CALIFORNIA
BOARD OF BARBERING AND COSMETOLOGY

APRIL 29, 2019
Reinstatement Hearings
And
Board Meeting

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

CALIFORNIA BOARD
OF
BARBERING AND COSMETOLOGY

MEMBERS OF THE BOARD
Lisa Thong, President
Andrew Drabkin, Vice President
Jacquelyn Crabtree
Steve Weeks
Dr. Kari Williams

BOARD MEETING
April 29, 2019

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 **(Lisa Thong)**
2. Petition for Reinstatement Hearings
   - Canh Trung Huynh
   - Sandra Martinez

CLOSED SESSION:

A. Pursuant to Government Code Section 11126 (c) (3), the Board will meet in Closed Session to Deliberate on Disciplinary Matters.
B. Adjourn Closed Session and Reconvene Open Session

3. Board President's Opening Remarks **(Lisa Thong)**
4. Board Member Remarks – Informational only
5. 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))
6. 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
7. Overview of DCA's Budget Process Presented by Department of Consumer Affair's Budget Office
8. Approval of Board Meeting Minutes
   February 11, 2019

9. Appointment of Committee Members to the Health and Safety Advisory Committee

10. Update on Sunset Review

11. Discussion and Possible Actions Regarding Spanish Language Examination Pass Rates
    - Review of Recommendations from Spanish Language Examination Task Force
    - Review of Spanish Pass Rates for Written Examinations

12. Discussion on Instructor Requirements for Private Beauty Schools

13. Legislative Update:

    Discussion and Possible Action on Proposed Bills:

    a. AB 5 (Gonzalez) - Worker Status: Independent Contractors
    b. AB 193 (Patterson) - Barbering and Cosmetology Scope of Practice Changes
    c. AB 496 (Low) – Business & Professions Changes
    d. AB 613 (Low) - Regulatory Fees
    e. AB 817 (Kiley) - Mobile Units
    f. AB 1271 (Diep) - Licensing Examination Reports
    g. AB 1607 (Boerner Horvath) - Gender Discrimination Notification
    h. SB 238 (Grove) – Worker Status
    i. SB 607 (Glazier) - Health and Safety Advisory Committee

14. 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 Sections 962, 962.1 and 962.2 (Externs)
    e. Title 16, CCR Section 965.2 (Personal Service Permit)
    f. Title 16, CCR Section 970, 971 and 972 (Substantial Relationship Criteria, Criteria for Rehabilitation, and Disciplinary Guidelines)
    g. Title 16, CCR Section 974 & 974.3 (Fine Schedule and Payment Plan)

15. Agenda Items For the Next Meeting

16. Adjournment

Action may be taken on any item on the agenda. The time and order of agenda items are subject to change at the discretion of the Board President and may be taken out of order. In accordance with the Bagley-Keene Open Meeting Act, all meetings of the Board are open to the public. Note: This meeting will be Webcast, provided there are no unforeseen technical difficulties or limitations. To view the Webcast, please visit **https://thedcapage.wordpress.com/webcasts/**. *If you wish to participate or to have a guaranteed opportunity to observe, please plan to attend at a physical location. Adjournment, if it is the only item that occurs after a closed session, may not be webcast.*

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

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

Quarterly Barbering and Cosmetology Licensing Statistics Fiscal Year 18-19

Applications Received

License Type	Jul-Sept	Oct-Dec	Jan-Mar	Apr-June	YTD
Establishment	1,556	1,739	2,121		5,416
Mobile Unit	--	--	3		3
Barber					
Pre-App	212	236	293		741
Initial Application	327	313	403		1,043
Re-Exam	426	666	763		1,855
Sub-Total	***965***	***1,215***	***1,459***		***3,639***
Reciprocity	39	37	52		128
Apprentice	179	208	265		652
Cosmetology					
Pre-App	740	798	834		2,372
Initial Application	710	805	902		2,417
Re-Exam	1,301	1,302	1,418		4,021
Sub-Total	***2,751***	***2,905***	***3,154***		***8,810***
Reciprocity	323	252	345		920
Apprentice	136	204	244		584
Electrology					
Pre-App	5	8	3		16
Initial Application	7	3	10		20
Re-Exam	5	6	6		17
Sub-Total	***17***	***17***	***19***		***53***
Reciprocity	--	--	1		1
Apprentice	--	--	--		
Esthetician					
Pre-App	664	821	1,093		2,578
Initial Application	367	414	492		1,273
Re-Exam	472	408	476		1,356
Sub-Total	***1,503***	***1,643***	***2,061***		***5,207***
Reciprocity	113	78	63		254
Manicurist					
Pre-App	574	797	646		2,017
Initial Application	457	473	533		1,463
Re-Exam	641	753	859		2,253
Sub-Total	***1,672***	***2,023***	***2,038***		***5,733***
Reciprocity	101	116	92		309
Total	9,355	10,437	11,914		**31,709**

Examination Results

(January 1, 2019 through March 31, 2019)

Practical Examinations

Administered	Passed	Failed	Total	Pass Rate
Barber	697	361	1,058	**66%**
Cosmetologist	1,754	527	2,281	**77%**
Electrologist	7	7	14	**50%**
Esthetician	1,432	60	1,492	**96%**
Manicurist	1,342	576	1,918	**70%**
Total	**5,232**	**1,531**	**6,763**	**77%**

Written Examinations

Barber	Passed	Failed	Total	Pass Rate
English	520	652	1,172	**44%**
Korean	1	3	4	**25%**
Spanish	29	162	191	**15%**
Vietnamese	6	5	11	**55%**
TOTAL	**556**	**822**	**1,378**	**40%**

Cosmo	Passed	Failed	Total	Pass Rate
English	1,270	677	1,947	**65%**
Korean	20	3	23	**87%**
Spanish	216	394	610	**35%**
Vietnamese	66	20	86	**77%**
TOTAL	**1,572**	**1,094**	**2,666**	**59%**

Esthetician	Passed	Failed	Total	Pass Rate
English	1,158	336	1,494	**78%**
Korean	31	--	31	**100%**
Spanish	2	8	10	**20%**
Vietnamese	96	13	109	**88%**
TOTAL	**1,287**	**357**	**1,644**	**78%**

Manicurist	Passed	Failed	Total	Pass Rate
English	327	135	462	**71%**
Korean	11	2	13	**85%**
Spanish	24	23	47	**51%**
Vietnamese	977	345	1,322	**74%**
TOTAL	**1,339**	**505**	**1,844**	**73%**

