conditions to be imposed only if the board determines that there is clear and convincing evidence that additional conditions are necessary to address a risk shown by clear and convincing evidence. The bill would require a board to develop criteria to aid it in considering the imposition of probationary conditions and to determine what conditions may be imposed. The bill would authorize a licensee or registrant whose license or registration has been placed on probation to petition the board for a change to that probation one year from the effective date of the board's decision, would require the board to issue a decision on the petition within 90 days, and would deem the petition granted if the board does not file a decision denying the petition within 90 days.

This bill would also make necessary conforming changes.

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

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

1 SECTION 1. Section 7.5 of the Business and Professions Code
2 is amended to read:

3 7.5. (a) A conviction within the meaning of this code means
4 a judgment following a plea or verdict of guilty or a conviction
5 following a plea of nolo contendere, contendere or finding of guilt.
6 Any action which a board is permitted to take following the

1 establishment of a conviction may be taken when the time for
2 appeal has elapsed, or the judgment of conviction has been affirmed
3 on appeal or when an order granting probation is made suspending
4 the imposition of sentence, ~~irrespective of a subsequent order under~~
5 ~~the provisions of Section 1203.4 of the Penal Code.~~ sentence.
6 However, a board may not deny a license to an applicant who is
7 otherwise qualified pursuant to subdivision (b) or (c) of Section
8 480.

9 ~~Nothing~~

10 (b) ~~Nothing~~ in this section shall apply to the licensure of persons
11 pursuant to Chapter 4 (commencing with Section 6000) of Division
12 3.

13 (c) *Except as provided in subdivision (b), this section controls*
14 *over and supersedes the definition of conviction contained within*
15 *individual practice acts under this code.*

16 ~~SECTION 1.~~

17 SEC. 2. Section 480 of the Business and Professions Code is
18 amended to read:

19 480. (a) ~~A~~ (1) *Notwithstanding any other provision of this*
20 *code, a board may deny a license regulated by this code on the*
21 *grounds that the applicant has one of the following: been convicted*
22 *of a crime or has been subject to formal discipline only if either*
23 *of the following conditions are met:*

24 (1) ~~Been convicted of a crime.~~ A conviction within the meaning
25 of this section means a plea or verdict of guilty or a conviction
26 following a plea of nolo contendere. Any action that a board is
27 permitted to take following the establishment of a conviction may
28 be taken when the time for appeal has elapsed, or the judgment of
29 conviction has been affirmed on appeal, or when an order granting
30 probation is made suspending the imposition of sentence,
31 irrespective of a subsequent order under the provisions of Section
32 1203.4, 1203.4a, or 1203.41 of the Penal Code.

33 (2) ~~Done any act involving dishonesty, fraud, or deceit with the~~
34 ~~intent to substantially benefit himself or herself or another, or~~
35 ~~substantially injure another.~~

36 (3) (A) ~~Done any act that if done by a licensee of the business~~
37 ~~or profession in question, would be grounds for suspension or~~
38 ~~revocation of license.~~

39 (B) ~~The board may deny a license pursuant to this subdivision~~
40 ~~only if the crime or act is substantially related to the qualifications,~~

1 ~~functions, or duties of the business or profession for which~~
2 ~~application is made.~~

3 (A) *The applicant has been convicted of a crime for which the*
4 *applicant is presently incarcerated or for which the conviction*
5 *occurred within the preceding five years. However, the preceding*
6 *five year limitation shall not apply to a conviction for a violent*
7 *felony, as defined in Section 667.5 of the Penal Code.*

8 *The board may deny a license pursuant to this subparagraph*
9 *only if the crime is directly and adversely related to the*
10 *qualifications, functions, or duties of the business or profession*
11 *for which application is made.*

12 (B) *The applicant has been subjected to formal discipline by a*
13 *licensing board within the preceding five years based on*
14 *professional misconduct that would have been cause for discipline*
15 *before the board for which the present application is made and*
16 *that is directly and adversely related to the qualifications,*
17 *functions, or duties of the business or profession for which the*
18 *present application is made. However, prior disciplinary action*
19 *by a licensing board within the preceding five years shall not be*
20 *the basis for denial of a license if the basis for that disciplinary*
21 *action was a conviction that has been dismissed pursuant to Section*
22 *1203.4, 1203.4a, or 1203.41 of the Penal Code or a comparable*
23 *dismissal or expungement.*

24 (2) *Denial of a license includes denial of an unrestricted license*
25 *by issuance of a restricted or probationary license.*

26 (b) *Notwithstanding any other provision of this code, a person*
27 *shall not be denied a license solely on the basis that he or she has*
28 *been convicted of a ~~nonviolent crime~~ crime, or on the basis of*
29 *acts underlying a conviction for a crime, if he or she has obtained*
30 *a certificate of rehabilitation under Chapter 3.5 (commencing with*
31 *Section 4852.01) of Title 6 of Part 3 of the Penal Code, has been*
32 *granted clemency or a pardon by a state or federal executive, or*
33 *has made a showing of rehabilitation pursuant to Section 482.*

34 (c) *Notwithstanding any other provision of this code, a person*
35 *shall not be denied a license on the basis of any conviction, or on*
36 *the basis of the acts underlying the conviction, that has been*
37 *dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the*
38 *Penal Code, or a comparable dismissal or expungement. An*
39 *applicant who has a conviction that has been dismissed pursuant*
40 *to Section 1203.4, 1203.4a, 1203.41, or 1203.42 of the Penal Code*

1 shall provide proof of the dismissal if it is not reflected on the
2 report furnished by the Department of Justice.

3 (d) Notwithstanding any other provision of this code, a board
4 shall not deny a license on the basis of an arrest that resulted in
5 a disposition other than a conviction, including an arrest that
6 resulted in an infraction, citation, or a juvenile adjudication.

7 ~~(e)~~

8 (e) A board may deny a license regulated by this code on the
9 ground that the applicant knowingly made a false statement of fact
10 that is required to be revealed in the application for the license. A
11 board shall not deny a license based solely on an applicant's
12 failure to disclose a fact that would not have been cause for denial
13 of the license had it been disclosed.

14 (f) A board shall follow the following procedures in requesting
15 or acting on an applicant's criminal history information:

16 (1) A board shall not require an applicant for licensure to
17 disclose any information or documentation regarding the
18 applicant's criminal history.

19 (2) If a board decides to deny an application based solely or in
20 part on the applicant's conviction history, the board shall notify
21 the applicant in writing of all of the following:

22 (A) The denial or disqualification of licensure.

23 (B) Any existing procedure the board has for the applicant to
24 challenge the decision or to request reconsideration.

25 (C) That the applicant has the right to appeal the board's
26 decision.

27 (D) The processes for the applicant to request a copy of his or
28 her complete conviction history and question the accuracy or
29 completeness of the record pursuant to Sections 11122 to 11127
30 of the Penal Code.

31 (g) (1) For a minimum of three years, each board under this
32 code shall retain application forms and other documents submitted
33 by an applicant, any notice provided to an applicant, all other
34 communications received from and provided to an applicant, and
35 criminal history reports of an applicant.

36 (2) Each board under this code shall retain the number of
37 applications received for each license and the number of
38 applications requiring inquiries regarding criminal history. In
39 addition, each licensing authority shall retain all of the following
40 information:

1 (A) The number of applicants with a criminal record who
2 received notice of denial or disqualification of licensure.

3 (B) The number of applicants with a criminal record who
4 provided evidence of mitigation or rehabilitation.

5 (C) The number of applicants with a criminal record who
6 appealed any denial or disqualification of licensure.

7 (D) The final disposition and demographic information,
8 including, but not limited to, voluntarily provided information on
9 race or gender, of any applicant described in subparagraph (A),
10 (B), or (C).

11 (3) (A) Each board under this code shall annually make
12 available to the public through the board's Internet Web site and
13 through a report submitted to the appropriate policy committees
14 of the Legislature deidentified information collected pursuant to
15 this subdivision. Each board shall ensure confidentiality of the
16 individual applicants.

17 (B) A report pursuant to subparagraph (A) shall be submitted
18 in compliance with Section 9795 of the Government Code.

19 (h) "Conviction" as used in this section shall have the same
20 meaning as defined in Section 7.5.

21 (i) This section supersedes any contradictory provision in a
22 licensing act under this code or initiative act referred to in Division
23 2 (commencing with Section 500) that authorizes license denial
24 based on a criminal conviction, arrest, or the acts underlying an
25 arrest or conviction.

26 SEC. 3. Section 481 of the Business and Professions Code is
27 amended to read:

28 481. (a) Each board under ~~the provisions of~~ this code shall
29 develop criteria to aid it, when considering the denial, ~~suspension~~
30 ~~suspension~~, or revocation of a license, to determine whether a
31 ~~crime or act is substantially~~ is directly and adversely related to the
32 qualifications, functions, or duties of the business or profession it
33 regulates.

34 (b) Criteria for determining whether a crime is directly and
35 adversely related to the qualifications, functions, or duties of the
36 business or profession a board regulates shall include all of the
37 following:

38 (1) The nature and gravity of the offense.

39 (2) The number of years elapsed since the date of the offense.

1 (3) *The nature and duties of the profession in which the*
2 *applicant seeks licensure or in which the licensee is licensed.*

3 (c) *A board shall not deny a license based in whole or in part*
4 *on a conviction without considering evidence of rehabilitation.*

5 (d) *Each board shall post on its Internet Web site a summary*
6 *of the criteria used to consider whether a crime is considered to*
7 *be directly and adversely related to the qualifications, functions,*
8 *or duties of the business or profession it regulates consistent with*
9 *this section.*

10 SEC. 4. *Section 481.5 is added to the Business and Professions*
11 *Code, to read:*

12 481.5. (a) *Probationary terms or restrictions placed on a*
13 *license by a board shall be limited to two years or less. Any*
14 *additional conditions may be imposed only if the board determines*
15 *that there is clear and convincing evidence that additional*
16 *conditions are necessary to address a risk shown by clear and*
17 *convincing evidence.*

18 (b) *Each board under this code shall develop criteria to aid it*
19 *when considering the imposition of probationary conditions or*
20 *restrictions to determine what conditions may be imposed to*
21 *address a risk shown by clear and convincing evidence.*

22 (c) (1) *A licensee or registrant whose license or registration*
23 *has been placed on probation may petition the board for a change*
24 *to the probation, including modification or termination of*
25 *probation, one year from the effective date of the decision. The*
26 *board shall issue its decision on the petition within 90 days of*
27 *submission of the petition. The petition shall be deemed granted*
28 *by operation of law if the board does not file a decision denying*
29 *the petition within 90 days of submission of the petition.*

30 (2) *The one-year time period to petition for modification or*
31 *termination of penalty shall control over longer time periods under*
32 *a licensing act under this code or initiative act referred to in*
33 *Division 2 (commencing with Section 500).*

34 SEC. 5. *Section 482 of the Business and Professions Code is*
35 *amended to read:*

36 482. (a) *Each board under the provisions of this code shall*
37 *develop criteria to evaluate the rehabilitation of a person when:*
38 *when doing either of the following:*

39 (a)

1 (1) Considering the denial of a license by the board under
2 Section ~~480~~, or 480.

3 ~~(b)~~

4 (2) Considering suspension or revocation of a license under
5 Section 490.

6 Each

7 (b) ~~Each board shall take into account all competent evidence~~
8 ~~of rehabilitation furnished by the applicant or licensee. find that~~
9 ~~an applicant or licensee has made a showing of rehabilitation if~~
10 ~~any of the following are met:~~

11 (1) *The applicant or licensee has completed the criminal*
12 *sentence at issue without a violation of parole or probation.*

13 (2) (A) *The applicant or licensee documents that he or she has*
14 *worked in a related field continuously for at least one year prior*
15 *to licensure or successfully completed a course of training in a*
16 *related field, unless the board finds a public record of an official*
17 *finding that the applicant committed professional misconduct in*
18 *the course of that work.*

19 (B) *Work in a related field may include, but is not limited to,*
20 *work performed without compensation and work performed while*
21 *incarcerated.*

22 (C) *"Related field," for purposes of this paragraph, means a*
23 *field of employment whose duties are substantially similar to the*
24 *field regulated by the board.*

25 (3) *The applicant or licensee has satisfied criteria for*
26 *rehabilitation developed by the board.*

27 SEC. 6. *Section 488 of the Business and Professions Code is*
28 *amended to read:*

29 488. *Except as otherwise provided by law, following a hearing*
30 *requested by an applicant pursuant to subdivision (b) of Section*
31 *485, the board may take any of the following actions:*

32 (a) *Grant the license effective upon completion of all licensing*
33 *requirements by the applicant.*

34 (b) *Grant the license effective upon completion of all licensing*
35 *requirements by the applicant, grant the license and immediately*
36 *issue a public reproof pursuant to Section 495, immediately*
37 *revoke the license, stay the revocation, and impose probationary*
38 *conditions on the license, which may include suspension.*

39 (c) *Deny the license.*

1 (d) Take other action in relation to denying or granting the
2 license as the board in its discretion may deem proper.

