

**CALIFORNIA
BOARD OF BARBERING AND COSMETOLOGY**



**AUGUST 27, 2018
Board Meeting**

**Department of Consumer Affairs
1747 North Market Blvd
HQ2 Hearing Room 186, 1st Floor
Sacramento, CA 95834**



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

MEMBERS OF THE BOARD

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

BOARD MEETING
August 27, 2018

Department of Consumer Affairs
1747 North Market Blvd.
HQ2 Hearing Room 186, 1st Floor
Sacramento, CA 95834

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



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
 - May 20, 2018
 - July 23, 2018
7. Discussion and Possible Action Relating to Certification of Student Hours
8. Review of the National Interstate Council Cosmetology Examination Audit
9. Review and Conditional Approval of the 2019 Sunset Review Report Draft

10. 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 1492 – (Hill) (SBP) Examination Failure Notification

11. Proposed Regulations:

Discussion and Possible Action of Proposed Regulatory Changes:

- a. Title 16, CCR Section 904 (Definition of Access)
- 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 965.2 (Personal Service Permit)
- e. Title 16, CCR Section 972 (Disciplinary Guidelines)
- f. Title 16, CCR Section 974 & 974.3 (Fine Schedule and Payment Plan)
- g. Title 16, CCR Sections 977, 978, 979, 980, 980.1, 980.2, 980.3, 980.4, 981, 982, 983, 984, 985, 986, 987, 988 and 989 (Health and Safety Regulations)

12. Agenda Items for the Next Meeting

13. **CLOSED SESSION:**

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

OPEN SESSION:

14. 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	1,906	7,417
Mobile Unit	2	1	3	3	9
Barber					
Pre-App	277	256	259	255	1,047
Initial Application	404	400	351	426	1,581
Re-Exam	481	399	483	424	1,787
Sub-Total	1,162	1,055	1,093	1,105	4,415
Reciprocity	50	40	41	38	169
Apprentice	210	221	221	286	938
Cosmetology					
Pre-App	1,069	886	717	974	3,646
Initial Application	1,112	996	886	851	3,845
Re-Exam	1,617	1,428	1,461	1,423	5,929
Sub-Total	3,798	3,310	3,064	3,248	13,420
Reciprocity	470	288	342	367	1,467
Apprentice	203	162	151	206	722
Electrology					
Pre-App	4	5	3	5	17
Initial Application	1	1	1	4	7
Re-Exam	4	3	2	5	14
Sub-Total	9	9	6	14	38
Reciprocity	1	1	-	1	3
Apprentice	1	-	-	-	1
Manicuring					
Pre-App	588	393	325	531	1,837
Initial Application	1,014	763	493	477	2,747
Re-Exam	681	647	664	667	2,659
Sub-Total	2,283	1,803	1,482	1,675	7,243
Reciprocity	135	108	132	104	479
Esthetician					
Pre-App	699	805	801	907	3,212
Initial Application	586	392	434	468	1,880
Re-Exam	466	386	463	427	1,742
Sub-Total	1,751	1,583	1,698	1,802	6,834
Reciprocity	135	90	125	92	442
Total	12,092	10,429	10,229	10,847	43,597

Licenses Issued FY 2017-2018

License Type	Jul-Sept	Oct-Dec	Jan-Mar	Apr-June	YTD
Establishment	1,942	1,816	1,698	2,153	7,609
Mobile Unit	-	1	1	-	2
Barber	536	565	593	565	2,259
Barber Apprentice	190	214	183	298	885
Cosmetology	1,680	1,909	1,776	1,720	7,085
Cosmetology Apprentice	204	140	176	207	727
Electrology	7	8	3	4	22
Electrology Apprentice	1	-	-	--	1
Manicuring	959	731	840	1,257	3,787
Esthetician	1,051	1,022	1,122	812	4,007
Totals	6,570	6,406	6,392	7,016	26,384

License Population

Barber	30,283
Barber Apprentice	1,465
Cosmetology	314,780
Cosmetology Apprentice	1,419
Electrology	1,772
Electrology Apprentice	1
Manicuring	129,999
Esthetician	85,523
Establishment	51,280
Mobile Unit	44
Total	616,566

Examination Results

(Apr 1, 2018 and Jun 30, 2018)

Practical Examinations

Administered	Passed	Failed	Total	Pass Rate
Barber	578	211	789	73%
Cosmetologist	1,699	635	2,334	73%
Electrologist	8	--	8	100%
Esthetician	1,306	47	1,353	97%
Manicurist	901	379	1,280	70%
Total	4,492	1,272	5,764	78%

Written Examinations

Barber	Passed	Failed	Total	Pass Rate
English	530	201	731	73%
Korean	3	--	3	100%
Spanish	67	42	109	61%
Vietnamese	2	1	3	67%
TOTAL	602	244	846	71%

Cosmo	Passed	Failed	Total	Pass Rate
English	1,265	651	1,916	66%
Korean	27	10	37	73%
Spanish	163	323	486	34%
Vietnamese	93	27	120	78%
TOTAL	1,548	1,011	2,559	60%

Manicurist	Passed	Failed	Total	Pass Rate
English	237	103	340	70%
Korean	1	5	6	17%
Spanish	11	17	28	39%
Vietnamese	524	260	784	67%
TOTAL	773	385	1,158	67%

Esthetician	Passed	Failed	Total	Pass Rate
English	1,104	333	1,437	77%
Korean	24	3	27	89%
Spanish	3	8	11	27%
Vietnamese	114	21	135	84%
TOTAL	1,245	365	1,610	77%

Electrologist	Passed	Failed	Total	Pass Rate
English	4	5	9	44%
Korean	--	--	--	--
Spanish	--	--	--	--
Vietnamese	--	--	--	--
TOTAL	4	5	9	44%



Business, Consumer Services, and Housing Agency – Governor Edmund G. Brown Jr.
 BOARD OF BARBERING AND COSMETOLOGY
 P.O. Box 944226, Sacramento, CA 94244-2260
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QUARTERLY BARBERING AND COSMETOLOGY DISCIPLINARY REVIEW COMMITTEE STATISTICS

Fiscal Year 17-18

Report Date: June 31, 2018

	April - June	YTD
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NORTHERN

Heard	95	405
Received	85	354
Pending ¹	103	103 ²

SOUTHERN

Heard	95	1,045
Received	167	803
Pending ¹	211	211 ²

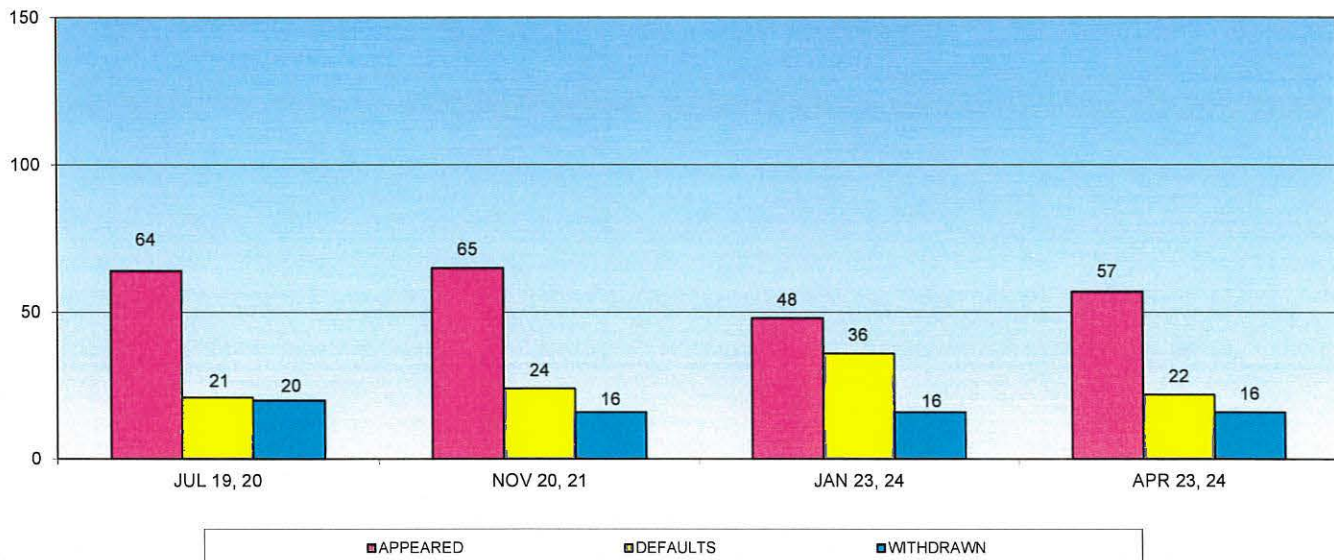
¹ Pending refers to the number of appeals received but not yet heard by DRC.

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

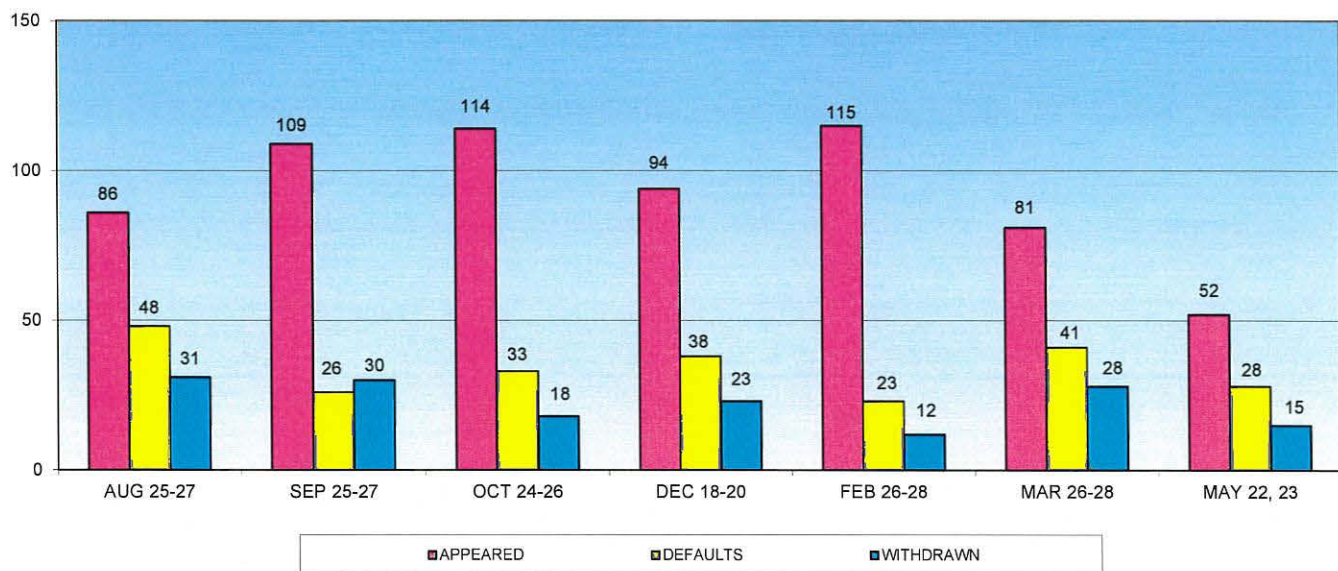
2018 SCHEDULED HEARINGS

Area	Location	Date
Southern	Burbank	September 24 - 26, 2018
Southern	San Diego	October 24, 25, 2018
Northern	Sacramento	November 26, 27, 2018

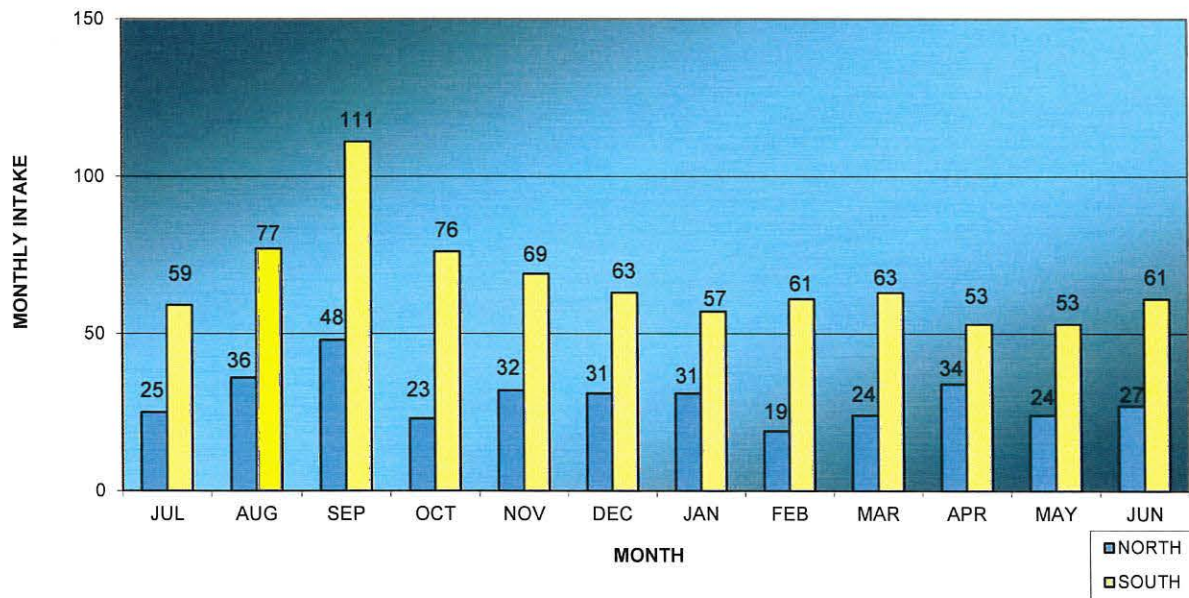
NORTHERN APPEALS HEARD (Fiscal Year 17-18)



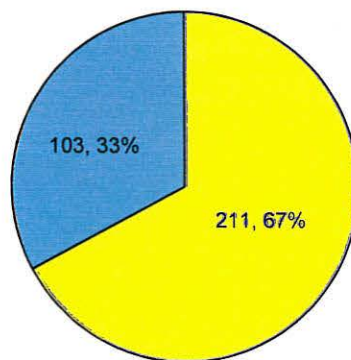
SOUTHERN APPEALS HEARD (Fiscal Year 17-18)



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



**DRC APPEALS WAITING TO BE HEARD/SCHEDULED
(As of June 31, 2018)**



■ SOUTH
■ NORTH

**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	1191	3962
Referred to DOI	6	2	3	2	13
Complaints Closed	925	857	1120	1133	4035
Total Complaints Pending	1156	1123	899	928	928
APPLICATION INVESTIGATIONS*					
Received	30	575	48	492	1145
Pending	1	403	192	705	705
Closed	34	101	250	370	755
ATTORNEY GENERAL					
Referred	27	19	29	16	91
Accusations Filed	5	9	30	19	63
Statement of Issues Filed	0	2	1	2	5
Total Pending	73	68	80	78	78
DISCIPLINARY PROCESS					
Proposed Decisions	1	3	0	3	7
Default Decision	5	6	2	2	15
Stipulation	12	11	7	8	38
DISCIPLINARY OUTCOMES					
Revocation	6	10	3	5	24
Revoke, Stay, Probation	1	4	4	0	9
Revoke, Stay, Suspend/Prob	7	7	3	11	28
Revocation, Stay w/ Suspend	0	0	0	0	0
Probation Only	0	0	0	0	0
Suspension Only	0	0	0	1	1
Suspension & Probation	0	0	0	0	0
Suspension, Stay, Probation	2	2	4	1	9
Surrender of License	6	4	3	1	14
Public Reprimands	0	0	0	0	0
License Denied	0	1	0	0	1
Other	0	0	0	0	0
Total	22	28	17	19	86
PROBATION					
Active	125	127	139	130	130
CITATIONS					
Establishments	1938	1631	1485	1655	6709
Barber	218	195	222	219	854
Barber Apprentice	22	19	19	20	80
Cosmetologist	761	578	505	550	2394
Cosmetologist Apprentice	14	6	12	18	50
Electrologist	1	0	1	0	2
Electrologist Apprentice	0	0	0	0	0
Manicurist	515	416	377	528	1836
Esthetician	77	49	54	40	220
Unlicensed Est.	84	65	61	88	298
Unlicensed Individual	115	103	101	87	406
Total	3745	3062	2837	3205	12849
INSPECTIONS					
Establishments w/ violations	1895	1737	1946	2526	8104
Establishments w/o violations	756	708	668	825	2957
Total	2651	2445	2614	3351	11061

Complaints Received

Apr-Jun 2018

Complaint Type	Anonymous	Internal	Public	Totals
Fraud	12	7	9	28
Health & Safety	332	60	79	471
Non-Jurisdictional	32	1	59	92
Incompetence/Negligence	2	0	117	119
Other	0	1	2	3
Personal Conduct	0	1	0	1
Unlicensed Activity	203	234	53	490
App Investigation	0	479	0	479
Totals	581	783	319	1683

Last 4 Fiscal Years

Category	FY 14-15	FY 15-16	FY 16-17	FY 17-18
Fraud	44	82	61	84
Health & Safety	1347	1310	1616	1604
Non-Jurisdictional	312	294	284	319
Incompetence/Negligence	303	333	270	438
Other	20	42	35	19
Personal Conduct	13	19	20	6
Unlicensed Activity	1523	1651	1817	1555
App Investigation	1	0	0	1061
Totals	3563	3731	4103	5086



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

BOARD OF BARBERING AND COSMETOLOGY

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Budget Updates

Constraints:

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

1. Budget 2017/18 Fiscal Year (July 2018 - June 2019):

Attachment 1 displays projected expenditures for end of the year.

Board of Barbering and Cosmetology
Fiscal Year 2017/2018
Projected Expenditures 05/31/18

Personnel Services	ALLOTMENT	BBC Projected Expenditures	Projected Year
Permanent	4,518,000	4,018,498	499,502
Expert Examiners	453,000	379,171	73,829
Temporary	134,000	128,416	5,584
BL 12-03 Blanket	0	197,067	(197,067)
Statutory-Exempt	104,000	119,520	(15,520)
Board Member Commission	0	18,400	(18,400)
Overtime	0	3,000	(3,000)
Total Salary & Wages	5,209,000	4,864,072	344,928
Net Salary & Wages	5,209,000	4,864,072	344,928
Staff Benefits	2,604,000	2,580,515	23,485
Total of Personnel Services	7,813,000	7,444,587	368,413
Operating Expenses & Equipment (OE&E)	Allotment	BBC Projected Expenditures	Projected Year End Balance
General Expense	191,000	270,000	(79,000)
Printing	168,000	417,000	(249,000)
Communication	41,000	63,000	(22,000)
Postage	283,000	96,000	187,000
Insurance	4,000	45,293	(41,293)
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	967,086	321,914
Utilities	0	0	0
Consultant & Professional Svs. - Interdept.	126,000	2,900	123,100
Consultant & Professional Svs. - External	498,000	500,000	(2,000)
Depart. and Central Admin. Services	7,854,000	7,910,072	(56,072)
Consolidated Data Center	68,000	58,954	9,046
Information Technology	38,000	32,000	6,000
Central Admin Pro Rata	931,000	931,000	0
Examinations	1,394,000	1,693,000	(299,000)
Major Equipment	46,000	100,000	(54,000)
Minor Equipment	15,000	0	15,000
Other Items of Expense	5,000	0	5,000
Vehicle Operations	38,000	41,000	(3,000)
Enforcement	1,722,000	989,100	732,900
Special Items of Expenses	0	0	0
Total Operating Expenses & Equipment	14,805,000	14,254,185	550,815
Total Personal Services Expenses	7,813,000	6,564,882	368,413
Total reimbursements (57,000)			
Executive Officer's Report 10 of 13	Total	22,561,000	21,698,772
			919,228

0069 - Barbering and Cosmetology Contingency Fund Analysis of Fund Condition

Prepared 8/7/18

(Dollars in Thousands)

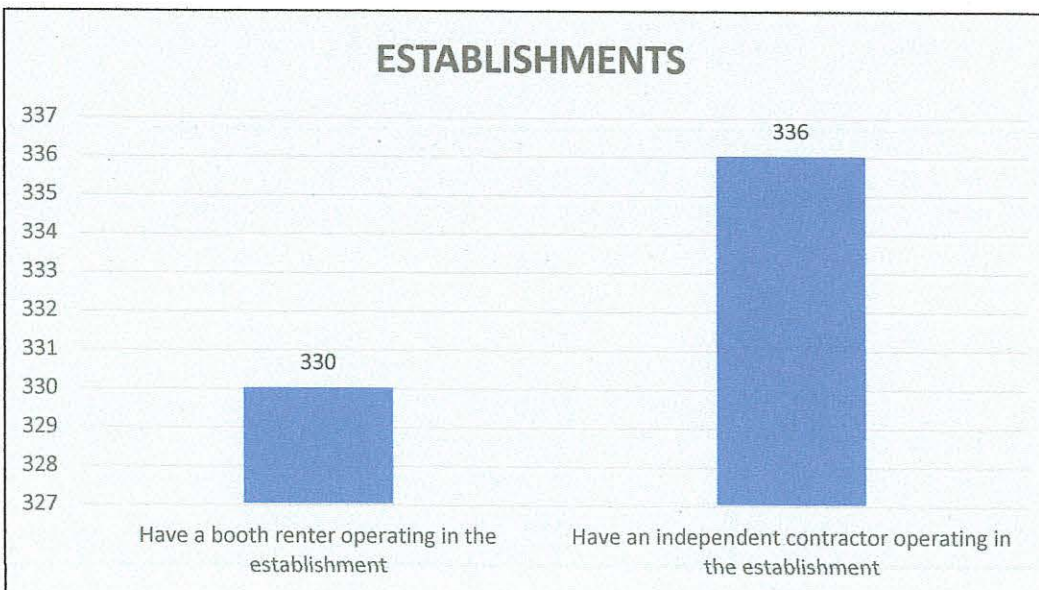
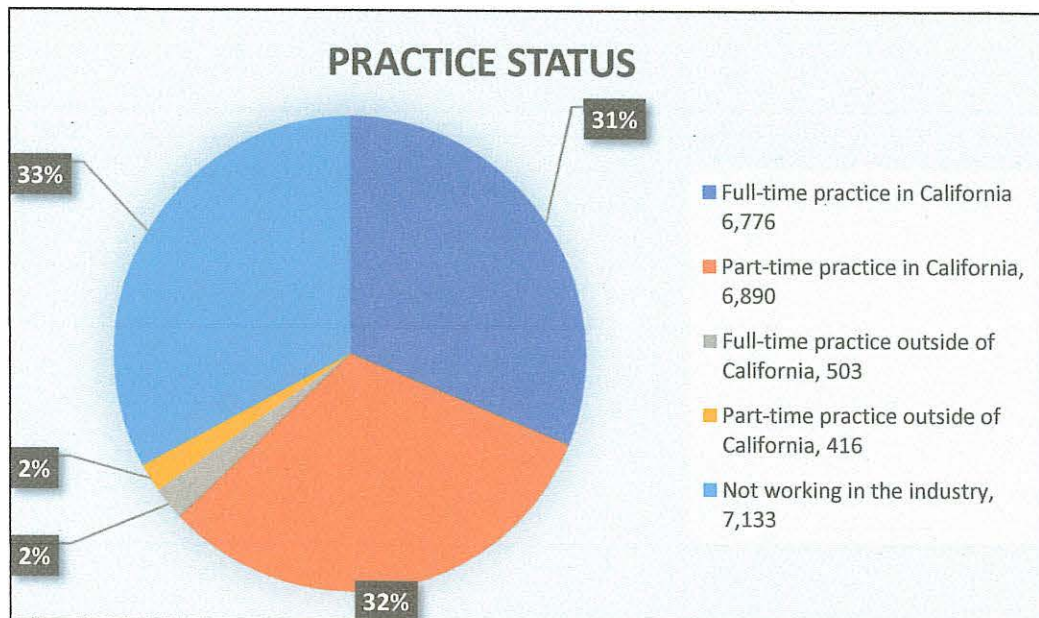
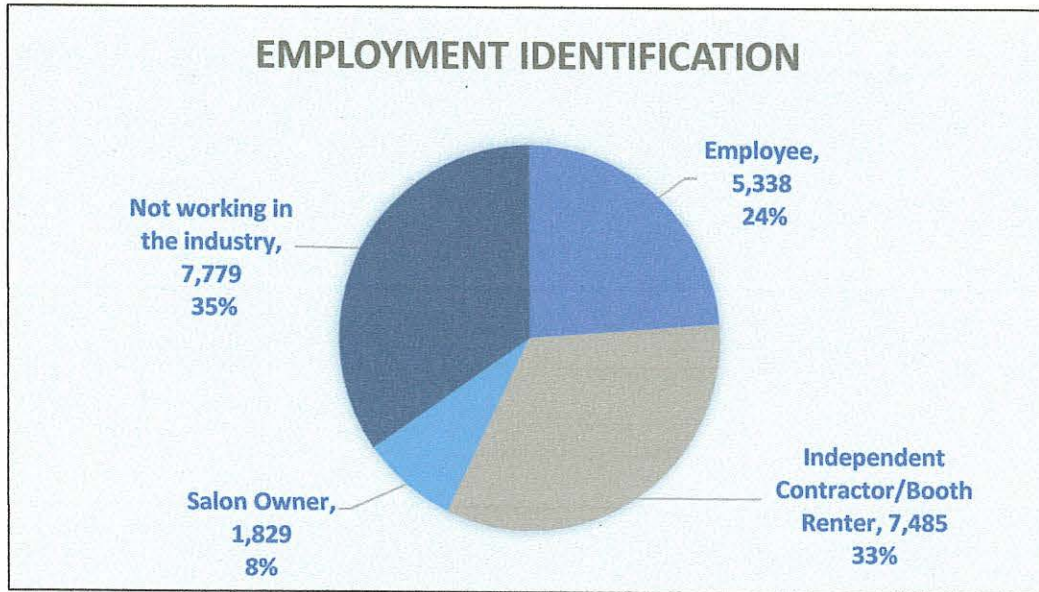
NOTE: \$21 Million General Fund Repayment Outstanding