Electrologist	Passed	Failed	Total	Pass Rate
English	16	3	19	**84%**
Korean	--	--	--	**--**
Spanish	--	--	--	**--**
Vietnamese	--	--	--	**--**
TOTAL	**16**	**3**	**19**	**84%**

Examination Results

Quarter 3--January through March

Practical Examinations

	2015				2016				2017				2018				2019			
Administered	**Passed**	**Failed**	**Total**	**Pass Rate**	**Passed**	**Failed**	**Total**	**Pass Rate**	**Passed**	**Failed**	**Total**	**Pass Rate**	**Passed**	**Failed**	**Total**	**Pass Rate**	**Passed**	**Failed**	**Total**	**Pass Rate**
Barber	500	67	567	**88%**	632	131	763	**83%**	604	108	712	**85%**	673	214	887	**76%**	697	361	1,058	**66%**
Cosmetologist	2,721	481	3,202	**85%**	2,478	482	2,960	**84%**	2,192	592	2,784	**79%**	1,865	722	2,587	**72%**	1,754	527	2,281	**77%**
Electrologist	7	1	8	**88%**	6	--	6	**100%**	3	--	3	**100%**	3	--	3	**100%**	7	7	14	**50%**
Esthetician	1,173	272	1,445	**81%**	1,195	48	1,243	**96%**	1,236	53	1,289	**96%**	1,200	97	1,297	**93%**	1,432	60	1,492	**96%**
Manicurist	1,218	720	1,938	**63%**	1,562	361	1,923	**81%**	1,651	499	2,150	**77%**	897	392	1,289	**70%**	1,342	576	1,918	**70%**
Total	**5,619**	**1,541**	**7,160**	**78%**	**5,873**	**1,022**	**6,895**	**85%**	**5,686**	**1,252**	**6,938**	**82%**	**4,638**	**1,425**	**6,063**	**76%**	**5,232**	**1,531**	**6,763**	**77%**

Written Examinations

	2015				2016				2017				2018				2019			
Barber	**Passed**	**Failed**	**Total**	**Pass Rate**	**Passed**	**Failed**	**Total**	**Pass Rate**	**Passed**	**Failed**	**Total**	**Pass Rate**	**Passed**	**Failed**	**Total**	**Pass Rate**	**Passed**	**Failed**	**Total**	**Pass Rate**
English	421	232	653	**64%**	397	486	883	**45%**	521	388	909	**57%**	591	257	848	**70%**	520	652	1,172	**44%**
Korean	0	2	2	**0%**	0	7	7	**0%**	0	1	1	**0%**	2	3	5	**40%**	1	3	4	**25%**
Spanish	18	16	34	**53%**	39	67	106	**37%**	41	64	105	**39%**	89	81	170	**52%**	29	162	191	**15%**
Vietnamese	14	3	17	**82%**	6	26	32	**19%**	23	15	38	**61%**	12	3	15	**80%**	6	5	11	**55%**
TOTAL	**453**	**253**	**706**	**64%**	**442**	**586**	**1,028**	**43%**	**585**	**468**	**1,053**	**56%**	**694**	**344**	**1,038**	**67%**	**556**	**822**	**1,378**	**40%**

Cosmo	**Passed**	**Failed**	**Total**	**Pass Rate**	**Passed**	**Failed**	**Total**	**Pass Rate**	**Passed**	**Failed**	**Total**	**Pass Rate**	**Passed**	**Failed**	**Total**	**Pass Rate**	**Passed**	**Failed**	**Total**	**Pass Rate**
English	2,601	557	3,158	**82%**	1,927	504	2,431	**79%**	1,482	757	2,239	**66%**	1,458	730	2,188	**67%**	1,270	677	1,947	**65%**
Korean	22	14	36	**61%**	32	15	47	**68%**	25	23	48	**52%**	39	16	55	**71%**	20	3	23	**87%**
Spanish	87	191	278	**31%**	164	362	526	**31%**	177	455	632	**28%**	232	446	678	**34%**	216	394	610	**35%**
Vietnamese	221	51	272	**81%**	245	39	284	**86%**	184	217	401	**46%**	78	37	115	**68%**	66	20	86	**77%**
TOTAL	**2,931**	**813**	**3,744**	**78%**	**2,368**	**920**	**3,288**	**72%**	**1,868**	**1,452**	**3,320**	**56%**	**1,807**	**1,229**	**3,036**	**60%**	**1,572**	**1,094**	**2,666**	**59%**

Esthetician	**Passed**	**Failed**	**Total**	**Pass Rate**	**Passed**	**Failed**	**Total**	**Pass Rate**	**Passed**	**Failed**	**Total**	**Pass Rate**	**Passed**	**Failed**	**Total**	**Pass Rate**	**Passed**	**Failed**	**Total**	**Pass Rate**
English	877	120	997	**88%**	796	238	1,034	**77%**	810	324	1,134	**71%**	958	348	1,306	**73%**	1,158	336	1,494	**78%**
Korean	26	3	29	**90%**	27	3	30	**90%**	30	8	38	**79%**	29	5	34	**85%**	31	--	31	**100%**
Spanish	2	3	5	**40%**	4	3	7	**57%**	4	4	8	**50%**	6	7	13	**46%**	2	8	10	**20%**
Vietnamese	335	47	382	**88%**	246	94	340	**72%**	268	83	351	**76%**	107	28	135	**79%**	96	13	109	**88%**
TOTAL	**1,240**	**173**	**1,413**	**88%**	**1,073**	**338**	**1,411**	**76%**	**1,112**	**419**	**1,531**	**73%**	**1,100**	**388**	**1,488**	**74%**	**1,287**	**357**	**1,644**	**78%**

Manicurist	**Passed**	**Failed**	**Total**	**Pass Rate**	**Passed**	**Failed**	**Total**	**Pass Rate**	**Passed**	**Failed**	**Total**	**Pass Rate**	**Passed**	**Failed**	**Total**	**Pass Rate**	**Passed**	**Failed**	**Total**	**Pass Rate**
English	392	83	475	**83%**	324	161	485	**67%**	285	180	465	**61%**	291	128	419	**69%**	327	135	462	**71%**
Korean	26	4	30	**87%**	17	4	21	**81%**	9	12	21	**43%**	16	6	22	**73%**	11	2	13	**85%**
Spanish	8	9	17	**47%**	13	14	27	**48%**	11	11	22	**50%**	20	27	47	**43%**	24	23	47	**51%**
Vietnamese	940	223	1,163	**81%**	1,094	511	1,605	**68%**	1,298	266	1,564	**83%**	481	305	786	**61%**	977	345	1,322	**74%**
TOTAL	**1,366**	**319**	**1,685**	**81%**	**1,448**	**690**	**2,138**	**68%**	**1,603**	**469**	**2,072**	**77%**	**808**	**466**	**1,274**	**63%**	**1,339**	**505**	**1,844**	**73%**