3 *SEC. 7. Section 490 of the Business and Professions Code is*
4 *amended to read:*

5 490. (a) (1) In addition to any other action that a board is
6 permitted to take against a licensee, a board may suspend or revoke
7 a license on the ground that the licensee has been convicted of a
8 ~~crime, if the crime is substantially related to the qualifications,~~
9 ~~functions, or duties of the business or profession for which the~~
10 ~~license was issued.~~ *crime for which the applicant is presently*
11 *incarcerated or for which the conviction occurred within the*
12 *preceding five years. However, the preceding five year limitation*
13 *shall not apply to a conviction for a violent felony, as defined in*
14 *Section 667.5 of the Penal Code.*

15 (2) *The board may suspend or revoke a license pursuant to this*
16 *subdivision only if the crime is directly and adversely related to*
17 *the qualifications, functions, or duties of the business or profession*
18 *for which application is made.*

19 (b) Notwithstanding any other provision of law, a board may
20 exercise any authority to discipline a licensee for conviction of a
21 crime that is independent of the authority granted under subdivision
22 (a) ~~only if the both of the following are met:~~

23 (1) ~~The crime is substantially directly and adversely related to~~
24 ~~the qualifications, functions, or duties of the business or profession~~
25 ~~for which the licensee's license was issued.~~

26 (2) ~~The licensee was convicted of the crime within the preceding~~
27 ~~five years or is presently incarcerated for the crime. However, the~~
28 ~~preceding five year limitation shall not apply to a conviction for~~
29 ~~a violent felony, as defined in Section 667.5 of the Penal Code.~~

30 ~~(c) A conviction within the meaning of this section means a~~
31 ~~plea or verdict of guilty or a conviction following a plea of nolo~~
32 ~~contendere. An action that a board is permitted to take following~~
33 ~~the establishment of a conviction may be taken when the time for~~
34 ~~appeal has elapsed, or the judgment of conviction has been affirmed~~
35 ~~on appeal, or when an order granting probation is made suspending~~
36 ~~the imposition of sentence, irrespective of a subsequent order under~~
37 ~~Section 1203.4 of the Penal Code.~~

38 ~~(d) The Legislature hereby finds and declares that the application~~
39 ~~of this section has been made unclear by the holding in Petropoulos~~
40 ~~v. Department of Real Estate (2006) 142 Cal.App.4th 554, and~~

1 that the holding in that case has placed a significant number of
2 statutes and regulations in question, resulting in potential harm to
3 the consumers of California from licensees who have been
4 convicted of crimes. Therefore, the Legislature finds and declares
5 that this section establishes an independent basis for a board to
6 impose discipline upon a licensee, and that the amendments to this
7 section made by Chapter 33 of the Statutes of 2008 do not
8 constitute a change to, but rather are declaratory of, existing law.

9 (c) Notwithstanding any other provision of this code, a board
10 shall not suspend or revoke a license on the basis of a conviction,
11 or of the acts underlying a conviction, where that conviction has
12 been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, or
13 1203.42 of the Penal Code or a comparable dismissal or
14 expungement.

15 (d) Notwithstanding any other provision of this code, a board
16 shall not suspend or revoke a license on the basis of an arrest that
17 resulted in a disposition other than a conviction, including an
18 arrest that resulted in an infraction, citation, or juvenile
19 adjudication.

20 (e) The board shall use the following procedures in requesting
21 or acting on a licensee's criminal history information:

22 (1) A board shall not require a licensee to disclose any
23 information or documentation regarding the licensee's criminal
24 history.

25 (2) If a board chooses to file an accusation against a licensee
26 based solely or in part on the licensee's conviction history, the
27 board shall notify the licensee in writing of the processes for the
28 licensee to request a copy of the licensee's complete conviction
29 history and question the accuracy or completeness of his or her
30 criminal record pursuant to Sections 11122 to 11127, inclusive,
31 of the Penal Code.

32 (f) (1) For a minimum of three years, each board under this
33 code shall retain all documents submitted by a licensee, notices
34 provided to a licensee, all other communications received from or
35 provided to a licensee, and criminal history reports of a licensee.

36 (2) Each board under this code shall retain all of the following
37 information:

38 (A) The number of licensees with a criminal record who received
39 notice of potential revocation or suspension of their license or who
40 had their license suspended or revoked.

1 (B) The number of licensees with a criminal record who
2 provided evidence of mitigation or rehabilitation.

3 (C) The number of licensees with a criminal record who
4 appealed any suspension or revocation of a license.

5 (D) The final disposition and demographic information,
6 including, but not limited to, voluntarily provided information on
7 race or gender, of any applicant described in subparagraph (A),
8 (B), or (C).

9 (3) (A) Each board under this code shall annually make
10 available to the public through the board's Internet Web site and
11 through a report submitted to the appropriate policy committees
12 of the Legislature deidentified information collected pursuant to
13 this subdivision. Each board shall ensure the confidentiality of the
14 individual licensees.

15 (B) A report pursuant to subparagraph (A) shall be submitted
16 in compliance with Section 9795 of the Government Code.

17 (g) (1) This section supersedes any contradictory provision in
18 a licensing act under this code or initiative act referred to in
19 Division 2 (commencing with Section 500) that authorizes action
20 based on a criminal conviction, arrest, or the acts underlying an
21 arrest or conviction.

22 (2) This section shall not prohibit any agency from taking
23 disciplinary action against a licensee for professional misconduct
24 in the course and scope of the licensee's profession that is based
25 on evidence that is independent of an arrest.

26 SEC. 8. Section 490.5 of the Business and Professions Code
27 is repealed.

28 ~~490.5. A board may suspend a license pursuant to Section~~
29 ~~17520 of the Family Code if a licensee is not in compliance with~~
30 ~~a child support order or judgment.~~

31 SEC. 9. Section 492 of the Business and Professions Code is
32 amended to read:

33 492. (a) Notwithstanding any other provision of law, successful
34 completion of any diversion program under the Penal Code,
35 successful completion by a licensee or applicant of any
36 nonstatutory diversion program, deferred entry of judgment, or
37 successful completion of an alcohol and drug problem assessment
38 program under Article 5 (commencing with Section 23249.50) of
39 Chapter 12 of Division 11 of the Vehicle Code, shall not prohibit
40 any agency established under Division 2 (commencing with Section

1 ~~500) of this code, or any initiative act referred to in that division,~~
2 ~~board from taking disciplinary action against a licensee or from~~
3 ~~denying a license for professional misconduct, notwithstanding~~
4 ~~that evidence of that misconduct may be recorded in a record~~
5 ~~pertaining to an arrest. misconduct.~~

6 ~~This section shall not be construed to apply to any drug diversion~~
7 ~~program operated by any agency established under Division 2~~
8 ~~(commencing with Section 500) of this code, or any initiative act~~
9 ~~referred to in that division.~~

10 *(b) This section shall not prohibit any agency established under*
11 *Division 2 (commencing with Section 500) of this code, or any*
12 *initiative act referred to in that division, from taking disciplinary*
13 *action against a licensee for professional misconduct in the course*
14 *and scope of the profession, which is based on evidence that is*
15 *independent of an arrest.*

16 *SEC. 10. Section 493 of the Business and Professions Code is*
17 *amended to read:*

18 *493. (a) Notwithstanding any other provision of law, in a*
19 *proceeding conducted by a board within the department pursuant*
20 *to law to deny an application for a license or to suspend or revoke*
21 *a license or otherwise take disciplinary action against a person*
22 *who holds a license, upon the ground that the applicant or the*
23 *licensee has been convicted of a crime—substantially directly and*
24 *adversely related to the qualifications, functions, and duties of the*
25 *licensee in question, the record of conviction of the crime shall be*
26 *conclusive evidence of the fact that the conviction occurred, but*
27 *only of that fact, and the board may inquire into the circumstances*
28 *surrounding the commission of the crime in order to fix the degree*
29 *of discipline or to determine if the conviction is substantially*
30 *related to the qualifications, functions, and duties of the licensee*
31 *in question. fact.*

32 *(b) (1) Criteria for determining whether a crime is directly and*
33 *adversely related to the qualifications, functions, or duties of the*
34 *business or profession the board regulates shall include all of the*
35 *following:*

36 *(A) The nature and gravity of the offense.*

37 *(B) The number of years elapsed since the date of the offense.*

38 *(C) The nature and duties of the profession.*

1 (2) A board shall not categorically bar an applicant based solely
2 on the type of conviction without considering evidence of
3 rehabilitation.

4 As

5 (c) As used in this section, "license" includes "certificate,"
6 "permit," "authority," and "registration."

7 SEC. 11. Section 1005 of the Business and Professions Code
8 is amended to read:

9 1005. The provisions of Sections 12.5, 23.9, 29.5, 30, 31, 35,
10 104, 114, 115, 119, 121, 121.5, 125, 125.6, 136, 137, 140, 141,
11 143, 163.5, 461, 462, 475, 480, 484, 485, 487, 489, 490, ~~490.5~~,
12 491, 494, 495, 496, 498, 499, 510, 511, 512, 701, 702, 703, 704,
13 710, 716, 730.5, 731, and 851 are applicable to persons licensed
14 by the State Board of Chiropractic Examiners under the
15 Chiropractic Act.

16 ~~SEC. 2.~~

17 SEC. 12. Section 11345.2 of the Business and Professions Code
18 is amended to read:

19 11345.2. (a) An individual shall not act as a controlling person
20 for a registrant if any of the following apply:

21 (1) The individual has entered a plea of guilty or no contest to,
22 or been convicted of, a felony. If the individual's felony conviction
23 has been dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41
24 of the Penal Code, the bureau may allow the individual to act as
25 a controlling person.

26 (2) The individual has had a license or certificate to act as an
27 appraiser or to engage in activities related to the transfer of real
28 property refused, denied, canceled, or revoked in this state or any
29 other state.

30 (b) Any individual who acts as a controlling person of an
31 appraisal management company and who enters a plea of guilty
32 or no contest to, or is convicted of, a felony, or who has a license
33 or certificate as an appraiser refused, denied, canceled, or revoked
34 in any other state shall report that fact or cause that fact to be
35 reported to the office, in writing, within 10 days of the date he or
36 she has knowledge of that fact.

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BOARD OF BARBERING & COSMETOLOGY

BILL ANALYSIS

Author: Assembly Member Kalra
Co-Authors: Assembly Members Carillo,
 Maienschein, Waldron

Subject: Cosmetic Labeling

Bill Number: AB 2775

Version: February 16, 2018

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.)

This Bill:

Requires a professional cosmetic manufactured on or after July 1, 2020, 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.

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."

With the recent legalization of the recreational use of cannabis in California, the Board has become aware that some licensees are now offering various cosmetic services (manicures, pedicures, facials, etc.) with cannabis infused cosmetic products. For instance, some cosmetic bath bombs, lotions and serums are now being infused with cannabis. Most of these products contain either Cannabidiol (CBD) or Δ-9 tetrahydrocannabinol (THC). CBD does not produce any conduct-altering effects in an individual and have historically been used in cosmetic preparations. Products infused with THC, in certain amounts, may produce conduct-altering effects. Requiring the ingredient labeling of these types of cosmetics may allow for increased consumer and licensee awareness as to the possible physical effects of the cosmetic preparation.

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

NOTE: This bill is a replica of AB 1575 (Kalra) Cosmetic Labeling. AB 1575 missed a legislative deadline, therefore the author re-introduced the bill language in AB 2775. On July 17, 2017, the Board took a *Support If Amended* position to AB 1575.

Board proposed amendment to AB 1575: When defining the term "Professional" the bill language should also include the practice of Electrology (Section 110371 (b)(2)).

Fiscal Impact:

No fiscal impact to the Board.

Current Bill Status:

Progress:

Senate:		
Assembly:	1st	Cmt

Committee Location:

Assembly Appropriations Committee

Last Historical Action:

In Committee: Set first hearing. Referred to Appropriations suspense file.

Board Position:

No position declared.

ASSEMBLY BILL

No. 2775

Introduced by Assembly Member Kalra
(Coauthors: Assembly Members Carrillo, Maienschein, and Waldron)

February 16, 2018

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

LEGISLATIVE COUNSEL'S DIGEST

AB 2775, as introduced, 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, 2020, for sale in this state to have a label affixed on the container that satisfies all of the labeling requirements 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
18 and take steps to protect themselves and their customers against
19 harmful exposures.

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

22 110371. (a) A professional cosmetic manufactured on or after
23 July 1, 2020, for sale in this state shall have a label affixed on the
24 container that satisfies all of the labeling requirements for any
25 other cosmetic pursuant to the Federal Food, Drug, and Cosmetic
26 Act (21 U.S.C. Sec. 301, et seq.), and the federal Fair Packaging
27 and Labeling Act (15 U.S.C. Sec. 1451, et seq.).

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

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

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

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

9 SEC. 3. No reimbursement is required by this act pursuant to
10 Section 6 of Article XIII B of the California Constitution because
11 the only costs that may be incurred by a local agency or school
12 district will be incurred because this act creates a new crime or
13 infraction, eliminates a crime or infraction, or changes the penalty
14 for a crime or infraction, within the meaning of Section 17556 of
15 the Government Code, or changes the definition of a crime within
16 the meaning of Section 6 of Article XIII B of the California
17 Constitution.

18
19
20 REVISIONS: _____

21 Heading—Line 2.
22 _____



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BOARD OF BARBERING & COSMETOLOGY

BILL ANALYSIS

Author: Senate Member Newman**Subject:** Removal of Board Member from Office**Bill Number:** SB 715**Version:** April 25, 2017

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)

This Bill:

Adds the failure to attend board meetings to the justification for removal of an appointed board member by the Governor.

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:

No fiscal impact to the Board.

Current Bill Status:

On September 14, 2017 this bill was order to the Assembly Inactive File.

Progress:

Senate:	1st	Cmt	2nd	3rd	Pass				
Assembly:						1st	Cmt	2nd	3rd

Committee Location:

Not applicable (in floor process).

Last Historical Action:

Ordered to the inactive file on the request of Assembly Member Calderon.

Board Position:

No declared position.

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

**CCR refers to the California Code of Regulations.

AMENDED IN SENATE APRIL 25, 2017

SENATE BILL

No. 715

Introduced by Senator Newman

February 17, 2017

~~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.~~



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BOARD OF BARBERING & COSMETOLOGY

BILL ANALYSIS

Author: Senate Member Skinner**Subject:** Board Member
Compilation**Bill Number:** SB 984**Version:** May 1, 2018

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 Establishes:

The policy of the State of California that the composition of state boards and commissions shall be broadly reflective of the general public including ethnic minorities and women. (BP&C* §11140)

That the Governor and every other appointing authority is responsible for nominating a variety of persons of different backgrounds, abilities, interests, and opinions to board member positions. (BP&C §11141)

The Department of Consumer Affairs and provides for the licensure and regulation of various professions and vocations by boards/bureaus/commissions/committees within the Department of Consumer Affairs. (BP&C §§101,101.6)

The California Board of Barbering and Cosmetology (Board) and allows the Board to remain in effect until January 1, 2020. (BP&C §7303)

The appointing authority of the members, public members/industry members ratio and term limitations. (BP&C § 7303 (b))

This Bill:

- Requires the composition of state boards have a specified number of women members based on the total number of board members. This Board would be required to be comprised of a minimum ratio of 40 percent women.
- Requires the Office of the Governor to collect and release aggregated demographic data provided by the member applicants, nominees and appointees.