Budget Act of 2018 with FM 11 projections

	Projected CY 2017-18	Budget Act BY 2018-19	BY + 1 2019-20	BY + 2 2020-21
BEGINNING BALANCE	\$ 20,565	\$ 19,996	\$ 21,532	\$ 22,632
Prior Year Adjustment	\$ -	\$ -	\$ -	\$ -
Adjusted Beginning Balance	\$ 20,565	\$ 19,996	\$ 21,532	\$ 22,632
REVENUES AND TRANSFERS				
Revenues:				
4121200 Delinquent fees	\$ 1,130	\$ 1,212	\$ 1,212	\$ 1,212
4127400 Renewal fees	\$ 12,413	\$ 12,712	\$ 12,712	\$ 12,712
4129200 Other regulatory fees	\$ 4,955	\$ 6,342	\$ 6,342	\$ 6,342
4129400 Other regulatory licenses and permits	\$ 3,946	\$ 4,683	\$ 4,683	\$ 4,683
4140000 Sales of documents	\$ 8	\$ -	\$ -	\$ -
4143500 Miscellaneous services to the public	\$ -	\$ -	\$ -	\$ -
4150500 Interest Income from Interfund Loans	\$ -	\$ -	\$ -	\$ -
4163000 Income from surplus money investments	\$ 220	\$ 66	\$ 68	\$ 70
4170400 Sale of fixed assets	\$ -	\$ -	\$ -	\$ -
4171400 Escheat - unclaimed checks, warrants, bonds, and coupons	\$ 11	\$ 10	\$ 10	\$ 10
4171500 Escheat - unclaimed property	\$ 3	\$ 3	\$ 3	\$ 3
4172500 Miscellaneous revenues	\$ 12	\$ 13	\$ 13	\$ 13
4173500 Settlements and Judgements	\$ -	\$ -	\$ -	\$ -
Total Revenues	\$ 22,698	\$ 25,041	\$ 25,043	\$ 25,045
Transfers from Other Funds				
Proposed GF Loan Repayment (Budget Act of 2008)				\$ 10,000
Proposed GF Loan Repayment (Budget Act of 2011)				\$ 11,000
Total Revenues, Transfers, and Other Adjustments	\$ 22,698	\$ 25,041	\$ 25,043	\$ 46,045
Total Resources	\$ 43,263	\$ 45,037	\$ 46,575	\$ 68,677
EXPENDITURES				
Disbursements:				
1110 Department of Consumer Affairs Regulatory Board Program Expenditures (State Operations)	\$ -	\$ -	\$ -	\$ -
1111 Department of Consumer Affairs Program Expenditures (State Operations)	\$ 21,642	\$ 21,903	\$ 22,341	\$ 22,788
8880 Financial Information System for California (State Operations)	\$ 28	\$ 2	\$ 2	\$ 2
9892 Supplemental Pension Payments (State Operations)	\$ -	\$ 134	\$ 134	\$ 134
9900 Statewide General Administrative Expenditures (Pro Rata) (State Operations)	\$ 1,597	\$ 1,466	\$ 1,466	\$ 1,466
Total Disbursements	\$ 23,267	\$ 23,505	\$ 23,943	\$ 24,390
FUND BALANCE				
Reserve for economic uncertainties	\$ 19,996	\$ 21,532	\$ 22,632	\$ 44,287
Months in Reserve	10.2	10.8	11.1	21.4

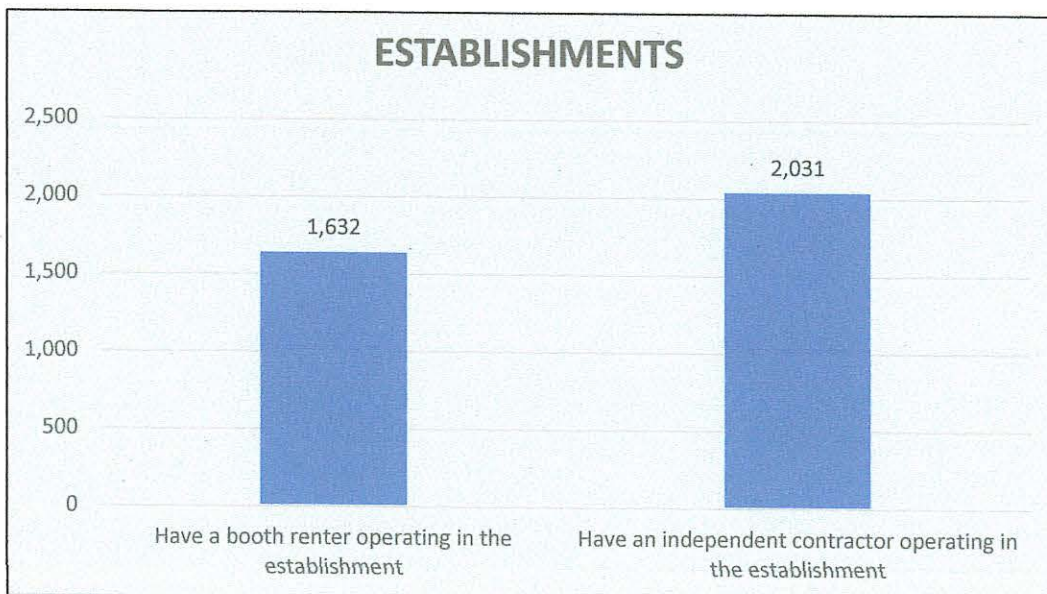
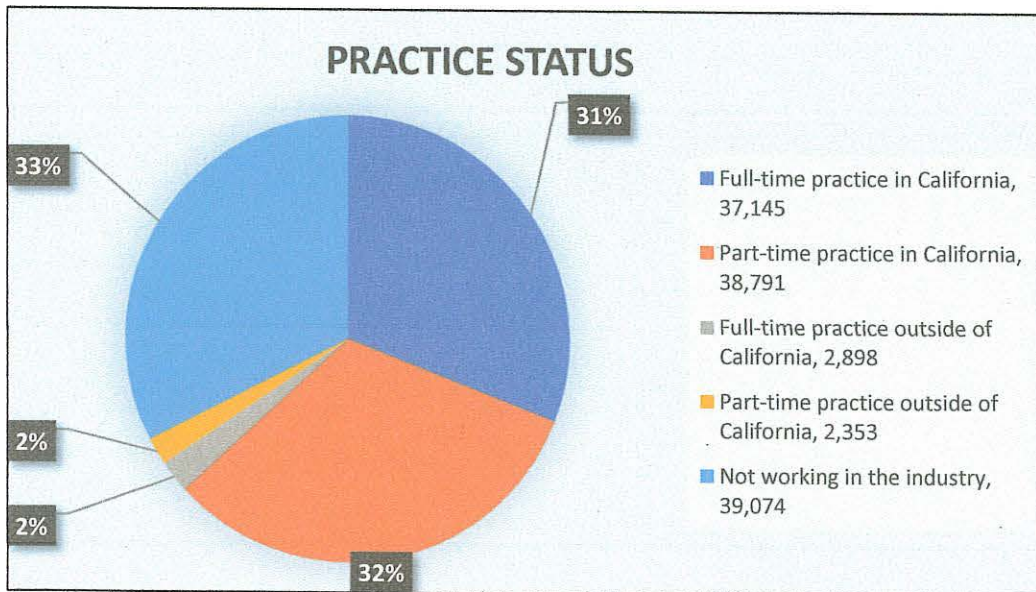
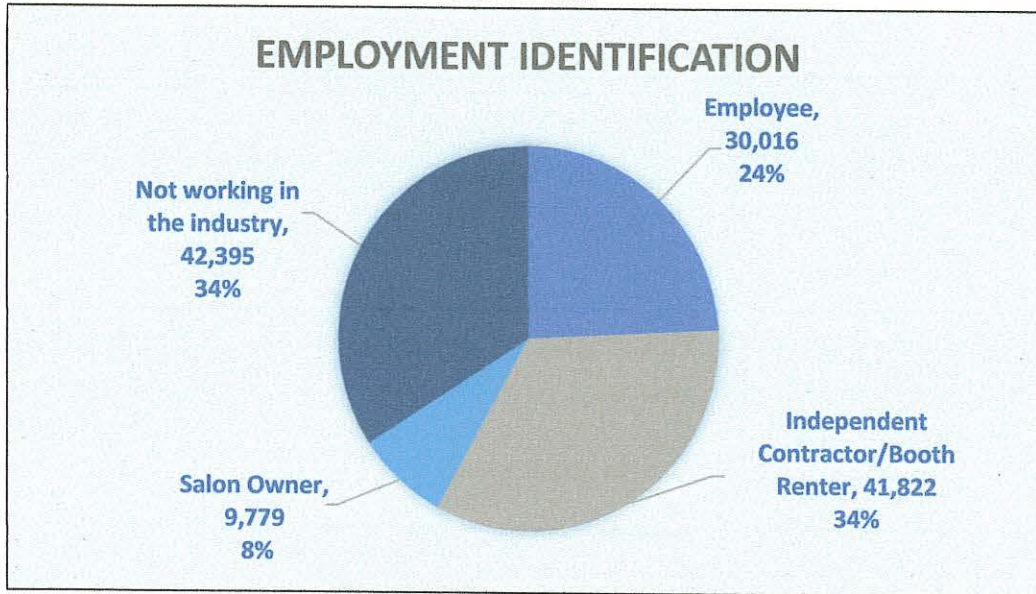
RENEWAL QUESTIONNAIRE

April 1 - June 30, 2018



RENEWAL QUESTIONNAIRE

Year to Date



DRAFT
CALIFORNIA STATE BOARD
OF
BARBERING AND COSMETOLOGY

BOARD MEETING

MINUTES OF MAY 20, 2018

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

BOARD MEMBERS PRESENT

Lisa Thong, Vice President
Bobbie Jean Anderson
Polly Codorniz
Jacquelyn Crabtree
Andrew Drabkin
Coco LaChine
Steve Weeks

STAFF MEMBERS PRESENT

Kristy Underwood, Executive Officer
Michael Santiago, Board Legal Representative
Tami Guess, Board Project Manager
Marcene Melliza, Board Analyst

BOARD MEMBERS ABSENT

Dr. Kari Williams, President
Joseph Federico

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

Lisa Thong, Board Vice President, called the meeting to order at 10:01 a.m. and confirmed the presence of a quorum.

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

Ms. Thong welcomed everyone and reminded everyone that the Board is a consumer protection board and that everything reviewed and discussed is through that lens.

3. Agenda Item #3, BOARD MEMBER REMARKS – INFORMATIONAL ONLY

Ms. Codorniz welcomed Ms. Anderson back.

4. Agenda Item #4, PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA

Fred Jones, Legal Counsel for the Professional Beauty Federation of California (PBFC), stated the PBFC held its 18th Annual Welcome to Our World event on May 1st. Approximately 12 legislators and 120 to 135 staffers attended. He stated it was a successful event with good conversations with policy makers about the industry.

Wendy Cochran, Founder, California Aesthetic Alliance (CAA), stated licensees are getting no help from public agencies such as the Department of Industrial Relations (DIR) in regard to wage claims and retaliation claims. Many other licensees are being forced to work out of scope and have nowhere to go. Licensees are being told by the DIR that it is okay because the companies that they are filing complaints against are LLCs and that they can be independent contractors and work for commission only. She stated she reached out several times and the information is being ignored and not being placed in the right direction. Estheticians are getting no answers on where to go to find the right place to not be taken advantage of in employment situations where they are being fired, pushed out of jobs, and being forced to work out of scope. Estheticians are being advised to hire their own personal attorneys to defend themselves but cannot afford this. Many licensees are pushed out of their jobs because salon owners are not being held accountable for their blatant violations of labor law.

5. Agenda Item #5, 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**

Ms. Underwood reviewed the statistics and update reports, which were included in the meeting packet.

Mr. Weeks asked how many licensees listed on the Current License Population chart are currently practicing. Ms. Underwood stated there is a questionnaire that asks licensees if they are practicing full- or part-time or if they are no longer working in the industry. She stated approximately 33 percent of the questionnaires collected to date indicate licensees are no longer working but choose to keep their licenses current.

Mr. LaChine stated it seems that this year will not reach the same numbers compared to past years as listed on the Licenses Issued Last Five Years chart. Ms. Underwood stated the numbers are lower possibly due to the Board's findings about schools selling hours – those applications are being returned.

Ms. Thong referred to the Licenses Issued chart and stated approximately 50 percent of the applications received have licenses issued except for establishment licenses, which are at approximately 99 percent. Ms. Underwood stated those figures will shift by the next Board meeting. She stated she has done several joint inspections with the California Bureau for Private Postsecondary Education (BPPE), which have been informative. She stated she found that schools that the Board had concerns about are

doing the best they can and the Board will help them get even better. There are many issues in the schools besides the selling of hours, such as not teaching the curriculum but teaching to pass the licensing exam. Students are going into the industry without any instruction on health and safety regulations. Staff is working on regulation change proposals for the next Board meeting to address these issues.

Ms. Thong asked to measure the impact results now that the Board is visiting schools to see how violation or compliance numbers change.

Ms. Crabtree stated the Supreme Court adopted a new California law for independent contractors and that individuals have to fall within three criteria to be independent contractors, which will make a huge difference in the industry. She stated it is good for employee-based salon owners but may affect the statistics. Ms. Guess stated she reached out to the DIR to learn options and told them that a portion of the law would create a significant difficulty for licensees. She is investigating other portions of labor law that may exempt licensees while she waits for a response from the DIR.

Mr. Weeks asked if staff has considered the use of tablets in the field. Ms. Underwood stated tablets are not used because of a programming difficulty of the tablets with the Board's system. It may be compatible with the Breeze System. An individual from another state is scheduled to meet with staff next month to share a possible programming solution to this issue.

Mr. LaChine asked if more inspectors are required now that an inspector was hired for the Los Angeles area. Ms. Underwood stated there are more vacancies that need to be filled. Staff continues to work on issues such as low wage and over-strict requirements for a state civil service classification. 60 inspector positions can be justified but the Department of Finance cannot approve that increase when current vacancies continue to be unfilled.

Ms. Crabtree asked what non-jurisdictional complaints received entail. Ms. Underwood stated they are usually school-related. Students are referred to the BPPE. Complaints received that are out of the Board's jurisdiction, such as complaints that are DIR-related, are also referred to the BPPE.

6. Agenda Item #6, APPROVAL OF BOARD MEETING MINUTES

February 12, 2018

MOTION: Mr. Weeks moved to approve the February 12, 2018, California State Board of Barbering and Cosmetology Meeting Minutes as presented. Ms. Crabtree seconded. Motion carried 6 yes, 0 no, and 1 abstain, per roll call vote as follows:

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

The following Board Member abstained: Drabkin.

7. Agenda Item #7, DISCUSSION AND POSSIBLE ACTION APPROVING BOARD'S EXECUTIVE OFFICER TO TRAVEL ANNUALLY TO THE NATIONAL-INTERSTATE COUNCIL (NIC) ANNUAL CONFERENCE

Ms. Underwood stated she attended the NIC annual conference on cosmetology boards for the first time last year. It was informative to hear what the executive officers had to say, especially about the nationwide issue of the selling of hours. The upcoming conference will be held in Seattle. Out-of-state travel is much reviewed within state agencies. She asked the Board if they feel it is important that she attend these conferences.

Mr. Weeks stated it is unconscionable that the Executive Officer of the California Board of Cosmetology, the largest in the nation, has been unable to attend these conferences. The specific and subtle information received in so many areas more than offsets any small cost it would take to attend these conferences.

MOTION: Mr. Weeks moved to approve the Executive Officer's annual travel and participation in the National-Interstate Council Annual Conference. Ms. Crabtree seconded. Motion carried 7 yes, 0 no, and 0 abstain, per roll call vote as follows:

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

8. Agenda Item #8, DISCUSSION AND POSSIBLE ACTION APPROVING THE PROPOSED REVISIONS TO THE INSPECTOR PROTOCOL FOR LIMITED-ENGLISH-SPEAKING ESTABLISHMENTS

Ms. Underwood reviewed the 2018 Inspector Language Access Protocol document, staff memo, and recommendations of the Working Group, which were included in the meeting packet.

Ms. Guess stated this is a tool that inspectors can use when establishment owners are resistant to contacting an interpreter over the telephone during inspections. The inspectors can use these flip cards to help bridge the language barrier.

Ms. Thong asked who the interpreters are. Ms. Underwood stated they are supplied by a vendor. The inspectors note on their Inspection Reports when the translation line was used.

Mr. Drabkin moved to adopt the text revisions made to the Inspector Language Access Protocol and delegates the authority and the ability to make all non-substantive changes that may arise during the editing process to the Executive Officer. Ms. Codoniz seconded.

Mr. LaChine asked if the motion covers what staff required. Michael Santiago, Board Legal Representative, stated a motion is not required for that section. He asked if the reference to the sheets or cards was included in the protocol.

Ms. Underwood stated it was not. Mr. Santiago stated it does not need to be in the protocol but, if it is something all inspectors will be required to do, it should be added to

the protocol. The Board would approve and adopt the protocol after it is added to the protocol language.

Ms. Underwood stated, if the Board agrees, staff could do a pilot test and then bring the protocol back to the Board with the results of the pilot for Board approval to update the protocol. Board Members agreed.

9. Agenda Item #9, DISCUSSION AND POSSIBLE ACTION APPROVING THE PROPOSED RECOMMENDATIONS FROM THE 1600 HOUR COSMETOLOGY CURRICULUM REVIEW COMMITTEE

Ms. Underwood stated a task force met for two days in Sacramento. She summarized the Report to the Assembly Committee on Business and Professions and the Senate Committee on Business, Professions and Economic Development on the review of the 1600-Hour Cosmetology Curriculum, which came out of the task force meeting and was included in the meeting packet. She stated approval of the report does not necessarily mean approval of all recommendations but approves staff to begin working on them. Some of the recommendations, especially recommendations to change the curriculum, require regulatory changes. This report will be included in the Sunset Review Report, which is due at the end of the year.

Ms. Crabtree stated she was a member of the task force and she felt they did a good job of ensuring that every aspect was put into the report.

Mr. Weeks stated his concern that public recognition of the disease process that licensees go through is not emphasized. Licensees refuse to take a client because of a suspicious sore or they find sores while styling that are suspicious. The public should get a better understanding of the lives that can be and have been saved over the years by licensees in the industry sending clients to physicians. There is value in that that legislators and the public should understand.

Ms. Thong stated the finding that the cleaning of foot spas is not expected to be demonstrated during the NIC exam was eye-opening. That might explain a lot about the number of citations in this area.

Public Comment

Mr. Jones stated he was a member of the task force and that the task force included a recommendation for the creation of a hair stylist license, which would have fewer hours than the cosmetology license. He stated over 90 percent of cosmetologists only style hair. One of the means of lowering the barrier to entry concern would be to adopt a hair stylist license. This presents a proactive opportunity for the Board.

Mr. Jones stated the non-industry member, Mr. Weeks, appropriately brought up Senate Bill 999 that says that everyone shampoos their hair today and everyone does their own hair styles, so exempt them from licensure. But it is that initial client consultation and the shampooing process that reveals the skin and scalp the most. The procedures that are part of the curriculum and part of the practical demonstration portion of the licensing exam require candidates to go through

those procedures and, as a result, consumer safety implications are directly involved.

Mr. Jones stated there is concern that the 1600-hour level is too high of a barrier. There are two solutions besides the new hair stylist license: reduce the health and safety and other curriculum requirements or dramatically increase externships and those opportunities for students to work sooner in salons. He suggested reducing the 60 percent requirement of their education before students can begin working in a salon setting as an expert. He suggested that students be allowed to begin an externship in a salon setting after they complete the theory portion of the curriculum, which is at 300 to 320 hours. He suggested dramatically increasing the number of hours students can work per week and the percentage of overall clock-hour credit for externships. He suggested at least 25 percent of students' clock-hour credit be for externships.

Mr. Jones stated the single largest problem the PBFC has with the current externship program is students are not allowed to be paid according to state law. He encouraged the Board to embrace an expansion of externship and to allow students to earn while they learn. Then these perceptions of an arbitrarily high barrier to entry would be somewhat ameliorated. Externship presents another proactive opportunity for the Board to respond to this very real and growing concern of barrier to entry.

Mr. Weeks asked what impact a separate hair stylist only license would have on inspections. Ms. Underwood stated it would have no impact.

Ms. Thong asked if a separate hair stylist only license would reduce the number of citations. Ms. Underwood stated it could. There is a large population who just want to do hair. It would also impact reciprocity because a number of other states have hair-only licenses.

Ms. Crabtree agreed and stated a separate hair stylist only license would help.

MOTION: Ms. Anderson moved to approve the Report to the Assembly Committee on Business and Professions and the Senate Committee on Business, Professions and Economic Development on the review of the 1600-Hour Cosmetology Curriculum to be included in the Sunset Review Report. Mr. Drabkin seconded. Motion carried 7 yes, 0 no, and 0 abstain, per roll call vote as follows:

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

10. Agenda Item #10, DISCUSSION AND POSSIBLE ACTION APPROVING THE BOARD'S LEGISLATIVE REPORT REGARDING THE COSMETOLOGY WRITTEN EXAMINATION (SPANISH LANGUAGE)

Ms. Underwood summarized the Review of the Low Pass Rate of Spanish Written Examinations staff report, which was included in the meeting packet. This is the final report that will be included in the Sunset Review Report, which is due at the end of the year. She highlighted the changes and additions to the data. She stated the NIC created

a vocabulary list, which is posted online. The vocabulary list will now be a requirement for schools to provide to students.

Mr. LaChine stated the information about the Ability to Benefit (ATB) examination stood out because the Board does not know if schools follow through on that. He questioned the high rate of students who answered one of the Candidate Survey Questions that they would consider taking the exam in English.

Mr. Weeks stated he is still frustrated by the Spanish written pass rate because these are numbers that change a person's life – loss of a career and increase in personal debt due to student loans, which circles back to unlicensed activity. The report is good, there are some good suggestions in it, but it will not solve the problem. He suggested thinking out of the box on how to solve this problem.

Mr. Weeks stated the Office of Professional Examination Services (OPES) should come to the table and discuss this specific issue in plain language. There are several parts to this: the student portion, the school portion, and the Board portion. Schools need to get involved in this too because some of this will spill over onto them. He asked if points can be carried over between the two exams. He asked staff to report on reexamination numbers on the written examination and the pass rate and on the test scores of the failed examinees to see by what amount they failed. New Mexico uses the written exam and has a good Spanish pass rate. He asked staff to delve deeper into that to see what is happening in their system that apparently is working there. Ms. Underwood stated New Mexico uses their own exam.

Mr. Weeks suggested directly enforcing the link between the Board and school oversight. He suggested a bilingual proctor. He suggested establishing a Board working group focused on this problem where members from the school community and state resources can be called in to help with this issue and come up with conclusions that might help solve the problem.

Ms. Thong stated it is interesting that both Texas and New Mexico have good pass rates but neither of them uses the NIC version. She asked what the differences are. She noted an interesting comment from the survey about using 6th grade reading language. She asked about the grade level of the translation of the NIC exam. That may have an impact.

Ms. Thong stated the survey responses received from the schools versus the test takers were also interesting. Students indicated they wanted to continue using the Spanish language exam yet many comments from the schools mention that students had a hard time with the terms and feeling that the terminology was different from what they were studying. She asked why there is such a large discrepancy if, in the school setting, students are telling their instructors that they are having a tough time, but in the Board survey, they want to continue taking the test in Spanish. There is something there that the working group can work on.

Mr. Drabkin shared his experience of sending material out to be translated into Spanish, then sending the translation to someone who speaks Spanish and being told the translation was accurate but did not mean what Mr. Drabkin intended to say. He asked if there may be a difference there. Ms. Underwood stated there is an independent

contractor separate from the NIC who does their translations. They also do working group meetings. Board examiners have been on the working group to review the translation. The NIC double-checks the translations to ensure that what they are translating is accurately done.

Ms. Thong stated there is a term in translation called transadaptation, which is slightly different than direct translation. Direct translation translates by specific definition of the wording but does not take context into account. She asked about the type of translation the NIC uses. She stated responses to the survey indicate that there is difficulty with the technical physiology items. She stated, if the NIC vendor could provide a report to the Board on how they are transadapting and not directly translating, it may be helpful as the Board examines why non-NIC exams produce high pass rates and the NIC exam does not.

Mr. LaChine stated the written cosmetology exam statistics are much lower than any other exam. He stated learning the problem areas on the written exam would be helpful, for example the physiology part or the chemical terms part.

Public Comment

Patti Glover, Instructor, Citrus Community College, commented on the financial burden. Community colleges and other public institutions that have industry classes such as ROPs, adult education, and community college offer low-cost, financial aid, grants, and work studies for students. There are other options than private schools, which are more expensive. Public schools would like to be included on any committees.

Ms. Glover suggested looking at the exact questions that the students are missing on the Spanish written exam. When tests are given on a Scantron or computer, it will tell her the percentage of the students that missed each question. She stated in her experience it is the wording that is the problem.

Mr. Jones agreed with Mr. Weeks's comments and the comments from the other Board members. He stated the PBFC's single biggest concern used to be unlicensed activity but, in the policy-setting arena, it is delicensing and deregulating. This is a serious threat to the industry. SB 999 has passed the Senate Business and Professions Committee. That is the primary committee that will be conducting the Board's Sunset Review. It is a clear signal that the committee was not happy. It is disappointing because this Board is one of the best-run Boards in the Department of Consumer Affairs (DCA).

Mr. Jones stated one of the perceptions is that there are two licensing exams. The computer-based exam streamlines the process and assists in retesting students. This led to the ability to split the two portions of the exam so that, if they get a passing score on one but fail on the other, students can only retake the other. One of the unintended consequences of expediting and improving the testing process is the impression that there are two licensing exams. That is what the delicensing entities are using against the Board.

Mr. Jones stated the Board is a regulatory body, not a policy-setting body. The policy is what matters because that is what is laid out in code that the Board has

to follow. Decades ago, policy makers acknowledged that this industry is a hands-on, primarily right-brained, artistic industry, yet license issuance requires assurance that employees are practically competent to prove they will be safe. Policy makers, to make it abundantly clear that they wanted the practical skills to be the important skills tested, put in the Business and Professions Code Section 7338, "in the conduct and grading of examinations, practical demonstrations shall prevail over written tests."

Mr. Jones agreed with the recommendation to give the Spanish and English versions of the test side by side.

Mr. Jones stated Spanish test-takers historically have a lower written performance and they will continue to do so in the future. Among Spanish cultures, literacy is not highly valued. In the aggregate scoring days, the total points were 400, of which 300 were practical and 100 points were written. He stated the need to track Spanish licensees to determine if there is a disproportionate unsafe record. He speculated that there is not. The Spanish test-takers' practical examination pass rate is 82 percent, which indicates that they know how to safely go through the protocols. Licensees are not academic bookworms but are part of a hands-on, dexterous, practical industry. The solution to the low Spanish pass rate is to go back to aggregate scoring.

Margaretha Wells, Dream International Beauty Academy, asked that her apprenticeship beauty academy be included in the survey. Her beauty academy is nontraditional, affordable, and offers students commission work after completing the program. To date, the school has a 100 percent pass rate. She asked that her academy and other apprenticeships be included in committees. She recommended, in regards to the hair styling license, that the hair styling license apprenticeship be involved in that decision as well.