Electrologist	**Passed**	**Failed**	**Total**	**Pass Rate**	**Passed**	**Failed**	**Total**	**Pass Rate**	**Passed**	**Failed**	**Total**	**Pass Rate**	**Passed**	**Failed**	**Total**	**Pass Rate**	**Passed**	**Failed**	**Total**	**Pass Rate**
English	7	5	12	**58%**	5	6	11	**45%**	5	0	5	**100%**	4	1	5	**80%**	16	3	19	**84%**
Korean	--	--	--	**--**	--	--	--	**--**	--	--	--	**--**	--	--	--	**--**	--	--	--	**--**
Spanish	--	--	--	**--**	--	--	--	**--**	--	--	--	**--**	--	--	--	**--**	--	--	--	**--**
Vietnamese	--	--	--	**--**	--	--	--	**--**	--	--	--	**--**	--	--	--	**--**	--	--	--	**--**
TOTAL	**7**	**5**	**12**	**58%**	**5**	**6**	**11**	**45%**	**5**	**0**	**5**	**100%**	**4**	**1**	**5**	**80%**	**16**	**3**	**19**	**84%**

Licenses Issued FY 2018-2019

License Type	Jul-Sept	Oct-Dec	Jan-Mar	Apr-June	YTD
Barber	614	356	497		1,467
Barber Apprentice	234	216	208		658
Cosmetology	1,812	1,587	1,661		5,060
Cosmetology Apprentice	211	200	189		600
Electrology	9	5	10		24
Electrology Apprentice	-	-	--		-
Esthetician	1,219	1,152	1,286		3,657
Manicurist	1,119	1,189	1,190		3,498
Establishment	1,852	1,791	1,962		5,605
Mobile Unit	-	-	-		-
Totals	**7,070**	**6,496**	**7,003**		**20,569**

Licenses Issued Last 5 Years

License Type	FY 14/15	FY 15/16	FY 16/17	FY 17/18	FY 18/19
Barber	1,715	1,950	2,189	2,259	1,467
Barber Apprentice	397	511	665	885	658
Cosmetology	12,702	10,813	8,389	7,085	5,060
Cosmetology Apprentice	543	650	793	727	600
Electrology	34	35	26	22	24
Electrology Apprentice	-	-	-	1	-
Esthetician	5,059	4,747	4,818	4,007	3,657
Manicurist	5,876	6,298	6,550	3,787	3,498
Establishment	6,654	6,996	6,875	7,609	5,605
Mobile Unit	8	7	7	2	-
Totals	**32,988**	**32,007**	**30,312**	**26,384**	**20,569**

License Population

Barber	31,225
Barber Apprentice	1,613
Cosmetology	314,367
Cosmetology Apprentice	1,370
Electrology	1,722
Electrology Apprentice	1
Esthetician	88,037
Manicurist	130,177
Establishment	52,228
Mobile Unit	47
Total	**620,787**

BusinessCosmo
Board of Barbering & Cosmetology

BUSINESS, CONSUMER SERVICES, AND HOUSING AGENCY ● GAVIN NEWSOM, GOVERNOR
DEPARTMENT OF CONSUMER AFFAIRS ● BOARD OF BARBERING AND COSMETOLOGY
P.O. Box 944226, Sacramento, CA 94244-2260
P (800) 952-5210 Email: barbercosmo@dca.ca.gov
Website: www.barbercosmo.ca.gov