Analysis:

The Board 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.

The current percentage of women serving at the Board in a member capacity is 55.55%. Female Board members currently occupy two public member positions and three industry member positions.

Fiscal Impact:

No fiscal impact to the Board.

Current Bill Status:

Progress:

Senate:	1st	Cmt	2nd	Cmt
Assembly:				

Committee Location: Senate Appropriations Committee

Last Historical Action: Read second time and amended. Re-referred to committee on Appropriations.

Board Position:

No declared position.

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

Introduced by Senator Skinner

February 5, 2018

An act to add Section 11142 to the Government Code, relating to state government.

LEGISLATIVE COUNSEL'S DIGEST

SB 984, as amended, Skinner. State boards and commissions: representation: ~~women.~~ *appointments.*

Existing law establishes various boards and commissions within state government. Under existing law, it is the policy of the State of California that the composition of these state boards and commissions broadly reflect the general public, including ethnic minorities and women. Under existing law, the Governor and other appointing authorities are responsible for nominating to these boards and commissions persons of different backgrounds, abilities, interests, and opinions.

This bill would require the composition of *each appointed state board and commission* to be comprised of, at a minimum, *50% women.* *have a specified number of women directors based on the number of board or commission members.* The bill would also require the Secretary of State to disclose on its Internet Web site the gender composition of each state board and commission. *office of the Governor to collect and release aggregated demographic data provided by state board and commission applicants, nominees, and appointees.*

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

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

1 SECTION 1. Section 11142 is added to the Government Code,
2 to read:

3 11142. (a) (1) The composition of ~~each appointed state boards~~
4 ~~board and commissions~~ commission shall be, at a minimum, 50
5 ~~percent women~~. comply with the following:

6 ~~(b) The Secretary of State shall disclose on its Internet Web site~~
7 ~~the gender composition of each state board and commission.~~

8 (A) If the number of board members or commissioners is six or
9 more, the state board or commission shall have a minimum of 40
10 percent women directors.

11 (B) If the number of board members or commissioners is five,
12 the state board or commission shall have a minimum of two women
13 directors.

14 (C) If the number of board members or commissioners is four
15 or fewer, the state board or commission shall have a minimum of
16 one woman director.

17 (2) For the purposes of this section, the gender of the applicant
18 or appointed state board member or commissioner shall be
19 determined by their self-identification.

20 (b) (1) The office of the Governor shall collect and release, on
21 an aggregate basis, both of the following:

22 (A) Demographic data provided by all state board and
23 commission applicants relative to ethnicity, race, gender, gender
24 identity, and sexual orientation.

25 (B) Demographic data provided by all state board and
26 commission nominees or appointees relative to ethnicity, race,
27 gender, gender identity, and sexual orientation.

28 (2) Any demographic data disclosed or released pursuant to
29 this subdivision shall disclose only aggregated statistical data and
30 shall not identify any individual applicant, nominee, or appointed
31 board or commission member.

32 (3) Any demographic data disclosed or released pursuant to
33 this subdivision shall also indicate the percentage of respondents
34 who declined to respond.

35 (c) The provisions of this section are severable. If any provision
36 of this section or its application is held invalid, that invalidity shall

- 1 *not affect other provisions or applications that can be given effect*
- 2 *without the invalid provision or application.*

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BOARD OF BARBERING & COSMETOLOGY

BILL ANALYSIS

Author: Senate Member Morrell**Subject:** Cosmetology and
Barbering Scope of Practice
Revisions**Bill Number:** SB 999**Version:** April 19, 2018

IMPACTED LICENSES								IMPACT		
Apprentice	Barber	Cosmo	Mani	Esti	Elect.	Establishment	Schools	Regulations	Enforceable	Fiscal
Yes	Yes	Yes	No	No	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 BP&C § 7314.3, which is taught in schools approved by the Board. (BP&C §7389)

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

- (1) Key differences between the legal rights, benefits, and obligations of an employee and an independent contractor.
- (2) Wage and hour rights for hourly employees.
- (3) Antidiscrimination laws relating to the use of a particular language in the workplace.
- (4) Antiretaliation laws relating to a worker's right to file complaints with the Department of Industrial Relations.
- (5) How to obtain more information about state and federal labor laws.

(b) The amendments made to this section by the act adding this subdivision shall become operative on July 1, 2017. (BP&C § 7314.3)

This Bill:

Removes shampooing, arranging, dressing, curling and waving the hair of any person from the scope of practice for a barber and/or cosmetologist. Removes the practice of hairstyling of all textures of hair by standard methods that are current at the time of the hairstyling from the practice of barbering. Removes the practice of cleansing or beautifying the hair of any person from the practice of cosmetology. Exempts the practices of arranging, beautifying, cleansing, curling, dressing, shampooing, or waving the hair of any person from the practice of barbering and cosmetology.

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 scopes of practice.

Licensee Training

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 shampooing, hair and skin analysis, hairstyling, permanent waving, chemical straightening, hair color and bleaching, hair cutting and shaving.

Cosmetologist are required to spend 1600 hours of training before sitting for the licensing examination. The instruction includes training in shampooing, hair and skin analysis, hairstyling, permanent waving, chemical straightening, hair color and bleaching, hair cutting, nail and skin care.

Each license type (cosmetology, barber) 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.

Health and Safety/Consumer Harm

It is of some concern that if shampooing and hairstyling services are removed from the barber and cosmetology scopes of practice that there may be a decline in health and safety procedures substantially increasing the threat to consumers. These technicians, when properly trained are educated on scalp and skin disorders and skin and hair analysis. This vital instruction aids the technician to identify possible health and safety concerns (cuts, abrasions, communicable diseases (lice)), prior to services being performed. Many times, these types of threats are identified during the shampooing or during the styling process.

Shampoo techs are oftentimes used to rinse reactive chemicals (hair color, permanent waving solution) from the hair of clients while the cosmetologist/barber is performing services on other clients. The potential is there for consumer harm in that the technician is not properly trained in best practices for safely using chemicals. Harm may result to either the shampoo technician (such as, repeated, unprotected exposure to chemicals) or to the client (chemicals in the eyes, chemical burning of the scalp or skin).

The California Board of Barbering and Cosmetology does not separate alleged consumer harm by license type. Therefore, the following chart only represents consumer harm alleged to happen involving related services that excluded technicians may aid in identifying and mitigating if properly trained.

Consumer Harm Allegations Received by Year

	2012	2013	2014	2015	2016	2017
Allegation Types						
ALLERGIC REACTION	3	1	0	4	2	2
BRUISING	0	1	0	1	1	4
BURN	0	2	0	0	0	0
CUT	39	35	0	0	0	0
FACIAL ALLERGIC REACTION	3	3	4	7	3	9
FACIAL BURN	12	9	13	11	8	16
FACIAL CUT	2	0	1	2	0	15
FACIAL INFECTION	6	6	1	3	0	4
FACIAL MRSA	0	7	5	1	0	0
HAIR BRAIDING	0	0	0	0	1	1
HAIR FUNGUS (RINGWORM)	7	11	10	3	1	0
HAIR INFESTATION (LICE)	0	1	1	3	1	3
INCOMPETENCE/NEGLIGENCE	0	0	0	0	1	0
INFECTION	95	62	1	6	2	4
OVER PROCESSED	32	18	25	42	52	50
SCALP BURN	19	17	12	24	24	32
SKIN ALLERGIC REACTION	0	0	5	3	0	8
SKIN BURN	0	0	1	5	0	7
SKIN CUT	14	12	8	10	10	3
SKIN INFECTION	0	1	2	1	1	6
Total	232	186	89	126	109	164

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.

Licensing Examinations

The Board currently uses the National Interstate Council of State Boards (NIC) licensing examinations. If this bill were to become law, the Board would be unable to utilize the cosmetology, and by extension, the manicuring and esthetic (considered branches of cosmetology) examinations. This would require the board to develop its own licensing examination for these scopes of practice. The barbering examination would not be affected as the core services tested would not change. In addition to the substantial fiscal impact to the Board, the Board would no longer be recognized nationally within these license types.

Construction of a licensing examination is a lengthy, costly process. Prior to examination development, the Board is required to conduct an occupational analysis for each license type. The Board has started this process with the completion of the cosmetology occupational analysis this year. However, the other license types (manicurist, esthetician) need to have occupational analyses conducted prior to exam development. At the current schedule, these occupational analyses may be completed by June 2021. The estimated cost to complete an occupational analysis per license type is \$77,000. Therefore, the estimated cost for the Board to complete the manicurist and esthetician, occupational analyses is \$154,000.

Upon completion of the occupational analyses, it is estimated that it will take at least one year to initially develop an item bank per license type, and at least another year to complete an examination development cycle. Therefore, each license type would require approximately two years after the completion of their occupational analysis to implement a new online California Board Written Examination. The table below depicts the estimated cost to initially develop written and practical examinations on the license types. This cost is also the estimated yearly cost for the Board to provide ongoing examination development.

License Type	Written Examination Estimated Development Costs	Estimated SME Travel Costs (8 Workshops, 10 SMEs per Workshop)	Practical Examination Estimated Development Costs*	Estimated SME Travel Costs (2 Workshops, 10 SMEs per Workshop)	Grand Total
Cosmetologist	\$55,000	\$80,000	\$26,160	\$20,000	\$181,160
Manicurist	\$55,000	\$80,000	\$26,160	\$20,000	\$181,160
Esthetician	\$55,000	\$80,000	\$26,160	\$20,000	\$181,160
Total	\$165,000	\$240,000	\$78,480	\$60,000	\$543,480

Each license type will need to be phased in. It is possible that two exams could be developed simultaneously, contingent on operational constraints. This bill does not contain a delayed implementation clause to assist in this endeavor.

The chart below represents the estimated costs of developing and implementing one practical examination.

*Practical Examination Development	Estimated Costs
Conduct 2 practical development workshops	\$10,640
Develop scoring system for tablets	\$2,880
Prepare final version of the examination	\$1,152
Prepare examiner orientation and training materials	\$2,880
Conduct 4 examiner orientations including OPES travel (2 Glendale, 2 Fairfield)	\$8,608
Total per License Type	\$26,160

In addition, the Board would sustain an estimated yearly cost of \$4,304 in new examiner/exam update training sessions.

The Board provides the exam in English, Spanish, Vietnamese and Korean. Estimated examination translation costs (occurring yearly):

License Type	Estimated Translation Costs (Korean, Vietnamese, Spanish, 2 Forms per Year)
Cosmetologist	\$70,590
Manicurist	\$70,590
Esthetician	\$70,590
Total	\$211,770

Currently, the NIC provides the Board with examiner tablets for scoring. If the Board no longer uses three of the NIC practical examinations, a portion of these tablets would be returned to NIC and the Board would sustain a cost of \$3,100 to replace the tablets currently used at the two examination sites. Re-occurring yearly costs are estimated at \$1,550 to replace broken, outdated scoring tablets.

Updates to the BreZE interface and configuration updates to the exam sections and pass/fail scores would need to be implemented prior to launching the new examinations.

Regulatory Authority

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 conducted by Board inspectors.

Chart 2 - Citations Issued by Year						
License Type	2012	2013	2014	2015	2016	2017
Barbers	654	543	1041	993	1205	1187
Cosmetologists	3955	2738	4245	4273	4462	3048

It can be assumed that complications to the citing process may arise if shampoo/styling technicians are deregulated. For instance, a shampoo technician or stylist may be assigned to drape a client for services. If the shampoo technician or stylist does not use a neck strip when draping the client, the shampoo technician or stylist would be in violation of Section 985, of the California Code of Regulations:

985. Neck Strips

A sanitary neck strip or towel shall be used to keep the protective covering, such as client capes, from coming in direct contact with a client's neck.

Note: Authority cited: Section 7312, Business and Professions Code. Reference: Section 7312(e), Business and Professions Code.

Upon, turning the client over to the cosmetologist/barber for service, the Board would be required to cite the cosmetologist or barber for the violation, even though it was precipitated by the shampoo technician or stylist. In addition, from a health and safety aspect, if the client was not properly draped (especially if receiving chemical services) consumer harm may result. For instance, if a shampoo technician did not use a neck strip and did not do a proper chemical draping on a client receiving a permanent wave from a cosmetologist/barber, the permanent waving solution (chemical) may drip down past the drape and stay on the skin much longer than what is safe. The result could be a chemical burn to the client's skin.

Bill Language

As written the bill does not define or clarify the term, *the use of Cosmetic Preparations*, which currently appears in the barber and cosmetology scopes of practice. The bill does not include the use of cosmetic preparation in the exemption clause for shampoo/stylists. Therefore, it is unclear what types of styling products (cosmetic preparations) a deregulated shampoo/stylist technician may be able to use, if any.

Reciprocity

Since the board would no longer be using the national examination for administering the cosmetology, manicuring and esthetic exams, this bill may have the unintended consequence of limiting these California licensees from exercising reciprocity with other states.

Workers' Rights/Labor Laws

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. A portion of this 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 the de-regulation of shampooing and styling occurs the Board sees a possibility that there may be an increase in the abuse of workers' rights in the barbering and

cosmetology community as this timely training will not be required of individuals performing these services.

Implementation Date

Due to the gravity of the task of creating new licensing examinations and the anticipated interface/configuration tasks that would be needed for the BreEZe data base, it would be impossible for the Board to complete implementation by the bill's January 1, 2019 effective date.

Economic Impact

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."

Fiscal Impact:

The removal of shampooing and styling from the cosmetology and barbering scope of practice will have a significant fiscal impact upon the Board and upon the industry.