Peter Westbrook, Assistant Professor, Riverside City College, agreed with Mr. Weeks about the average result rates. One of the first things that professors want to see is the average score, along with the number of students who passed and how many failed. He stated his institution teaches in English and has a large percentage of Hispanic students. Hispanic students tend to pass the English examination at approximately 88 percent for the past 20 years that he has been there. He asked if the low pass rates come from specific schools or if it is general. He cautioned against taking too much away from the cognitive assessment without seeing if there are specific test questions that are the problem.

MOTION: Mr. Drabkin moved to approve the report on the Spanish written examinations for inclusion in the Sunset Review, as well as the formation of a working group to focus on Spanish written examinations and to include school representatives, NIC representatives, and language access experts, with the delegation of the appointment of the working group to the Executive Officer with a timeframe for the working group to complete their findings by the end of 2019. Ms. Crabtree seconded. Motion carried 7 yes, 0 no, and 0 abstain, per roll call vote as follows:

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

11. Agenda Item #11, DISCUSSION AND POSSIBLE ACTION APPROVING THE PROPOSED REVISIONS TO THE "HEALTH AND SAFETY TRAINING COURSE"

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

Ms. Underwood summarized the changes to the 2018 Health and Safety Course and reviewed the new Instructor Guide and Student Handbook, which were included in the meeting packet.

Ms. Thong referred to page 157 of the Health and Safety Course under the new Section 10, Physical and Sexual Abuse Awareness. She asked to add something that makes it clear for students about their personal liability of hearing from their customers and reporting or not reporting. It is a barrier for people to report what they see and hear.

Public Comment

Mr. Jones referred to the independent contractor section and strongly encouraged the Board to look at the California Supreme Court decision made three weeks ago, which makes it much simpler but is devastating to booth renters. Booth rental is now illegal.

Don Chaudoin, former salon owner, stated he went from commission to booth rentals and the IRS audited him three years in a row. They told him he could not tell his renters when to come in, he could not answer the telephone for them or furnish them with towels, and his renters had to have a key to the establishment. He stated salon owners cannot rent stations and be in compliance with the IRS.

John Moreno, Vice President, Bakersfield Barber College, asked the Board to sell the material as books because it is difficult to print out these large packets for his students and, when students lose them, he has to reprint them. Ms. Guess stated the Board cannot charge for publications. The form that is on the website is for printing costs. The textbooks cost \$68 to print. A PDF is included on the website that students or schools can either take to a print shop to print out themselves or order.

Mr. Westbrook stated Riverside Community College supports the motion.

MOTION: Mr. Weeks moved to approve the proposed pilot testing and instructor training proposal and that 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. Ms. Crabtree seconded. Motion carried 7 yes, 0 no, and 0 abstain, per roll call vote as follows:

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

12. Agenda Item #12, LEGISLATIVE UPDATE

Discussion and Possible Action on Proposed Bills

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

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

The Board took a watch position on this bill.

b. AB 2134 (Rubio) – Cosmetology Students – Externships

Mr. Drabkin moved to support AB 2134. Ms. Codorniz seconded.

Public Comment

Mr. Jones referred to Assembly Bill (AB) 2134 and asked the Board to consider his past comments about externships being one of the tools to release some of the delicensing pressure. The PBFC is encouraging policy makers to dramatically expand externship opportunities across all licensing categories. He suggested decreasing the percentage of school required before students qualify, increasing the amount of clock-hour credit students can get, removing the limit in law that students can only work in a salon ten hours per week, and allowing students to be paid.

Ms. Cochran stated estheticians are not included in AB 2134 on its own. Externships can be performed legally if students are going for a cosmetology license, but not if students are going for an esthetician license.

Ms. Glover stated estheticians were not included in this particular version of AB 2134 because they were not in the original version of the bill. It has gone so far now that someone would need to talk to Assembly Member Rubio's office to see what can be done to add estheticians. She suggested also adding electrology and apprenticeship programs.

Mr. Westbrook stated the RCC supports AB 2134.

Ms. Wells echoed Ms. Glover's comments on AB 2134.

Ms. Thong made a friendly amendment to support with the suggestion of changing the language to include all licenses within the Board of Barbering and Cosmetology.

Mr. Drabkin and Ms. Codorniz agreed.

Mr. Drabkin stated externships provide free labor. If salon owners are asked to pay them a wage some time in the future, they may not support the externship programs. He stated his concern that some salon owners may take advantage of externships. It is a slippery slope.

Ms. Crabtree stated she has externships in her salons, but what they can do is limited. Often, they shadow a service provider.

Public Comment

Ms. Glover stated the externships are unpaid. The number of hours per week is limited to eight. They can do services in a salon but are not allowed to take the place of a paid employee. It is not free labor, it is an opportunity to give students hands-on learning in a professional environment.

Mr. Westbrook stated some funding mechanisms do not allow students to be paid while in school.

Carolyn Barboza, Barboza Barber Academy, spoke in support of externship programs.

Mr. Jones stated the PBFC's position is not that externships should be paid but that salon owners should have that option.

Ms. Glover reminded the Board that the externship program is controlled by the school and the number of hours the students can work is limited. Externships are voluntary and students get clock hours and operation hours to be part of an externship program.

Mr. Westbrook stated he heard Mr. Drabkin's concern and agreed that students may be taken advantage of. He suggested that guidelines might be appropriate to guard against that.

Mr. LaChine asked about the Board's jurisdiction over this issue. Ms. Underwood stated it is minimal in registering the externs and externs would be treated as any other person on enforcement issues.

Mr. Weeks stated the bill includes everyone under the Board's licensing.

MOTION: Mr. Drabkin moved to support AB 2134 if amended to include all licenses under the Board of Barbering and Cosmetology's control.

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

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

c. AB 2138 (Chiu and Low) Denial of Application, Revocation or Suspension of License: Criminal Conviction

Ms. Underwood stated AB 2138 will create barriers to licensing. She and Ms. Guess attended an information hearing on this bill recently and voiced concerns that the bill will do the opposite of what the authors are intending to create and will create work for the Board beyond current staff capacity – it would require 20 extra staff to handle the extra workload to implement this bill. Ms. Guess has also attended meetings with the DCA and other boards, all of which do not support this bill. Ms. Underwood recommended an oppose position.

Public Comment

Mr. Jones stated the co-author of this bill will be the co-chairman of next year's Sunset Review. This is a politically-sensitive effort and to flatly oppose may not be well-received.

Ms. Wells stated she supports barbering and cosmetology and she supports second chances.

Ms. Crabtree suggested opposing the bill since the Board is already educating the licensing in jails and prisons.

Ms. Thong stated the right thing to do to protect licensees is to oppose this bill. The fingerprinting requirement is a concern because many individuals come through this industry as a second chance.

MOTION: Ms. Thong moved to oppose AB 2138. Mr. Drabkin seconded. Motion carried 7 yes, 0 no, and 0 abstain per roll call vote as follows:

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

d. AB 2775 (Kalra) – Professional Cosmetics: Labeling Requirements

Public Comment

Mr. Jones stated the PBFC does not have a position on this bill but he had two concerns with the Board taking a position. One is it is beyond the scope of the Board. The other is the potential costs to the manufacturers. Professionals get safety data sheets (SDS) with their products. Furthermore, the bill requires manufacturers to do extra labeling just for California licensees.

Ms. Cochran stated she does not receive SDS. If manufacturers will try to charge estheticians for increasing the labeling requirements on products used on California consumers, then they are in the wrong and should consult CalOSHA.

MOTION: Ms. Crabtree moved to support AB 2775 if amended to include all licenses under the Board of Barbering and Cosmetology's control.

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

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

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

The Board did not take a position on this bill.

f. SB 984 (Skinner) – Board Representation: Women

The Board did not take a position on this bill.

g. SB 999 (Morrell) – Cosmetology and Barbering Scope of Practice Revisions

Ms. Thong stated SB 999 will create problems and may do the opposite of what the author intended. This bill may also impact wages.

Public Comment

Mr. Jones stated this bill is a serious threat to the industry. The Chair of the Senate Business and Professions Committee will also chair the Sunset Review committee next year. He stated the need to look at all regulations and barriers to entry to see what can be done collectively, as an industry and as a Board, to decrease artificial barriers and look for creative, proactive ways to remove some of the steam that is being built up. SB 999 is a back doorway to deregulate the industry. Dramatically increasing externships is one potential solution.

Ms. Cochran stated estheticians do not shampoo hair but they strongly oppose SB 999. She stated she spoke at the hearing on this bill because her membership was so concerned that this is openly an attack on deregulating licenses. She stated the author's justification for why this should be allowed was the example of a freelance hairstylist who goes to individuals' homes and styles hair. Ms. Cochran stated the person in the example was practicing out of scope because she was not registering those appointments that she made in a brick-and-mortar salon. The lawmakers do not understand the number of individuals that are out there working out of compliance with the scope of practice of the Board of Barbering and Cosmetology. They have no exposure to how much illegal activity is in the marketplace. She stated the need to educate lawmakers about that and that the Board is serious about public safety. This is not a safe bill.

Ms. Thong stated the elected officials need to hear from many licensees about how they feel. It is one thing for that message to come from the Board; it is an entirely different matter to hear from constituents within the district and across the state.

MOTION: Mr. Weeks moved that the Board of Barbering and Cosmetology strongly oppose Senate Bill 999 on the basis of significant health and safety risk to consumers, licensing and examination concerns, national implications on the recognition of California licensing and the elimination of national reciprocity, making public safety inspections ineffective, the negative effect on the California economy, and the detrimental effect on licensee wages and business income. Ms. Thong seconded. Motion carried 7 yes, 0 no, and 0 abstain per roll call vote as follows:

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

h. SB 1492 – (Hill) (SBP) Examination Failure Notification

MOTION: Mr. Drabkin made a motion that the Board supports Senate Bill 1492. Ms. Codorniz seconded. Motion carried 7 yes, 0 no, and 0 abstain per roll call vote as follows:

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

13. Agenda Item #13, PROPOSED REGULATIONS

Discussion and Possible Action on Proposed Bills

Ms. Underwood summarized the proposed changes to the regulations, which were provided in the meeting packet.

Ms. Underwood stated the Board previously approved language for the proposed regulation packages for Sections 950.10, 961, and 904; however, after further review by the DCA, additional changes were made. The previously-approved changes and new recommended language for the three regulation packages were provided for Board review and approval. Each regulation package required a separate vote as follows:

a. Title 16, CCR Section 950.10 (Transfer of Credit or Training)

MOTION: Mr. Drabkin made a motion that the Board approves the proposed changes to the regulations. Ms. Codorniz seconded. Motion carried 7 yes, 0 no, and 0 abstain per roll call vote as follows:

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

b. Title 16, CCR Section 961 (National Interstate Council (NIC) Translation Guides)

MOTION: Mr. Drabkin made a motion that the Board approves the proposed changes to the regulations. Ms. Codorniz seconded. Motion carried 7 yes, 0 no, and 0 abstain per roll call vote as follows:

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

e. Title 16, CCR Section 904 (Definition of Access)

MOTION: Mr. Drabkin made a motion that the Board approves the proposed changes to the regulations. Ms. Crabtree seconded. Motion carried 7 yes, 0 no, and 0 abstain per roll call vote as follows:

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

Ms. Underwood stated the following proposed regulations in Sections 974, 974.3, and 974.4 have been combined into one rulemaking package and require only one vote as follows:

c. Title 16, CCR Section 974 (Administrative Fine Schedule)

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)

MOTION: Ms. Thong made a motion that the Board approves the proposed changes to the regulations. Ms. Crabtree seconded. Motion carried 7 yes, 0 no, and 0 abstain per roll call vote as follows:

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

Ms. Underwood stated staff is currently working on the following proposed regulations in Sections 978, 979, 980, 980.4, 981, 982, 984, and 989; 974.1; and 972 and will present proposed changes at the next meeting for Board review:

i. Title 16, CCR Sections 978, 979, 980, 980.4, 981, 982, 984, and 989 (Health and Safety Regulations)

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

f. Title 16, CCR Section 972 (Disciplinary Guidelines)

14. Agenda Item #14, AGENDA ITEMS FOR THE NEXT MEETING

Ms. Underwood stated the next Board meeting is scheduled for late August, where the Board will begin discussion on the upcoming Sunset Review. There will possibly be a teleconference meeting prior to the next Board meeting to discuss new topics to bring forward at the Sunset Review hearing.

Public Comment

Mr. Jones suggested restarting a student registration process that this Board enforced decades ago as a simple means to stop the selling of hours. He applauded staff for their work with the schools. He also suggested the topic of externships as an answer to the growing concerns of artificial barriers to entry.

Ms. Underwood stated a full report will be presented to the Board at the next meeting on the work staff has done with the schools. The Bureau Chief from the BPPE plans to be in attendance.

15. Agenda Item #15, CLOSED SESSION

The Board adjourned into closed session.

16 Agenda Item #16, ADJOURNMENT

There being no further business, the meeting was adjourned at 1:39 p.m.



DRAFT
CALIFORNIA STATE BOARD
OF
BARBERING AND COSMETOLOGY
BOARD MEETING
MINUTES OF JULY 23, 2018

Board of Barbering and Cosmetology
Department of Consumer Affairs
1747 North Market Blvd.
HQ2 Hearing Room 186, 1st Floor
Sacramento, California

BOARD MEMBERS PRESENT

Dr. Kari Williams, President
Lisa Thong, Vice President
Jacquelyn Crabtree
Andrew Drabkin
Joseph Federico
Coco LaChine
Steve Weeks

STAFF MEMBERS PRESENT

Kristy Underwood, Executive Officer
Michael Santiago, Board Legal Representative
Tami Guess, Board Project Manager
Marcene Melliza, Board Analyst

BOARD MEMBERS ABSENT

Bobbie Jean Anderson
Polly Codorniz

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, PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA

No members of the public addressed the Board.

3. Agenda Item #3, DISCUSSION AND POSSIBLE ACTION RELATED TO THE SUNSET REVIEW

Kristy Underwood, Executive Officer, reviewed the recommended statutory changes proposed in the staff memo, which was included in the meeting packet.

Mr. LaChine asked how Section 7363 overlaps with the work of the California Bureau for Private Postsecondary Education (BPPE). Ms. Underwood stated it does overlap with the BPPE in the sense that the BPPE approves the educational program but the Board approves the curriculum. There is more that the Board can do during school investigations with the BPPE. This added section gives the Board more authority to ensure that the approved curriculum is being taught.

Ms. Thong referred to Section 7316(b)(8) and suggested adding language that it must be Food and Drug Administration (FDA) approved.

Mr. Federico stated his appreciation for the consistency that the recommended statutory and scope of practice amendments bring.

Mr. Drabkin asked if the additional license categories open up the possibility of more individuals practicing outside their new scope. Dr. Williams stated the idea is to reduce consumer harm and unlicensed activity by opening up more options and the possibility for dual-licensure.

Mr. Weeks suggested listing on the license what the license holder is licensed to do. This would help both consumers and inspectors.

Mr. LaChine agreed. He stated consumers may assume that a license holder is licensed to do everything.

Mr. Federico moved to approve the recommended statutory amendments as presented. Ms. Crabtree seconded.

Ms. Underwood suggested amending the motion to strike Section 7363(b) in its entirety. Mr. Federico and Ms. Crabtree agreed.

Public Comment

Fred Jones, Legal Counsel, Professional Beauty Federation of California (PBFC), publicly acknowledged and thanked the Board for working to ensure schools are not defrauding students and undermining the integrity of licenses and for working with the BPPE to shut down three schools that were selling hours.

Mr. Jones stated his concern about the term "compliance levels" at the end of Section 7363(b) and also stated the sentence is superfluous because Section 7363(c) reiterates the authority to inspect. He suggested striking 7363(b) in its entirety.

Jaime Schrabek, Precision Nails, suggested including the word "advertising" in Section 7320 because licensees can relate to it.

Ms. Underwood stated staff will continue to work on the advertising aspect of Section 7320 and will work with the Medical Board on the clarity of the language.

Ms. Schrabek suggested including language under Section 7362(c)(1)(D) that there is proof of the selling of hours as it is happening, not at the end of the course.

Ms. Underwood stated current findings are addressed under the Access to Inspections section. Section 7362(c)(1)(D) clarifies the authority of the Board to move forward with formal disciplinary action.

Wendy Cochran, Founder, California Aesthetic Alliance (CAA), stated her appreciation to the Board for including estheticians as colleagues, equal to the other licensed disciplines in the industry. She suggested changing the proposed language in Section 7342 to "licensed establishment in good standing."

Ms. Underwood stated Ms. Cochran's comment may be better addressed in the next agenda item.

MOTION: Mr. Federico moved to approve the recommended statutory amendments as amended. Ms. Crabtree seconded. Motion carried 7 yes, 0 no, and 0 abstain, per roll call vote as follows:

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

Mr. Federico moved to approve the recommended scope of practice amendments as presented. Ms. Crabtree seconded.

Public Comment

Mr. Jones stated creating new license categories creates new complications. He spoke in support of a new hairstyling license to answer the concern about barriers to entry into this industry, questioned the new hair removal (waxing) license, and spoke in opposition to the new make-up license. He stated the hair removal licensee could arguably make a living providing waxing services, but he questioned that the make-up licensee could make a living outside of Hollywood. He stated his concern that new license categories may create a system where the license can provide protection at an inspection moment, but when inspectors are not present, individuals will work beyond their scope of practice in order to earn a living.

Mr. Jones spoke in support of externships. He suggested helping students work in salons once they have received enough health and safety and theoretical content to be safe. This will address barriers to making a living in the industry. He suggested that salons pay the students as long as they are enrollees working toward a license.

Mr. Jones spoke in support of reinstating aggregate scoring of the licensing exam. This will remove one of the talking points about barriers to entry.

Mr. Jones stated these suggestions would make a powerful argument during next year's sunset review because they address the barriers to entry issue.

David Wolfe, Legislative Advisor, R Street Institute, stated individuals can make an honorable living doing only hairstyling but the required 1,300 hours is excessive.

Ms. Schraback stated the nail care scope of practice contains the shortest description of all license categories and yet is the license category that generates the most complaints. She stated there is nothing in the description about extensions, acrylics, or gels. She stated the parentheticals "from the elbow to the fingertips" and "from the knee to the toes" should come directly after the term "massaging" because those are the areas being massaged.

Ms. Schraback stated students learn about health and safety. Once that information is learned, it is practiced every time a service is performed. It does not take 200 hours to teach students what to do. It is about getting students into the practice of doing it. Licensees are judged on the quality of work they do. It is

assumed that they are safe because they have gone to school, are licensed, and practice it every day in the salon.

Ms. Cochran stated estheticians can make a fine living doing \$65 eyebrows, waxing only, or being a lash artist. She stated the proposed language uses the terms "live tissue" and "non-living uppermost layers." She stated it is all live tissue until it leaves the body. She stated Section 7316(b)(4) refers to the epidermis but some skin care preparations and processes also involve the dermis. She suggested using the terms "live tissue," "non-living tissue," "stratum corneum," "epidermis," and "dermis" where appropriate.

Ms. Cochran stated her concern about the equipment used in the scope of practice. The proposed language does not use the term microdermabrasion as an approved machine but it is currently included in regulation. She suggested including the terms microdermabrasion, microcurrent, and ultrasonic in the list of esthetic devices and striking the phrase "but are not limited to."

Richard Hedges, former Board member, spoke in support of a waxing license; it could possibly improve the quality of life for individuals in the nail industry. He stated establishments under inspection often tell inspectors that they have a person on-call to perform waxing services while inspectors find hot wax pots on the premises. It is difficult for inspectors to validate establishments' claims. He asked if the Board can control something so narrow as the selling of hours. He asked if the Board could find schools willing to carve out the small niches of hours required to give remedial education to individuals who have been cited.

Mr. Hedges agreed with Mr. Jones on the make-up license. Individuals who do make-up in department stores earn a good living from the promotional money received from cosmetics companies, not from doing applications of make-up. Unless that comes down to the salon level, make-up licensees will not earn a living outside of public assistance.

Mr. Federico stated schools will take it up if the niche is provided for smaller programs. The smaller programs would not meet the minimum number of hours to be eligible for financial aid. As a solution, many schools teach programs without the assistance of federal financial aid as a cash course. Title IV schools sometimes use the smaller cash-based programs to help offset against their 90-10 and still provide a viable means for that kind of education.

Laura Embleton, Associated Skin Care Professionals and Associated Hair Professionals, asked if cosmetology licensees could still shape individuals' beards or if it is now limited to the barbering scope of practice.

Ms. Embleton suggested adding dermaplaning as an option (D) under Section 7316(d)(2) on page 7, for skin care licensees.

Ms. Embleton referred to Section 7316(d)(3) and stated many schools teach extraction with lancets. It is part of the core curriculum and is allowed in most states. She suggested changing the language to "extraction with an extraction tool, including but not limited to non-needle extraction tools and disposable lancets."

Maile Pacheco, founder, beGlammed, stated she sits as an advisor for several make-up schools in the state of California. She stated she spends a lot of time with pre- and post-graduates and pre- and post-state-board licensed cosmetologists and often hears that they are disappointed. They are under the impression that they go to cosmetology school to learn how to do make-up but the curriculum is not built out as thoroughly as they would like to see, the technology and products used are severely outdated, and the education behind lashes and false lashes is lacking.

MOTION: Mr. Federico moved to approve the recommended scope of practice amendments as presented. Ms. Crabtree seconded. Motion carried 7 yes, 0 no, and 0 abstain, per roll call vote as follows:

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

4. Agenda Item #4, DISCUSSION AND POSSIBLE ACTION REGARDING PROPOSED REGULATORY LANGUAGE TO IMPLEMENT BPC SECTION 7402.5, PERSONAL SERVICE PERMIT

Ms. Underwood reviewed the proposed regulations built from prior industry meetings, Board meetings, and Licensing Committee meetings for the Personal Service Permit (PSP), which were included in the meeting packet. Hard copies of recommendations received by staff were presented at the meeting. Examples of recommendations received were to remove the PSP from being tied to a brick-and-mortar salon and alternative background check information language.

Ms. Crabtree stated she understands individuals and legislators not wanting the PSP to be tied to a brick-and-mortar salon, but stated her concern about creating more underground income, more attrition in the industry, more default on student loans, and the new ABC law about independent contractors not being allowed to work in the industry. Tying the PSP to a brick-and-mortar salon allows the Board some amount of control for consumer protection.

Mr. Federico referred to Section 965.2(b)(1) and stated the need for individuals to provide proof of at least the minimum amount of liability insurance when applying for a PSP. He asked how that will work in the process and if the Board can be notified when PSP holders lose their insurance. He stated the Board will never be able to enforce regulations out in the field but can log consumer contact information as a way to protect consumers. He asked how the Board can ensure that every consumer receives the information needed to file complaints. He asked about the inspector and enforcement processes for PSP holders.

Ms. Thong stated the difficulty that the Board must solve is to protect consumers while allowing licensees free market to pursue whatever they choose. Consumers do not know how to protect themselves. She stated she also wondered how the Board will ensure that every consumer receives the necessary information to file complaints. She suggested including language that PSP holders must present the message to every client. She asked about staff workload and collecting client information for follow-up

evaluation. She asked how to ensure that consumers are not susceptible to harm in their own homes if the PSP is not tied to an establishment.

Mr. Weeks spoke in support of the staff draft of the PSP. He stated the primary problems that he has struggled with about the PSP are the health and safety issues. The Board currently sends inspectors out to salons that know they will be inspected and have been supplied with a cheat sheet on how to pass an inspection but 80 to 90 percent of salons are cited for health and safety violations. He asked, if that is the case for salons, how the Board can authorize sending PSP holders out who are completely out of Board control. He stated it is more agreeable when the PSP is tied to an establishment so there will be a level of control to determine if a PSP holder is ready to go out, is properly equipped, and understands the laws. Safety of the public is statutorily mandated. There is so much at risk on the public safety side that the PSP has to be locked into the establishment license. The establishment needs to be the eyes and ears in the inspection process to provide a chance at having some control and preventing safety problems.

Dr. Williams stated it will be difficult to enforce and implement the PSP when tied to an establishment because a number of licensees are not in establishments.

Ms. Underwood agreed that some type of handout should be required for consumers with a consumer message about the complaint process and that PSP consumer contact information should be required.

Mr. LaChine agreed that a handout should be required to prove the consumer was informed. He stated, although he liked the idea of connecting the PSP to an establishment, it is unrealistic. He has heard that individuals like the idea of a PSP but would never want to be attached to an establishment.

Mr. Drabkin suggested that individuals be required to hold their licenses for two years in good standing prior to applying for a PSP, and individuals who are licensed in another state would be eligible to apply for a PSP.

Dr. Williams agreed that gaining experience is important prior to applying for a PSP.

Ms. Thong stated the majority of PSP holders will be working on their own, not for an app like Glamsquad. She suggested creating a best-practices guide for PSP holders based on what the Board would like to see them do. She suggested working with the app world and making clear to them what the Board is looking for to implement best practices on their end. This could be an opportunity to increase consumer awareness.

Mr. Federico suggested giving a survey to consumers who have received services from a PSP as a way to retroactively evaluate the PSP holder.

Ms. Underwood stated her concern about privacy issues. She suggested that the Board be careful in how they directly reach out to consumers and what it does with consumer information. She suggested that the holder of the PSP maintain records of their clients and the services they performed to be provided to the Board, upon request.

Mr. LaChine stated consumers who file complaints will name the PCP holder who provided services.

Mr. Drabkin stated the Board is being asked to create two levels of licensee classification - those that will be inspected and those that will not. The Board will deal with complaints from PSP services but any kind of inspection or oversight will not apply to PSP holders because there is no way to inspect them.

Ms. Thong stated establishment owners take on the liability of consumers who enter into their space but consumers who choose to invite someone into their home for services take on that liability.

Public Comment

Ms. Pacheco stated beGlammed has been in contact with the Board since prior to its launching over four years ago. She stated she verified through conversations with CEOs of other companies and apps that there are thorough vetting processes for how they hire freelance professionals. Most of them do not hire recent graduates but require a certain number of years' experience. She agreed with the Board's decision to require a minimum of two years' experience prior to applying for a PSP.

Ms. Pacheco referred to the fact that 90 percent of salons regulated by the Board are a five-person team or smaller and that the Board is concerned about protecting them. She stated it is important to protect all cosmetologist licensees. She asked about the rest of the population of licensed cosmetologists who cannot find work at a salon because salons are currently suffering. She stated she heard that most complaints come from home-based salons that are unregulated or from salons but rarely are there complaints about in-home or on-demand services. She stated part of that is that the issues are not that of a service provider, it is an issue of the establishment owner and not regulating their providers in their space and upholding the sanitation practices that the Board puts into place.