QUARTERLY BARBERING AND COSMETOLOGY DISCIPLINARY REVIEW COMMITTEE STATISTICS

Fiscal Year 18-19

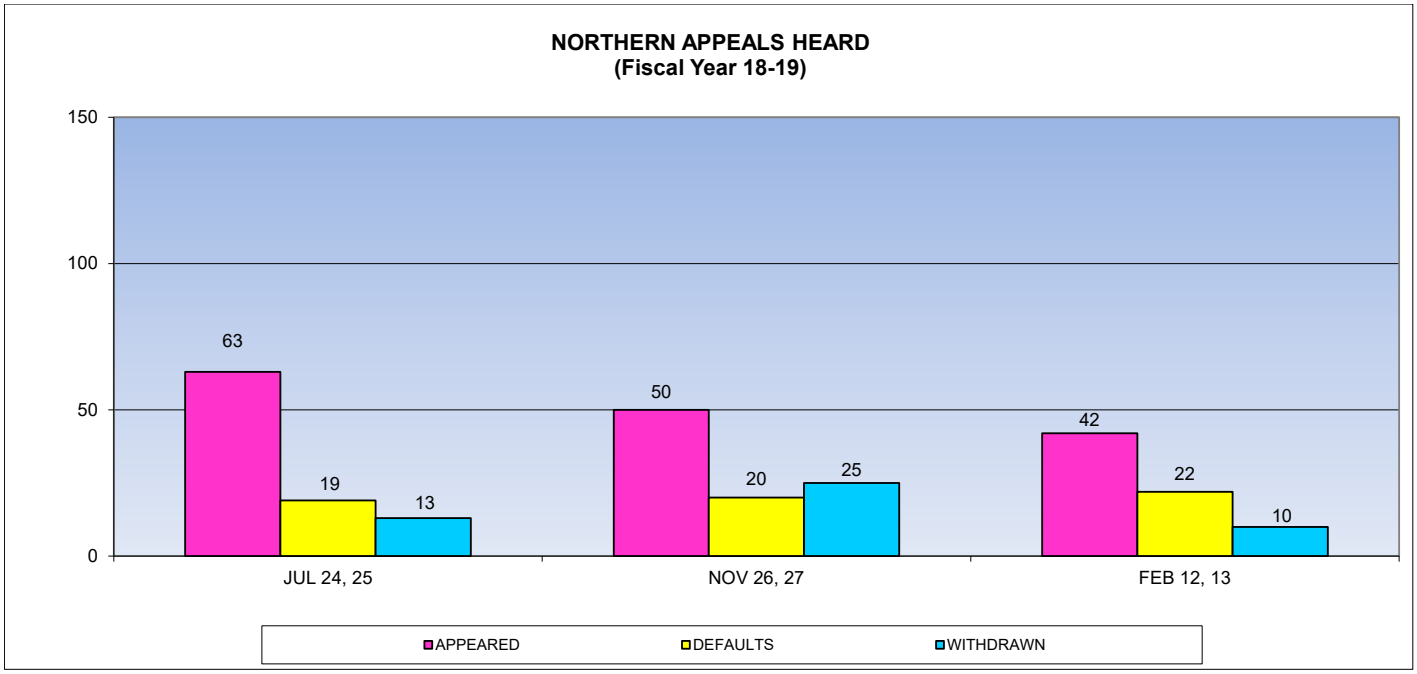
Report Date: March 31, 2019

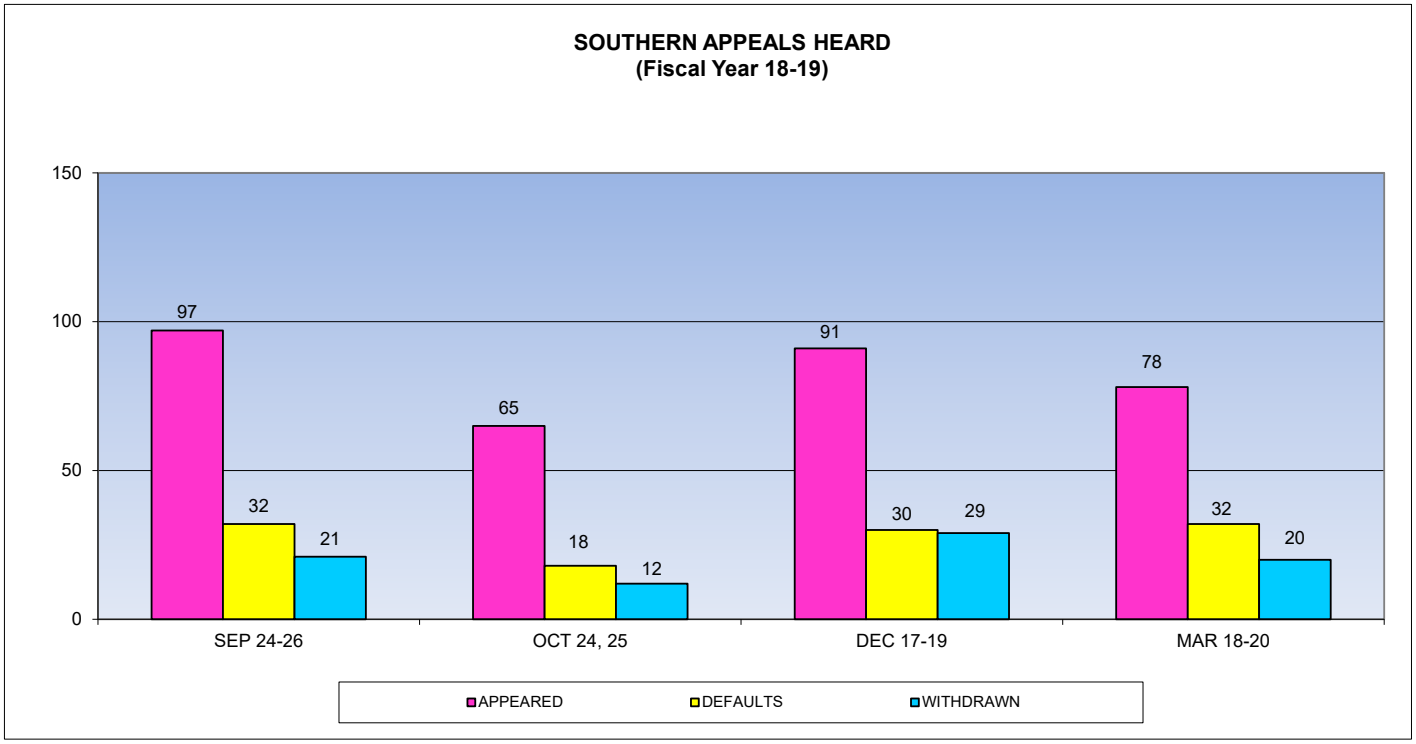
	January - March	YTD
NORTHERN		
Heard	74	264
Received	68	225
Pending[1]	61	61[2]
SOUTHERN		
Heard	130	525
Received	190	643
Pending[1]	307	307[2]

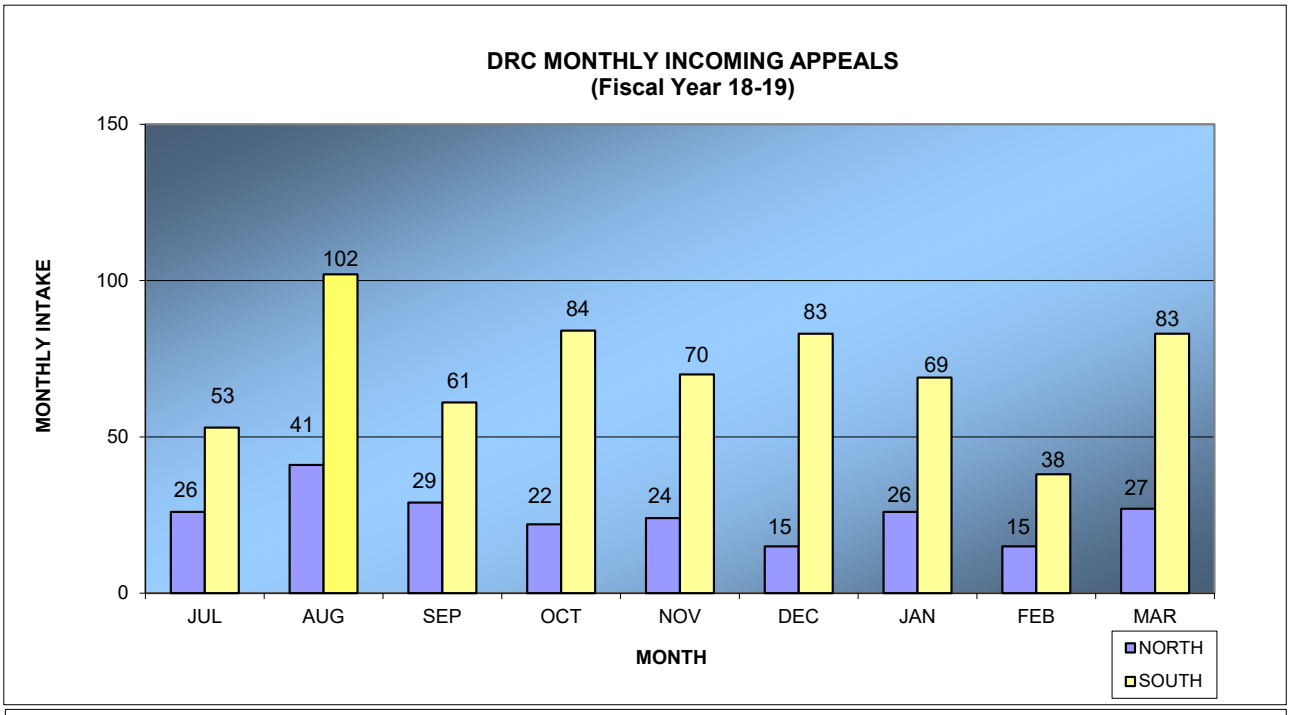
[1] Pending refers to the number of appeals received but not yet heard by DRC.
[2] *Figure represents number of pending requests as of report date.*