Examination Implementation Impact:

Estimated Initial costs:

Examination development, translation and examiner training: \$ 755,250

Occupational analysis for Manicuring and Esthetics: \$ 154,000

Exam site equipment: \$ 3,100

TOTAL: \$ 912,350

Estimated yearly on-going costs:

Examination costs: \$ 517,656

Translation costs: \$211,770

Examiner Training: \$ 4,304

Exam site equipment: \$ 1,550

TOTAL: \$ 735,280

Estimated IT Impact

Updates to the BreEZe interface and configuration updates to the exam sections and pass/fail scores would need to be implemented prior to launching the new examinations. It is assumed that this would be absorbable within existing maintenance resources.

Estimated Regulatory Impact

The costs involved in the promulgation of regulations are estimated at \$1,000.00 per regulatory package. It is estimated the Board may need two regulatory packages. **Regulatory Impact: \$2,000.00**

Board Revenue Impact

It is estimated that approximately 4 percent of individuals may choose to pursue the option of being an unlicensed shampoo/stylist technician as opposed to pursuing a barber or cosmetology license.

The revenue generated by barbers and cosmetologists per year is as follows:

BARBER

Pre-application (1,045 per year) – \$ 9,405

Initial license fee and exam (approximately 1,701 per year) – \$ 212,625

Re-exam (approximately 2,232 per year) – \$ 167,400

Apprentice (approximately 712 per year) – \$ 17,800
Reciprocity (approximately 203 per year) - \$ 10,150
Licensing Renewal (approximately 10,562 per year) – \$ 528,100

COSMETOLOGIST

Pre-application (4,743 per year) – \$ 42,687
Initial license fee and exam (approximately 4,808 per year) – \$ 601,000
Re-exam (approximately 6,532 per year) – \$ 489,900
Apprentice (approximately 799 per year) – \$ 19,975
Reciprocity (approximately 1,752 per year) - \$ 87,600
Licensing Renewal (approximately 127,696 per year) – \$ 6,384,800

Board revenue loss if 4 percent of individuals refrain from licensure as a barber or cosmetologist:
\$ 342,857.68 per year (calculated by using 4 percent of the current total revenue amount (\$8,571,442) generated by cosmetologists and barbers)

Industry Revenue Impact

Currently, the Board has 242 approved schools (Barber/cosmetology tuition is approximately 16,000 – 20,000 per student). If an estimated 4 percent of the students do not enroll in the Barber and Cosmetology programs, **California schools** can estimate a yearly revenue loss of:
\$ 4,686,480.00 (calculated by using 4 percent (260.36) of the number of Initial licenses applications submitted (6,509) by barbers and cosmetologist to the Board and a conservative school training cost of \$18,000 per student).

In addition, the Board has 36 apprentice sponsors offering apprenticeship programs (tuition is approximately \$1,900 – 2,500 per apprentice). If an estimated 4 percent of the apprentices do not enroll in the Barber and Cosmetology apprentice programs, **Apprentice sponsors** can estimate a yearly revenue loss of: **\$ 139,012.00** (calculated by using 4 percent (60.44) of the number of Apprentice license applications submitted (1,511) by barbers and cosmetologist and a conservative apprentice training cost of \$2,300 per apprentice).

Note: The projected numbers above do not reflect a yearly increase.

Current Bill Status:

Progress:

Senate:	1st	Cmt	2nd	Cmt
Assembly:				

Committee Location:

Senate Appropriations Committee

Last Historical Action:

May 7th hearing postponed by Committee. Rescheduled to be heard May 14, 2018.

Board Position:

No declared position.

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

AMENDED IN SENATE APRIL 19, 2018

AMENDED IN SENATE APRIL 3, 2018

SENATE BILL

No. 999

Introduced by Senator Morrell

February 5, 2018

An act to amend Section 7316 of the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

SB 999, as amended, Morrell. Barbering and ~~cosmetology~~
~~shampooing, cosmetology~~.

Existing law, the Barbering and Cosmetology Act, provides for the licensure and regulation of the practice of barbering and cosmetology, which include, among other things, shampooing, arranging, dressing, curling, waving, and applying hair tonics to, the hair of any person, by the State Board of Barbering and Cosmetology. The act specifies that the practice of cosmetology also includes the practice of cleansing or beautifying the hair of any person *and that the practice of barbering also includes the practice of hairstyling all textures of hair by standard methods that are current at the time of the hairstyling*. The act makes it unlawful for any person to engage in barbering or cosmetology for compensation or to operate an establishment where barbering or cosmetology is practiced, without a license, and specifies that a violation of this requirement is subject to an administrative fine and may be subject to a misdemeanor.

This bill would remove the practices of shampooing, arranging, dressing, curling, and waving the hair of any person from the practice of barbering and cosmetology. *The bill would remove the practice of hairstyling of all textures of hair by standard methods that are current*

at the time of the hairstyling from the practice of barbering. The bill would also remove the practice of cleansing or beautifying the hair of any person from the practice of cosmetology.

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

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

SECTION 1. Section 7316 of the Business and Professions Code is amended to read:

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

(1) Shaving or trimming the beard or cutting the hair.

(2) Giving facial and scalp massages or treatments with oils, creams, lotions, or other preparations either by hand or mechanical appliances.

(3) Singeing, chemical waving, hair relaxing, or dyeing the hair or applying hair tonics.

(4) Applying cosmetic preparations, antiseptics, powders, oils, clays, or lotions to scalp, face, or neck.

~~(5) Hairstyling of all textures of hair by standard methods that are current at the time of the hairstyling.~~

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

(1) Machineless permanent waving, permanent waving, cutting, relaxing, singeing, bleaching, tinting, coloring, straightening, dyeing, applying hair tonics to, or otherwise treating by any means, the hair of any person.

(2) Massaging, cleaning, or stimulating the scalp, face, neck, arms, or upper part of the human body, by means of the hands, devices, apparatus or appliances, with or without the use of cosmetic preparations, antiseptics, tonics, lotions, or creams.

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

(4) Removing superfluous hair from the body of any person by the use of depilatories or by the use of tweezers, chemicals, or preparations or by the use of devices or appliances of any kind or description, except by the use of light waves, commonly known as rays.

1 (5) Cutting, trimming, polishing, tinting, coloring, cleansing,
2 or manicuring the nails of any person.

3 (6) Massaging, cleansing, treating, or beautifying the hands or
4 feet of any person.

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

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

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

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

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

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

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

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

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

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

36 (4) The practices of arranging, beautifying, cleansing, curling,
37 dressing, shampooing, or waving the hair of any person.

38 (e) Notwithstanding paragraph (2) of subdivision (d), a person
39 who engages in natural hairstyling, which is defined as the
40 provision of natural hair braiding services together with any of the

- 1 services or procedures defined within the regulated practices of
2 barbering or cosmetology, is subject to regulation pursuant to this
3 chapter and shall obtain and maintain a barbering or cosmetology
4 license as applicable to the services respectively offered or
5 performed.
- 6 (f) Electrolysis is the practice of removing hair from, or
7 destroying hair on, the human body by the use of an electric needle
8 only.
- 9 "Electrolysis" as used in this chapter includes electrolysis or
10 thermolysis.



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Board of Barbering and Cosmetology-Department of Consumer Affairs

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BOARD OF BARBERING & COSMETOLOGY

BILL ANALYSIS

Author: Senate Members Hill, Dodd, Fuller,
Galgiani, Glazer, Hernandez, Newman, Pan and Wilk

Subject: Examination Failure
Notification

Bill Number: SB 1492

Version: April 19, 2018

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:

Establishes the Department of Consumer Affairs (DCA) and provides for the licensure and regulation of various professions and vocations by boards/bureaus/commissions/committees within the Department of Consumer Affairs. (BP&C* §§101,101.6)

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)

Requires the Board to mail or deliver to every person failing a licensing examination the total grade received on the examination. Grants an unsuccessful examinee, after taking the exam and within 90 days after the results have been declared, the right to inspect his or her examination paper. (BP&C §7341)

This Bill:

Removes the provision that grants an unsuccessful examinee the right to inspect his or her examination paper. Removes the requirement that the Board mail a person his or her total grade received on a failed licensing examination.

Analysis:

The processes defined in Statute 7341 have not been in existence in over ten years. The legislative changes are considered minor and "clean up" in nature. Since the Board has gone digital, (as opposed to using the Scan Tron devices) there is no examination "hard" copy for an examinee to inspect. The Board currently hands the failure notification to the examinee at the conclusion of the test period. The pass/fail rate is summarized on the notice for the examinees review. Since the Board has delivered the failure notification directly to the failed examinee it is unnecessary to mail the results as it has been confirmed that the examinee received the failure notification. If there was a system malfunction, or the

failure notice did not print, the Board would then mail the notice to the examinee. A system failure situation as noted above has not occurred within the last ten years.

Fiscal Impact:

No fiscal impact to the Board.

Current Bill Status:

Progress:

Senate:	1st	Cmt
Assembly:		

Committee Location:

Senate Appropriations Committee

Last Historical Action:

Do pass, but first be re-referred to the Committee on Appropriations with the recommendation:
To Consent Calendar.

Board Position:

No declared position.

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

AMENDED IN SENATE APRIL 19, 2018

SENATE BILL

No. 1492

Introduced by Committee on Business, Professions and Economic Development (Senators Hill (Chair), Dodd, Fuller, Galgiani, Glazer, Hernandez, Newman, Pan, and Wilk)

February 21, 2018

An act to amend Sections 5095, 5130, and 7341 ~~of, and to repeal Section 7530 of,~~ of the Business and Professions Code, ~~and to amend Sections 94874, 94880, 94927.5, and 94947 of the Education Code,~~ relating to ~~professions and vocations.~~ *the Department of Consumer Affairs.*

LEGISLATIVE COUNSEL'S DIGEST

SB 1492, as amended, Committee on Business, Professions and Economic Development. ~~Professions and vocations.~~ *The Department of Consumer Affairs.*

Existing law establishes the California Board of ~~Accountancy,~~ *Accountancy* in the Department of Consumer ~~Affairs,~~ *Affairs* for the purpose of licensing and regulating the practice of accountancy. Existing law requires a licensee, in order to be authorized to sign reports on attest engagements, to have completed a minimum of 500 hours of experience in attest services, as specified.

This bill would delete an obsolete reference within that provision.

Existing law authorizes the California Board of Accountancy to charge and collect a fee from each applicant for the certificate of certified public accountant, and requires the fee to accompany the application, as specified.

This bill would correct a reference contained in that provision.

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. Under the act, the board is required to mail or deliver to every person failing an examination the total grade received on the examination. The act also grants an unsuccessful applicant for licensure, after taking an examination and within 90 days after the results thereof have been declared, the right to inspect his or her examination paper.

This bill would delete the provision that grants an unsuccessful applicant the right to inspect his or her examination paper. The bill would also delete the requirement that the board mail a person his or her total grade received on a failed examination.

~~The Private Investigator Act provides for the licensure and regulation of private investigators by the Bureau of Security and Investigative Services. Under the act, a license issued is generally not assignable to another business entity, except upon consent of the Chief of the Bureau of Security and Investigative Services, as specified.~~

~~This bill would delete a duplicate provision regarding nonassignability of a license.~~

Existing law, the California Private Postsecondary Education Act of 2009, provides, among other things, for student protections and regulatory oversight of private postsecondary institutions in the state. The act is enforced by the Bureau for Private Postsecondary Education within the Department of Consumer Affairs.

This bill would make nonsubstantive, clarifying changes to specified provisions of the act, including updating cross-references.

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

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

- 1 SECTION 1. Section 5095 of the Business and Professions
- 2 Code is amended to read:
- 3 5095. (a) To be authorized to sign reports on attest
- 4 engagements, a licensee shall complete a minimum of 500 hours
- 5 of experience, satisfactory to the board, in attest services.
- 6 (b) To qualify under this section, attest experience shall have
- 7 been performed in accordance with applicable professional
- 8 standards. Experience in public accounting shall be completed

1 under the supervision or in the employ of a person licensed or
2 otherwise having comparable authority under the laws of any state
3 or country to engage in the practice of public accountancy and
4 provide attest services, and this experience shall be verified.
5 Experience in private or governmental accounting or auditing shall
6 be completed under the supervision of an individual licensed by
7 a state to engage in the practice of public accountancy and perform
8 attest services, and this experience shall be verified. An applicant
9 may be required to present work papers or other evidence
10 substantiating that the applicant has met the requirements of this
11 section and any applicable regulations.

12 (c) The board shall adopt regulations to implement this section,
13 including, but not limited to, a procedure for applicants under
14 Section 5092 or Section 5093 to qualify under this section.

15 SEC. 2. Section 5130 of the Business and Professions Code is
16 amended to read:

17 5130. The board shall charge and collect a fee from each
18 applicant for the certificate of certified public accountant. The fee
19 shall accompany the application, which must be made on a form
20 provided by the board.

21 SEC. 3. Section 7341 of the Business and Professions Code is
22 amended to read:

23 7341. The board shall deliver to every person failing any
24 examination provided for in this chapter the total grade received
25 on the examination.

26 ~~SEC. 4. Section 7530 of the Business and Professions Code,~~
27 ~~as added by Section 9 of Chapter 669 of the Statutes of 2014, is~~
28 ~~repealed.~~

29 SEC. 4. *Section 94874 of the Education Code, as amended by*
30 *Chapter 260 of the Statutes of 2017, is amended to read:*

31 94874. Except as provided in Sections ~~94874.2 and 94874.7,~~
32 ~~94874.2, 94874.7, and 94927.5,~~ the following are exempt from
33 this chapter:

34 (a) An institution that offers solely avocational or recreational
35 educational programs.

36 (b) (1) An institution offering educational programs sponsored
37 by a bona fide trade, business, professional, or fraternal
38 organization, solely for that organization's membership.

39 (2) (A) Except as provided in subparagraph (B), a bona fide
40 organization, association, or council that offers preapprenticeship

1 training programs, on behalf of one or more Division of
2 Apprenticeship Standards-approved labor-management
3 apprenticeship programs that satisfies one of the following
4 conditions:

5 (i) It is not on the Eligible Training Provider List established
6 and maintained by the California Workforce Development Board
7 but has met the requirements for placement on the list.