Ms. Pacheco stated the app can work together with the Board to enforce PSPs. She suggested that the app would be held accountable for ensuring that licenses are valid and active. She stated she uses an online CRM program, which sends her a notification when licenses expire. She reaches out to licensees 7 to 10 days prior to the expiration date and their profile is suspended until the renewed license is received. This is a way that the app would can help enforce PSPs. She stated she does thorough background checks and requires that her service providers are insured.

Ms. Pacheco stated the handout is a great idea. She stated her beGlammed professionals leave a card with clients when services are done, thanking them for their booking, that includes a code to make it easier for customers to use their services again. She stated beGlammed would be willing to work with the Board on including another handout or adding information on the card about the PSP language and about consumer protection.

Mr. LaChine asked if the beGlammed app allows consumers to rate their experience.

Ms. Pacheco stated it does. She stated the app takes on any complaints and evaluates their service providers. She stated to date there has not been a health-

related or theft complaint. Most complaints are that the service provider was late or that they were unhappy with the style they received.

Mr. Federico asked about the app's cut.

Ms. Pacheco stated her service providers get a 60 percent commission on services they provide plus a 15 percent gratuity. She stated beGlammed gets a 40 percent cut for marketing and facilitating the transactions.

Mr. Weeks asked if Ms. Pacheco has looked at becoming an establishment or partnering with establishments.

Ms. Pacheco stated she discussed tying beGlammed to a brick-and-mortar establishment with staff prior to its launch four years ago. Staff determined that beGlammed is not the service provider but is more of a platform that connects professionals with clients and cannot technically be licensed.

Ms. Crabtree asked if beGlammed provides supplies for their providers.

Ms. Pacheco stated beGlammed does not provide supplies or training for their providers.

Mr. Hedges stated he agreed that the PSP should be tied to an establishment but understands that the Board is creature of the Legislature. He suggested treading cautiously. He stated Ms. Pacheco brought up a point he had not thought about - creating beGlammed as a licensed establishment. He suggested making apps responsible to work with licensed individuals.

Mr. Hedges spoke in support of requiring licensees to hold their licenses for two years in good standing prior to applying for a PSP.

Mr. Hedges cautioned that apps may be used as a way to access homes to be used for nefarious purposes, too.

Tanique Jonesbell (phonetic), cosmetologist, spoke in support of the revised draft for the PSP. She stated she is both a consumer of freelancers and is a freelancer herself. She stated she has to hire freelancers to do her mother's hair because her mother cannot go to licensed establishments due to physical and mental illness issues. She stated she trusts the service providers because she knows that hired professionals have gone to school and have learned about health and safety. She stated the PSP will allow her to have the schedule she requires to take care of her mother.

Ms. Jonesbell stated she has applied for apps. She stated apps do require licensing and most of them require applicants to be licensed for at least two years. She stated they do kit checks and watch applicants perform services to ensure proper sanitation. She stated apps ensure their providers are doing everything required by regulations.

Delaney Hunter, Managing Partner, California Advisors, LLC, on behalf of Glamsquad, spoke in support of the revised draft for the PSP. She stated Glamsquad's mission is to help licensed beauty professionals connect with clients in a flexible and empowering way and to help consumers find services

that meet their needs. She stated Glamsquad is happy to work with the Board on an ongoing basis around notice and best practices. She stated Glamsquad wants to think about what the requirement would be relative to licensing. It requires that licensees have two years' experience. The question is whether that is comparable across the industry. She stated students can graduate, get a license, and get a job in an establishment the next day. She asked if it would create a false gap between what can happen in an establishment versus an app or freelance space. She stated Glamsquad requires two years' experience because their clientele demand it.

Ms. Hunter stated Glamsquad will continue to be available and will continue to participate in these hearings to ensure that the consumer protection that the Board requires happens and that the clientele continues to get the flexibility they need.

Laura Bennett, Executive Director, TechNet, California, spoke in support of the revised draft for the PSP. She stated Glamsquad is a member of TechNet. She suggested providing information on the user interface to the consumers in a thoughtful manner that can also be complied with by individuals who are not part of an app but choose to have a PSP on their own so that they, too, can comply with a disclosure notice.

Ms. Bennett also suggested that restrictions being placed on the PSP and getting the application parallel the restrictions when opening a salon. She stated TechNet would be happy to help work on the language the Board is considering putting forth specifically as it relates to apps.

Mr. Wolfe stated the two-year-experience requirement prior to applying for a PSP seems arbitrary. He provided the examples of UBER and LYFT and stated individuals are not required to have an automobile license for two years prior to signing up. He stated licensees are not inexperienced when they become licensed - they have 1,600 hours of education and training.

Mr. Santiago stated UBER requires a minimum of one year of licensed driving experience in the United States - three years, if under the age of 23.

Mr. Drabkin asked Mr. Wolfe if he felt 1,600 hours is okay for a licensee.

Mr. Wolfe stated the R Street Institute introduced Senate Bill (SB) 999, which removed licensure requirements for shampooing and other hairstyling applications. 1,600 hours is excessive. He stated R Street Institute is willing to continue the discussion with the Board about appropriate licensure requirements. He stated he liked seeing the new hair styling license category but thought that 1,300 hours is too many. He stated the Board is moving in the right direction.

Ms. Crabtree stated she is in the hair industry and cares about it. She stated experience is important.

Mr. Jones suggested that out-of-state licensees be required to have a minimum of three years' experience prior to applying for the PSP.

Mr. Jones stated the PSP could be altered by policymakers next year. He suggested taking Mr. Weeks's approach: be strong in the Board's mandate to protect consumers. He encouraged the Board not to compromise its mission of protecting consumers and to consider the unintended consequences of not connecting the PSP to an employer/employee-based establishment. He stated the Supreme Court determined that all apps will be illegal as soon as the IR promulgates regulations and catches up. He stated, if an individual holds themselves out as a business that does beauty or barbering services, by the ABC's number two test, B, they have to be an employer. He stated, if the Board does not require PSP holders to be employees, it is ignoring the current law as laid out by the highest court. Attaching PSPs to an establishment is the only and best way to assure proper protocols and inspection of their kits.

Mr. Jones cautioned the Board not to base its decisions on the brighter angels of human nature and the great business models, but to consider the darker side of human nature and where people will end up going and using what the Board passed as justification to go there. That is part of the unintended consequences.

Mr. Jones suggested combining the final sections (g) and (h) on the revised draft of the PSP. He cautioned that, when referencing a specific code section, it is not implied that all other Health and Safety Code sections not referenced can be ignored. He agreed with referencing Section 979 but suggested adding "and all Health and Safety Code Regulations."

Ms. Guess stated Section B of the Supreme Court decision deals with work being performed that is the same. The app-based businesses are basically the real estate holders - they set up the administrative work and appointments. They are doing something different than the independent contractors they hire.

Mr. Jones stated the Supreme Court examples showed it does not matter who has the real estate or where the work is being done. If individuals do something for the hiring entity and they are holding themselves as experts in that, they are by definition employees.

Ms. Embleton stated the PSP seems to be what, in the massage world, is the massage establishment license. It seems that the intent of this is to keep track of people. If this is optional, people will go underground. Requiring it enables oversight. They are all licensed individuals and can be disciplined because of that license. Getting a PSP is a way of keeping track of everyone out there practicing independently. If the intent is to keep track of licensees, it should be available for people who are practicing independently and not necessarily employees.

Ms. Embleton stated there should not be a requirement to be a practitioner for two years prior to applying for the PSP because it will only drive people underground. They will practice anyway if they can get away with it and then pop up in two years to apply for the PSP. It will not stop licensees from being independent contractors and going into people's homes. If that is made a requirement, they will not report it but it will still happen.

Ms. Embleton stated states often require massage therapists to keep non-HIPAA-related information for two to three years and, if the Board needs to access it, they can request the records. It is not up to the Board to maintain that information. She suggested requiring all licensed PSP holders to keep records for a number of years.

Ms. Embleton referred to Section (e) on the back side of the page and stated most of the time estheticians will not do basic facials. They will mostly do waxing and lashes in the home. She suggested adding waxing and lash extensions to that and requiring the education to perform waxing services.

Ms. Embleton suggested making it a big overarching thing that is not tied to an establishment because, if the PSP is tied to an establishment and being an employee of an establishment, all the independent contractors will be lost.

Ms. Embleton stated her organization offers liability insurance. She suggested a minimum of \$2 million per occurrence and \$6 million per member per year.

Ms. Cochran stated the way this is being presented, until the DIR steps up to say they must be employees, it kicks out the entire esthetics license category - 83,000 licensees. She stated estheticians typically do not bring their whole kit into someone's home but are more likely to do any sort of waxing, hair removal, sugaring, and lashing, which are not included on the list in the revised draft of the PSP. She highlighted her earlier request to include that PSP holders' licenses need to be "in good standing" and meet higher standards to be a better service provider representing the industry.

Gary Federico, Federico Beauty Institute, stated he took on the mantra years ago from another school owner friend who always stated students come first. The Board's mantra is consumer protection comes first. There are good and bad points with the PSP. The Board needs to figure out where to stand and how to fight it. He stated the industry is always being chased and historically this Board has seldom been proactive. He suggested that the Board ask for more funding to protect consumers and try to control it by bringing in more inspectors to stay on top of the industry. He suggested an annual renewal of the PSP and tying it to insurance.

Al Enos, citizen of California, stated, although SB 999 is currently not active, it will return. This bill would remove the shampooing, coloring, waving, cleansing, and beautifying of individuals from the practice of barbering and cosmetology. To do nothing at this time is to declare there is no reason to take action or do anything. Doing nothing is a losing argument. An action-oriented response mitigating future legislative action could be a winning argument. He asked if SB 999 would have been drafted if the PSP was an acceptable legislative document.

Mr. Enos stated there is more than one alternative to being proactive. The Board tends to defend its current course of governing by looking at the safety side of the issue. He suggested an approach that balances safety with service for the citizens of California. The medical profession has arrived at this balance of safety

and service. He gave examples of licensed, independent medical personnel who are not under the control of a medical facility who come to his home to take care of his wife. This type of proactive approach could get the positive attention of the Legislature.

Gina Frisby, Office of Assembly Member Evan Low, thanked the Board on behalf of Assembly Member Low for considering the PSP and for all the hard work put into the effort in adopting a PSP that does not tie the applicant to a licensed establishment or within a certain radius. As Chair of the Business and Professions Committee, Assembly Member Low has paid close attention to and thought deeply on these issues. The PSP will allow licensed professionals to bring services to clients and allow businesses to innovate. The Board's proposed PSP is positive in many respects. It protects consumers by limiting the scope of services, requiring background checks, mandating insurance, and ensuring proper recordkeeping by the applicants, which currently is not happening. She stated Assembly Member Low looks forward to working with the Board on the outstanding items discussed today and on the sunset review next year.

MOTION: Dr. Williams moved to adopt the revised draft of the proposed regulatory language to implement BPC Section 7402.5, Personal Service Permit, to direct staff to implement the changes that the Board discussed today, and to bring back a revised version at the next Board meeting. Mr. Drabkin seconded. Motion carried 4 yes, 3 no, and 0 abstain, per roll call vote as follows:

The following Board Members voted "Yes": Drabkin, LaChine, Thong, and Williams.

The following Board Members voted "No": Crabtree, Federico, and Weeks.

5. Agenda Item #5, PROGRESS REPORT REGARDING INSPECTOR SALARIES, CLASSIFICATIONS, AND VACANCIES

Ms. Underwood stated staff continues to work with the Department of Consumer Affairs. The inspectors' bargaining classification will be up for bargaining in 2019. She stated the hope that the unions will submit suggestions for increased pay that all the Boards can support and work with.

6. Agenda Item #6, LEGISLATIVE UPDATE

Discussion and Possible Action on Proposed Bills:

Ms. Underwood presented her report.

a. AB 2138 (Chiu and Low) Denial of Application, Revocation, or Suspension of License: Criminal Conviction

This bill has been amended and has improved. The largest issue with the bill is the required fingerprinting of the 500,000 existing licensees. After what has been experienced with schools, fingerprinting new applicants could be a benefit to the Board. The Board submitted an oppose position to the committees that have heard this bill.

b. SB 999 (Morrell) Cosmetology and Barbering Scope of Practice Revisions

This bill did not move out of the committee.

7. Agenda Item #7, PROPOSED REGULATIONS

Discussion and Possible Action of Proposed Changes:

a. Title 16, CCR Section 974 (Administrative Fine Schedule and Citation of Establishments, Individuals for Same Violation)

b. Title 16, CCR Section 974.3 (Installment Payment Plan for Fines)

Ms. Underwood asked the Board to approve updated language that addresses errors found during review, such as amending the fine for Sections 989, 993, and 994 to reflect that per the regulations those fines would only apply to the establishment license holder and now the individual.

Dr. Drabkin asked if a PSP holder cannot be fined for using a hazardous substance per Section 989. Ms. Underwood stated staff will review the regulations offline.

MOTION: Dr. Williams moved to adopt the updated language for the administrative fine schedule. Ms. Thong seconded. Motion carried 7 yes, 0 no, and 0 abstain, per roll call vote as follows:

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

8. Agenda Item #8, AGENDA ITEMS FOR THE NEXT MEETING

Mr. Drabkin asked for information on the number of students who graduated from the schools recently shut down and took the exam. He asked for the pass/fail rates and how many of those were broken down by language. Ms. Underwood stated staff has not processed applications for those schools in one and a half to two years. She stated an update will be provided at the next meeting on the school situation.

9. Agenda Item #9, CLOSED SESSION

The Board entered closed session.

OPEN SESSION

The Board resumed its proceedings in open session. No action was announced as having been taken.

10. Agenda Item #10, ADJOURNMENT

With no further business, the meeting was adjourned.



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MEMORANDUM

DATE August 11, 2018

TO: Members, Board of Barbering and Cosmetology

FROM: Kristy Underwood, Executive Officer

SUBJECT: Report on Certification of Student Hours

This memo is to provide the Board with a status on the activities that have been done to address the issues of schools selling hours and providing fraudulent documentation.

Since February 2018 when staff reported on this issue, the following activities have occurred:

- 10 Joint inspections with the Board and BPPE have been completed
- 3 Emergency decisions upheld (2 after an appeal)
- 867 Letters mailed to students of open schools
- 610 Letters mailed to students of closed schools
- 275 formal denials mailed to students
- Staff have been re-assigned to focus on schools

Joint Inspections

The joint inspections conducted with the BPPE and the Board have been and continue to be very successful. Both agencies have been able to learn a great deal from each other in this process. These inspections are allowing the Board to be able to see how schools are operating and determine what type of legislative and regulatory changes are needed to strengthen oversight and ultimately protect consumers.

The significant issues that have been found are:

1. Schools are selling hours and issuing fraudulent Proof or Training documents.
2. Schools are falsifying time cards and falsifying the tracking of theory hours and practical operations for their students.
3. Schools are not teaching the curriculum that they submitted and had approved by the Board.
4. Schools are just teaching students to pass the exam. Students are taught the CIB's for the practical exams and multiple-choice questions for the written exams.

5. Schools do not have any control over a student's education. Students can start when they want, come when they want, leave when they want. There are no set lesson plans as a school could have 7 to 80 students in a class at all different levels.

Emergency Decisions

Three emergency decisions were issued by the BPPE because of the collaboration between the two agencies. The emergency decision is an action that the BPPE can take when they believe there is significant student harm. The decisions require the school to stop enrollment and stop accepting tuition. Two of the three schools requested an appeal of the decision and the Board participated in the appeal process with the BPPE. Both decisions were ultimately upheld.

Letters to Students

The Board has provided letters to all students where it is believed that hours were bought, or students were not provided the curriculum. Students were advised that their hours cannot be accepted, and they have the option to withdraw their application and attend a school that will provide them the full curriculum.

Formal Denials

Some students received formal denials after the option to withdraw was provided.

Staffing

The Board has re-directed positions to address these issues and has hired a new analyst to conduct site visits. The Board is also planning to hire an additional analyst in Southern California for schools. These two new positions will be dedicated to developing relationships with schools and ensuring that schools are following the required laws and regulations.

Next Steps

Within the sunset review report are recommendations that will strengthen the Boards authority in the oversight of schools. In addition, Board staff will be preparing regulation proposals for schools. As discussed at the February Board meeting, staff will also be setting up a working group to discuss the oversight of school.

Staff will continue to report to the Board on this topic at each Board meeting.

EXECUTIVE SUMMARY

Licensing boards and bureaus within the California Department of Consumer Affairs (DCA) are required to ensure that examination programs used in the California licensure process comply with psychometric and legal standards. The California Board of Barbering and Cosmetology (Board) requested that DCA's Office of Professional Examination Services (OPES) complete a comprehensive review of the National Cosmetology Theory Examination and the National Cosmetology Practical Examination, which are developed by the National-Interstate Council of State Boards of Cosmetology, Inc. (NIC). NIC worked with Schroeder Measurement Technologies, Inc., (SMT) to conduct the job analysis and to develop examinations for NIC's cosmetologist certification program. The purpose of the OPES review was to evaluate the suitability of the National Cosmetology Theory Examination and the National Cosmetology Practical Examination for continued use in California.

OPES, through collaboration with the Board, received and reviewed documents provided by SMT. One of the documents provided was the *NIC Cosmetology 2014 Job Analysis Report*. Follow-up emails were exchanged in order to clarify the procedures and practices used to validate and develop the National Cosmetology Theory Examination and the National Cosmetology Practical Examination. A comprehensive evaluation of the documents was made to determine whether the following test program components met professional guidelines and technical standards: (a) occupational analysis, (b) examination development, (c) passing scores, (d) test administration, (e) examination scoring and performance, and (f) test security procedures. OPES found that the procedures used to establish and support the validity and defensibility of the above test program components of the National Cosmetology Theory Examination and the National Cosmetology Practical Examination meet professional guidelines and technical standards outlined in the *Standards for Educational and Psychological Testing* (2014) (*Standards*) and California Business and Professions Code section 139. However, OPES found a few issues that should be addressed by NIC in order to improve and enhance its testing program.

In addition to reviewing documents provided by SMT, OPES convened a panel of licensed cosmetologists to serve as subject matter experts (SMEs) to review the content of the National Cosmetology Theory Examination and the National Cosmetology Practical Examination. The SMEs were selected by the Board based on their geographic location, experience, and practice specialty. The purpose of the review was to compare the content of the two national examinations with the description of practice for California cosmetologists resulting from the 2017 California Cosmetologist Occupational Analysis (OA) performed by OPES.

Specifically, the SMEs performed a comparison by linking the job task and knowledge statements of the California Cosmetologist OA to the examination outline of the National Cosmetology Theory Examination and to the 12 content domains of the National

Cosmetology Practical Examination required for California. This linkage was performed to identify whether there were areas of California cosmetology practice not measured by either the National Cosmetology Theory Examination or the National Cosmetology Practical Examination.

The results of the linkage study indicate that there were only two California OA task statements that could not be linked to either the National Cosmetology Theory Examination or the National Cosmetology Practical Examination. It should be noted, however, that the California OA task and knowledge statements are written at a more detailed level of specificity compared to the national task and knowledge elements. Even though the SMEs could not make a direct link for the two California OA task statements, they noted that linkage could inherently exist, but that they could not make that distinction given the general way in which the national task and knowledge elements are written. The SMEs did not believe that this lack of coverage would support the need for the Board to develop a supplemental California examination. Overall, the SMEs concluded that the National Cosmetology Theory Examination and the National Cosmetology Practical Examination adequately assess what a California cosmetologist is expected to have mastered at the time of licensure.

Due to the historically low passing rates for candidates taking the Spanish-language version, OPES also investigated the differential passing rates of the National Cosmetology Theory Examination by language (English, Spanish, Vietnamese, and Korean). OPES had questions regarding the accuracy of the translation and the additional quality control processes that occur following the translation. SMT provided responses that satisfied OPES's questions about translation accuracy and comprehensiveness.

An addition of an English-Spanish Translation Guide might alleviate the issue of the low passing rates for candidates taking the Spanish-language version, but it will take some time before the Board can fully assess the results because the passing rates must be tracked over time.

OPES recommends that NIC and the Board continue to track the passing rates of candidates taking the Spanish-language version. If passing rates continue to remain lower than for other language groups despite the availability of the translation guide, NIC and the Board should reevaluate the translation process and look for other possible factors.

*Please see additional
Meeting Materials
For
Sunset Review Report
Volume 1 & 2*



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BOARD OF BARBERING & COSMETOLOGY

BILL ANALYSIS

Author: Assembly Member Quirk-Silva**Subject:** Master Business License**Bill Number:** AB 767**Version:** July 2, 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:

- Provides for a GO-Biz Information Technology Unit within GO-Biz, which would create an online Internet platform, called the California Business Development Portal.
- Recasts the provisions related to CalGold, requiring the GO-Biz Information Technology Unit to establish an electronic online center, and renaming the center the Master Business License Center.
- Establishes, that during the 2018-19 fiscal year, 2 State civil service positions, for supporting the ongoing enhancements of the State governments digital ecosystem.

Background

(as noted by Assembly Appropriations Analyst Daisy Gonzales):

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.

Analysis:

Fiscal Impact:

Current Bill Status:

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

Last Historical Action: From Committee: To suspense file without objection.

5/20/18 – Maintained Watch position.

2

AMENDED IN SENATE JULY 2, 2018
AMENDED IN SENATE JUNE 18, 2018
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 amend Section 12096.3 of, to amend, renumber, and add Section 12097.1 of, to add Section 12097.2 to, and to add Article 4.3 (commencing with Section ~~12096.6~~ 12096.7) to Chapter 1.6 of Part 2 of Division 3 of Title 2 of, the Government Code, and to repeal Sections 71040 and 71041 of the Public Resources Code, relating to economic development.

LEGISLATIVE COUNSEL'S DIGEST

AB 767, as amended, Quirk-Silva. GO-Biz Information Technology.

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 (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.

Existing law requires GO-Biz to establish an electronic online permit assistance center, called the California Government Online to Desktops (CalGold), through the Internet for use by any business or entity subject

to a law or regulation to assist that business or entity with complying with those laws or regulations. Existing law requires CalGold to be reviewed periodically, as specified.

This bill would, among other things, provide for a GO-Biz Information Technology Unit within GO-Biz, which would create an online Internet platform, called the California Business Development Portal, that is comprised of 3 elements, including economic and business development-related digital information, the systems and processes used to manage that information, and a public interface capability, as prescribed.

The bill would recast provisions related to CalGold, ~~renaming the center the Master Business License Center, and CalGold requiring the GO-Biz Information Technology Unit to establish an electronic online permit assistance center, government permit and license assistance center, and renaming the center the Master Business License Center.~~ The bill would establish, beginning in the 2018–19 fiscal year, 2 state civil service positions for the purposes of supporting the ongoing enhancement of the functionality of the California Business Development Portal, including the Master Business License Center, the California Business Navigator, the California Business Mapping Tool, digital resources, and other online products that improve the state government's digital ecosystem.

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

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

- 1 SECTION 1. The Legislature finds and declares the following:
- 2 (a) The Information Technology unit of GO-Biz develops,
- 3 maintains, and updates information technology solutions for
- 4 GO-Biz programs aimed at furthering GO-Biz's goal of economic
- 5 growth for California.
- 6 (b) Since September 2013, the GO-Biz Information Technology
- 7 Application Portfolio has grown from one information technology
- 8 staff member and four supported applications to six information
- 9 technology staff members and sixteen supported applications.
- 10 (c) Each new GO-Biz application needs to be regularly updated
- 11 and fourteen of the sixteen applications are public facing and play
- 12 an important role in supporting business development in California
- 13 including, but not limited to, all of the following:

- (1) The GO-Biz Internet Web site.
- (2) The California Business Portal.
- (3) The California Competes Tax Credit application.
- (4) The CalGold Permit Assistance Tool.
- (5) The California Business Navigator.
- (6) CA Made.
- (7) The California Business Service Desk.
- (8) The IBank Application Portal.
- (9) The California Financing Coordinating Committee.
- (10) The GO-Biz Salesforce.
- (11) The California Business Mapping Tool.

(d) According to an Accenture survey, more than 65% of public service leaders have cited creating a personalized citizen experience as a priority.

(e) As the home of the world's most creative information technology companies, California should also be a leader in digital government technologies. The California Business Portal brings the state into alignment with other nations and states that are embracing innovation and the Internet of Things to meet business development challenges at scale while still providing the individualized experience that meets a business's unique needs.

SEC. 2. Section 12096.3 of the Government Code is amended to read:

12096.3. The office shall 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. In this capacity, the office may:

(a) Recommend to the Governor and the Legislature new state policies, programs, and actions, or amendments to existing programs, advance statewide economic goals and respond to emerging economic problems and opportunities, and ensure that all state policies and programs conform to the adopted state economic and business development goals.

(b) Coordinate the development of policies and criteria to ensure that federal grants administered or directly expended by state government advance statewide economic goals and objectives.

(c) Market the business and investment opportunities available in California by working in partnership with local, regional, federal, and other state public and private institutions to encourage business development and investment in the state.

- 1 (d) Provide, including, but not limited to, all of the following:
2 (1) Economic and demographic data.
3 (2) Financial information to help link businesses with state and
4 local public and private programs.
5 (3) Workforce information, including, but not limited to, labor
6 availability, training, and education programs.
7 (4) Transportation and infrastructure information.
8 (5) Assistance in obtaining state and local permits.
9 (6) Information on tax credits and other incentives.
10 (7) Permitting, siting, and other regulatory information pertinent
11 to business operations in the state.
12 (e) Establish a well-advertised telephone number, an online
13 interactive and high-performance Internet platform, and an
14 administrative structure that effectively supports the facilitation
15 of business development and investment in the state.
16 (f) Encourage collaboration among research institutions, startup
17 companies, local governments, venture capitalists, and economic
18 development agencies to promote innovation.
19 (g) In cooperation with other state, federal, and local
20 governments, foster relationships with foreign and domestic entities
21 to improve the state's image as a destination for global business
22 investment and expansion.
23 (h) Conduct research on the state's business climate, including,
24 but not limited to, research on how the state can remain on the
25 leading edge of innovation and emerging sectors.
26 (i) Support small businesses by providing information about
27 accessing capital, complying with regulations, and supporting state
28 initiatives that support small business.

29 SEC. 3. Article 4.3 (commencing with Section 12096.7) is
30 added to Chapter 1.6 of Part 2 of Division 3 of Title 2 of the
31 Government Code, to read:

32
33 Article 4.3. GO-Biz Information Technology
34

35 12096.7. (a) There shall be within the office, the GO-Biz
36 Information Technology Unit, which shall create an online Internet
37 platform, called the California Business Development Portal.

38 (b) The Business Development Portal shall be an online platform
39 that is comprised of three distinct elements, including economic
40 and business development-related digital information, the systems

1 and processes used to manage that information, and a public
2 interface capability, which includes, but is not limited to, all of the
3 following:

4 (1) Storing, retrieving, and exchanging economic and business
5 development-related digital information with due regard to privacy
6 statutes.