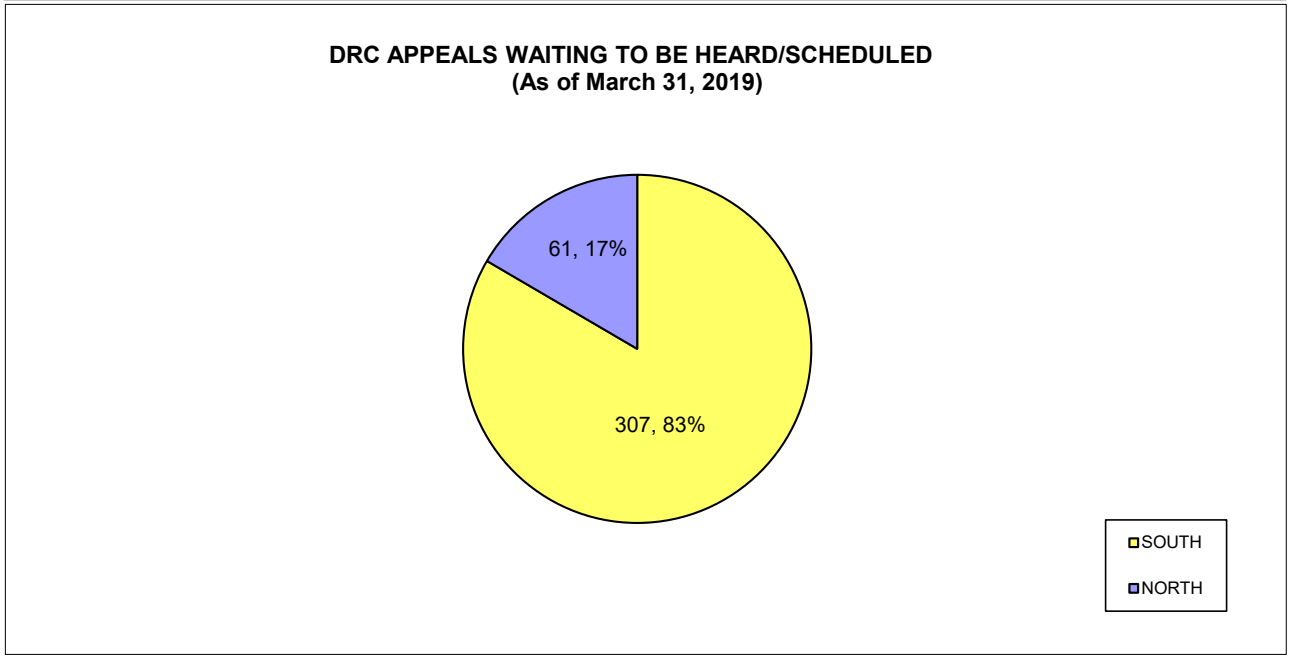
2019 SCHEDULED HEARINGS

Area	Location	Date
Southern	San Diego	April 22, 23, 24, 2019
Southern	Norwalk	May 20, 21, 22, 2019
Northern	Sacramento	June 24, 25, 2019
Southern	Burbank	August 13, 14, 2019


NORTHERN APPEALS HEARD
(Fiscal Year 18-19)
150
100
50
0
63
19
13
50
20
25
42
22
10
JUL 24, 25
NOV 26, 27
FEB 12, 13
APPEARED
DEFAULTS
WITHDRAWN


SOUTHERN APPEALS HEARD
(Fiscal Year 18-19)
150
100
50
0
97
32
21
65
18
12
91
30
29
78
32
20
SEP 24-26
OCT 24, 25
DEC 17-19
MAR 18-20
APPEARED
DEFAULTS
WITHDRAWN


DRC MONTHLY INCOMING APPEALS
(Fiscal Year 18-19)
MONTHLY INTAKE
150
100
50
0
26
53
41
102
29
61
22
84
24
70
15
83
26
69
15
38
27
83
JUL
AUG
SEP
OCT
NOV
DEC
JAN
FEB
MAR
MONTH
NORTH
SOUTH


DRC APPEALS WAITING TO BE HEARD/SCHEDULED
(As of March 31, 2019)
61, 17%
307, 83%
SOUTH
NORTH

DRC Interpreter Services Provided (December 2018 - March 2019)

Month	Spanish	Vietnamese
Dec-18	5	12
Jan-19	0	0
Feb-19	0	0
Mar-19	0	0
Total	5	12

QUARTERLY BARBERING AND COSMETOLOGY
ENFORCEMENT STATISTICS Fiscal Year 18-19

	Jul-Sept	Oct-Dec	Jan- Mar	Apr-Jun	YTD
COMPLAINTS					
Complaints Received	1039	1038	1062		3139
Referred to DOI	0	2	0		2
Complaints Closed	1102	1040	1086		3228
Total Complaints Pending	893	876	875		875
APPLICATION INVESTIGATIONS*					
Received	148	38	21		207
Pending	54	4	1		1
Closed	1067	85	20		1172
ATTORNEY GENERAL					
Referred	11	38	25		74
Accusations Filed	17	14	23		54
Statement of Issues Filed	4	4	1		9
Total Pending	72	90	93		93
DISCIPLINARY PROCESS					
Proposed Decisions	6	2	3		11
Default Decision	2	3	1		6
Stipulation	11	13	11		35
DISCIPLINARY OUTCOMES					
Revocation	8	5	4		17
Revoke, Stay, Probation	3	8	1		12
Revoke, Stay, Suspend/Prob	13	2	11		26
Revocation, Stay w/ Suspend	0	0	0		0
Probation Only	0	0	0		0
Suspension Only	0	0	0		0
Suspension & Probation	0	0	2		2
Suspension, Stay, Probation	1	4	2		7
Surrender of License	1	6	3		10
Public Reprimands	0	0	0		0
License Denied	0	0	0		0
Other	1	0	0		1
Total	27	25	23		75
PROBATION					
Active	136	121	126		126
	Jul-Sept	**Oct-Dec**	**Jan-Mar***	**Apr-Jun**	**YTD**
CITATIONS					
Establishments	2296	2149	1225		5670
Barber	268	260	111		639
Barber Apprentice	49	30	19		98
Cosmetologist	761	648	385		1794
Cosmetologist Apprentice	13	10	6		29
Electrologist	0	0	0		0
Electrologist Apprentice	0	0	0		0
Manicurist	851	593	267		1711
Esthetician	94	88	114		296
Unlicensed Est.	88	102	66		256
Unlicensed Individual	139	111	63		313
Total	4559	3991	2256		10806
INSPECTIONS					
Establishments w/ violations	2240	2001	1305		5546
Establishments w/o violations	769	822	533		2124
Total	3009	2823	1838		7670