8 (ii) It is on the Eligible Training Provider List established and
9 maintained by the California Workforce Development Board and
10 meets the requirements for continued listing.

11 (B) If an organization, association, or council has been removed
12 from the Eligible Training Provider List established and maintained
13 by the California Workforce Development Board for failure to
14 meet performance standards, it is not exempt until it meets all
15 applicable performance standards.

16 (c) A postsecondary educational institution established, operated,
17 and governed by the federal government or by this state or its
18 political subdivisions.

19 (d) An institution offering either of the following:

20 (1) Test preparation for examinations required for admission to
21 a postsecondary educational institution.

22 (2) Continuing education or license examination preparation,
23 if the institution or the program is approved, certified, or sponsored
24 by any of the following:

25 (A) A government agency, other than the bureau, that licenses
26 persons in a particular profession, occupation, trade, or career field.

27 (B) A state-recognized professional licensing body, such as the
28 State Bar of California, that licenses persons in a particular
29 profession, occupation, trade, or career field.

30 (C) A bona fide trade, business, or professional organization.

31 (e) (1) An institution owned, controlled, and operated and
32 maintained by a religious organization lawfully operating as a
33 nonprofit religious corporation pursuant to Part 4 (commencing
34 with Section 9110) of Division 2 of Title 1 of the Corporations
35 Code, that meets all of the following requirements:

36 (A) The instruction is limited to the principles of that religious
37 organization, or to courses offered pursuant to Section 2789 of the
38 Business and Professions Code.

39 (B) The diploma or degree is limited to evidence of completion
40 of that education.

1 (2) An institution operating under this subdivision shall offer
2 degrees and diplomas only in the beliefs and practices of the
3 church, religious denomination, or religious organization.

4 (3) An institution operating under this subdivision shall not
5 award degrees in any area of physical science.

6 (4) Any degree or diploma granted under this subdivision shall
7 contain on its face, in the written description of the title of the
8 degree being conferred, a reference to the theological or religious
9 aspect of the degree's subject area.

10 (5) A degree awarded under this subdivision shall reflect the
11 nature of the degree title, such as "associate of religious studies,"
12 "bachelor of religious studies," "master of divinity," or "doctor of
13 divinity."

14 (f) An institution that does not award degrees and that solely
15 provides educational programs for total charges of two thousand
16 five hundred dollars (\$2,500) or less when no part of the total
17 charges is paid from state or federal student financial aid programs.
18 The bureau may adjust this cost threshold based upon the California
19 Consumer Price Index and post notification of the adjusted cost
20 threshold on its Internet Web site, as the bureau determines,
21 through the promulgation of regulations, that the adjustment is
22 consistent with the intent of this chapter.

23 (g) A law school that is accredited by the Council of the Section
24 of Legal Education and Admissions to the Bar of the American
25 Bar Association or a law school or law study program that is
26 subject to the approval, regulation, and oversight of the Committee
27 of Bar Examiners, pursuant to Sections 6046.7 and 6060.7 of the
28 Business and Professions Code.

29 (h) A nonprofit public benefit corporation that satisfies all of
30 the following criteria:

31 (1) Is qualified under Section 501(c)(3) of the United States
32 Internal Revenue Code.

33 (2) Is organized specifically to provide workforce development
34 or rehabilitation services.

35 (3) Is accredited by an accrediting organization for workforce
36 development or rehabilitation services recognized by the
37 Department of Rehabilitation.

38 (i) An institution that is accredited by the Accrediting
39 Commission for Senior Colleges and Universities, Western
40 Association of Schools and Colleges, or the Accrediting

1 Commission for Community and Junior Colleges, Western
2 Association of Schools and Colleges.

3 (j) Flight instruction providers or programs that provide flight
4 instruction pursuant to Federal Aviation Administration regulations
5 and meet both of the following criteria:

6 (1) The flight instruction provider or program does not require
7 students to enter into written or oral contracts of indebtedness.

8 (2) The flight instruction provider or program does not require
9 or accept prepayment of instruction-related costs in excess of two
10 thousand five hundred dollars (\$2,500).

11 (k) (1) An institution owned, controlled, operated, and
12 maintained by a community-based organization, as defined in
13 Section 7801 of Title 20 of the United States Code, as that section
14 exists on March 1, 2017, that satisfies all of the following criteria:

15 (A) The institution has programs on or is applying for some or
16 all of their programs to be on the Eligible Training Provider List
17 established and maintained by the California Workforce
18 Development Board.

19 (B) The institution is registered as a nonprofit entity qualified
20 under Section 501(c)(3) of the federal Internal Revenue Code.

21 (C) The institution does not offer degrees, as defined in Section
22 94830.

23 (D) The institution does not offer educational programs designed
24 to lead directly or specifically to positions in a profession,
25 occupation, trade, or career field requiring licensure, if bureau
26 approval is required for the student to be eligible to sit for licensure.

27 (E) The institution would not otherwise be subject to oversight
28 of the bureau under this chapter if it did not receive funding under
29 the federal Workforce Innovation and Opportunity Act (29 U.S.C.
30 Sec. 3101 et seq.). For purposes of this requirement, funds received
31 through the federal Workforce Innovation and Opportunity Act
32 (29 U.S.C. Sec. 3101 et seq.) do not count towards the total
33 referenced in subdivision (f) or any other fee charge limitation
34 condition for an exemption from this chapter.

35 (F) The institution can provide a letter from the local workforce
36 development board that demonstrates the institution has met the
37 initial criteria of that board.

38 (2) An institution granted an exemption pursuant to paragraph
39 (1) shall comply with all of the following requirements:

1 (A) The institution shall provide to the Employment
2 Development Department all required tracking information and
3 data necessary to comply with performance reporting requirements
4 under the federal Workforce Innovation and Opportunity Act,
5 codified in Chapter 32 (commencing with Section 3101) of Title
6 29 of the United States Code, for programs on the Eligible Training
7 Provider List.

8 (B) The institution shall comply with the Eligible Training
9 Provider List policy developed by the California Workforce
10 Development Board.

11 (C) The institution shall not charge a student who is a recipient
12 of funding under the federal Workforce Innovation and Opportunity
13 Act (29 U.S.C. Sec. 3101 et seq.) any institutional charges, as
14 defined in Section 94844, for attending and participating in the
15 program.

16 *SEC. 5. Section 94880 of the Education Code is amended to*
17 *read:*

18 94880. (a) There is within the bureau a 12-member advisory
19 committee. The members of the committee shall be appointed as
20 follows:

21 (1) Three members, who shall have a demonstrated record of
22 advocacy on behalf of consumers, of which the director, the Senate
23 Committee on Rules, and the Speaker of the Assembly shall each
24 appoint one member.

25 (2) Two members, who shall be current or past students of
26 institutions, appointed by the director.

27 (3) Three members, who shall be representatives of institutions,
28 appointed by the director.

29 (4) One public member appointed by the Senate Committee on
30 Rules.

31 (5) One public member appointed by the Speaker of the
32 Assembly.

33 (6) Two nonvoting, ex officio members as follows:

34 (A) The chair of a policy committee of the Assembly with
35 jurisdiction over legislation relating to the bureau appointed by
36 the Speaker of the Assembly. The chair may designate a
37 representative for any meeting or meetings he or she is unable to
38 attend.

39 (B) The chair of a policy committee of the Senate with
40 jurisdiction over legislation relating to the bureau appointed by

1 the Senate Committee on Rules. The chair may designate a
2 representative for any meeting or meetings he or she is unable to
3 attend.

4 (b) (1) A member appointed pursuant to paragraph (2), (4), or
5 (5) of subdivision (a) shall not, either at the time of his or her
6 appointment or during his or her tenure in office, have any financial
7 interest in any organization currently or previously subject to
8 regulation by the bureau, be a close family member of an employee,
9 officer, or the director of any institution subject to regulation by
10 the bureau, or currently have, or previously have had, a business
11 relationship, in the five years preceding his or her appointment,
12 with any institution subject to regulation by the bureau.

13 (2) A member appointed pursuant to paragraph (2), (4), or (5)
14 of subdivision (a) shall not, within the five years immediately
15 preceding his or her appointment, have engaged in pursuits on
16 behalf of an institution or institutional accreditor or have provided
17 representation to the postsecondary educational industry or a
18 profession regulated by the bureau, if he or she is employed in the
19 industry or a member of the profession, respectively, and he or
20 she shall not engage in those pursuits or provide that representation
21 during his or her term of office.

22 (c) The advisory committee shall examine the oversight
23 functions and operational policies of the bureau and advise the
24 bureau with respect to matters relating to private postsecondary
25 education and the administration of this chapter, including annually
26 reviewing the fee schedule and the equity of the schedule relative
27 to the way institutions are structured, and the licensing and
28 enforcement provisions of this chapter. The advisory committee
29 shall make recommendations with respect to policies, practices,
30 and regulations relating to private postsecondary education, and
31 shall provide any assistance as may be requested by the bureau.

32 (d) The bureau shall actively seek input from, and consult with,
33 the advisory committee regarding the development of regulations
34 to implement this chapter prior to the adoption, amendment, or
35 repeal of its regulations, and provide the advisory committee with
36 sufficient time to review and comment on those regulations. The
37 bureau shall take into consideration and respond to all feedback
38 provided by members of the advisory committee.

1 (e) The bureau chief shall attend all advisory committee
2 meetings and shall designate staff to provide ongoing
3 administrative support to the advisory committee.

4 (f) Until January 1, 2017, the director shall personally attend,
5 and testify and answer questions at, each meeting of the advisory
6 committee.

7 (g) The Chief of the Office of Student Assistance and Relief
8 established in Article 20.6 (commencing with Section 94949.7)
9 shall attend, and testify and answer questions at, each meeting of
10 the advisory committee.

11 (h) The advisory committee shall have the same access to
12 records within the Department of Consumer Affairs related to the
13 operation and administration of this chapter as do members of
14 constituent boards of the department in regard to records related
15 to their functions.

16 (i) Advisory committee meetings shall be subject to the
17 Bagley-Keene Open Meeting Act (Article 9 (commencing with
18 Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of
19 the Government Code). Advisory committee meeting materials
20 shall be posted on the Internet. A majority of the ~~appointed~~ *voting*
21 members of the committee shall constitute a quorum for the
22 committee's meetings.

23 (j) The advisory committee shall meet at least quarterly and
24 shall appoint a member of the committee to represent the committee
25 for purposes of communicating with the Legislature.

26 (k) The Department of Consumer Affairs shall review, and
27 revise if necessary, the department's conflicts of interest regulations
28 to ensure that each advisory committee member is required to
29 disclose conflicts of interest to the public.

30 *SEC. 6. Section 94927.5 of the Education Code is amended to*
31 *read:*

32 94927.5. (a) Prior to closing, an institution shall provide the
33 bureau with the following:

34 (1) ~~Pertinent~~ *Copies of pertinent* student records, including
35 transcripts, *in hardcopy or electronic form*, as determined by the
36 bureau, pursuant to regulations adopted by the bureau.

37 (2) If the institution is an accredited institution, a plan for the
38 retention of records and transcripts, approved by the institution's
39 accrediting agency, that provides information as to how a student

1 may obtain a transcript or any other information about the student's
2 coursework and degrees completed.

3 (b) Subdivision (a) applies to all private postsecondary
4 institutions, including institutions that are otherwise exempt from
5 this chapter pursuant to Article 4 (commencing with Section
6 94874).

7 *SEC. 7. Section 94947 of the Education Code is amended to*
8 *read:*

9 94947. (a) Notwithstanding Section 94874.2, an institution
10 described in subdivision (i) of Section 94874 that satisfies all of
11 the following requirements may claim an exemption from this
12 ~~chapter.~~ *chapter:*

13 (1) The institution has been accredited by an accrediting agency
14 recognized by the United States Department of Education for at
15 least 10 years, and has not been placed on probation or on a greater
16 level than standard monitoring, or sanctioned, by its accrediting
17 agency.

18 (2) The institution is headquartered in California and has
19 operated continuously in this state for at least 25 years.

20 (3) The institution is privately held and prior to its current
21 exemption, the institution was granted an approval to operate by
22 the Bureau for Private Postsecondary Education, or its predecessor
23 agency and has experienced no change of ownership since the
24 institution was last approved.

25 (4) During its existence, the institution has not filed for
26 bankruptcy protection.

27 (5) The institution maintains an equity ratio composite score of
28 at least 1.5 based on the current financial stability test.

29 (6) At least 12.5 percent of the institution's revenues are derived
30 from sources other than financial aid. For purposes of this
31 requirement, financial aid includes all forms of state or federal
32 student assistance, including, but not limited to, financial aid
33 provided to veterans and financial aid through the Cal Grant
34 Program.

35 (7) The institution's cohort default rate does not exceed 13
36 percent for the most recent three years, as published by the United
37 States Department of Education.

38 (8) The institution has a graduation rate that exceeds 60 percent,
39 as reported to the Integrated Postsecondary Education Data System.

1 (9) The institution has not been subject to any legal or regulatory
2 actions by a state attorney general for a violation of consumer
3 protection laws that resulted in monetary settlement, fines, or other
4 documented violations.

5 (10) The institution provides a pro rata refund of unearned
6 institutional charges to students who complete 75 percent or less
7 of the period of attendance.

8 (11) The institution provides to all students the right to cancel
9 the enrollment agreement and obtain a refund of charges paid
10 through attendance at the second class session, or the 14th day
11 after enrollment, whichever is later.

12 (12) The institution complies with all other reasonable criteria,
13 necessary to ensure educational quality and protection of veterans,
14 established by the California State Approving Agency for Veterans
15 Education.

16 (13) The institution verifies its exemption pursuant to Section
17 ~~94874.1~~ 94874.7.

18 (b) An institution exempt from this chapter pursuant to this
19 section may apply to the bureau for an approval to operate pursuant
20 to Section ~~94874.8~~ 94874.8.