7 (2) An information service detailing business incentives,
8 financing, workforce training, geographic regions in the state, and
9 requirements to establish or engage in business in this state.

10 (3) Identification and retrieval of economic and business
11 development digital information appropriate for a variety of
12 business types, including sole proprietorships, partnerships,
13 associations, cooperatives, corporations, nonprofit organizations,
14 and social enterprises.

15 (4) Identification and retrieval of economic and business
16 development digital information useful for state, federal, and local
17 government agencies and other entities that support economic and
18 business development activities in California.

19 (5) Accessibility through a variety of electronic presentation
20 formats, including Internet Web sites, mobile applications, and
21 other modes of delivery.

22 (6) A service or application for an individual, business, or other
23 interested party to establish an online account that enhances the
24 ability to conduct business or economic development activities in
25 California.

26 (c) The office, in developing new programs or services, shall
27 consider the added value of having all or portions of a program
28 and service accessed digitally, including, but not limited to,
29 undertaking outreach, filing applications, and submitting progress
30 and outcome reports to the office.

31 (d) The office shall adopt and periodically update a schedule
32 for the buildout and upgrading of the California Business
33 Development Portal. The office shall undertake activities on the
34 schedule after the director determines that funding for this project
35 is available and the project is in alignment with required elements
36 of the state planning practices for the development of state
37 information technology projects.

38 12096.8. Beginning in the 2018–19 fiscal year, there shall be
39 two additional state civil service positions in the GO-Biz
40 Information Technology Unit for the purposes of supporting the

1 ongoing enhancement of the functionality of the California
2 Business Development Portal, including the Master Business
3 License Center, the California Business Navigator, the California
4 Business Mapping Tool, digital resources, and other online
5 products that improve the state government's digital ecosystem.

6 SEC. 4. Section 12097.1 of the Government Code is amended
7 and renumbered to read:

8 12097.2. (a) The director shall ensure that the office's Internet
9 Web site contains information on the licensing, permitting, and
10 registration requirements of state agencies, and shall include, but
11 not be limited to, information that does all of the following:

12 (1) Assists individuals with identifying the type of applications,
13 forms, or other similar documents an applicant may need.

14 (2) Provides a direct link to a digital copy of all state licensing,
15 permitting, and registration applications, forms, or other similar
16 documents where made available for download.

17 (3) Instructs individuals on how and where to submit
18 applications, forms, or other similar documents.

19 (b) The director shall ensure that the office's Internet Web site
20 contains information on the fee requirements and fee schedules of
21 state agencies, and shall include, but not be limited to, information
22 that does all of the following:

23 (1) Assists individuals with identifying the types of fees and
24 their due dates.

25 (2) Provides direct links to the fee requirements and fee
26 schedules for all state agencies, where made available for
27 download.

28 (3) Instructs individuals on how and where to submit payments.

29 (c) The office shall ensure that the Internet platform is
30 user-friendly and provides accurate, updated information.

31 (d) (1) Each state agency that has licensing, permitting, or
32 registration authority shall provide direct links to information about
33 its licensing, permitting, and registration requirements and fee
34 schedule to the office.

35 (2) A state agency shall not use the Internet platform established
36 under this section as the exclusive source of information for the
37 public to access licensing requirements and fees for that agency.

38 (e) The office may impose a reasonable fee, not to exceed the
39 actual cost to provide the service, as a condition of accessing

1 information on the Internet Web site established under subdivisions
2 (a) and (b).

3 SEC. 5. Section 12097.1 is added to the Government Code, to
4 read:

5 12097.1. (a) The GO-Biz Information Technology Unit shall
6 establish an electronic online government permit and license
7 assistance center through the Internet, which shall be known as
8 the Master Business License Center. The Master Business License
9 Center shall be available for use by any business or other entity
10 subject to a law or regulation implemented by an agency, authority,
11 bureau, board, commission, conservancy, council, department, or
12 office, and shall provide a business or other entity with assistance
13 in complying with those laws and regulations.

14 (b) The Master Business License Center shall provide special
15 software, hotlinks, and other online resources and tools that may
16 be used by a business or other entity to streamline and expedite
17 compliance with laws and regulations implemented by an agency,
18 authority, bureau, board, commission, conservancy, council,
19 department, or office.

20 (c) The Master Business License Center shall, to the extent
21 feasible, incorporate permit assistance activities of local and federal
22 entities and of other entities of the state into its operations.

23 (d) *The GO-Biz Information Technology Unit shall periodically*
24 *review and, when necessary, update the Master Business License*
25 *Center to assist businesses in the state that would benefit from*
26 *information on permitting and regulatory compliance.*

27 SEC. 6. Section 71040 of the Public Resources Code is
28 repealed.

29 SEC. 7. Section 71041 of the Public Resources Code is
30 repealed.



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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:							1st	Cmt	2nd
Assembly:	1st	Cmt	2nd	Cmt	2nd	Pass			

Committee Location:

Not applicable.

Last Historical Action:

From Senate Appropriations Committee: Be ordered to second reading file pursuant to Senate Rule 28.8 and ordered to Consent Calendar.

Board Position:

On May 20, 2018, the Board took a Support if Amended position.

Suggested Amendment: All Board licensees should be included in the bills language, not just barbers and cosmetologists.

- June 19, 2018 – Support if Amended letter was sent to the Senate Business, Professions and Economic Development Committee chair (Hill).

*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 ~~a 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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) The establishment is licensed by the board.

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

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

(4) Licensees working at the establishment work for salaries or 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

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:** June 20, 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)

Provides that all boards within the DCA are established for the purpose of ensuring that those private businesses and professions deemed to engage in activities which have the potential impact upon the public health, safety, and welfare are adequately regulated in order to protect the people of California. (BP&C §101.6)

Authorizes a board to deny a license on the grounds that the applicant has:

1. been convicted of a crime;
2. done any act involving dishonesty, fraud, or deceit with the intent to substantially benefit himself or herself or another, or substantially injure another; and
3. done any act if done by a licensee of the business or profession in question, would be grounds for suspension or revocation of the license. (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 he 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)

Requires the board to develop criteria to aid it, when considering the denial, suspension or revocation of a license, to determine whether a crime or act is substantially related to the qualifications, functions, or duties of the business or profession it regulates. (BP&C §481)

Requires the board to develop criterial to evaluate the rehabilitation of a person for purposes of considering the denial of a license application or considering suspension or revocation of a current license. (BP&C §482)

This Bill:

- Narrows DCA entities discretion to deny a license to the following cases:
 1. The applicant has been convicted of a crime; limits denials based on criminal conviction to convictions for which the applicant is presently incarcerated or that occurred within the preceding 7 years, except for convictions for a serious felony (the crime must be substantially related to the qualifications, functions, or duties of the business or profession).
 2. The applicant has been subjected to formal discipline by the board within the preceding 5 years based on professional misconduct that would have been cause for discipline (misconduct must be substantially related to the qualifications, functions, or duties of the business or profession). However, prior disciplinary action by the board within the preceding 7 years cannot be the basis for denial if the conviction has been dismissed or expunged.
- Requires DCA entities to follow certain procedures when requesting or acting on an applicant's or licensee's criminal history information.
 1. The DCA entities cannot require an applicant for licensure to disclose any information or documentation regarding the applicant's criminal history.
 2. If the DCA entity decides to deny an application based solely on or in part on the applicant's criminal history, the entity must notify the applicant in writing of the application denial and must inform the applicant of his/her right to appeal and the process by which the appeal may be made, including the process by which the applicant may secure a copy of their own criminal history record (rap sheet).
- Prohibits a DCA entity from denying a person a license based on:
 1. the conviction of a crime if the person has provided evidence of rehabilitation; or
 2. if an arrest resulted in a disposition other than a conviction; or
 3. the basis of the underlying acts of the conviction were dismissed or expunged; or
 4. if an applicant's failure to disclose a fact that would not have been cause for denial of the license had the fact been disclosed.
- Requires DCA entities to develop a 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 includes the following:
 1. the nature and gravity of the offense;
 2. the number of years elapsed since the date of the offense; and
 3. the nature and duties of the profession in which the applicant seeks licensure or in which the licensee is licensed.
- Requires DCA entities to annually submit a report to the Legislature and post the report on the respective Internet Web site containing specified deidentified information regarding the actions taken by the DCA entity based on an applicant or licensee's criminal history information.
- Requires DCA entities to retain all the following information:

1. The number of applications received for each license.
 2. The number of applications requiring inquiries regarding criminal history.
 3. The number of licensees with a criminal record who received notice of potential revocation or suspension of their license or who had their license suspended or revoked.
 4. The number of licensees with a criminal record who provided evidence of mitigation or rehabilitation.
 5. The number of licensees with a criminal record who appealed any suspension or revocation of license.
 6. The final disposition and demographic information, including, but not limited to, voluntarily provided information on race or gender, of any applicant.
- Establishes a retention schedule of a minimum of three years for application forms and other documents submitted by an applicant including:
 1. the application;
 2. any notice provided to the applicant;
 3. all other communications received from and provided to the applicant; and
 4. criminal history reports.
 - Establishes that a DCA entity cannot categorically bar an applicant based solely on the type of conviction without considering evidence of rehabilitation.
 - Requires a DCA entity to revise their current rehabilitation criteria to include consideration of the applicant or licensee's rehabilitation. A showing of rehabilitation would be established if either of the following were met:
 1. completion of the criminal sentence without a violation of parole or probation; or
 2. the applicant or licensee has satisfied criteria for rehabilitation developed by the board.

Background:

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.

Analysis:

This bill applies to all entities under the Department of Consumer Affairs. Staff believes there are unintended consequences present within the bill's language. Due to the bill's language regarding the inability of the DCA entities to ask consumer conviction questions on applications, this Board cannot comply with the language in B&PC §480.

This Board does not have the statutory authority to request applicants or licensees to submit their fingerprint report.

No criminal conviction history will be available to this Board to review for the consideration of consumer protection.

The only sections applicable to this Board are the reporting requirements, which there will be no data to report.

Fiscal Impact:

The bill as written will not have a fiscal impact to the Board.

Current Bill Status:

Progress:

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

Committee Location:

Senate Appropriations Committee

Last Historical Action:

From committee: Placed on Suspense file.

Board Position:

On May 20, 2018, the Board took an OPPOSED position.

- On May 31, 2018, a letter of opposition was submitted to the Assembly Members Chiu and Low.
- On June 14, 2018, a letter of opposition was submitted to the Senate Business and Professions Committee (Hill).
- On June 27, 2018, a letter of opposition was submitted to the Senate Appropriations Committee (Portantino).
- On August 7, 2018, a letter of opposition was submitted to Assembly Member Chui.

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

AMENDED IN SENATE JUNE 20, 2018
AMENDED IN ASSEMBLY MAY 25, 2018
AMENDED IN ASSEMBLY APRIL 2, 2018

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL

No. 2138

Introduced by Assembly Members Chiu and Low

February 12, 2018

An act to amend Sections 7.5, 480, 481, 482, 488, ~~490, 492~~, 493, and 11345.2 ~~of, and to add Section 481.5 to, 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. Existing law authorizes a board to 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 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~~ 7 years, except for ~~violent serious~~ felonies, and would require the crime to be ~~directly and adversely~~ *substantially* 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~~ *provided evidence* 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~~ *substantially* 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 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 *board*, after a specified hearing requested by an applicant for licensure to take various actions, including imposing probationary conditions on the license, actions in relation to denying or granting the applicant 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. *revise and recast those provisions to eliminate some of the more specific options that the board may take in these circumstances.*~~

~~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 plea of nolo
- 5 contendere or finding of guilt. Any action which a board is
- 6 permitted to take following the establishment of a conviction may

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

6 (b) (1) Nothing in this section shall apply to the licensure of
7 persons pursuant to Chapter 4 (commencing with Section 6000)
8 of Division 3.

9 (2) *The changes made to this section by the act adding this*
10 *paragraph do not in any way modify or otherwise affect the existing*
11 *authority of the following entities in regard to licensure:*

12 (A) *The State Athletic Commission.*

13 (B) *The Bureau for Private Postsecondary Education.*

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

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

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

24 ~~(A)~~

25 (1) The applicant has been convicted of a crime for which the
26 applicant is presently incarcerated or for which the conviction
27 occurred within the preceding ~~five~~ *seven* years. However, the
28 preceding ~~five-year~~ *seven-year* limitation shall not apply to a
29 conviction for a ~~violent~~ *serious* felony, as defined in ~~Section 667.5~~
30 ~~of the Penal Code.~~

31 The board may deny a license pursuant to this subparagraph only
32 if the crime is ~~directly and adversely~~ *substantially* related to the
33 qualifications, functions, or duties of the business or profession
34 for which application is made.

35 ~~(B)~~

36 (2) The applicant has been subjected to formal discipline by a
37 licensing board within the preceding five years based on
38 professional misconduct that would have been cause for discipline
39 before the board for which the present application is made and that
40 is ~~directly and adversely~~ *substantially* related to the qualifications,

1 functions, or duties of the business or profession for which the
2 present application is made. However, prior disciplinary action by
3 a licensing board within the preceding ~~five~~ *seven* years shall not
4 be the basis for denial of a license if the basis for that disciplinary
5 action was a conviction that has been dismissed pursuant to Section
6 1203.4, 1203.4a, or 1203.41 of the Penal Code or a comparable
7 dismissal or expungement.

8 ~~(2) Denial of a license includes denial of an unrestricted license~~
9 ~~by issuance of a restricted or probationary license.~~

10 (b) Notwithstanding any other provision of this code, a person
11 shall not be denied a license on the basis that he or she has been
12 convicted of a crime, or on the basis of acts underlying a conviction
13 for a crime, if he or she has obtained a certificate of rehabilitation
14 under Chapter 3.5 (commencing with Section 4852.01) of Title 6
15 of Part 3 of the Penal Code, has been granted clemency or a pardon
16 by a state or federal executive, or has ~~made a showing~~ *provided*
17 *evidence* of rehabilitation pursuant to Section 482.

18 (c) Notwithstanding any other provision of this code, a person
19 shall not be denied a license on the basis of any conviction, or on
20 the basis of the acts underlying the conviction, that has been
21 dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the
22 Penal Code, or a comparable dismissal or expungement. An
23 applicant who has a conviction that has been dismissed pursuant
24 to Section 1203.4, 1203.4a, 1203.41, or 1203.42 of the Penal Code
25 shall provide proof of the dismissal if it is not reflected on the
26 report furnished by the Department of Justice.

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

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

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

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

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

7 (A) The denial or disqualification of licensure.

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

10 (C) That the applicant has the right to appeal the board's
11 decision.

12 (D) The processes for the applicant to request a copy of his or
13 her complete conviction history and question the accuracy or
14 completeness of the record pursuant to Sections 11122 to 11127
15 of the Penal Code.

16 (g) (1) For a minimum of three years, each board under this
17 code shall retain application forms and other documents submitted
18 by an applicant, any notice provided to an applicant, all other
19 communications received from and provided to an applicant, and
20 criminal history reports of an applicant.

21 (2) Each board under this code shall retain the number of
22 applications received for each license and the number of
23 applications requiring inquiries regarding criminal history. In
24 addition, each licensing authority shall retain all of the following
25 information:

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

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

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

32 (D) The final disposition and demographic information,
33 including, but not limited to, voluntarily provided information on
34 race or gender, of any applicant described in subparagraph (A),
35 (B), or (C).

36 (3) (A) Each board under this code shall annually make
37 available to the public through the board's Internet Web site and
38 through a report submitted to the appropriate policy committees
39 of the Legislature deidentified information collected pursuant to

1 this subdivision. Each board shall ensure confidentiality of the
2 individual applicants.

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

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

7 ~~(i) This section supersedes any contradictory provision in a~~
8 ~~licensing act under this code or initiative act referred to in Division~~
9 ~~2 (commencing with Section 500) that authorizes license denial~~
10 ~~based on a criminal conviction, arrest, or the acts underlying an~~
11 ~~arrest or conviction.~~

12 (i) *The changes made to this section by the act adding this*
13 *subdivision do not in any way modify or otherwise affect the*
14 *existing authority of the following entities in regard to licensure:*

15 (1) *The State Athletic Commission.*

16 (2) *The Bureau for Private Postsecondary Education.*

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

19 481. (a) Each board under this code shall develop criteria to
20 aid it, when considering the denial, suspension, or revocation of
21 a license, to determine whether a crime is ~~directly and adversely~~
22 *substantially* related to the qualifications, functions, or duties of
23 the business or profession it regulates.

24 (b) Criteria for determining whether a crime is ~~directly and~~
25 ~~adversely~~ *substantially* related to the qualifications, functions, or
26 duties of the business or profession a board regulates shall include
27 all of the following:

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

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

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

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

34 (d) Each board shall post on its Internet Web site a summary of
35 the criteria used to consider whether a crime is considered to be
36 ~~directly and adversely~~ *substantially* related to the qualifications,
37 functions, or duties of the business or profession it regulates
38 consistent with this section.

1 (e) *The changes made to this section by the act adding this*
2 *subdivision do not in any way modify or otherwise affect the*
3 *existing authority of the following entities in regard to licensure:*

4 (1) *The State Athletic Commission.*

5 (2) *The Bureau for Private Postsecondary Education.*

6 SEC. 4. ~~Section 481.5 is added to the Business and Professions~~
7 ~~Code, to read:~~

8 ~~481.5. (a) Probationary terms or restrictions placed on a license~~
9 ~~by a board shall be limited to two years or less. Any additional~~
10 ~~conditions may be imposed only if the board determines that there~~
11 ~~is clear and convincing evidence that additional conditions are~~
12 ~~necessary to address a risk shown by clear and convincing~~
13 ~~evidence.~~

14 ~~(b) Each board under this code shall develop criteria to aid it~~
15 ~~when considering the imposition of probationary conditions or~~
16 ~~restrictions to determine what conditions may be imposed to~~
17 ~~address a risk shown by clear and convincing evidence.~~

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

26 ~~(2) The one-year time period to petition for modification or~~
27 ~~termination of penalty shall control over longer time periods under~~
28 ~~a licensing act under this code or initiative act referred to in~~
29 ~~Division 2 (commencing with Section 500).~~

30 SEC. 5.

31 SEC. 4. Section 482 of the Business and Professions Code is
32 amended to read:

33 482. (a) Each board under this code shall develop criteria to
34 evaluate the rehabilitation of a person when doing either of the
35 following:

36 (1) Considering the denial of a license by the board under
37 Section 480.

38 (2) Considering suspension or revocation of a license under
39 Section 490.

(b) Each board shall ~~find~~ *consider* that an applicant or licensee has made a showing of rehabilitation if ~~any~~ *either* of the following are met:

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

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

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

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

~~(3)~~

(2) The applicant or licensee has satisfied criteria for rehabilitation developed by the board.

(c) The changes made to this section by the act adding this subdivision do not in any way modify or otherwise affect the existing authority of the following entities in regard to licensure:

(1) The State Athletic Commission.

(2) The Bureau for Private Postsecondary Education.

~~SEC. 6.~~

SEC. 5. Section 488 of the Business and Professions Code is amended to read:

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

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

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

~~(c)~~

(b) Deny the license.

(d)

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

(d) *The changes made to this section by the act adding this subdivision do not in any way modify or otherwise affect the existing authority of the following entities in regard to licensure:*

(1) *The State Athletic Commission.*

(2) *The Bureau for Private Postsecondary Education.*

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

490. (a) (1) ~~In addition to any other action that a board is permitted to take against a licensee, a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime for which the applicant is presently incarcerated or for which the conviction occurred within the preceding five years. However, the preceding five year limitation shall not apply to a conviction for a violent felony as defined in Section 667.55 of the Penal Code.~~

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

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

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

~~(2) The licensee was convicted of the crime within the preceding five years or is presently incarcerated for the crime. However, the preceding five year limitation shall not apply to a conviction for a violent felony as defined in Section 667.55 of the Penal Code.~~

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

~~(d) Notwithstanding any other provision of this code, a board shall not suspend or revoke a license on the basis of an arrest that~~

1 resulted in a disposition other than a conviction, including an arrest
2 that resulted in an infraction, citation, or juvenile adjudication.

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

5 (1) ~~A board shall not require a licensee to disclose any~~
6 ~~information or documentation regarding the licensee's criminal~~
7 ~~history:~~

8 (2) ~~If a board chooses to file an accusation against a licensee~~
9 ~~based solely or in part on the licensee's conviction history, the~~
10 ~~board shall notify the licensee in writing of the processes for the~~
11 ~~licensee to request a copy of the licensee's complete conviction~~
12 ~~history and question the accuracy or completeness of his or her~~
13 ~~criminal record pursuant to Sections 11122 to 11127, inclusive,~~
14 ~~of the Penal Code:~~

15 (f) (1) ~~For a minimum of three years, each board under this~~
16 ~~code shall retain all documents submitted by a licensee, notices~~
17 ~~provided to a licensee, all other communications received from or~~
18 ~~provided to a licensee, and criminal history reports of a licensee:~~

19 (2) ~~Each board under this code shall retain all of the following~~
20 ~~information:~~

21 (A) ~~The number of licensees with a criminal record who received~~
22 ~~notice of potential revocation or suspension of their license or who~~
23 ~~had their license suspended or revoked:~~

24 (B) ~~The number of licensees with a criminal record who~~
25 ~~provided evidence of mitigation or rehabilitation:~~

26 (C) ~~The number of licensees with a criminal record who~~
27 ~~appealed any suspension or revocation of a license:~~

28 (D) ~~The final disposition and demographic information,~~
29 ~~including, but not limited to, voluntarily provided information on~~
30 ~~race or gender, of any applicant described in subparagraph (A),~~
31 ~~(B), or (C):~~

32 (3) (A) ~~Each board under this code shall annually make~~
33 ~~available to the public through the board's Internet Web site and~~
34 ~~through a report submitted to the appropriate policy committees~~
35 ~~of the Legislature deidentified information collected pursuant to~~
36 ~~this subdivision. Each board shall ensure the confidentiality of the~~
37 ~~individual licensees:~~

38 (B) ~~A report pursuant to subparagraph (A) shall be submitted~~
39 ~~in compliance with Section 9795 of the Government Code:~~

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

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

10 ~~SEC. 8. Section 492 of the Business and Professions Code is~~
11 ~~amended to read:~~

12 ~~492. (a) Notwithstanding any other provision of law, successful~~
13 ~~completion of any diversion program under the Penal Code,~~
14 ~~successful completion by a licensee or applicant of any~~
15 ~~nonstatutory diversion program, deferred entry of judgment, or~~
16 ~~successful completion of an alcohol and drug problem assessment~~
17 ~~program under Article 5 (commencing with Section 23249.50) of~~
18 ~~Chapter 12 of Division 11 of the Vehicle Code, shall prohibit any~~
19 ~~board from taking disciplinary action against a licensee or from~~
20 ~~denying a license for professional misconduct.~~

21 ~~(b) This section shall not prohibit any agency established under~~
22 ~~Division 2 (commencing with Section 500) of this code, or any~~
23 ~~initiative act referred to in that division, from taking disciplinary~~
24 ~~action against a licensee for professional misconduct in the course~~
25 ~~and scope of the profession, which is based on evidence that is~~
26 ~~independent of an arrest.~~

27 ~~SEC. 9:~~

28 ~~SEC. 6. Section 493 of the Business and Professions Code is~~
29 ~~amended to read:~~

30 ~~493. (a) Notwithstanding any other provision of law, in a~~
31 ~~proceeding conducted by a board within the department pursuant~~
32 ~~to law to deny an application for a license or to suspend or revoke~~
33 ~~a license or otherwise take disciplinary action against a person~~
34 ~~who holds a license, upon the ground that the applicant or the~~
35 ~~licensee has been convicted of a crime directly and adversely~~
36 ~~substantially related to the qualifications, functions, and duties of~~
37 ~~the licensee in question, the record of conviction of the crime shall~~
38 ~~be conclusive evidence of the fact that the conviction occurred,~~
39 ~~but only of that fact.~~

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

(A) The nature and gravity of the offense.

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

(C) The nature and duties of the profession.

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

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

*(d) The changes made to this section by the act adding this
subdivision do not in any way modify or otherwise affect the
existing authority of the following entities in regard to licensure:*

(1) The State Athletic Commission.

(2) The Bureau for Private Postsecondary Education.

~~SEC. 10.~~

SEC. 7. Section 11345.2 of the Business and Professions Code
is amended to read:

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

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

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

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



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BOARD OF BARBERING & COSMETOLOGY

BILL ANALYSIS

Author: Assembly Member Kalra
Co-Authors: Assembly Members Carrillo,
 Maienschein, Waldron, Gonzalez Fletcher

Subject: Cosmetic Labeling

Bill Number: AB 2775

Version: May 25, 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 (Katra) 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:							1st	Cmt
Assembly:	1st	Cmt	3rd	2nd	3rd	Pass		

Committee Location:

Not Applicable.

Last Historical Action:

From Senate Appropriations Committee: Placed on Suspense file.

Board Position:

On May 20, 2018, the Board took a Support if Amended position.

Suggested amendment: When defining the term “professional” the bill must also include the Board’s electrology licensees.

- On June 21, 2018 a Support if Amended letter was sent to the Assembly and Senate Health Committees (Wood, Pan).

ASSEMBLY BILL

No. 2775

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

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:** July 3, 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	2nd	3rd	Pass				
Assembly:								1st	Cmt	2nd	Cmt

Committee Location: Assembly Appropriations Committee

Last Historical Action: Read second time and amended. Re-referred to Appropriations Committee. Scheduled for hearing on August 8, 2018.

Board Position:

No declared position.

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

AMENDED IN ASSEMBLY JULY 3, 2018
AMENDED IN ASSEMBLY JUNE 21, 2018
AMENDED IN ASSEMBLY JUNE 19, 2018
AMENDED IN SENATE MAY 25, 2018
AMENDED IN SENATE MAY 1, 2018

SENATE BILL

No. 984

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: 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, on and after January 1, 2024, would require the composition of each appointed state board and commission to have a specified minimum number of women board members or commissioners based on the total number of board members or commissioners on that board. The bill would also require the office of the Governor to collect and

release, annually, at a minimum, 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) Beginning on and after January 1, 2024, the
4 composition of each appointed state board and commission shall
5 comply with the following:

6 (A) If the number of board members or commissioners is ~~six~~
7 *five* or more, the state board or commission shall have a minimum
8 of 40 percent women board members or commissioners.

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

12 ~~(C)~~

13 (B) If the number of board members or commissioners is four
14 or fewer, the state board or commission shall have a minimum of
15 one woman board member or commissioner.

16 (2) For the purposes of this section, “woman” means an
17 individual who self-identifies her gender as a woman, without
18 regard to the individual’s designated sex at birth.