*Jan-Mar only includes data from January and February, 2019

Complaints Received

Jan 2019 through Mar 2019

Complaint Type	Anonymous	Internal	Public	Totals
Fraud	12	19	9	40
Health & Safety	273	27	74	374
Non-Jurisdictional	51	0	59	110
Incompetence/Negligence	2	0	100	102
Other	0	8	2	10
Personal Conduct	0	0	0	0
Unlicensed Activity	238	162	41	441
App Investigation	0	2	4	6
Totals	576	218	289	1083

Last 4 Fiscal Years

Category	FY 14-15	FY 15-16	FY 16-17	FY 17-18	FY 18-19
Fraud	44	82	61	84	80
Health & Safety	1347	1310	1616	1604	1181
Non-Jurisdictional	312	294	284	319	248
Incompetence/Negligence	303	333	270	438	288
Other	20	42	35	19	23
Personal Conduct	13	19	20	6	1
Unlicensed Activity	1523	1651	1817	1555	1332
App Investigation	1	0	0	1061	193
Totals	3563	3731	4103	5086	3346

Board of Barbering and Cosmetology
Fiscal Year 2018/2019
Projected Expenditures 01/30/19

Personnel Services	ALLOTMENT	BBC Projected Expenditures	Projected Year
Permanent	4,672,000	3,881,201	790,799
Expert Examiners	453,000	380,815	72,185
Temporary	134,000	131,087	2,913
BL 12-03 Blanket	0	207,176	(207,176)
Statutory-Exempt	104,000	124,296	(20,296)
Board Member Commission	0	18,000	(18,000)
Overtime	0	1,000	(1,000)
Total Salary & Wages	**5,363,000**	**4,743,575**	**619,425**
Net Salary & Wages	**5,363,000**	**4,743,575**	**619,425**
Staff Benefits	2,773,000	2,628,503	144,497
Total of Personnel Services	**8,136,000**	**7,372,078**	**763,922**

Operating Expenses & Equipment (OE&E)	Allotment	BBC Projected Expenditures	Projected Year End Balance
General Expense	191,000	206,000	(15,000)
Printing	168,000	400,000	(232,000)
Communication	41,000	63,000	(22,000)
Postage	283,000	94,000	189,000
Insurance	4,000	15,000	(11,000)
Travel In State	83,000	135,000	(52,000)
Travel, Out-of-State	0	2,700	(2,700)
Training	11,000	1,200	9,800
Facilities Operations	1,289,000	963,000	326,000
Utilities	0	0	0
Consultant & Professional Svs. - Interdept.	126,000	20,000	106,000
Consultant & Professional Svs. - External	373,000	295,000	78,000
Depart. and Central Admin. Services	8,346,000	8,361,074	(15,074)
Consolidated Data Center	68,000	59,000	9,000
Information Technology	38,000	32,000	6,000
Central Admin Pro Rata	0	0	0
Examinations	1,399,000	2,440,000	(1,041,000)
Major Equipment	34,000	34,000	0
Minor Equipment	13,000	13,000	0
Other Items of Expense	0	0	0
Vehicle Operations	38,000	43,000	(5,000)
Enforcement	1,876,000	1,136,000	740,000
Special Items of Expenses	0	0	0
Total Operating Expenses & Equipment	14,381,000	14,312,974	68,026
Total Personal Services Expenses	8,136,000	7,372,078	831,948
Total reimbursements	(57,000)	(57,000)	
Total	**22,460,000**	**21,628,052**	**831,948**

0069 - Barbering and Cosmetology Contingency Fund

Prepared 1/10/2019

Analysis of Fund Condition

(Dollars in Thousands)

NOTE: $21 Million General Fund Repayment Outstanding

2019-20 Governor's Budget

	PY 2017-18	CY 2018-19	BY 2019-20
BEGINNING BALANCE	$ 20,565	$ 20,692	$ 19,304
Prior Year Adjustment	$ -	$ -	$ -
Adjusted Beginning Balance	$ 20,565	$ 20,692	$ 19,304
REVENUES AND TRANSFERS			
Revenues:			
4121200 Delinquent fees	$ 1,177	$ 1,113	$ 1,146
4127400 Renewal fees	$ 12,342	$ 12,022	$ 12,382
4129200 Other regulatory fees	$ 6,157	$ 5,101	$ 5,230
4129400 Other regulatory licenses and permits	$ 4,547	$ 4,129	$ 4,225
4163000 Income from surplus money investments	$ 64	$ 285	$ 272
4171400 Escheat - unclaimed checks, warrants, bonds, and coupons	$ 10	$ 12	$ 12
4171500 Escheat - unclaimed property	$ 3	$ -	$ -
4172500 Miscellaneous revenues	$ 13	$ 12	$ 12
Total Revenues	$ 24,313	$ 22,674	$ 23,279
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	$ 24,313	$ 22,674	$ 44,279
Total Resources	$ 44,878	$ 43,366	$ 63,583
EXPENDITURES			
1111 Department of Consumer Affairs Program Expenditures (State Operations)	$ 22,561	$ 22,460	$ 21,041
8880 Financial Information System for California (State Operations)	$ 28	$ 2	$ -6
9892 Supplemental Pension Payments (State Operations)	$ -	$ 134	$ 316
9900 Statewide General Administrative Expenditures (Pro Rata) (State Operations)	$ 1,597	$ 1,466	$ 1,189
Total Disbursements	$ 24,186	$ 24,062	$ 22,540
FUND BALANCE			
Reserve for economic uncertainties	$ 20,692	$ 19,304	$ 41,043
Months in Reserve	10.3	10.3	21.4

NOTES:

A. ASSUMES WORKLOAD AND REVENUE PROJECTIONS ARE REALIZED IN BY+1 AND ON-GOING.

B. ASSUMES APPROPRIATION GROWTH OF 2% PER YEAR BEGINNING IN BY+1.

C. ASSUMES INTEREST RATE AT 1.5%.

D. PY 2017-18 BASED ON BUDGET ACT

BarberCosmo
Board of Barbering & Cosmetology

BUSINESS, CONSUMER SERVICES, AND HOUSING AGENCY ● GAVIN NEWSOM, GOVERNOR
DEPARTMENT OF CONSUMER AFFAIRS ● BOARD OF BARBERING AND COSMETOLOGY
P.O. Box 944226, Sacramento, CA 94244-2260
Phone: (800) 952-5210 Email: barbercosmo@dca.ca.gov
Website: www.barbercosmo.ca.gov

MEMORANDUM

DATE April 29, 2019

TO: Members, Board of Barbering and Cosmetology

FROM: Kristy Underwood, Executive Officer

SUBJECT: Outreach Update

- Board staff participated in three outreach events hosted by Training Occupational Development Education Communities (TODEC) Legal Centers in Victorville, Perris and Coachella, California last month. Along with DCA's Office of Public Affairs, board staff provided information regarding how individuals can obtain licensure with an Individual Tax Identification Number (ITIN) instead of a Social Security Number. The offices of Assemblymember Eduardo Garcia, Assemblymember Jose Medina, and Assemblymember Eloise Gomez Reyes were involved as well. Over 150 people from the local communities attended the events.

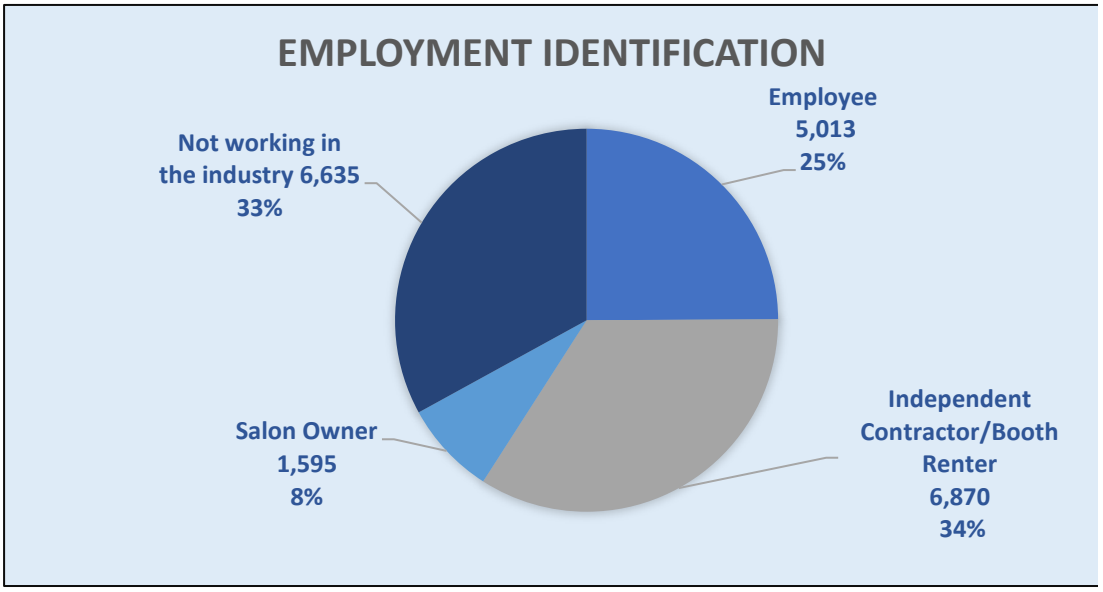
- Board staff continues to work with DCA's Public Affairs, Office of Public Design and Editing, and Budget units to assist with the consumer outreach plan, "Look for the License" . Currently we are in the bidding process for the social media priority placement portion on the project.

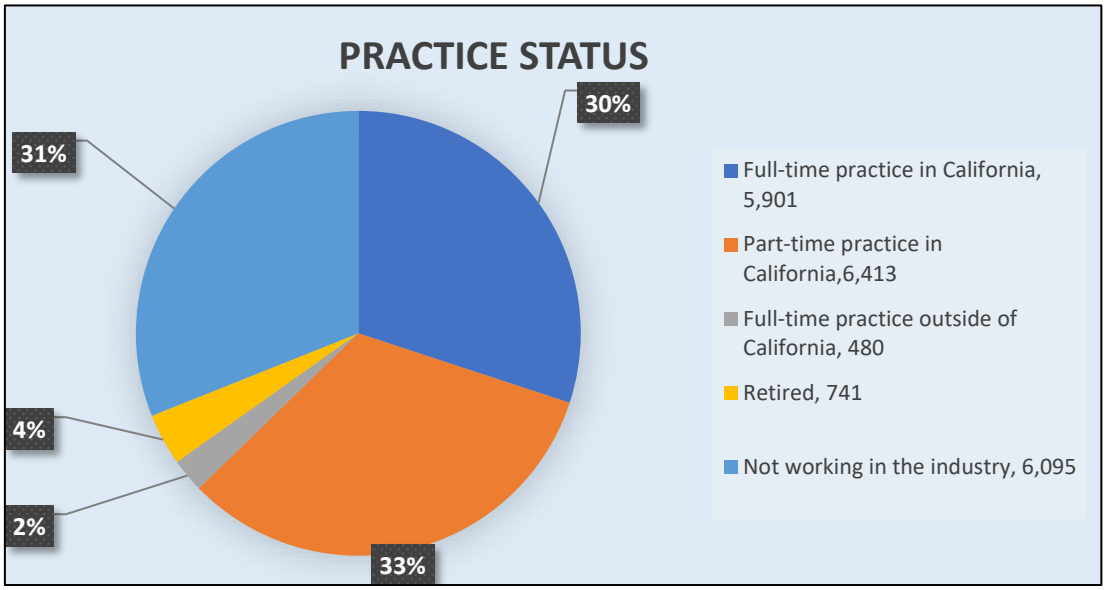
- The next outreach event will be the Senior Rally Day, May 7, 2019 at the California State Capitol from 10:00am – 3:00pm.