21 (c) It is the intent of the Legislature that if the exemption
22 provided in this section is declared by a court to be invalid for any
23 reason, the requirements of this chapter shall apply to an institution
24 that would otherwise be subject to receive this exemption.



Board of Barbering and Cosmetology-Department of Consumer Affairs
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MEMORANDUM

DATE	May 20, 2018
TO	Members, Board of Barbering and Cosmetology
FROM	Kristy Underwood, Executive Officer
SUBJECT	Regulations Update

The Board previously approved language for the following regulation changes, however, after further review by DCA, additional changes were made and require Board approval to start the regulatory process. We are attaching the previously approved changes as well as the new recommended language for the following regulation packages:

- **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 904 (Definition of Access)**

Staff has combined the proposed regulations regarding the citation of establishments and individuals for the same violation (presented as 974.3 at the last Board meeting) with the administrative fine schedule (974), which was already under revisions for new fines. This rulemaking package will also include the language for installment payment plans (974.4).

- **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)**

The following proposed regulations are currently being worked on by staff:

- **Title 16, CCR Sections 978, 979, 980, 980.4, 981, 982, 984 and 989 (Health and Safety Regulations)**
- **Title 16, CCR Section 974.1 (Disciplinary Review Committee)**
- **Title 16, CCR Section 972 (Disciplinary Guidelines)**

FORMERLY APPROVED LANGUAGE

BOARD OF BARBERING AND COSMETOLOGY

Division 9, Title 16, of the California Code of Regulations.

SPECIFIC LANGUAGE

LEGEND

Underlined Indicates proposed amendments or additions to the existing regulation.

~~Strikeout~~ Indicates proposed deletions to the existing regulation.

- **Amend Section 950.10, Title 16, California Code of Regulations, as follows:**

§ 950.10. Credit for Special License and Transfer of Training Transfer of Student Credit.

(a) The board shall grant full credit for identical training that a student has already completed in one program of instruction when that student transfers to another program of instruction. A student transferring from one course of study to another, or a holder of a special license (e.g., manicurist or esthetician) who enrolls in a general course of study (e.g., cosmetologist), shall receive credit for total clock hours completed and credit for and a balance of the minimum hours of technical instruction and the minimum practical operations required in each applicable subject as follows:

(1) ~~Total Clock Hours Credit.~~

~~(A) Cosmetologist course to esthetician course. A student transferring from the cosmetologist course to the esthetician course shall receive a credit of 35 percent of the total clock hours earned while enrolled in the cosmetologist course.~~

~~(B) Cosmetologist course to manicurist course. A student transferring from the cosmetologist course to the manicurist course shall receive a credit of 20 percent of the total clock hours earned while enrolled in the cosmetologist course.~~

~~(C) Esthetician course to cosmetologist course. A student transferring from the esthetician course to the cosmetologist course shall receive a credit of 65 percent of the total clock hours earned while enrolled in the esthetician course. A holder of a esthetician license enrolling in the cosmetologist course shall receive a credit of 65 percent of the total clock hours required for the esthetician course.~~

~~(D) Manicurist course to cosmetologist course. A student transferring from the manicurist course to the cosmetologist course shall receive a credit of 70 percent of the total clock hours earned while enrolled in the manicurist course. A holder of a manicurist license enrolling in the cosmetologist course shall receive a credit of 70 percent of the total clock hours required for the manicurist course.~~

~~(2) Credit and balance for the minimum hours of technical instruction and minimum practical operations required. A student transferring from one course of study to another, or a holder of a special license who enrolls in a general course of study, shall receive a credit and balance for the minimum hours of technical instruction and minimum practical operations required by subtracting the number of hours and operations earned by the student or licensee while enrolled in the prior course from the minimum hours of technical instruction and minimum practical operations required for the new course in each applicable subject. If the student has earned more hours or operations in the prior course than are required in a specific subject of the new course, then that student's balance of hours and operations required in that subject shall be zero.~~

~~(b) Credit for a special course shall not be given to a student in the cosmetologist course until completion of the number of hours of instruction and training in a school of cosmetology which, when added to the number of hours for which the student is entitled to credit for the special course, will equal the minimum number of hours required for completion of the cosmetologist course.~~

~~(c) Effective until January 1, 2009, training received as an apprentice may be credited toward a course of training in a school. The maximum amount of hours that can be transferred from an apprenticeship program to a course of training in school shall not exceed 800 hours as reasonably determined by the school to which the apprentice is transferring and shall not exceed 50% credit for each hour earned as an apprentice. After January 1, 2009, training received as an apprentice shall not be credited toward a course of training in a school.~~

~~(d) (b) Training received in a school shall not be credited toward training in an apprenticeship program, nor shall training received in an apprenticeship program be credited toward training in a school.~~

Note: Authority cited: Section 7312, Business and Professions Code. Reference: Section 7367, Business and Professions Code.

REVISED LANGUAGE

BOARD OF BARBERING AND COSMETOLOGY

Division 9, Title 16, of the California Code of Regulations.

SPECIFIC LANGUAGE

LEGEND

<u>Underlined</u>	Indicates proposed amendments or additions to the existing regulation.
Strikeout	Indicates proposed deletions to the existing regulation.

- **Repeal Section 950.10, Title 16, California Code of Regulations, as follows:**

~~§ 950.10. Credit for Special License and Transfer of Training.~~

~~(a) A student transferring from one course of study to another, or a holder of a special license (e.g., manicurist or esthetician) who enrolls in a general course of study (e.g., cosmetologist), shall receive credit for total clock hours completed and credit for and a balance of the minimum hours of technical instruction and the minimum practical operations required in each applicable subject as follows:~~

~~(1) Total Clock Hours Credit.~~

~~(A) Cosmetologist course to esthetician course. A student transferring from the cosmetologist course to the esthetician course shall receive a credit of 35 percent of the total clock hours earned while enrolled in the cosmetologist course.~~

~~(B) Cosmetologist course to manicurist course. A student transferring from the cosmetologist course to the manicurist course shall receive a credit of 20 percent of the total clock hours earned while enrolled in the cosmetologist course.~~

~~(C) Esthetician course to cosmetologist course. A student transferring from the esthetician course to the cosmetologist course shall receive a credit of 65 percent of the total clock hours earned while enrolled in the esthetician course. A holder of a esthetician license enrolling in the cosmetologist course shall receive a credit of 65 percent of the total clock hours required for the esthetician course.~~

~~(D) Manicurist course to cosmetologist course. A student transferring from the manicurist course to the cosmetologist course shall receive a credit of 70 percent of the total clock hours earned while enrolled in the manicurist course. A holder of a manicurist license enrolling in the~~

cosmetologist course shall receive a credit of 70 percent of the total clock hours required for the manicurist course.

~~(2) Credit and balance for the minimum hours of technical instruction and minimum practical operations required. A student transferring from one course of study to another, or a holder of a special license who enrolls in a general course of study, shall receive a credit and balance for the minimum hours of technical instruction and minimum practical operations required by subtracting the number of hours and operations earned by the student or licensee while enrolled in the prior course from the minimum hours of technical instruction and minimum practical operations required for the new course in each applicable subject. If the student has earned more hours or operations in the prior course than are required in a specific subject of the new course, then that student's balance of hours and operations required in that subject shall be zero.~~

~~(b) Credit for a special course shall not be given to a student in the cosmetologist course until completion of the number of hours of instruction and training in a school of cosmetology which, when added to the number of hours for which the student is entitled to credit for the special course, will equal the minimum number of hours required for completion of the cosmetologist course.~~

~~(c) Effective until January 1, 2009, training received as an apprentice may be credited toward a course of training in a school. The maximum amount of hours that can be transferred from an apprenticeship program to a course of training in school shall not exceed 800 hours as reasonably determined by the school to which the apprentice is transferring and shall not exceed 50% credit for each hour earned as an apprentice. After January 1, 2009, training received as an apprentice shall not be credited toward a course of training in a school.~~

~~(d) Training received in a school shall not be credited toward training in an apprenticeship program.~~

Note: Authority cited: Section 7312, Business and Professions Code. Reference: Section 7367, Business and Professions Code.

BOARD OF BARBERING AND COSMETOLOGY*Division 9, Title 16, of the California Code of Regulations.***SPECIFIC LANGUAGE****LEGEND**

<u>Underlined</u>	Indicates proposed amendments or additions to the existing regulation.
Strikeout	Indicates proposed deletions to the existing regulation.

- **Amend Section 961, Title 16, California Code of Regulations, as follows:**

§ 961. ~~Online Training and Text and Reference Books~~ or Online Training for Students.

(a) ~~In teaching, approved~~ Approved schools shall use text and reference books approved by the National Interstate Council of State Boards of Cosmetology (NIC). Approved schools may use other ~~teaching instructional~~ material or on-line training programs, in lieu of the ~~text-book textbook~~, under the condition that ~~they have been~~ those are materials or programs approved by the NIC.

(b) ~~Each student shall possess~~ Approved schools shall ensure each student has the following:

(1) ~~At least one (1) of the textbooks approved by the NIC or have access to a NIC-approved online program.~~

(2) ~~The Barbering and Cosmetology Act and the Rules and Regulations of the Board of Barbering and Cosmetology.~~

(1) A printed copy of at least one (1) of the textbooks approved by the NIC, or access to a NIC-approved online program, for the student's personal, private use both inside and outside the school.

(2) A printed copy of, or electronic access to, the Barbering and Cosmetology Act and the Rules and Regulations of the Board of Barbering and Cosmetology.

(3) A printed copy of, or electronic access to, the appropriate translation guide approved by the NIC, after the school determines if the student intends to take the board licensing examination in one of the languages other than English that are offered by the board.

(c) ~~There shall be~~ Approved schools shall make available for the use of students in the school:

(1) A list of the text and reference books approved by the NIC.

(2) Any two NIC-approved texts other than the one text or online program to which the student already has access, under (b)(1) of this section ~~possessed by the student.~~ (Shall not apply to barber schools if there are ~~less~~ fewer than three approved texts.)

Note: Authority cited: Sections 7312 and 7362, Business and Professions Code. Reference: Section 7362, Business and Professions Code.

Revised Language

BOARD OF BARBERING AND COSMETOLOGY

Division 9, Title 16, of the California Code of Regulations.

SPECIFIC LANGUAGE

LEGEND

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Strikeout	Indicates proposed deletions to the existing regulation.

- **Amend Section 961, Title 16, California Code of Regulations, as follows:**

§ 961. ~~Online Training and Text Textbooks and Reference Books~~ or Online Training for Students.

(a) ~~In teaching, An approved schools school~~ shall use ~~text textbooks~~ and reference books approved by the National Interstate Council of State Boards of Cosmetology (NIC). ~~An Approved schools approved school~~ may use other ~~teaching~~ instructional material or ~~on-line~~ online training programs, in lieu of the ~~text book textbook~~, ~~under the condition that they have been provided those are materials or programs~~ approved by the NIC.

(b) ~~Each student shall possess~~ An approved school shall provide the following to each student:

~~(1) At least one (1) of the textbooks approved by the NIC or have access to a NIC-approved online program.~~

~~(2) The Barbering and Cosmetology Act and the Rules and Regulations of the Board of Barbering and Cosmetology.~~

(1) A printed copy or electronic access to at least one (1) of the textbooks approved by the NIC, or access to a NIC-approved online program.

(2) A printed copy of, or electronic access to, the Barbering and Cosmetology Act and the Board of Barbering and Cosmetology's regulations.

(3) A printed copy of, or electronic access to, the appropriate licensing examination translation guide approved by the NIC, if the student intends to take the examination in one of the non-English languages offered by the board.

(c) ~~There shall be~~ An approved school shall have the following available for the use of students ~~in the school~~:

(1) A list of the ~~text~~ textbooks and reference books approved by the NIC.

(2) ~~Any At least two NIC-approved texts textbooks or reference books other than the one text textbook or online program access, possessed by provided to the student as required in subsection (b)(1). (Shall not apply to barber schools if there are less than three approved texts.)~~

Note: Authority cited: Sections 7312 and 7362, Business and Professions Code. Reference: Section 7362, Business and Professions Code.

BOARD OF BARBERING AND COSMETOLOGY***Division 9, Title 16, of the California Code of Regulations.*****SPECIFIC LANGUAGE****LEGEND**

<u>Underlined</u>	Indicates proposed amendments or additions to the existing regulation.
Strikeout	Indicates proposed deletions to the existing regulation.

- **Amend Section 904, Title 16, California Code of Regulations, as follows:**

§ 904. Enforcement

(a) The holder or holders of an establishment license or a mobile unit license, and the person in charge of any such establishment or mobile unit, shall be responsible for implementing and maintaining the Health and Safety Rules in such establishment or mobile unit individually and jointly with all persons in or employed by or working in or on the premises of such establishment or mobile unit.

(b) All licensed barbers, cosmetologists, estheticians, manicurists, electrologists, instructors, or apprentices shall be held individually responsible for implementation and maintenance of the Health and Safety Rules.

(c) All persons performing acts of a barber, cosmetologist, esthetician, manicurist or electrologist, except students in schools, shall, upon request of an authorized representative of the board, present satisfactory proof of identification. Satisfactory proof shall be in the form of a photographic driver's license or photographic identification card issued by any state, federal, or other recognized government entity.

(d) Failure to present valid proof of identification shall be grounds for disciplinary action.

(e) For the purposes of Section 7313 of the Business and Professions Code concerning the inspection of establishments, mobile units and schools where barbering, cosmetology or electrolysis are being performed, "access" means the authority of the executive officer and authorized representatives of the board to inspect all areas within the establishment, including, but not limited to, all rooms, drawers, cabinets, roll-abouts and closets, even if these areas house the belongings of independent contractors or booth renters.

NOTE: Authority cited: Section 7312, Business and Professions Code. Reference: Sections 7312 and 7404, Business and Professions Code.

REVISED LANGUAGE

BOARD OF BARBERING AND COSMETOLOGY

Division 9, Title 16, of the California Code of Regulations.