19 (b) (1) The office of the Governor shall collect and release,
20 annually, at a minimum, and on an aggregate basis, both of the
21 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 this
29 subdivision shall disclose only aggregated statistical data and shall
30 not identify any individual applicant, nominee, or appointed board
31 member or commissioner.

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

4 (c) The provisions of this section are severable. If any provision
5 of this section or its application is held invalid, that invalidity shall
6 not affect other provisions or applications that can be given effect
7 without the invalid provision or application.

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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: August 6, 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	2nd	Pass		
Assembly:					1st	Cmt

Committee Location:

Assembly Appropriations Committee

Last Historical Action:

From committee with author's amendments. Read second time and amended. Re-referred to Assembly Appropriations Committee.

Board Position:

On May 20, 2018 the Board took a Support position on this bill.

- On June 14, 2018 a letter of Support was sent to the Assembly Business, Professions and Economic Development Committee chair (Low).

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

AMENDED IN ASSEMBLY AUGUST 6, 2018

AMENDED IN ASSEMBLY JUNE 4, 2018

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, ~~5100, 5116.2,~~ 5130, and 7341 ~~of of,~~ and to add Section 5100.1 to, the Business and Professions Code, and to amend Sections 94874, 94880, 94927.5, and 94947 of the Education Code, relating to the Department of Consumer Affairs.

LEGISLATIVE COUNSEL'S DIGEST

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

(1) Existing law establishes the California Board of Accountancy in the Department of Consumer 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 board to revoke, suspend, or refuse to renew any public accountancy permit or certificate or censure a permit or certificate holder for unprofessional conduct for various causes, including, among others, discipline by any other state or country, suspension or revocation of the right to practice before any governmental

body, or the imposition of discipline on a registered public accounting firm or permit, certificate, or licenseholder by the Public Company Accounting Oversight Board or the United States Securities and Exchange Commission.

This bill, for the causes identified above, would require the board to rely on findings or events stated in a certified true and correct copy of the action as conclusive evidence for purposes of determining discipline. ~~The bill would make a conforming change to a cross-reference in a related statute.~~

Existing law authorizes the board 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.

(2) 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.

(3) 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:

1 5095. (a) To be authorized to sign reports on attest
2 engagements, a licensee shall complete a minimum of 500 hours
3 of experience, satisfactory to the board, in attest services.

4 (b) To qualify under this section, attest experience shall have
5 been performed in accordance with applicable professional
6 standards. Experience in public accounting shall be completed
7 under the supervision or in the employ of a person licensed or
8 otherwise having comparable authority under the laws of any state
9 or country to engage in the practice of public accountancy and
10 provide attest services, and this experience shall be verified.
11 Experience in private or governmental accounting or auditing shall
12 be completed under the supervision of an individual licensed by
13 a state to engage in the practice of public accountancy and perform
14 attest services, and this experience shall be verified. An applicant
15 may be required to present work papers or other evidence
16 substantiating that the applicant has met the requirements of this
17 section and any applicable regulations.

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

21 SEC. 2. ~~Section 5100 of the Business and Professions Code is~~
22 ~~amended to read:~~

23 ~~5100. (a) After notice and hearing the board may revoke,~~
24 ~~suspend, or refuse to renew any permit or certificate granted under~~
25 ~~Article 4 (commencing with Section 5070) and Article 5~~
26 ~~(commencing with Section 5080), or may censure the holder of~~
27 ~~that permit or certificate for unprofessional conduct that includes,~~
28 ~~but is not limited to, one or any combination of the following~~
29 ~~causes:~~

30 (1)

31 ~~Conviction of any crime substantially related to the~~
32 ~~qualifications, functions and duties of a certified public accountant~~
33 ~~or a public accountant.~~

34 (2)

35 ~~A violation of Section 478, 498, or 499 dealing with false~~
36 ~~statements or omissions in the application for a license, in obtaining~~
37 ~~a certificate as a certified public accountant, in obtaining~~
38 ~~registration under this chapter, or in obtaining a permit to practice~~
39 ~~public accountancy under this chapter.~~

40 (3)

~~1 Dishonesty, fraud, gross negligence, or repeated negligent acts
2 committed in the same or different engagements, for the same or
3 different clients, or any combination of engagements or clients,
4 each resulting in a violation of applicable professional standards
5 that indicate a lack of competency in the practice of public
6 accountancy or in the performance of the bookkeeping operations
7 described in Section 5052.~~

~~8 (4)~~

~~9 Cancellation, revocation, or suspension of a certificate or other
10 authority to practice as a certified public accountant or a public
11 accountant, refusal to renew the certificate or other authority to
12 practice as a certified public accountant or a public accountant, or
13 any other discipline by any other state or foreign country.~~

~~14 (5)~~

~~15 Violation of Section 5097.~~

~~16 (6)~~

~~17 Violation of Section 5120.~~

~~18 (7)~~

~~19 Willful violation of this chapter or any rule or regulation
20 promulgated by the board under the authority granted under this
21 chapter.~~

~~22 (8)~~

~~23 Suspension or revocation of the right to practice before any
24 governmental body or agency.~~

~~25 (9)~~

~~26 Fiscal dishonesty or breach of fiduciary responsibility of any
27 kind.~~

~~28 (10)~~

~~29 Knowing preparation, publication, or dissemination of false,
30 fraudulent, or materially misleading financial statements, reports,
31 or information.~~

~~32 (11)~~

~~33 Embezzlement, theft, misappropriation of funds or property,
34 or obtaining money, property, or other valuable consideration by
35 fraudulent means or false pretenses.~~

~~36 (12)~~

~~37 The imposition of any discipline, penalty, or sanction on a
38 registered public accounting firm or any associated person of such
39 firm, or both, or on any other holder of a permit, certificate, license,
40 or other authority to practice in this state, by the Public Company~~

~~Accounting Oversight Board or the United States Securities and Exchange Commission, or their designees under the Sarbanes-Oxley Act of 2002 or other federal legislation.~~

~~(13)~~

~~Unlawfully engaging in the practice of public accountancy in another state.~~

~~(b) In causes for discipline against a licensee under paragraphs (4), (8), and (12) of subdivision (a), the board shall rely on the findings or events stated in a certified true and correct copy of the disciplinary or other action as conclusive evidence for the purpose of determining discipline.~~

~~SEC. 3. Section 5116.2 of the Business and Professions Code is amended to read:~~

~~5116.2. In accordance with Section 5116 and applicable regulations, any licensee who violates paragraph (1), (3), (9), (10), or (11) of subdivision (a) of Section 5100 may be assessed an administrative penalty of not more than one million dollars (\$1,000,000) for the first violation and not more than five million dollars (\$5,000,000) for any subsequent violation, except that a licensee who is a natural person may be assessed an administrative penalty of not more than fifty thousand dollars (\$50,000) for the first violation and not more than one hundred thousand dollars (\$100,000) for any subsequent violation.~~

~~SEC. 2. Section 5100.1 is added to the Business and Professions Code, to read:~~

~~5100.1. Notwithstanding any other law, in causes for discipline against a licensee under subsections (d), (h), or (l) of Section 5100, the board shall rely on the findings or events stated in a certified or true and correct copy of the disciplinary or other action as conclusive evidence for the purpose of determining discipline.~~

~~SEC. 4.~~

~~SEC. 3. Section 5130 of the Business and Professions Code is amended to read:~~

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

~~SEC. 5.~~

~~SEC. 4. Section 7341 of the Business and Professions Code is amended to read:~~

1 7341. The board shall deliver to every person failing any
2 examination provided for in this chapter the total grade received
3 on the examination.

4 ~~SEC. 6.~~

5 *SEC. 5.* Section 94874 of the Education Code, as amended by
6 Chapter 260 of the Statutes of 2017, is amended to read:

7 94874. Except as provided in Sections 94874.2, 94874.7, and
8 94927.5, the following are exempt from this chapter:

9 (a) An institution that offers solely avocational or recreational
10 educational programs.

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

14 (2) (A) Except as provided in subparagraph (B), a bona fide
15 organization, association, or council that offers preapprenticeship
16 training programs, on behalf of one or more Division of
17 Apprenticeship Standards-approved labor-management
18 apprenticeship programs that satisfies one of the following
19 conditions:

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

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

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

31 (c) A postsecondary educational institution established, operated,
32 and governed by the federal government or by this state or its
33 political subdivisions.

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

35 (1) Test preparation for examinations required for admission to
36 a postsecondary educational institution.

37 (2) Continuing education or license examination preparation,
38 if the institution or the program is approved, certified, or sponsored
39 by any of the following:

1 (A) A government agency, other than the bureau, that licenses
2 persons in a particular profession, occupation, trade, or career field.

3 (B) A state-recognized professional licensing body, such as the
4 State Bar of California, that licenses persons in a particular
5 profession, occupation, trade, or career field.

6 (C) A bona fide trade, business, or professional organization.

7 (e) (1) An institution owned, controlled, and operated and
8 maintained by a religious organization lawfully operating as a
9 nonprofit religious corporation pursuant to Part 4 (commencing
10 with Section 9110) of Division 2 of Title 1 of the Corporations
11 Code, that meets all of the following requirements:

12 (A) The instruction is limited to the principles of that religious
13 organization, or to courses offered pursuant to Section 2789 of the
14 Business and Professions Code.

15 (B) The diploma or degree is limited to evidence of completion
16 of that education.

17 (2) An institution operating under this subdivision shall offer
18 degrees and diplomas only in the beliefs and practices of the
19 church, religious denomination, or religious organization.

20 (3) An institution operating under this subdivision shall not
21 award degrees in any area of physical science.

22 (4) Any degree or diploma granted under this subdivision shall
23 contain on its face, in the written description of the title of the
24 degree being conferred, a reference to the theological or religious
25 aspect of the degree's subject area.

26 (5) A degree awarded under this subdivision shall reflect the
27 nature of the degree title, such as "associate of religious studies,"
28 "bachelor of religious studies," "master of divinity," or "doctor of
29 divinity."

30 (f) An institution that does not award degrees and that solely
31 provides educational programs for total charges of two thousand
32 five hundred dollars (\$2,500) or less when no part of the total
33 charges is paid from state or federal student financial aid programs.
34 The bureau may adjust this cost threshold based upon the California
35 Consumer Price Index and post notification of the adjusted cost
36 threshold on its Internet Web site, as the bureau determines,
37 through the promulgation of regulations, that the adjustment is
38 consistent with the intent of this chapter.

39 (g) A law school that is accredited by the Council of the Section
40 of Legal Education and Admissions to the Bar of the American

1 Bar Association or a law school or law study program that is
2 subject to the approval, regulation, and oversight of the Committee
3 of Bar Examiners, pursuant to Sections 6046.7 and 6060.7 of the
4 Business and Professions Code.

5 (h) A nonprofit public benefit corporation that satisfies all of
6 the following criteria:

7 (1) Is qualified under Section 501(c)(3) of the United States
8 Internal Revenue Code.

9 (2) Is organized specifically to provide workforce development
10 or rehabilitation services.

11 (3) Is accredited by an accrediting organization for workforce
12 development or rehabilitation services recognized by the
13 Department of Rehabilitation.

14 (i) An institution that is accredited by the Accrediting
15 Commission for Senior Colleges and Universities, Western
16 Association of Schools and Colleges, or the Accrediting
17 Commission for Community and Junior Colleges, Western
18 Association of Schools and Colleges.

19 (j) Flight instruction providers or programs that provide flight
20 instruction pursuant to Federal Aviation Administration regulations
21 and meet both of the following criteria:

22 (1) The flight instruction provider or program does not require
23 students to enter into written or oral contracts of indebtedness.

24 (2) The flight instruction provider or program does not require
25 or accept prepayment of instruction-related costs in excess of two
26 thousand five hundred dollars (\$2,500).

27 (k) (1) An institution owned, controlled, operated, and
28 maintained by a community-based organization, as defined in
29 Section 7801 of Title 20 of the United States Code, as that section
30 exists on March 1, 2017, that satisfies all of the following criteria:

31 (A) The institution has programs on or is applying for some or
32 all of their programs to be on the Eligible Training Provider List
33 established and maintained by the California Workforce
34 Development Board.

35 (B) The institution is registered as a nonprofit entity qualified
36 under Section 501(c)(3) of the federal Internal Revenue Code.

37 (C) The institution does not offer degrees, as defined in Section
38 94830.

39 (D) The institution does not offer educational programs designed
40 to lead directly or specifically to positions in a profession,

1 occupation, trade, or career field requiring licensure, if bureau
2 approval is required for the student to be eligible to sit for licensure.

3 (E) The institution would not otherwise be subject to oversight
4 of the bureau under this chapter if it did not receive funding under
5 the federal Workforce Innovation and Opportunity Act (29 U.S.C.
6 Sec. 3101 et seq.). For purposes of this requirement, funds received
7 through the federal Workforce Innovation and Opportunity Act
8 (29 U.S.C. Sec. 3101 et seq.) do not count towards the total
9 referenced in subdivision (f) or any other fee charge limitation
10 condition for an exemption from this chapter.

11 (F) The institution can provide a letter from the local workforce
12 development board that demonstrates the institution has met the
13 initial criteria of that board.

14 (2) An institution granted an exemption pursuant to paragraph
15 (1) shall comply with all of the following requirements:

16 (A) The institution shall provide to the Employment
17 Development Department all required tracking information and
18 data necessary to comply with performance reporting requirements
19 under the federal Workforce Innovation and Opportunity Act,
20 codified in Chapter 32 (commencing with Section 3101) of Title
21 29 of the United States Code, for programs on the Eligible Training
22 Provider List.

23 (B) The institution shall comply with the Eligible Training
24 Provider List policy developed by the California Workforce
25 Development Board.

26 (C) The institution shall not charge a student who is a recipient
27 of funding under the federal Workforce Innovation and Opportunity
28 Act (29 U.S.C. Sec. 3101 et seq.) any institutional charges, as
29 defined in Section 94844, for attending and participating in the
30 program.

31 ~~SEC. 7.~~

32 *SEC. 6.* Section 94880 of the Education Code is amended to
33 read:

34 94880. (a) There is within the bureau a 12-member advisory
35 committee. The members of the committee shall be appointed as
36 follows:

37 (1) Three members, who shall have a demonstrated record of
38 advocacy on behalf of consumers, of which the director, the Senate
39 Committee on Rules, and the Speaker of the Assembly shall each
40 appoint one member.

1 (2) Two members, who shall be current or past students of
2 institutions, appointed by the director.

3 (3) Three members, who shall be representatives of institutions,
4 appointed by the director.

5 (4) One public member appointed by the Senate Committee on
6 Rules.

7 (5) One public member appointed by the Speaker of the
8 Assembly.

9 (6) Two nonvoting, ex officio members as follows:

10 (A) The chair of a policy committee of the Assembly with
11 jurisdiction over legislation relating to the bureau appointed by
12 the Speaker of the Assembly. The chair may designate a
13 representative for any meeting or meetings he or she is unable to
14 attend.

15 (B) The chair of a policy committee of the Senate with
16 jurisdiction over legislation relating to the bureau appointed by
17 the Senate Committee on Rules. The chair may designate a
18 representative for any meeting or meetings he or she is unable to
19 attend.

20 (b) (1) A member appointed pursuant to paragraph (2), (4), or
21 (5) of subdivision (a) shall not, either at the time of his or her
22 appointment or during his or her tenure in office, have any financial
23 interest in any organization currently or previously subject to
24 regulation by the bureau, be a close family member of an employee,
25 officer, or the director of any institution subject to regulation by
26 the bureau, or currently have, or previously have had, a business
27 relationship, in the five years preceding his or her appointment,
28 with any institution subject to regulation by the bureau.

29 (2) A member appointed pursuant to paragraph (2), (4), or (5)
30 of subdivision (a) shall not, within the five years immediately
31 preceding his or her appointment, have engaged in pursuits on
32 behalf of an institution or institutional accreditor or have provided
33 representation to the postsecondary educational industry or a
34 profession regulated by the bureau, if he or she is employed in the
35 industry or a member of the profession, respectively, and he or
36 she shall not engage in those pursuits or provide that representation
37 during his or her term of office.

38 (c) The advisory committee shall examine the oversight
39 functions and operational policies of the bureau and advise the
40 bureau with respect to matters relating to private postsecondary

1 education and the administration of this chapter, including annually
2 reviewing the fee schedule and the equity of the schedule relative
3 to the way institutions are structured, and the licensing and
4 enforcement provisions of this chapter. The advisory committee
5 shall make recommendations with respect to policies, practices,
6 and regulations relating to private postsecondary education, and
7 shall provide any assistance as may be requested by the bureau.

8 (d) The bureau shall actively seek input from, and consult with,
9 the advisory committee regarding the development of regulations
10 to implement this chapter prior to the adoption, amendment, or
11 repeal of its regulations, and provide the advisory committee with
12 sufficient time to review and comment on those regulations. The
13 bureau shall take into consideration and respond to all feedback
14 provided by members of the advisory committee.

15 (e) The bureau chief shall attend all advisory committee
16 meetings and shall designate staff to provide ongoing
17 administrative support to the advisory committee.

18 (f) Until January 1, 2017, the director shall personally attend,
19 and testify and answer questions at, each meeting of the advisory
20 committee.

21 (g) The Chief of the Office of Student Assistance and Relief
22 established in Article 20.6 (commencing with Section 94949.7)
23 shall attend, and testify and answer questions at, each meeting of
24 the advisory committee.

25 (h) The advisory committee shall have the same access to
26 records within the Department of Consumer Affairs related to the
27 operation and administration of this chapter as do members of
28 constituent boards of the department in regard to records related
29 to their functions.

30 (i) Advisory committee meetings shall be subject to the
31 Bagley-Keene Open Meeting Act (Article 9 (commencing with
32 Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of
33 the Government Code). Advisory committee meeting materials
34 shall be posted on the Internet. A majority of the voting members
35 of the committee shall constitute a quorum for the committee's
36 meetings.

37 (j) The advisory committee shall meet at least quarterly and
38 shall appoint a member of the committee to represent the committee
39 for purposes of communicating with the Legislature.

(k) The Department of Consumer Affairs shall review, and revise if necessary, the department's conflicts of interest regulations to ensure that each advisory committee member is required to disclose conflicts of interest to the public.

~~SEC. 8.~~

SEC. 7. Section 94927.5 of the Education Code is amended to read:

94927.5. (a) Prior to closing, an institution shall provide the bureau with the following:

(1) Copies of pertinent student records, including transcripts, in hardcopy or electronic form, as determined by the bureau, pursuant to regulations adopted by the bureau.

(2) If the institution is an accredited institution, a plan for the retention of records and transcripts, approved by the institution's accrediting agency, that provides information as to how a student may obtain a transcript or any other information about the student's coursework and degrees completed.

(b) Subdivision (a) applies to all private postsecondary institutions, including institutions that are otherwise exempt from this chapter pursuant to Article 4 (commencing with Section 94874).

~~SEC. 9.~~

SEC. 8. Section 94947 of the Education Code is amended to read:

94947. (a) Notwithstanding Section 94874.2, an institution described in subdivision (i) of Section 94874 that satisfies all of the following requirements may claim an exemption from this chapter:

(1) The institution has been accredited by an accrediting agency recognized by the United States Department of Education for at least 10 years, and has not been placed on probation or on a greater level than standard monitoring, or sanctioned, by its accrediting agency.

(2) The institution is headquartered in California and has operated continuously in this state for at least 25 years.

(3) The institution is privately held and prior to its current exemption, the institution was granted an approval to operate by the Bureau for Private Postsecondary Education, or its predecessor agency and has experienced no change of ownership since the institution was last approved.

1 5095. (a) To be authorized to sign reports on attest
2 engagements, a licensee shall complete a minimum of 500 hours
3 of experience, satisfactory to the board, in attest services.

4 (b) To qualify under this section, attest experience shall have
5 been performed in accordance with applicable professional
6 standards. Experience in public accounting shall be completed
7 under the supervision or in the employ of a person licensed or
8 otherwise having comparable authority under the laws of any state
9 or country to engage in the practice of public accountancy and
10 provide attest services, and this experience shall be verified.
11 Experience in private or governmental accounting or auditing shall
12 be completed under the supervision of an individual licensed by
13 a state to engage in the practice of public accountancy and perform
14 attest services, and this experience shall be verified. An applicant
15 may be required to present work papers or other evidence
16 substantiating that the applicant has met the requirements of this
17 section and any applicable regulations.

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

21 SEC. 2. ~~Section 5100 of the Business and Professions Code is~~
22 ~~amended to read:~~

23 ~~5100. (a) After notice and hearing the board may revoke,~~
24 ~~suspend, or refuse to renew any permit or certificate granted under~~
25 ~~Article 4 (commencing with Section 5070) and Article 5~~
26 ~~(commencing with Section 5080), or may censure the holder of~~
27 ~~that permit or certificate for unprofessional conduct that includes,~~
28 ~~but is not limited to, one or any combination of the following~~
29 ~~causes:~~

30 (1)

31 ~~Conviction of any crime substantially related to the~~
32 ~~qualifications, functions and duties of a certified public accountant~~
33 ~~or a public accountant.~~

34 (2)

35 ~~A violation of Section 478, 498, or 499 dealing with false~~
36 ~~statements or omissions in the application for a license, in obtaining~~
37 ~~a certificate as a certified public accountant, in obtaining~~
38 ~~registration under this chapter, or in obtaining a permit to practice~~
39 ~~public accountancy under this chapter.~~

40 (3)

- 1 reason, the requirements of this chapter shall apply to an institution
- 2 that would otherwise be subject to receive this exemption.

O



Board of Barbering and Cosmetology-Department of Consumer Affairs
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MEMORANDUM

DATE	August 27, 2018
TO	Members, Board of Barbering and Cosmetology
FROM	Kristy Underwood, Executive Officer
SUBJECT	Regulations Update

Status Update

The following regulation packages are under internal review at the Department of Consumer Affairs.

- Title 16, CCR Section 904 (Definition of Access)
- Title 16, CCR Section 950.10 (Transfer of Credit or Training)
- Title 16, CCR Section 961 (National Interstate Council (NIC) Translation Guides)
- Title 16, CCR Section 974 & 974.3 (Fine Schedule and Payment Plan)

Health and Safety Regulations: Title 16, CCR Sections 977, 978, 979, 980, 980.1, 980.2, 980.3, 980.4, 981, 982, 983, 984, 985, 986, 987, 988 and 989

- Staff is developing the language of this regulations package.

Action Items:

Title 16, CCR Section 965.2 (Personal Service Permit)

Staff has made a number of revisions to this language as requested by the Board at its last meeting. It is being resubmitted for approval, after which staff will begin crafting the hearing notice, initial statement of reasons and financial impact statement that will be submitted for pre-review by the Department of Consumer Affairs.

Disciplinary Guidelines: Title 16, CCR Section 972

Staff has updated the Board's Disciplinary Guidelines and if approved the regulation must be updated to reflect the current revision date.

§ 965.2. Personal Service Permit.

- (a) The Board may issue a personal service permit (PSP) authorizing the holder of the permit to perform limited barbering and cosmetology services outside of a licensed establishment if the following conditions are met:
- (1) The applicant is licensed by the Board and has held a valid license for a minimum of two years, or has been licensed in another state and is eligible for licensure pursuant to section 7331 of the Business and Professions Code, as a barber, cosmetologist, esthetician, or manicurist and is not subject to denial pursuant to section 480.
 - (2) The applicant does one of the following:
 - a. Submits via Live Scan a full and complete set of his or her fingerprints for use in conducting a criminal background check through the California Department of Justice and the Federal Bureau of Investigation. Applicants may be denied a PSP pursuant to Chapter 10 of Division 3 of the Business and Professions Code, pursuant to Division 1.5 (commencing with Section 475) of that same code.
 - b. Submits a commercial background check done by a company accredited by the National Association of Professional Background Screener's Background Screening Credentialing Council that meets the following:
 - i. Conducts a search of multistate and multi-jurisdiction criminal records locator or other similar commercial nationwide database with validation; and conducts a search of the United States Department of Justice National Sex Offender Public Web site.
 - ii. Certifies that the applicant is not currently registered on the Department of Justice National Sex Offender Public Web site; has not been convicted of either a violent felony or a violation of Penal Code §§ 11413, 11418, 11418.5, or 11419; has not been convicted of any of the following offenses within the previous seven years: misdemeanor assault or battery; domestic violence offense; a felony violation of Elections Code § 18540, or Penal Code §§ 67, 68, 85, 86, 92, 93, 137, 138, 165, 518, 530, 18500, 484(a), 487(a), or 25540(b); and has not been convicted of any of the following within the previous three years: driving under the influence of alcohol or drugs.
 - (3) The applicant pays an application fee to the Board as provided in Section 998 of these regulations.
 - (4) The applicant provides proof of current liability insurance in a minimum amount of \$1,000,000.

(b) A PSP holder shall do the following:

- (a) A PSP holder shall present the *proof of liability insurance* to the board or its representatives upon demand with reasonable notice.
- (b) Liability insurance shall be kept valid and current during the period the licensee holds a valid and current PSP.
- (c) Failure to present a proof of liability insurance, as specified in (a) and (b), to the board or its representatives may be grounds for discipline and PSP license revocation

(c) The limited services that may be performed outside of a licensed establishment by a licensed barber who holds a PSP shall be limited to:

- 1) Shampooing
- 2) Cutting, styling, dressing, arranging, curling and waving hair;
- 3) Applying hair tonics;
- 4) Applying powders, clays, antiseptics, and oils to the scalp, face or neck;
- 5) Trimming the beard.

(d) The limited services that may be performed outside of a licensed establishment by a licensed cosmetologist who holds a PSP shall be limited to:

- 1) Shampooing
- 2) Cutting, styling, dressing, arranging, curling and waving hair;
- 3) Applying hair tonics;
- 4) Applying powders, clays and oils to the scalp, face or neck;
- 5) Cleaning, massaging, or stimulating the face and neck by means of the hands with the use of cleansing agents, antiseptics, tonics, lotions, or creams. This does not include chemical exfoliation or exfoliation with the use of a tool, machine or device;
- 6) Removing hair from the body of any person with tweezers;
- 7) Applying make-up or strip lashes;
- 8) Buffing and filing nails with non-electrical tools;
- 9) Applying nail polish.

(e) The limited services that may be performed outside of a licensed establishment by a licensed esthetician who holds a PSP shall be limited to:

- 1) Cleaning, massaging, or stimulating the face and neck by means of the hands with the use of cleansing agents, antiseptics, tonics, lotions, or creams. This does not include chemical exfoliation or exfoliation with the use of a tool, machine or device;
- 2) Applying make-up or strip lashes;
- 3) Removing hair from the body of any person with tweezers.

(f) The limited services that may be performed outside of a licensed establishment by a licensed manicurist who holds a PSP shall be limited to:

- 1) Filing and buffing of nails by non-electrical tools;
- 2) Applying nail polish.

(g) All licensees performing services outside an establishment under a PSP should use disposable tools whenever possible. A PSP holder shall follow all laws, rules and regulations governing the practice for which the PSP holder is licensed by the board.

- (g) A PSP holder performing services outside an establishment shall provide a Personal Service Permit Consumer Notice (BBC-PSP (2018)), which is hereby incorporated by reference, to all persons that are receiving services. Upon providing the Personal Service Permit Consumer Notice to the consumer, the PSP holder is required to present a *Receipt of Consumer Notice* form to the consumer. The PSP holder must obtain the consumer's, name, consent for services, phone number and email address (if available). The PSP holder shall present the *Receipt of Consumer Notice* form to the board or its representatives upon demand with reasonable notice. The Receipt of Consumer Notice must include the consumers name, date of service, service performed, phone number and e-mail address (if available) and shall be kept on file by the PSP holder for a period of five (5) years from the date of the service. Failure to present the Receipt of Consumer Notice to the board or its representatives may be grounds for discipline. The notice requirements in this section may be satisfied electronically.

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 972, Title 16, California Code of Regulations, as follows:**

§ 972. Disciplinary Guidelines.

In reaching a decision on a disciplinary action under the Administrative Procedure Act (Government Code Section 11400 et seq.), the board shall consider the disciplinary guidelines entitled "Disciplinary Guidelines" (~~October 2010~~ May 2018 Edition) which are hereby incorporated by reference. Deviation from these guidelines, including the standard terms of probation, is appropriate where the board in its sole discretion determines that the facts of the particular case warrant such a deviation-for example: the presence of mitigating factors; the age of the case; evidentiary problems.

Note: Authority cited: Section 7312, Business and Professions Code. Reference: Sections 7403 and 7404, Business and Professions Code.

Summary of Disciplinary Guidelines Updates

Revised May 2018

- Page 1: Updated the version date
- Pages 2-3: Updated page numbers
- Page 5: Removed "Partial Cost Recovery"
- Page 8: Moved "Conditions of Probation" page here from page 28
Added verbiage about completion of probation
- Page 10-11: Added, removed, and moved conditions of probation
- Pages 12-26: Moved "Suspension" probation term from a standard to a conditional term.
Removed "Partial Cost Recovery" and replaced with "Full Cost Recovery"
Updated number of standard conditions
- Page 28: Moved "Conditions of Probation" page to page 8
- Page 30: Moved "Suspension of License" and "Posting of Suspension Sign" from standard to optional conditions

Combined "Suspension of License" and "Posting of Suspension Sign" into one term
Add verbiage to "Cost Recovery" to clarify payment plans
- Page 31: Removed "Quarterly Reports of Compliance" term
Add verbiage to "Notification to Employer" to require a specific form be completed as well clarifying the term "Employer"
- Page 32: Added verbiage to "Change of Employment" term to specify what details to include
Added verbiage to "Participation in Apprenticeship or Externship Program" term to clarify who this term applies to
Added verbiage to "Obey All Laws" term to clarify consequences of not reporting
Verbiage added and removed to clarify exactly what Probationer submits and when
- Page 33: Removed "Report in Person" term
Removed "Residency Outside of the State" term; verbiage to be included in "Failure to Practice/Tolling" term

- Page 34: Updated verbiage in “Failure to Practice” term to be more universal and clarify the term “Tolling”
Added “Petition for Reduction of Penalty” term
- Page 35: Added verbiage to “License Surrender” term to clarify when a Probationer may reapply for the same license type
Added stipulation that Probationer must pay all outstanding cost recovery before surrender is accepted
- Page 36: Removed verbiage in “Remedial Education Courses” term about providing proof of attendance
Added, removed verbiage from “Notice Employees” term to clarify the title of establishment owner and what documents to provide and to whom
- Page 37: Removed “Reimbursement of Probation Program” term
- Page 38: Moved “Suspension of License” term from standard conditions to optional conditions
Combined “Suspension of License” and “Posting of Suspension Sign”

State of California
Department of Consumer Affairs
Board of Barbering and Cosmetology



Disciplinary Guidelines

Revised May 2018

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INTRODUCTION

The Board of Barbering and Cosmetology (Board) is a consumer protection agency with an obligation to protect the consumers of California from the unsafe, incompetent and/or negligent practices of its licensees. The Board has adopted the following guidelines for disciplinary orders and conditions of probation for violations of the Barbering and Cosmetology Act. The guidelines are intended for the use of those involved in the disciplinary process: Administrative Law Judges, Deputy Attorney Generals, Attorneys for Respondents, licensees and Board staff members.

The Board carefully considers the totality of the facts and circumstances in each individual case, with the safety of the public being paramount. The Board recognizes that the disciplinary orders and conditions of probation listed on the following pages are merely guidelines and that individual cases will require variations, which take into account unique circumstances. Consequently, the Board requests that the Administrative Law Judge hearing the case include an explanation of the deviations or omissions, including all mitigating factors considered by the Administrative Law Judge in the proposed Decision so that the Board is better able to understand the Administrative Law Judge's rationale during his/her review and consideration of the proposed Decision.

DESCRIPTION OF PENALTIES

REVOCATION

This action revokes a respondent's license(s) and prohibits respondent from conducting services in the practice for which discipline is imposed. Prior to the effective date of the Decision, respondent may request reconsideration or reduction of the penalty. If the Department of Consumer Affairs denies the request or does not grant a reduction of the penalty, the earliest date respondent may petition the Board for reinstatement of the revoked license, is one year from the effective date of the Decision.

PROBATION

This action, usually taken in conjunction with a stayed revocation or suspension, places a licensee on probation with the Board for up to five years. During the probationary period, Respondent must comply with specific terms and conditions of probation. If the Respondent does not comply with all the terms and conditions of probation, the Board may pursue additional disciplinary action against the Respondent which can result in suspension or revocation of Respondent's license(s).

SUSPENSION

This action prohibits a licensee from conducting services in the practice for which they have been disciplined for a specific period of time. The licensee must cease operating during the suspension period. License suspensions can be from five (5) to forty-five (45) working days. During the period of suspension, Respondent is required to post a notice which describes the nature of the violation for which Respondent is being disciplined.

FULL COST RECOVERY

Section 7403 of the Business and Professions Code allows the Board to recover its costs of investigating and adjudicating a disciplinary case. Full cost recovery includes both Division of Investigation and Attorney General costs. A payment schedule can be specified, if warranted.

DESCRIPTION OF PENALTIES (Continued)

~~PARTIAL COST RECOVERY~~

~~Section 7403 of the Business and Professions Code allows the Board to recover its costs of investigating and adjudicating a disciplinary case. Partial cost recovery in this instance includes Division of Investigation costs only. A payment schedule can be specified, if warranted.~~

PUBLIC NOTICE

Any disciplinary action imposed as a result of a Decision may be published in the appropriate Board newsletter or other publication. Additionally, the Board or its designee may issue press releases or other public notices of disciplinary action taken by the Board.

EXAMINATIONS

This action requires the Respondent to take and pass an examination administered by the examination staff of the Board. Respondent shall pay all costs associated with the examination.

STAY OF ORDER

This action allows the Board to adopt an order of revocation or suspension but allows the order to be put aside. This means a Respondent has time to serve a lesser penalty, which normally includes probation. However, if the Respondent fails to comply with the terms outlined in the final Decision, the Board or its designee can pursue additional disciplinary action against the Respondent and reinstate the order that was stayed.

FACTORS TO BE CONSIDERED

When considering whether revocation, suspension or probation is to be imposed in a given case, factors such as the following should be considered:

1. Nature and severity of the act(s) or offense(s).
2. Total criminal record.
3. The time that has elapsed since the commission of the act(s) or offense(s).
4. Whether the licensee has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.
5. If applicable, evidence of expungement proceedings pursuant to section 1203.4 of the Penal Code.
6. Evidence, if any, of rehabilitation submitted by the licensee.

When considering whether denial of a license is to be imposed, factors such as the following should be considered:

1. The nature and the severity of the act(s) or crimes(s) under consideration as grounds of denial.
2. Evidence of any act(s) committed subsequent to the act(s) or crime(s) under consideration as grounds for denial.
3. The time that has elapsed since commission of the act(s) or crime(s) referred to in (1) and (2).
4. The extent to which the applicant has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the applicant.
5. Evidence, if any, of rehabilitation submitted by the applicant.

[MOVED FROM PAGE 28]
CONDITIONS OF PROBATION

The Board's primary responsibility is consumer protection. The Board believes that in disciplinary matters where probation has been imposed, conditions should be established to provide for consumer protection and allow the probationer to demonstrate rehabilitation.

The following conditions of probation provide for consumer protection and establish a mechanism to monitor the rehabilitation progress of a probationer.

For purposes of implementation of these conditions of probation, any reference to the Board also means staff working for the Board of Barbering and Cosmetology.

Upon successful completion of probation, Respondent's license(s) will be fully restored.

PROBATIONARY CONDITIONS

Probationary conditions are divided into two categories:

- A. **Standard** conditions that appear in all probation orders;
- B. **Optional** conditions that are appropriate to the nature and circumstances of the particular violation.

MITIGATION EVIDENCE

The Respondent is permitted to present mitigating circumstances at a hearing. The same opportunity is provided in the settlement process.

The following documents are examples of appropriate evidence the Respondent may submit to demonstrate his or her rehabilitative efforts and competency:

A) List of improvements made to the Establishment:

- Policy & Procedures Established
- Photographs of Improvements
- Rental Agreements

B) Declaration stating how Respondent has corrected the violations cited.

C) Certification of courses completed.

D) If Respondent was convicted of a criminal offense:

- A letter describing the underlying circumstances of the arrest(s) as well as any rehabilitative efforts or changes in life since that time to prevent future problems.
- Letters of reference from past and/or current employers.
- Evidence of compliance with and completion of terms of probation, parole, restitution or any other sanctions (proof of enrollment/completion of court ordered programs, classes, fines) for each conviction.
- Letters from recognized recovery programs attesting to current sobriety, length of time of sobriety, and recovery programs, if there has been a history of alcohol or drug abuse.

STANDARD CONDITIONS OF PROBATION

Each disciplinary order is required to contain the introductory language described on page ~~28~~ 29 of this pamphlet, as well as the following ~~46~~ 12 conditions (for an explanation and recommended language for each condition, turn to pages ~~29-32~~ 30-35):

- ~~1)~~ ~~Suspension of License~~ **[MOVED TO OPTIONAL CONDITIONS]**
- ~~2)~~ ~~Posting of Suspension Sign~~ **[MOVED TO OPTIONAL CONDITIONS]**
- ~~3)~~ 10) Cost Recovery (Does not apply to Applicants)
- ~~4)~~ ~~Quarterly Reports of Compliance~~
- ~~5)~~ 2) Notification to Employer
- ~~6)~~ 3) Change of Employment
- ~~7)~~ 4) Participation in Apprenticeship or Externship Program
- ~~8)~~ 5) Publication of Disciplinary Action
- ~~9)~~ 1) Obey all Laws
- ~~10)~~ 6) Comply with the Board's Probation Program
- ~~11)~~ 7) Violation of Probation
- ~~12)~~ ~~Report in Person~~
- ~~13)~~ ~~Residency Outside of State~~
- ~~14)~~ 8) Failure to Practice – ~~California Resident~~ Tolling
- ~~15)~~ 9) Maintain Valid License
- 11) Petition for Reduction of Penalty
- ~~16)~~ 12) License Surrender

OPTIONAL CONDITIONS OF PROBATION

Any of the optional conditions may be included if relevant to the violation (for an explanation and recommended language for each condition, turn to pages ~~33-35~~ 36-38):

- 1) Remedial Education Courses
- 2) Written Licensing Examination
- 3) Practical Licensing Examination
- 4) Notice to Employees
- 5) Criminal Probation
- 6) Proof of Advertising Correction
- 7) Restitution
- ~~8) Reimbursement of Probation Program~~
- ~~9) 8) Manager or Licensee in Charge~~
- ~~10) 9) Abstain from Controlled Substances / Submit to Biological Fluid Testing~~
- ~~11) 10) Abstain from Use of Alcohol / Submit to Biological Fluid Testing~~
- 11) Suspension of License **[MOVED FROM STANDARD CONDITIONS]**

THE BARBERING AND COSMETOLOGY ACT VIOLATIONS AND RECOMMENDED ACTIONS

The Barbering and Cosmetology Act (Business and Professions Code, Division 3, Chapter 10) and additional sections of the Business and Professions Code specify the offenses for which the Board may take disciplinary action. The following are code numbers of the offenses and Board-determined disciplinary action. When filing an accusation, the Office of the Attorney General may also cite additional related statutes and resolutions.

7320 If the violation is for the practice of medicine, then the recommended penalty is as follows:

- **Maximum:** Revocation
Full Cost Recovery
 - **Minimum:** Revocation, stayed
Probation, 5 years
~~Suspension, 15 consecutive working days~~
~~Partial Cost Recovery~~ Full Cost Recovery
Standard Terms of Probation Nos. ~~4-16~~ 1-12
Optional Terms of Probation
(1) Remedial Education
(2) Written Licensing Exam
(4) Notice to Employees
(7) Restitution
(11) Suspension, 15 consecutive working days
-

7320.1 If the violation is for the use of metal instruments then the recommended penalty is as follows:

- **Maximum:** Revocation
Full Cost Recovery
- **Minimum:** Revocation, stayed
Probation, 2 years
~~Suspension, 5 consecutive working days~~
~~Partial Cost Recovery~~ Full Cost Recovery
Standard Terms of Probation Nos. ~~4-16~~ 1-12
Optional Terms of Probation
(1) Remedial Education
(2) Written Licensing Exam
(4) Notice to Employees
(7) Restitution
(11) Suspension, 5 consecutive working days

VIOLATIONS AND RECOMMENDED ACTIONS

7320.2 If the violation is for practicing illegal treatment methods then the recommended penalty is as follows:

- **Maximum:** Revocation
Full Cost Recovery
 - **Minimum:** Revocation, stayed
Probation, 5 years
~~Suspension, 15 consecutive working days~~
~~Partial Cost Recovery~~ Full Cost Recovery
Standard Terms of Probation Nos. ~~4-16~~ 1-12
Optional Terms of Probation
(1) Remedial Education
(2) Written Licensing Exam
(4) Notice to Employees
(7) Restitution
(11) Suspension, 15 consecutive working days
-

7404(a) UNPROFESSIONAL CONDUCT

Recommended Penalty:

- **Maximum:** Revocation/Denial of License
Full Cost Recovery
- **Minimum:** Revocation, stayed
Probation, 3 years
~~Suspension, 5 consecutive working days~~
~~Partial Cost Recovery~~ Full Cost Recovery
Standard Terms of Probation Nos. ~~4-16~~ 1-12
Optional Terms of Probation
(1) Remedial Education
(2) Written Licensing Exam
(4) Notice to Employees
(5) Criminal Probation
(11) Suspension, 5 consecutive working days

VIOLATIONS AND RECOMMENDED ACTIONS

7404(a)(1) INCOMPETENCE OR GROSS NEGLIGENCE, INCLUDING FAILURE TO COMPLY WITH GENERALLY ACCEPTED STANDARDS FOR THE PRACTICE OF BARBERING, COSMETOLOGY, OR ELECTROLOGY OR DISREGARD FOR THE HEALTH AND SAFETY OF PATRONS.

Recommended Penalty:

Maximum: Revocation

Full Cost Recovery

• **Minimum:** Revocation, stayed

Probation, 3 years

~~Suspension, 10 consecutive working days~~

~~Partial Cost Recovery~~ Full Cost Recovery

Standard Terms of Probation Nos. ~~4-16~~ 1-12

Optional Terms of Probation

(1) Remedial Education

(2) Written Licensing Exam

(4) Notice to Employees

(7) Restitution

(11) Suspension, 10 consecutive working days

7404(a)(2) REPEATED SIMILAR NEGLIGENT ACTS.

Recommended Penalty:

• **Maximum:** Revocation

Full Cost Recovery

• **Minimum:** Revocation, stayed

Probation, 2 years

~~Suspension, 10 consecutive working days~~

~~Partial Cost Recovery~~ Full Cost Recovery

Standard Terms of Probation Nos. ~~4-16~~ 1-12

Optional Terms of Probation

(1) Remedial Education

(2) Written Licensing Exam

(3) Practical Licensing Exam

(4) Notice to Employees

(11) Suspension, 10 consecutive working days

VIOLATIONS AND RECOMMENDED ACTIONS

7404(a)(3) CONVICTION OF ANY CRIME SUBSTANTIALLY RELATED TO THE QUALIFICATIONS, FUNCTIONS, OR DUTIES OF THE LICENSEHOLDER, IN WHICH CASE, THE RECORDS OF CONVICTION OR A CERTIFIED COPY SHALL BE CONCLUSIVE EVIDENCE THEREOF.

Conviction of a felony involving a crime of violence (including, but not limited to: murder, attempted murder, assault with a deadly weapon) or prostitution (soliciting) within the past three years or is currently on parole or probation for such a conviction.

Recommended Penalty:

- **Maximum:** Revocation
Denial of License
Full Cost Recovery
- **Minimum:** Revocation, stayed
License issued with Terms and Conditions appropriate to crime
Probation, 3
~~Partial Cost Recovery~~ Full Cost Recovery
Standard Terms of Probation Nos. 4-16 1-12
Optional Terms of Probation
(5) Criminal Probation

Conviction of three or more felonies involving crimes of violence (including, but not limited to: murder, attempted murder, assault with a deadly weapon) or prostitution (soliciting) within the past five years (or six in a ten year period).

Recommended Penalty:

- **Maximum:** Revocation
Denial of License
Full Cost Recovery
- **Minimum:** Revocation, stayed
License issued with Terms and Conditions appropriate to crime
Probation, 5 years
~~Partial Cost Recovery~~ Full Cost Recovery

VIOLATIONS AND RECOMMENDED ACTIONS

7404(a)(3) (Continued)

Standard Terms of Probation Nos. ~~4-16~~ 1-12
Optional Terms of Probation
(5) Criminal Probation

Conviction of a crime of a sexual nature (other than those involving a minor) within the past three years or is currently on parole or probation (including, but not limited to: rape, sexual assault, and molestation).

Recommended Penalty:

- **Maximum:** Revocation
Denial of License
Full Cost Recovery
- **Minimum:** Revocation, stayed
License issued with Terms and Conditions appropriate to crime
Probation, 5 years

~~Partial Cost Recovery~~ Full Cost Recovery
Standard Terms of Probation Nos. ~~4-16~~ 1-12
Optional Terms of Probation
(5) Criminal Probation

Conviction of any crime committed by a licensee in an establishment subject to regulation by the Board.

Recommended Penalty:

- **Maximum:** Revocation
Full Cost Recovery
- **Minimum:** Revocation, stayed
License issued with Terms and Conditions appropriate to crime
Probation, 3 years
~~Partial Cost Recovery~~ Full Cost Recovery
Standard Terms of Probation Nos. ~~4-16~~ 1-12
Optional Terms of Probation
(5) Criminal Probation

VIOLATIONS AND RECOMMENDED ACTIONS

7404(a)(4) ADVERTISING BY MEANS OF KNOWINGLY FALSE OR DECEPTIVE STATEMENTS.

Recommended Penalty:

- **Maximum:** Revocation
Full Cost Recovery
- **Minimum:** Revocation, stayed
Probation, 1 year
~~Suspension, 5 consecutive working days~~
~~Partial Cost Recovery~~ Full Cost Recovery
Standard Terms of Probation Nos. ~~4-16~~ 1-12
Optional Terms of Probation
(6) Proof of Advertising Correction
(11) Suspension, 5 consecutive working days

7404(b) FAILURE TO COMPLY WITH THE REQUIREMENTS OF THIS CHAPTER.

(All other Business and Professions Code sections cited.)

Recommended Penalty:

- **Maximum:** Revocation
Full Cost Recovery
- **Minimum:** Revocation, stayed
Probation, 3 years
~~Suspension, 5 consecutive working days~~
~~Partial Cost Recovery~~ Full Cost Recovery
Standard Terms of Probation Nos. ~~4-16~~ 1-12
Optional Terms of Probation
(2) Written Licensing Exam
(4) Notice to Employees
(11) Suspension, 5 consecutive working days

VIOLATIONS AND RECOMMENDED ACTIONS

7404(c) FAILURE TO COMPLY WITH THE RULES GOVERNING HEALTH AND SAFETY ADOPTED BY THE BOARD AND APPROVED BY THE STATE DEPARTMENT OF HEALTH SERVICES, FOR THE REGULATION OF ESTABLISHMENTS, OR ANY PRACTICE LICENSED AND REGULATED UNDER THIS CHAPTER.

Recommended Penalty:

- **Maximum:** Revocation
Full Cost Recovery
- **Minimum:** Revocation, stayed
Probation, 3 years
~~Suspension, 5 consecutive working days~~
~~Partial Cost Recovery~~ Full Cost Recovery
Standard Terms of Probation Nos. ~~4-16~~ 1-12
Optional Terms of Probation
(2) Written Licensing Exam
(4) Notice to Employees
(11) Suspension, 5 consecutive working days

7404(d) FAILURE TO COMPLY WITH THE RULES ADOPTED BY THE BOARD FOR THE REGULATION OF ESTABLISHMENTS OR ANY PRACTICE LICENSED AND REGULATED UNDER THIS CHAPTER.

Recommended Penalty:

- **Maximum:** Revocation
Full Cost Recovery
- **Minimum:** Revocation, stayed
Probation, 3 years
~~Suspension, 5 consecutive working days~~
~~Partial Cost Recovery~~ Full Cost Recovery
Standard Terms of Probation Nos. ~~4-16~~ 1-12
Optional Terms of Probation
(2) Written Licensing Exam
(4) Notice to Employees
(11) Suspension, 5 consecutive working days

VIOLATIONS AND RECOMMENDED ACTIONS

7404(e) CONTINUED PRACTICE BY A PERSON KNOWINGLY HAVING AN INFECTIOUS OR CONTAGIOUS DISEASE.

Recommended Penalty:

- **Maximum:** License is suspended until Respondent provides written proof from a physician stating he/she is no longer contagious/infectious. Upon verification, license is suspended for 30 consecutive working days.
Full Cost Recovery
Standard Terms of Probation Nos. 1-~~46~~ 12
- **Minimum:** License is suspended until Respondent provides written proof from a physician stating he/she is no longer contagious/infectious. Upon verification, license is placed on 1 year probation.
~~Partial Cost Recovery~~ Full Cost Recovery
Standard Terms of Probation Nos. 1-~~46~~ 12

7404(f) HABITUAL DRUNKENNESS, HABITUAL USE OF OR ADDICTION TO THE USE OF ANY CONTROLLED SUBSTANCE.

Recommended Penalty:

- **Maximum:** Revocation
Full Cost Recovery
- **Minimum:** License is suspended until Respondent completes a drug/alcohol rehabilitation program. Upon verification of completion, license is placed on 3 years probation.
Full Cost Recovery
Standard Terms of Probation Nos. 4-~~46~~ 1-12
Optional Terms of Probation
(5) Criminal Probation

VIOLATIONS AND RECOMMENDED ACTIONS

**7404(g) OBTAINING OR ATTEMPTING TO OBTAIN PRACTICE
IN ANY OCCUPATION LICENSED AND REGULATED
UNDER THIS CHAPTER, FOR MONEY, OR COMPENSATION
IN ANY FORM, BY FRAUDULENT MISREPRESENTATION.**

Recommended Penalty:

- **Maximum:** Revocation
Full Cost Recovery
- **Minimum:** Revocation, stayed
Probation, 2 years
~~Suspension, 10 consecutive working days~~
~~Partial Cost Recovery~~ Full Cost Recovery
Standard Terms of Probation Nos. ~~4-16~~ 1-12
Optional Terms of Probation
(5) Criminal Probation
(11) Suspension, 10 consecutive working days

NOTE: If Respondent has a pending application on file, the application shall be denied.

**7404(h) FAILURE TO DISPLAY THE LICENSE OR HEALTH AND
SAFETY RULES AND REGULATIONS IN A CONSPICUOUS
PLACE.**

Recommended Penalty:

- **Maximum:** ~~Suspension, 5 consecutive working days~~
Full Cost Recovery
Optional Terms of Probation No.
(11) Suspension, 5 consecutive working days
- **Minimum:** Public Letter of Reprimand
~~Partial Cost Recovery~~ Full Cost Recovery
Standard Terms of Probation Nos. ~~4-16~~ 1-12
Optional Terms of Probation
(4) Notice to Employees

VIOLATIONS AND RECOMMENDED ACTIONS

- 7404(i) ENGAGING, OUTSIDE OF A LICENSED ESTABLISHMENT AND FOR COMPENSATION IN ANY FORM WHATEVER, IN ANY PRACTICE FOR WHICH A LICENSE IS REQUIRED UNDER THIS CHAPTER, EXCEPT THAT WHEN THE SERVICE IS PROVIDED BECAUSE OF ILLNESS OR OTHER PHYSICAL OR MENTAL INCAPACITATION OF THE RECIPIENT OF THE SERVICE AND WHEN PERFORMED BY A LICENSEE OBTAINED FOR THE PURPOSE FROM A LICENSED ESTABLISHMENT.**

Recommended Penalty:

- **Maximum:** Revocation
Full Cost Recovery
- **Minimum:** Revocation, stayed
Probation, 2 years
~~Suspension, 5 consecutive working days~~
~~Partial Cost Recovery~~ Full Cost Recovery
Standard Terms of Probation Nos. 4-16 1-12
Optional Terms of Probation
(4) Notice to Employees
(11) Suspension, 5 consecutive working days

- 7404(j) PERMITTING A LICENSE TO BE USED WHERE THE HOLDER IS NOT PERSONALLY, ACTIVELY, AND CONTINUOUSLY ENGAGED IN BUSINESS.**

Recommended Penalty:

- **Maximum:** Revocation
Full Cost Recovery
- **Minimum:** Revocation, stayed
Probation, 5 years
~~Suspension, 15 consecutive working days~~
Full Cost Recovery
Standard Terms of Probation Nos. 4-16 1-12
Optional Terms of Probation
(4) Notice to Employees
(11) Suspension, 15 consecutive working days

VIOLATIONS AND RECOMMENDED ACTIONS

7404(k) THE MAKING OF ANY FALSE STATEMENT AS TO A MATERIAL MATTER IN ANY OATH OR AFFIDAVIT, WHICH IS REQUIRED BY THE PROVISIONS OF THIS CHAPTER.