SPECIFIC LANGUAGE

LEGEND

<u>Underlined</u>	Indicates proposed amendments or additions to the existing regulation.
Strikeout	Indicates proposed deletions to the existing regulation.

- **Amend Section 904, Title 16, California Code of Regulations, as follows:**

§ 904. Enforcement.

(a) Article 12 of the board's regulations, within Title 16, Division 9 of the California Code of Regulations, contains the board's "Health and Safety Rules".

(b) The holder or holders of an establishment license or a mobile unit license, and the person in charge of any such establishment or mobile unit, shall implement and maintain the Health and Safety Rules in such establishment or mobile unit individually and jointly with all persons in or employed by or working in or on the premises of such establishment or mobile unit.

(c) All licensed barbers, cosmetologists, estheticians, manicurists, electrologists, instructors, or apprentices shall individually implement and maintain the Health and Safety Rules.

(d) All persons performing acts of a barber, cosmetologist, esthetician, manicurist or electrologist, except students in schools, shall, upon request of an authorized representative of the board, present satisfactory proof of identification. Satisfactory proof shall be in the form of a photographic driver's license or photographic identification card issued by any state, federal, or other recognized government entity.

(e) Failure to present valid proof of identification shall be grounds for disciplinary action.

(f) The executive officer and any authorized representative of the board shall have access to and inspect all areas within an establishment, mobile unit, or school, including all rooms, closets, cabinets, drawers, containers, or any mobile or fixed storage of display unit.

NOTE: Authority cited: Section 7312, Business and Professions Code. Reference: Sections 7312, 7313 and 7404, Business and Professions Code.

FORMERLY APPROVED LANGUAGE**BOARD OF BARBERING AND COSMETOLOGY*****Division 9, Title 16, of the California Code of Regulations.*****SPECIFIC LANGUAGE****LEGEND**

Underlined Indicates proposed amendments or additions to the existing regulation.

~~Strikeout~~ Indicates proposed deletions to the existing regulation.

- **Amend Section 974, Title 16, California Code of Regulations, as follows:**

974. Schedule of Administrative Fines

(a) An administrative fine may be assessed for violations of the specified sections of the Business and Professions Code and of Division 9 of Title 16 of the California Code of Regulations as follows:

Section	1st Violation	2nd Violation	3rd Violation	Waivable
7313. Access to Establishment for Inspection	250	500	750	No
7317. Unlicensed Establishment	500	1,000	1,000	No
7317. Unlicensed Individual	1,000	1,000	1,000	No
7317. Expired Establishment License	250	300	500	No
7317. Expired Individual License	250	300	500	No
7317. Individual Working in an Expired Establishment	25	50	100	No
7317. Individual Working in an Unlicensed Establishment	250	300	500	No
7320. Practice of Medicine	1,000	1,000	1,000	No
7320.1. Use of Illegal Metal Tools	250	500	500	No
7320.2. Illegal Treatment Methods	500	500	500	No
7336. No Supervision of Apprentice	100	150	200	No
7348. No Licensee in Charge of Establishment	100	150	200	No
7349. Employing Unlicensed Persons	1,000	1,000	1,000	No

<u>7349. Employing Unlicensed Persons – Expired License</u>	<u>250</u>	<u>300</u>	<u>500</u>	<u>No</u>
7349.1. Illegal Use of a Barber Pole	25	50	100	No
7350. Establishment – Residential Use/Entrance/Prohibited Use	50	100	150	No
7351. Restroom Requirement – Clean/Storage/Floor/Vented	50	100	150	No
7352. No Soap/Towels or Air Hand Dryers in Hand Washing Facilities	50	100	150	No
<u>7353.4. Labor Rights Notice Not Posted</u>	<u>50</u>	<u>100</u>	<u>150</u>	<u>No</u>
7358. No Licensee in Charge of Mobile Unit	100	150	200	No
7359. Employing Unlicensed Person in Mobile Unit	1,000	1,000	1,000	No
7360. Mobile Unit – Residential/Prohibited Use	50	100	150	No
7400. No Change of Address Notice Filed	50	100	150	No
7404(l). Interference with Inspection	<u>200-1,000</u>	<u>300-1,000</u>	<u>500-1,000</u>	No
904(d). No Photographic Identification Available	50	100	150	No
905. Consumer Info. Not Posted/Incorrect Size of Print (Health & Safety)	50	100	150	No
920. Apprentice Training Records Not Available/Incomplete	100	150	200	No
965. Display of Licenses	50	100	150	No
978(a)(1), (a)(2),(a)(3),(a)(4). Receptacles, Cabinets and Containers	50	100	150	No
978(a)(5). Insufficient Disinfectant in Container for Total Immersion	100	150	200	No
978(a)(6). No Steam/Dry Heat Sterilizer for Electrology Tools	500	1,000	1,500	No
978(b). No Disinfectant Solution Available for Use	250	300	500	No
978(c). No Manufacturer-Labeled Container for Disinfectant	250	300	500	No
979. Disinfecting Non-Electrical Tools and Equipment	100	250	500	No
980(a). Incorrect Disinfection of Electrical Items	100	250	500	No
980(b). Incorrect Storage of Electrical Disinfected Items	50	100	150	No
980(c). Incorrect Storage of Soiled Electrical Tools	50	100	150	No
980.1. Incorrect Disinfection of Pedicure Spas (Per Chair)	500	500	500	No
980.1(c)(7). 980.1(d)(8). Incorrect/Missing Log 980.1(e)(4).	100	150	200	No
980.1(g). Failure to List Chair as “Not in Service” in Log; No Sign Displayed on Chair	50	100	150	No

980.2. Incorrect Disinfection of "Pipeless" Footspas (Per Unit)	500	500	500	No
980.2(b)(7). 980.2(c)(6). Incorrect/Missing Log 980.2(d)(3).	100	150	200	No
980.2(f). Failure to List Chair as "Not in Service" in Log; No Sign Displayed on Chair	50	100	150	No
980.3. Incorrect Disinfection of "Non-Whirlpool Foot Basin" (Per Unit)	100	150	200	No
980.3(b)(6). Incorrect/Missing Log	50	100	150	No
980.3(e). Improper Storage of Basins or Tubs	50	100	150	No
980.4. Incorrect Disinfection of foot basin or tub after use of disposable liner	500	500	500	No
980.4(a)(2). Incorrect/Missing Log	50	100	150	No
980.4(a)(4). Failure to Maintain Supply of Five (5) Disposable Liners per Foot Tub Basin	250	300	500	No
981(a). No Disposal of Non-Disinfected Items	100	150	200	No
981(b). Improper Storage of New Supplies and Disposable tools	50	100	150	No
981(c). Carry Tools or Supplies in or on Garments	50	100	150	No
982. Incorrect Sterilization of Electrology Tools	100	150	200	No
983. Personal Cleanliness	50	100	150	No
984. Work on Person with Infectious/Communicable Disease	100	250	500	No
985. No Use of Neck Strips or Towel	50	100	150	No
986. Neck Dusters/Brushes Not Clean or Sanitary	50	100	150	No
987. Towels	50	100	150	No
988. Liquids, Creams, Powders and Cosmetics	50	100	150	No
989. Prohibited Hazardous Substance/Use of Product	500	500	500	No
990. Headrests and Treatment Tables	50	100	150	No
991. Performing Invasive Procedures	500	500	500	No
992. Performing Invasive Skin Exfoliation/Dermis	500	500	500	No
993. Prohibited Tools	300	400	500	No
994. Cleanliness and Repair	50	100	150	No
995(b),(c),(d),(e). Plumbing Standards	50	100	150	No

(b) A violation indicated in subdivision (a) as not waivable means that the Board, in its discretion, has determined that the violation cannot be corrected pursuant to Business and Professions Code Section

7407, and therefore that the fine for the first violation may not be avoided as provided for in Section 7409 of the Business and Professions Code.

NOTE: Authority cited: Sections 7312, 7406 and 7407, Business and Professions Code. Reference: Sections 7406, 7407, ~~and~~ 7409, and 7353.4, Business and Professions Code.

FORMERLY APPROVED LANGUAGE

BOARD OF BARBERING AND COSMETOLOGY

Division 9, Title 16, of the California Code of Regulations.

SPECIFIC LANGUAGE

LEGEND

<u>Underlined</u>	Indicates proposed amendments or additions to the existing regulation.
Strikeout	Indicates proposed deletions to the existing regulation.

- Adopt Section 974.3, Title 16, California Code of Regulations, as follows:

§ 974.3. Fining of Establishments, Individuals for Same Violation.

- The board may fine both the holder of the establishment license and an individual licensee working in that establishment for the same violation, unless the board's evidence establishes that the individual bears direct, sole responsibility for the violation and that the holder of the establishment license could not have been expected to know or anticipate that the violation had occurred.
- In determining whether the individual bears direct, sole responsibility for the violation and that the holder of the establishment license could not have been expected to know or anticipate that the violation had occurred, pursuant to subsection (a), the board shall consider the seriousness of the violation and whether the violation is a repeated offense by licensees within the same establishment.

Note: Authority cited: Section 7312, Business and Professions Code. Reference: Section 7407.1, Business and Professions Code.

- Adopt Section 974.4, Title 16, California Code of Regulations, as follows:

§ 974.4. Installment Payment Plan.

(a) Licensees with administrative fines exceeding \$500 may request to pay their fines on a payment plan consisting of monthly installments. Any payment plan is subject to the following terms and conditions:

- (1) The licensee must request the payment plan in writing.
- (2) All fines subject to a payment plan shall be paid in full in not more than twelve (12) installments.

(3) After the licensee requests a payment plan, the board will provide to the licensee a schedule of payments indicating the amount of the payment and the due date of each payment.

(b) Licensees who fail to meet any of the terms and conditions listed in (a) shall have their payment plan cancelled by the board and will be unable to renew any board-issued license they hold until all outstanding fines are paid in full.

(c) Licensees who fail to successfully follow or complete the terms and conditions of the payment plan for one citation may be ineligible to participate in the board's payment plan for future citations.

(d) Licensees who are paying a citation's fines in accordance with the provisions of this section , shall be permitted to renew their licenses even if the fines have not been paid in full by the renewal date.

(e) Licensees participating in the payment plan are responsible for keeping track of their payments' due date and fine balance and paying fines according to the payment plan.

Note: Authority cited: Section 7312, 7408.1 and 7414, Business and Professions Code.
Reference: Sections 7408.1 and 7414, Business and Professions Code.

Revised Language

BOARD OF BARBERING AND COSMETOLOGY

Division 9, Title 16, of the California Code of Regulations.

SPECIFIC LANGUAGE

LEGEND

Underlined Indicates proposed amendments or additions to the existing regulation.

~~Strikeout~~ Indicates proposed deletions to the existing regulation.

- Amend Section 974, Title 16, California Code of Regulations, as follows:

974. Schedule of Administrative Fines

(a) An administrative fine may be assessed for violations of the specified sections of the Business and Professions Code and Division 9 of Title 16 of the California Code of Regulations as follows (in dollars):

Section	1 st Violation	2 nd Violation	3 rd Violation	Waivable
7313. Access to Establishment for Inspection	250	500	750	No
<u>For the purposes of Business and Professions Code section 7407.1, fine applies to the holder of the establishment license</u>				
7317. Unlicensed Establishment	500	1,000	1,000	No
7317. Unlicensed Individual	1,000	1,000	1,000	No
7317. Expired Establishment License	250	300	500	No
<u>For the purposes of Business and Professions Code section 7407.1, fine applies to the holder of the establishment license</u>				
7317. Expired Individual License	250	300	500	No
<u>For the purposes of Business and Professions Code section 7407.1, fine applies to the individual licensee</u>				
7317. Individual Working in an Expired Establishment	25	50	100	No
<u>For the purposes of Business and Professions Code section 7407.1, fine applies to the individual licensee</u>				
7317. Individual Working in an Unlicensed Establishment	250	300	500	No
<u>For the purposes of Business and Professions Code section 7407.1, fine applies to the individual licensee</u>				
7320. Practice of Medicine	1,000	1,000	1,000	No

<u>For the purposes of Business and Professions Code section 7407.1, fine applies to the holder of the establishment license; fine also applies to the individual licensee when the individual licensee can be determined and is present</u>				
7320.1. Use of Illegal Metal Tools	250	500	500	No
<u>For the purposes of Business and Professions Code section 7407.1, fine applies to the holder of the establishment license; fine also applies to the individual licensee when the individual licensee can be determined and is present</u>				
7320.2. Illegal Treatment Methods	500	500	500	No
<u>For the purposes of Business and Professions Code section 7407.1, fine applies to the holder of the establishment license; fine also applies to the individual licensee when the individual licensee can be determined and is present</u>				
7336. No Supervision of Apprentice	100	150	200	No
<u>For the purposes of Business and Professions Code section 7407.1, fine applies to the holder of the individual licensee</u>				
7348. No Licensee in Charge of Establishment	100	150	200	No
<u>For the purposes of Business and Professions Code section 7407.1, fine applies to the holder of the establishment license</u>				
7349. Employing Unlicensed Persons	1,000	1,000	1,000	No
<u>For the purposes of Business and Professions Code section 7407.1, fine applies to the holder of the establishment license</u>				
7349. Employing Unlicensed Persons – Expired License	<u>250</u>	<u>300</u>	<u>500</u>	<u>No</u>
<u>For the purposes of Business and Professions Code section 7407.1, fine applies to the holder of the establishment license</u>				
7349.1. Illegal Use of a Barber Pole	25	50	100	No
<u>For the purposes of Business and Professions Code section 7407.1, fine applies to the holder of the establishment license</u>				
7350. Establishment – Residential Use/Entrance/Prohibited Use	50	100	150	No
<u>For the purposes of Business and Professions Code section 7407.1, fine applies to the holder of the establishment license</u>				
7351. Restroom Requirement – Clean/Storage/Floor/Vented	50	100	150	No
<u>For the purposes of Business and Professions Code section 7407.1, fine applies to the holder of the establishment license</u>				
7352. No Soap/Towels or Air Hand Dryers in Hand Washing Facilities	50	100	150	No
<u>For the purposes of Business and Professions Code section 7407.1, fine applies to the holder of the establishment license</u>				
7353.4. Labor Rights Notice Not Posted	<u>50</u>	<u>100</u>	<u>150</u>	<u>No</u>
<u>For the purposes of Business and Professions Code section 7407.1, fine applies to the holder of the establishment license</u>				
7358. No Licensee in Charge of Mobile Unit	100	150	200	No
7359. Employing Unlicensed Person in Mobile Unit	1,000	1,000	1,000	No
7360. Mobile Unit – Residential/Prohibited Use	50	100	150	No