Recommended Penalty:

- **Maximum:** Revocation
Full Cost Recovery
- **Minimum:** Revocation, stayed
Probation, 2 years
~~Suspension, 5 consecutive working days~~
~~Partial Cost Recovery~~ Full Cost Recovery
Standard Terms of Probation Nos. 4-16 1-12
Optional Terms of Probation
(11) Suspension, 5 consecutive working days

NOTE: If Respondent has a pending application on file, the application shall be denied.

7404(l) REFUSAL TO PERMIT OR INTERFERENCE WITH AN INSPECTION AUTHORIZED UNDER THIS CHAPTER.

Recommended Penalty:

- **Maximum:** Revocation
Full Cost Recovery
- **Minimum:** Revocation, stayed
Probation, 2 years
~~Suspension, 5 consecutive working days~~
~~Partial Cost Recovery~~ Full Cost Recovery
Standard Terms of Probation Nos. 4-16 1-12
Optional Terms of Probation
(4) Notice to Employees
(11) Suspension, 5 consecutive working days

VIOLATIONS AND RECOMMENDED ACTIONS

7404(m) ANY ACTION OR CONDUCT WHICH WOULD HAVE WARRANTED THE DENIAL OF A LICENSE.

Recommended Penalty:

- **Maximum:** Revocation
Full Cost Recovery
- **Minimum:** Revocation, stayed
Probation, 2 years
~~Suspension, 5 consecutive working days~~
~~Partial Cost Recovery~~ Full Cost Recovery
Standard Terms of Probation Nos. ~~4-16~~ 1-12
Optional Terms of Probation
(4) Notice to Employees
(5) Criminal Probation
(11) Suspension, 5 consecutive working days

NOTE: If Respondent has a pending application on file, the application shall be denied.

7404(n) FAILURE TO SURRENDER A LICENSE THAT WAS ISSUED IN ERROR OR BY MISTAKE.

Recommended Penalty:

- **Maximum:** Revocation
Full Cost Recovery
- **Minimum:** Public Letter of Reprimand
~~Partial Cost Recovery~~ Full Cost Recovery
Standard Terms of Probation Nos. ~~4-16~~ 1-12

VIOLATIONS AND RECOMMENDED ACTIONS

480(a)(1) BEEN CONVICTED OF A CRIME. A CONVICTION WITHIN THE MEANING OF THIS SECTION MEANS A PLEA OR VERDICT OF GUILTY OR A CONVICTION FOLLOWING A PLEA OF NOLO CONTENDERE. ANY ACTION WHICH A BOARD IS PERMITTED TO TAKE FOLLOWING THE ESTABLISHMENT OF A CONVICTION MAY BE TAKEN WHEN THE TIME FOR APPEAL HAS ELAPSED, OR THE JUDGEMENT OF CONVICTION HAS BEEN AFFIRMED ON APPEAL, OR WHEN AN ORDER GRANTING PROBATION IS MADE SUSPENDING THE IMPOSITION OF SENTENCE, IRRESPECTIVE OF A SUBSEQUENT ORDER UNDER THE PROVISIONS OF SECTION 1203.4 OF THE PENAL CODE.

Recommended Penalty:

- **Maximum:** Denial of Application for Licensure
- **Minimum:** Revocation, stayed
Probation, 2 years (for misdemeanor)
3 years (less than 3 felonies)
5 years (more than 3 felonies)
Standard Terms of Probation Nos. ~~4-16~~ 1-12
Optional Terms of Probation
(5) Criminal Probation

480(a)(2) DONE ANY ACT INVOLVING DISHONESTY, FRAUD OR DECEIT WITH THE INTENT TO SUBSTANTIALLY BENEFIT HIMSELF OR ANOTHER, OR SUBSTANTIALLY INJURE ANOTHER.

Recommended Penalty:

- **Maximum:** Denial of Application for Licensure
- **Minimum:** Revocation, stayed
Probation, 2 years
Standard Terms of Probation Nos. ~~4-16~~ 1-12
Optional Terms of Probation
(5) Criminal Probation

VIOLATIONS AND RECOMMENDED ACTIONS

480(a)(3) DONE ANY ACT WHICH IF DONE BY A LICENTATE OF THE BUSINESS OR PROFESSION IN QUESTION, WOULD BE GROUNDS FOR SUSPENSION OR REVOCATION OF LICENSE. THE BOARD MAY DENY A LICENSE PURSUANT TO THIS SUBDIVISION ONLY IF THE CRIME OR ACT IS SUBSTANTIALLY RELATED TO THE QUALIFICATIONS, FUNCTIONS OR DUTIES OF THE BUSINESS OR PROFESSION FOR WHICH APPLICATION IS MADE.

Recommended Penalty:

- **Maximum:** Denial of Application for Licensure
- **Minimum:** Revocation, stayed
Probation, 3 years
Standard Terms of Probation Nos. 4-16 1-12
Optional Terms of Probation
(5) Criminal Probation

480(c) A BOARD MAY DENY A LICENSE REGULATED BY THIS CODE ON THE GROUND THAT THE APPLICANT KNOWINGLY MADE A FALSE STATEMENT OF FACT REQUIRED TO BE REVEALED IN THE APPLICATION FOR SUCH LICENSE.

Recommended Penalty:

- **Maximum:** Denial of Application for Licensure
- **Minimum:** Revocation, stayed
Probation, 2 years
Standard Terms of Probation Nos. 4-16 1-12
Optional Terms of Probation
(5) Criminal Probation

VIOLATIONS AND RECOMMENDED ACTIONS

- 496 **A BOARD MAY DENY, SUSPEND, REVOKE, OR OTHERWISE RESTRICT A LICENSE ON THE GROUND THAT AN APPLICANT OR LICENSEE HAS VIOLATED SECTION 123 PERTAINING TO SUBVERSION OF LICENSING EXAMINATIONS.**

Recommended Penalty:

- **Maximum:** Revocation or Denial
Full Cost Recovery
- **Minimum:** Probation, 2 years
~~Suspension, 10 consecutive working days~~
~~Partial Cost Recovery~~ Full Cost Recovery (only if Respondent holds another license)
Standard Terms of Probation Nos. 4-16 1-12
Optional Terms of Probation
(5) Criminal Probation
(11) Suspension, 10 consecutive working days

OTHER SITUATIONS IN WHICH REVOCATION IS THE RECOMMENDED PENALTY

1. Failure to file a Notice of Defense.
2. Failure to appear at the administrative hearing.
3. Failure to comply with the conditions of probation.
4. Subsequent acts offenses, or convictions, which warrant the revocation of license.

[MOVED TO PAGE 8]
CONDITIONS OF PROBATION

The Board's primary responsibility is consumer protection. The Board believes that in disciplinary matters where probation has been imposed, conditions should be established to provide for consumer protection and allow the probationer to demonstrate rehabilitation.

The following conditions of probation provide for consumer protection and establish a mechanism to monitor the rehabilitation progress of a probationer.

Upon successful completion of probation, Respondent's individual license, establishment license will be fully restored.

For purposes of implementation of these conditions of probation, any reference to the Board also means staff working for the Board of Barbering and Cosmetology.

PROBATIONARY CONDITIONS

Probationary conditions are divided into two categories:

- B. **Standard** conditions that appear in all probation orders;
- B. **Optional** conditions that are appropriate to the nature and circumstances of the particular violation.

INTRODUCTORY LANGUAGE FOR DISCIPLINARY ORDERS

The following introductory language and all standard conditions of probation are to be included in probationary decisions/orders. For applicants, Condition 3, Cost Recovery, does not apply. For licensees, all standard conditions of probation apply. (Note: See alternative introductory language for applicants and reinstatements in next section of guidelines.)

INTRODUCTORY LANGUAGE FOR ALL ORDERS— It is hereby ordered that (license type) License No. (number) issued to Respondent (name) is revoked. However, revocation is stayed and Respondent is placed on probation for a period of (number of years) years on the following conditions.

SEVERABILITY CLAUSE – Each condition of probation contained herein is a separate and distinct condition. If any condition of this Order, or any application thereof, is declared unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other applications thereof, shall not be affected. Each condition of this Order shall separately be valid and enforceable to the fullest extent permitted by law.

RECOMMENDED LANGUAGE FOR STANDARD CONDITIONS OF PROBATION

(~~4~~ 11 [MOVED TO OPTIONAL CONDITIONS]) SUSPENSION OF LICENSE-Respondent is suspended from the practice of (type of practice) for (number of days) consecutive working days beginning on the effective date of this Decision. Respondent shall cease operating during the suspension period. During the suspension period, all conditions of probation are in full force and effect. ~~The period of suspension shall be determined by the Board's designee and Respondent shall be notified in writing.~~ Probation shall not terminate until the suspension period is served.

(~~2~~ 11 [MOVED TO OPTIONAL CONDITIONS]) ~~POSTING OF SUSPENSION SIGN~~-During the period of suspension, Respondent shall post a notice which describes the nature of the violation for which the license is being disciplined. If only an individual's license is disciplined, the notice shall be conspicuously posted in the establishment where the Respondent performs barbering and cosmetology services. If an establishment license is disciplined, the notice shall be conspicuously posted, unobstructed and visible to the public from the outside of the main entrance. The sign to be posted will be provided by the Board of Barbering and Cosmetology designee prior to the commencement of the suspension and will include the Respondent's name and license number(s).

(~~3~~ 10) COST RECOVERY- Respondent shall pay to the Board of Barbering and Cosmetology costs associated with its investigation and enforcement pursuant to Business and Professions Code Section 125.3 in the amount of \$ _____. Upon written request and approval by the Board or its designee, Respondent shall be permitted to pay these costs in a payment plan approved by the Board, with payments to be completed no later than six months prior to the end of the probation term. Probation shall not terminate until full payment has been made. Should any part of cost recovery not be paid in accordance with the outlined payment schedule, Respondent shall be considered to be in violation of probation.

Modification to an authorized payment plan may be requested by the Respondent. The request for modification must be in writing and is subject to approval by the Board or its designee.

Any order for payment of cost recovery shall remain in effect whether or not probation is tolled. The filing of bankruptcy by the Respondent shall not relieve the Respondent of ~~his/her~~ his or her responsibility to reimburse the Board for these costs.

(4) QUARTERLY REPORTS OF COMPLIANCE — Respondent shall submit ~~Quarterly Reports of Compliance to the Board of Barbering and Cosmetology's designee in accordance with a specified schedule. The form, "Quarterly Report of Compliance," which is provided by the Board's Enforcement Program, must be completed and signed under penalty of perjury regarding compliance with all conditions of probation. Omission or falsification in any manner of any information on these reports shall constitute a violation of probation. Quarterly reports are due for each year of probation and the entire length of probation as follows:~~

- ~~For the period covering January 1st through March 31st, reports are to be completed and submitted between April 1st and April 7th.~~
- ~~For period covering April 1st through June 30th, reports are to be completed and submitted between July 1st and July 7th.~~
- ~~For the period covering July 1st through September 30th, reports are to be completed and submitted between October 1st and October 7th.~~
- ~~For the period covering October 1st through December 31st, reports are to be completed and submitted between January 1st and January 7th.~~

(5-2) NOTIFICATION TO EMPLOYER - Respondent shall be required to inform ~~his/her~~ his or her employer and any subsequent employer during the probation period of the discipline imposed by this Decision by providing the employer with a copy of the Decision and Order and the Accusation or Statement of Issues in this matter. Within 30 days of the effective date of the decision, respondent shall submit the Notification to Establishment Owner form (REV 4/2018 BBC 15) to prove that he or she has notified his or her employer of the terms of the Decision and Order. The employer will be requested to inform the Board of Barbering and Cosmetology, in writing, that he/she is aware of the discipline. The respondent shall provide to the Board the names, physical addresses, mailing addresses, and telephone numbers of all employers. This applies to independent contractors (booth renters) as well as employees. "Employer" as used in this provision also includes the holder of the establishment license where Respondent practices.

(-6-3) CHANGE OF EMPLOYMENT - Respondent shall notify the Board of Barbering and Cosmetology in writing of any and all changes in employment status, employment location, and address within 30 days of such change. The written notice shall include the name, address, and phone number of the holder of the establishment license where Respondent practices, and the date of the change.

(-7-4) PARTICIPATION IN APPRENTICESHIP OR EXTERNSHIP PROGRAM—Respondent shall not participate as a trainer ~~or supervisor~~ in an apprenticeship or externship program during the course of this probation. If Respondent is the holder of an establishment license, Respondent's establishment shall not participate in an apprenticeship or externship program during the course of this probation. Respondent shall terminate any such program in existence on the effective date of this decision.

(-8-5) PUBLICATION OF DISCIPLINARY ACTION—Any disciplinary action imposed as a result of this Decision may be published in the appropriate Board of Barbering and Cosmetology newsletter or other publication. Additionally, the Board or its designee may issue press releases or other public notices of disciplinary action taken by the Board of Barbering and Cosmetology.

(-9-1) OBEY ALL LAWS—Respondent shall obey all federal, state, local laws, and all rules and regulations governing any practice for which the Respondent is licensed. A full and detailed account of any and all violations of law shall be reported by the Respondent to the Board in writing within seventy-two (72) hours of occurrence. If respondent is under criminal court orders, including criminal probation or parole, and the criminal court order is violated, this shall be deemed a violation of probation, and may result in the filing of an accusation or petition to revoke probation.

(-10-6) COMPLY WITH THE BOARD'S PROBATION PROGRAM—Respondent shall fully comply with the conditions of the Probation Program established by the Board and cooperate with representatives of the Board in its monitoring and investigation of Respondent's compliance with the Board's Probation Program. Respondent shall keep the Board informed of Respondent's business and addresses of record. Respondent shall inform the Board in writing within ~~fifteen (15)~~ thirty (30) days of any address change and claim all certified mail issued by the Board. Respondent shall respond timely to all notices of reasonable requests ~~timely~~, appear for any scheduled meeting, and claim all

certified mail issued by the Board. Respondent shall ~~and submit reports, remedial education documentation, verification of employment, or other similar reports, as requested and directed by the Board or its representative. Failure to appear for any scheduled meeting or cooperate with the requirements of the program, including timely submission of requested information, shall constitute a violation of probation.~~

(~~11~~ 7) VIOLATION OF PROBATION-If Respondent violates ~~the~~ any conditions of ~~his/her~~ probation, the Board, after giving the Respondent notice and the opportunity to be heard, may set aside the Order and impose the stayed discipline (revocation/suspension) of the Respondent's license.

If during the period of probation, an accusation or petition to revoke probation has been filed against Respondent's license or the Attorney General's Office has been requested to prepare an accusation or petition to revoke probation against the Respondent's license, the probationary period shall automatically be extended and shall not expire until the accusation or petition has been acted upon by the Board.

(~~12~~) REPORT IN PERSON ~~Upon written notification, Respondent may be required to appear in person before the Board of Barbering and Cosmetology or its designee at any time during the period of suspension or probation.~~

(~~13~~) RESIDENCY OUTSIDE OF THE STATE ~~Respondent shall immediately notify the Board's designee of any and all address changes. If Respondent should travel outside California for a period greater than sixty (60) days, Respondent must notify the Board's designee, in writing, of the dates of departure and return. Periods of residence outside the State of California shall not apply toward a reduction of this probation time period.~~

~~Respondent's license shall be automatically cancelled if Respondent's periods of temporary or permanent residence or practice outside California total two years. However, Respondent's license shall not be cancelled as long as Respondent is residing and practicing in another state of the United States and is on active probation with the licensing authority of that state, in which case the two-year period shall begin on the date probation is completed or terminated in that state.~~

(-14-8) FAILURE TO PRACTICE CALIFORNIA RESIDENT /TOLLING -

In the event Respondent, ~~resides in the State of California and for any reason, Respondent stops~~ ceases practicing in California, Respondent shall notify the Board or its designee in writing within ~~30~~ ten (10) calendar days prior to the dates of non-practice and return to practice. ~~Any period of non-practice within California, will not apply to the reduction of the probationary term and does not relieve Respondent of the responsibility to comply with the terms and conditions of probation.~~ Respondent's probation is tolled, if and when he or she ceases practicing in California. Period of practice outside of California will not apply to the reduction of the probation period. Any period of tolling does not relieve respondent of the responsibility to comply with the terms and conditions of probation. The period of probation shall be extended for the period of time Respondent's probation was tolled.

(-15-9) MAINTAIN VALID LICENSE-Respondent shall maintain a current, active, and valid license for the length of the probation period, including any period during which probation is tolled. Failure to pay all fees prior to the license expiration date shall constitute a violation of probation.

(11) PETITION FOR REDUCTION OF PENALTY- Pursuant to California Administrative Procedure Act, Government Code Section 11522, respondent may petition for a reduction of penalty after a period of not less than one (1) year has elapsed from the effective date of the decision or from the date of the denial of a similar petition. The Board shall give notice to the Attorney General of the filing of the petition and the Attorney General and the petitioner shall be afforded an opportunity to present either oral or written argument before the Board. The Board shall determine if a reduction in penalty is warranted based on respondent's compliance with the terms and conditions of probation, and demonstration of his or her ability to practice safely as evidenced by inspections of the workplace since the effective date of the Decision.

(-16-12) LICENSE SURRENDER-Following the effective date of this Decision, if Respondent ceases practicing ~~due to retirement or health reasons,~~ or is otherwise unable to satisfy the terms and conditions of probation, Respondent may voluntarily request the surrender of ~~his/her~~ his or her license to the Board. The Board reserves the right to evaluate the Respondent's request and to exercise its discretion whether to grant the request or to take any other action deemed appropriate and reasonable under the circumstances. If respondent owes any outstanding costs associated with the investigation and enforcement of this

disciplinary action, the outstanding amount shall be paid in full at the time the request is submitted to the Board. Upon formal acceptance of the surrender, Respondent shall within 30 calendar days deliver Respondent's license to the Board or its designee and Respondent shall no longer engage in any practice for which ~~a~~ that license is required. Upon formal acceptance of the ~~tendered license surrender~~, Respondent will no longer be subject to the terms and conditions of probation. Voluntary surrender of Respondent's license shall be considered to be a disciplinary action and shall become a part of Respondent's license history with the Board. Respondent may not petition the Board for reinstatement of the surrendered license. Respondent may not apply for a new license under the jurisdiction of the Board at any time before the date of the originally scheduled completion of probation. Should Respondent at any time after voluntary surrender ever reapply to the Board for licensure Respondent must meet all current requirements for licensure including, but not limited to, filing a current application, meeting all current educational requirements, and taking and passing any and all examinations required of new applicants.

RECOMMENDED LANGUAGE FOR OPTIONAL CONDITIONS OF PROBATION

(1) REMEDIAL EDUCATION COURSES - Respondent shall complete remedial education courses directly relevant to the violation(s) as specified by the Board of Barbering and Cosmetology within 180 days from the effective date of this Decision. The education courses shall be completed in a Board approved school. Respondent shall provide proof of ~~attendance and~~ satisfactory completion of the courses. Failure to satisfactorily complete the required courses as scheduled shall constitute a violation of probation. Respondent shall be responsible for all costs associated with such remedial education.

(2) WRITTEN LICENSING EXAMINATION-If Respondent fails to pass the examination within 180 days from the effective date of this Decision, Respondent's license shall be suspended and Respondent shall cease practice until Respondent takes and successfully passes the examination, has submitted proof of same to the Board, and has been notified by the Board that ~~he/she~~ he or she may resume practice. The examination will be administered by the examination staff of the Board of Barbering and Cosmetology. Respondent shall pay the established examination fee and any other costs associated with taking the examination.

(3) PRACTICAL LICENSING EXAMINATION- If Respondent fails to pass the examination within 180 days from the effective date of this Decision, Respondent's license shall be suspended and Respondent shall cease practice until Respondent takes and successfully passes the examination, has submitted proof of same to the Board, and has been notified by the Board that ~~he/she~~ he or she may resume practice. The examination will be administered by the examination staff of the Board of Barbering and Cosmetology. Respondent shall pay the established examination fee and any other costs associated with taking the examination.

(4) NOTICE OF DISCIPLINE EMPLOYEES- A Respondent who is ~~an establishment owner~~ a holder of an establishment license shall, upon or before the effective date of this Decision, post or circulate a copy of the Accusation or Statement of Issues, and Decision and Order to each employee or independent contractor practicing at Respondent's establishment. ~~a notice to all employees working in the establishment which accurately recites the terms and conditions of this Decision.~~ Respondent shall be responsible for said notice being immediately

~~available to employees. "Employees" as used in this provision includes all full-time, part-time, temporary, and independent contractors employed or hired at any time during probation.~~

(5) CRIMINAL PROBATION - If Respondent is on criminal probation for the acts upon which disciplinary action is based; , Respondent shall submit reports from the criminal court probation officer regarding Respondent's progress during criminal probation. Reports shall be filed quarterly and continue until Respondent is no longer on criminal probation or the Board's probation is terminated, whichever occurs first.

(6) PROOF OF ADVERTISING CORRECTION- If the advertising violation that led to the disciplinary action has not been corrected, Respondent shall not practice until proof of correction has been submitted to the Board of barbering and Cosmetology or its designee.

(7) RESTITUTION- Respondent shall make restitution to any injured party in the amount of (specify amount). Proof of compliance with this term shall be submitted to the Board of Barbering and Cosmetology's or its designee within (specify time) of the effective date of the Decision. The name and address of the injured party may be inserted in the body of this condition. The amount and time period in which to comply shall be based upon the facts of the case.

~~**(8) REIMBURSEMENT OF PROBATION PROGRAM** Respondent shall reimburse the Board for the hourly costs it incurs in monitoring the probation to ensure compliance for the duration for the probation period. Reimbursement costs shall be \$_____ per year/\$_____ per month.~~

~~**(9-8) MANAGER OR LICENSEE IN CHARGE**~~ Respondent shall not act as manager or licensee in charge of any establishment during the course of this probation. Respondent shall terminate any such duties on the effective date of this decision.

~~**(10 2) ABSTAIN FROM CONTROLLED SUBSTANCES /SUBMIT TO BIOLOGICAL FLUID TESTING**~~- Respondent shall completely abstain from the use or possession of controlled or illegal substances during the period of probation

unless lawfully prescribed by a medical practitioner for a bona fide illness. Respondent shall immediately submit to biological fluid testing, at Respondent's cost, upon request by the Board or its designee. The length of time and frequency will be determined by the Board. Respondent is responsible for ensuring that reports are submitted directly by the testing agency to the Board or its designee. There will be no confidentiality in test results. Any confirmed positive finding shall constitute a violation of probation.

(11) ABSTAIN FROM USE OF ALCOHOL / SUBMIT TO BIOLOGICAL FLUID TESTING- Respondent shall completely abstain from the use of alcoholic beverages during the period of probation. Respondent shall immediately submit to biological fluid testing, at Respondent's cost, upon request by the Board or its designee. The length of time and frequency will be determined by the Board. Respondent is responsible for ensuring that reports are submitted directly by the testing agency to the Board or its designee. There will be no confidentiality in test results. Any confirmed positive finding shall constitute a violation of probation.

(11) [MOVED FROM STANDARD CONDITIONS] SUSPENSION OF LICENSE- Respondent is suspended from the practice of (type of practice) for (number of days) consecutive working days beginning on the effective date of this Decision. Respondent shall cease operating during the suspension period. During the suspension period, all conditions of probation are in full force and effect. ~~The period of suspension shall be determined by the Board's designee and Respondent shall be notified in writing.~~ Probation shall not terminate until the suspension period is served.

(2) POSTING OF SUSPENSION SIGN- During the period of suspension, Respondent shall post a notice which describes the nature of the violation for which the license is being disciplined. If only an individual's license is disciplined, the notice shall be conspicuously posted in the establishment where the Respondent performs barbering and cosmetology services. If an establishment license is disciplined, the notice shall be conspicuously posted, unobstructed and visible to the public from the outside of the main entrance. The sign notice to be posted will be provided by the Board of Barbering and Cosmetology designee prior to the commencement of the suspension and will include the Respondent's name and license number(s).

RECOMMENDED LANGUAGE FOR APPLICANTS AND REINSTATEMENTS

In order to provide clarity and consistency in its decision, the Board of Barbering and Cosmetology recommends the following language in proposed decisions or stipulated agreements for examination applicants, establishment license applicants, and for petitioners for reinstatement who are issued a license that is placed on probation.

▪ **Examination Applicants who are placed on probation:**

“The application of Respondent _____ for licensure is hereby granted. Upon successful completion of the licensing examination and all other licensing requirements, a license shall be issued to Respondent. Said license shall immediately be revoked, the order of revocation stayed and Respondent placed on probation for a period of _____ years on the following condition:”

▪ **Establishment License Applicants who are placed on probation:**

“The application of Respondent _____ for licensure is hereby granted and a license shall be issued to Respondent upon successful completion of all licensing requirements. Said license shall immediately be revoked, the order of revocation stayed and Respondent placed on probation for a period of _____ years on the following conditions:”

▪ **Reinstatement of Licensure with conditions of probation:**

“The application of Respondent _____ for reinstatement of license number _____ is hereby granted. License number _____ shall immediately be revoked, the order of revocation stayed and Respondent placed on probation for a period of _____ years on the following conditions:”

It is important to note that in many cases, petitioners for reinstatement have not practiced for at the least one (1) year. It is recommended that Respondent retake and successfully complete the licensing examination prior to reinstatement of the license if the case involved consumer harm.

In addition to the licensing examination requirement, it is recommended that Respondent take and successfully complete remedial education courses relevant to the violation(s) prior to reinstatement of the license.

NOTE: If cost recovery was ordered in the revocation or surrender of a license and the cost recovery has not been paid in full by petitioner, a probation condition requiring payment of original cost recovery must be included in the reinstatement and decision.

RECOMMENDED LANGUAGE FOR COST RECOVERY FOR SURRENDERS

- **When the Order is a surrender of license, cost recovery should be included as follows:**

“If and when Respondent’s license is reinstated, he or she shall pay to the Board costs associated with its investigation and enforcement pursuant to Business and Professions Code Section 125.3 in the amount of \$ _____. Respondent shall be permitted to pay these costs on a payment plan approved by the Board. Nothing in this provision shall be construed to prohibit the Board from reducing the amount of cost recovery upon reinstatement of the license.”

TIME FRAMES FOR PETITIONS FOR REINSTATEMENT AND MODIFICATION OF PENALTY

Pursuant to the California Administrative Procedure Act, Government Code Section 11522, “A person whose license has been revoked or suspended may petition the agency for reinstatement or reduction or penalty after a period of not less than one (1) year has elapsed from the effective date of the decision or from the date of the denial of a similar petition. The agency shall give notice to the Attorney General of the filing of the petition and the Attorney General and the petitioner shall be afforded an opportunity to present either oral or written argument before the agency itself. The agency itself shall decide the petition, and the decision shall include the reasons therefore, and any terms and conditions that the agency reasonably deems appropriate to impose as a condition or reinstatement. This section shall not apply if the statutes dealing with the particular agency contain different provisions for reinstatement or reduction of penalty.”

No Attachment