7400. No Change of Address Notice Filed	50	100	150	No
<u>For the purposes of Business and Professions Code section 7407.1, fine applies to the individual licensee</u>				
7404(l). Interference with Inspection	200 1,000	300 1,000	500 1,000	No
<u>For the purposes of Business and Professions Code section 7407.1, fine applies to the holder of the establishment license; fine may also apply to the individual licensee when the individual licensee is solely responsible for interfering with an inspection</u>				
904(d). No Photographic Identification Available	50	100	150	No
<u>For the purposes of Business and Professions Code section 7407.1, fine applies to the individual licensee</u>				
905. Consumer Info. Not Posted/ Incorrect Size of Print (Health & Safety)	50	100	150	No
<u>For the purposes of Business and Professions Code section 7407.1, fine applies to the holder of the establishment license</u>				
920. Apprentice Training Records Not Available/Incomplete	100	150	200	No
<u>For the purposes of Business and Professions Code section 7407.1, fine applies to the individual licensee</u>				
965. Display of Licenses	50	100	150	No
<u>For the purposes of Business and Professions Code section 7407.1, fine applies to the holder of the establishment license when an establishment license is not conspicuously posted in the reception area; fine applies to the individual licensee and the holder of the establishment license when the individual's license is not conspicuously posted at his or her primary work station</u>				
978(a)(1), (a)(2),(a)(3),(a)(4). Receptacles, Cabinets and Containers	50	100	150	No
<u>For the purposes of Business and Professions Code section 7407.1, fine applies to the holder of the establishment license</u>				
978(a)(5). Insufficient Disinfectant in Container for Total Immersion	100	150	200	No
<u>For the purposes of Business and Professions Code section 7407.1, fine applies to the holder of the establishment license</u>				
978(a)(6). No Steam/Dry Heat Sterilizer for Electrolgy Tools	500	1,000	1,500	No
<u>For the purposes of Business and Professions Code section 7407.1, fine applies to the holder of the establishment license</u>				
978(b). No Disinfectant Solution Available for Use	250	300	500	No
<u>For the purposes of Business and Professions Code section 7407.1, fine applies to the holder of the establishment license</u>				
978(c). No Manufacturer-Labeled Container for Disinfectant	250	300	500	No
<u>For the purposes of Section 7407.1 (BPC), fine applies to the holder of the establishment license</u>				
979. Disinfecting Non-Electrical Tools and Equipment	100	250	500	No
<u>For the purposes of Business and Professions Code section 7407.1, fine applies to the individual licensee when the individual licensee can be determined and is present; fine applies to the holder of the establishment license when the individual licensee cannot be determined or is not present, or the violation has been found repeatedly in the establishment</u>				
980(a). Incorrect Disinfection of Electrical Items	100	250	500	No

<u>For the purposes of Business and Professions Code section 7407.1, fine applies to the individual licensee when the individual licensee can be determined and is present; fine applies to the holder of the establishment license when the individual licensee cannot be determined or is not present, or the violation has been found repeatedly in the establishment</u>				
980(b). Incorrect Storage of Electrical Disinfected Items	50	100	150	No
<u>For the purposes of Business and Professions Code section 7407.1, fine applies to the individual licensee when the individual licensee can be determined and is present; fine applies to the holder of the establishment license when the individual licensee cannot be determined or is not present, or the violation has been found repeatedly in the establishment</u>				
980(c). Incorrect Storage of Soiled Electrical Tools	50	100	150	No
<u>For the purposes of Business and Professions Code section 7407.1, fine applies to the individual licensee when the individual licensee can be determined and is present; fine applies to the holder of the establishment license when the individual licensee cannot be determined or is not present, or the violation has been found repeatedly in the establishment</u>				
980.1. Incorrect Disinfection of Pedicure Spas (Per Chair)	500	500	500	No
<u>For the purposes of Business and Professions Code section 7407.1, fine applies to the holder of the establishment license; fine may also apply to the individual licensee when the individual licensee can be determined and is present</u>				
980.1(c)(7). 980.1(d)(8). Incorrect/Missing Log 980.1(e)(4).	100	150	200	No
<u>For the purposes of Business and Professions Code section 7407.1, fine applies to the holder of the establishment license; fine may also apply to the individual licensee when the individual licensee can be determined and is present</u>				
980.1(g). Failure to List Chair as "Not in Service" in Log; No Sign Displayed on Chair	50	100	150	No
<u>For the purposes of Business and Professions Code section 7407.1, fine applies to the holder of the establishment license; fine may also apply to the individual licensee when the individual licensee can be determined and is present</u>				
980.2. Incorrect Disinfection of "Pipeless" Footspas (Per Unit)	500	500	500	No
<u>For the purposes of Business and Professions Code section 7407.1, fine applies to the holder of the establishment license; fine may also apply to the individual licensee when the individual licensee can be determined and is present</u>				
980.2(b)(7). 980.2(c)(6). Incorrect/Missing Log 980.2(d)(3).	100	150	200	No
<u>For the purposes of Business and Professions Code section 7407.1, fine applies to the holder of the establishment license; fine may also apply to the individual licensee when the individual licensee can be determined and is present</u>				
980.2(f). Failure to List Chair as "Not in Service" in Log; No Sign Displayed on Chair	50	100	150	No
<u>For the purposes of Business and Professions Code section 7407.1, fine applies to the holder of the establishment license; fine may also apply to the individual licensee when the individual licensee can be determined and is present</u>				
980.3. Incorrect Disinfection of "Non-Whirlpool Foot Basin" (Per Unit)	100	150	200	No
<u>For the purposes of Business and Professions Code section 7407.1, fine applies to the holder of the establishment license; fine may also apply to the individual licensee when the individual licensee can be determined and is present</u>				

980.3(b)(6). Incorrect/Missing Log	50	100	150	No
<u>For the purposes of Business and Professions Code section 7407.1, fine applies to the holder of the establishment license; fine may also apply to the individual licensee when the individual licensee can be determined and is present</u>				
980.3(e). Improper Storage of Basins or Tubs	50	100	150	No
<u>For the purposes of Business and Professions Code section 7407.1, fine applies to the holder of the establishment license; fine may also apply to the individual licensee when the individual licensee can be determined and is present</u>				
980.4. Incorrect Disinfection of foot basin or tub after use of disposable liner	500	500	500	No
<u>For the purposes of Business and Professions Code section 7407.1, fine applies to the holder of the establishment license; fine may also apply to the individual licensee when the individual licensee can be determined and is present</u>				
980.4(a)(2). Incorrect/Missing Log	50	100	150	No
<u>For the purposes of Business and Professions Code section 7407.1, fine applies to the holder of the establishment license; fine may also apply to the individual licensee when the individual licensee can be determined and is present</u>				
980.4(a)(4). Failure to Maintain Supply of Five (5) Disposable Liners per Foot Tub Basin	250	300	500	No
<u>For the purposes of Business and Professions Code section 7407.1, fine applies to the holder of the establishment license; fine may also apply to the individual licensee when the individual licensee can be determined and is present</u>				
981(a). No Disposal of Non-Disinfected Items	100	150	200	No
<u>For the purposes of Business and Professions Code section 7407.1, fine applies to the individual licensee when the individual licensee can be determined and is present; fine also applies to the holder of the establishment license when the individual licensee cannot be determined or is not present, or the violation has been found repeatedly in the establishment</u>				
981(b). Improper Storage of New Supplies and Disposable tools	50	100	150	No
<u>For the purposes of Business and Professions Code section 7407.1, fine applies to the individual licensee when the individual licensee can be determined and is present; fine also applies to the holder of the establishment license when the individual licensee cannot be determined or is not present, or the violation has been found repeatedly in the establishment</u>				
981(c). Carry Tools or Supplies in or on Garments	50	100	150	No
<u>For the purposes of Business and Professions Code section 7407.1, fine applies to the individual licensee</u>				
982. Incorrect Sterilization of Electrology Tools	100	150	200	No
<u>For the purposes of Business and Professions Code section 7407.1, fine applies to the individual licensee when the individual licensee can be determined and is present; fine also applies to the holder of the establishment license when the individual licensee cannot be determined or is not present, or the violation has been found repeatedly in the establishment</u>				
983. Personal Cleanliness	50	100	150	No
<u>For the purposes of Business and Professions Code section 7407.1, fine applies to the individual licensee</u>				
984. Work on Person with Infectious/Communicable Disease	100	250	500	No
<u>For the purposes of Business and Professions Code section 7407.1, fine applies to the individual licensee when the individual licensee can be determined and is present; fine also applies to the holder of the</u>				

<u>establishment license when the individual licensee cannot be determined or is not present, or the violation has been found repeatedly in the establishment</u>				
985. No Use of Neck Strips or Towel	50	100	150	No
<u>For the purposes of Business and Professions Code section 7407.1, fine applies to the individual licensee when the individual licensee can be determined and is present; fine also applies to the holder of the establishment license when the individual licensee cannot be determined or is not present, or the violation has been found repeatedly in the establishment</u>				
986. Neck Dusters/Brushes Not Clean or Sanitary	50	100	150	No
<u>For the purposes of Business and Professions Code section 7407.1, fine applies to the individual licensee when the individual licensee can be determined and is present; fine also applies to the holder of the establishment license when the individual licensee cannot be determined or is not present, or the violation has been found repeatedly in the establishment</u>				
987. Towels	50	100	150	No
<u>For the purposes of Business and Professions Code section 7407.1, fine applies to the individual licensee when the individual licensee can be determined and is present; fine also applies to the holder of the establishment license when the individual licensee cannot be determined or is not present, or the violation has been found repeatedly in the establishment</u>				
988. Liquids, Creams, Powders and Cosmetics	50	100	150	No
<u>For the purposes of Business and Professions Code section 7407.1, fine applies to the individual licensee when the individual licensee can be determined and is present; fine also applies to the holder of the establishment license when the individual licensee cannot be determined or is not present, or the violation has been found repeatedly in the establishment</u>				
989. Prohibited Hazardous Substance/Use of Product	500	500	500	No
<u>For the purposes of Business and Professions Code section 7407.1, fine applies to the individual licensee when the individual licensee can be determined and is present; fine also applies to the holder of the establishment license when the individual licensee cannot be determined or is not present, or the violation has been found repeatedly in the establishment</u>				
990. Headrests and Treatment Tables	50	100	150	No
<u>For the purposes of Business and Professions Code section 7407.1, fine applies to the individual licensee when the individual licensee can be determined and is present; fine also applies to the holder of the establishment license when the individual licensee cannot be determined or is not present, or the violation has been found repeatedly in the establishment</u>				
991. Performing Invasive Procedures	500	500	500	No
<u>For the purposes of Business and Professions Code section 7407.1, fine applies to the individual licensee when the individual licensee can be determined and is present; fine also applies to the holder of the establishment license when the individual licensee cannot be determined or is not present, or the violation has been found repeatedly in the establishment</u>				
992. Performing Invasive Skin Exfoliation/Dermis	500	500	500	No
<u>For the purposes of Business and Professions Code section 7407.1, fine applies to the individual licensee when the individual licensee can be determined and is present; fine also applies to the holder of the establishment license when the individual licensee cannot be determined or is not present, or the violation has been found repeatedly in the establishment</u>				
993. Prohibited Tools	300	400	500	No
<u>For the purposes of Business and Professions Code section 7407.1, fine applies to the individual licensee when the individual licensee can be determined and is present; fine also applies to establishment owner when the individual cannot be determined or is not present, or the violation has been found repeatedly in the establishment</u>				
994. Cleanliness and Repair	50	100	150	No

<u>For the purposes of Business and Professions Code section 7407.1, fine applies to the individual licensee when the individual licensee can be determined and is present; fine also applies to establishment owner when the individual cannot be determined or is not present, or the violation has been found repeatedly in the establishment</u>				
995(b),(c),(d),(e). Plumbing Standards	50	100	150	No
<u>For the purposes of Business and Professions Code section 7407.1, fine applies to the holder of the establishment license</u>				

(b) A violation indicated in subdivision (a) as not waivable means that the Board, in its discretion, has determined that the violation cannot be corrected pursuant to Business and Professions Code section 7407, and therefore that the fine for the first violation may not be avoided as provided for in ~~Section Business and Professions Code section 7409 of the Business and Professions Code.~~

NOTE: Authority cited: Sections 7312, 7406 and 7407, Business and Professions Code. Reference: Sections 7353.4, 7406, 7407, 7407.1, and 7409, Business and Professions Code.

- **Adopt Section 974.4, Title 16, California Code of Regulations, as follows:**

Section 974.4. Installment Payment Plan.

(a) A licensee with any administrative fine exceeding \$500 may request a payment plan consisting of no more than 12 monthly installments. The licensee must request the payment plan in writing. After the licensee requests a payment plan, the board will provide to the licensee a schedule of payments indicating the due date and amount of the payment.

(b) A Licensee's payment plan will be cancelled by the board if the licensee fails to follow any of the terms and conditions of the payment plan.

(c) If a licensee's payment plan is cancelled by the board, the licensee will not be allowed to:

- (1) Renew any board-issued license he or she holds until all outstanding fines are paid in full;
- (2) Request a payment plan for any subsequent administrative fine.

(d) A licensee who is paying an administrative fine in accordance with the provisions of this section shall be permitted to renew any board-issued license he or she holds even if the fines have not been paid in full by the renewal date.

Note: Authority cited: Section 7312, 7408.1 and 7414, Business and Professions Code. Reference: Sections 7408.1 and 7414, Business and Professions Code.