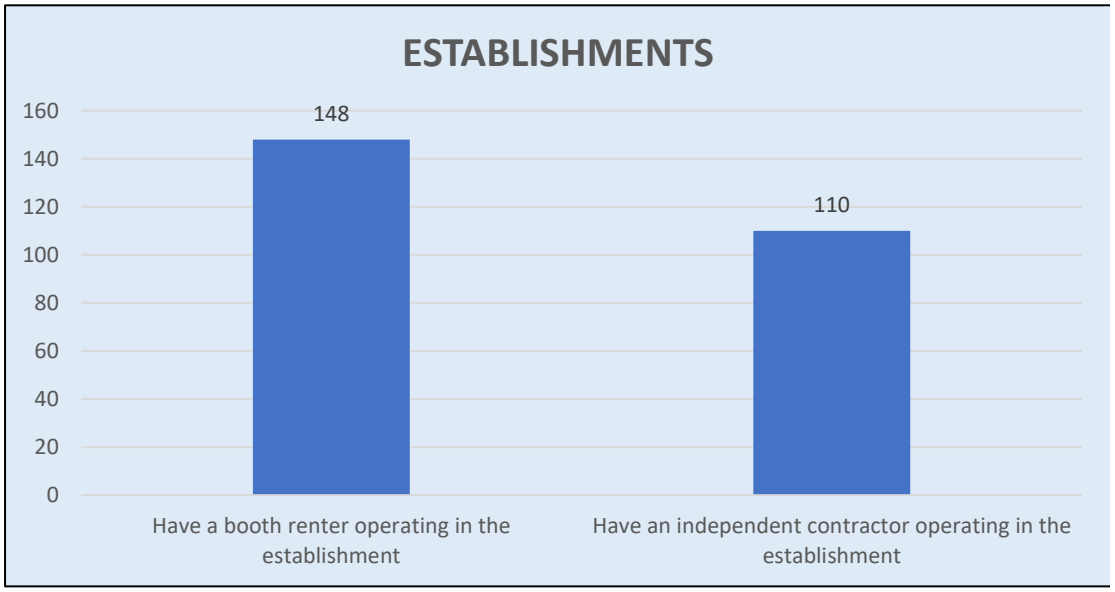
- The Board's Instagram account "CAbarbercosmo" went live April 9, 2019. Within the first 6 days we received over 200 followers.

RENEWAL QUESTIONAIRE

January 1 - March 31, 2019







CALIFORNIA STATE BOARD
OF
BARBERING AND COSMETOLOGY

BOARD MEETING

MINUTES OF FEBRUARY 11, 2019

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
Steve Weeks

STAFF MEMBERS PRESENT
Kristy Underwood, Executive Officer
Michael Santiago, Board Legal Representative
Marcene Melliza, Board Analyst

BOARD MEMBERS ABSENT
Bobbie Jean Anderson
Polly Codorniz

[Note: Agenda Items 6 and 7 were taken out of order. These minutes reflect these Agenda Items as listed on the agenda and not as taken in chronological order.]

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

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

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

Dr. Williams stated how proud she was of the collaborative work that the Board has done to emphasize the importance of licensing and regulation in this industry and the work and attention to prioritize public health and safety with increasing popularity of on-demand services. She stated she is proud of the great work that staff and the Board have done with the growing relationship with the California Bureau for Private Postsecondary Education (BPPE) to improve oversight of the schools so that future licensees receive the education they need to safely to provide services to the public, along with the hard work to create a comprehensive health and safety course that enhances the awareness and knowledge that students have about the importance of protecting themselves and the public. She stated she looks forward to continuing the work with this group of wonderful and intelligent individuals who are committed to

protecting the public and doing the work necessary to manage the evolving needs of this industry.

3. Agenda Item #3, ANNUAL ELECTION OF OFFICERS

Dr. Williams asked for nominations for President of the Board for 2019.

> **MOTION**: Mr. Drabkin made a motion, seconded by Dr. Williams, to elect Lisa Thong as President of the Board for 2019. Motion carried 6 yes, 0 no, and 0 abstain per roll call vote as follows:
>
> The following Board Members voted "Yes": Crabtree, Drabkin, Federico, Thong, Weeks, and Williams.

Dr. Williams asked for nominations for Vice President of the Board for 2019.

> **MOTION**: Mr. Federico made a motion, seconded by Dr. Williams, to elect Andrew Drabkin as Vice President of the Board for 2019. Motion carried 6 yes, 0 no, and 0 abstain per roll call vote as follows:
>
> The following Board Members voted "Yes": Crabtree, Drabkin, Federico, Thong, Weeks, and Williams.

4. Agenda Item #4, BOARD MEMBER REMARKS

Mr. Federico stated this may be his last meeting. He thanked the Board for their congenial and collaborative nature. He stated his hope that that continues long after he is gone and that it will continue to be solution-oriented and forward-thinking to stay ahead of the Legislature.

Mr. Weeks stated he was sad to hear this may be Mr. Federico's last meeting. He stated his hope that that is not the case. He stated his company's employee evaluation process was simple. They would ask one question: is the company better off because the person being evaluated was a part of it? Mr. Weeks stated it can universally be said that this Board is better off because Mr. Federico served and gave so much extra. He thanked Mr. Federico for his service.

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

Fred Jones, Legal Counsel, Professional Beauty Federation of California (PBFC), agreed with Mr. Weeks's comments about Mr. Federico and prayed this was not Mr. Federico's last Board meeting. Mr. Jones reminded everyone that the 19th Annual PBFC Welcome to Our World (WOW) event is Monday, May 6, 2019, from 3:00 to 6:30 p.m.

[Note: Agenda Items 6 and 7 were taken out of order and were heard after Agenda Item 8.]

6. Agenda Item #6, DEPARTMENT OF CONSUMER AFFAIRS EXECUTIVE UPDATE

Ms. Thong welcomed Mr. Grafilo and thanked him for giving his presentation today.

Dean Grafilo, Director, Department of Consumer Affairs (DCA or Department), provided an overview of the DCA's accomplishments this past year, transition and governor's

proposed budget, Director's quarterly meeting, required Board Member training, and sunset review. He stated his goal from day one has been to fight hard against the tendency of potential silence due to the broad and vast nature of the DCA. He stated this Board has done that in many ways and he wanted to continue to support those efforts. The Board's activities not only brought everyone together for open dialogue with the Department's boards and bureaus, it also furthered the mission to protect California consumers. He invited the Board to review the 2018 Annual Report for a comprehensive view of the Department's achievements.

Director Grafilo discussed the transition and governor's proposed budget. He stated the Department has met with the transition team. He noted that there is nothing the Board needs to do differently other than to continue the great service and great work it has been doing.

Director Grafilo discussed the sunset review. He stated the Board is one of ten programs undergoing sunset review this year. He wished the Board his best and hoped that it was a smooth process. He offered his support and assistance during this process and stated the Legislative Affairs Office is available for guidance or preparation needed for the hearing such as conducting mock hearings or reviewing Q&As. Ms. Underwood stated a mock hearing has been scheduled.

Ms. Thong thanked Director Grafilo for his report and stated the Board is looking forward to working with the Department team on the preparation for the sunset review hearing.

7. Agenda Item #7, PRESENTATION ON "WHY WE REGULATE THE BEAUTY INDUSTRY" BY LESLIE ROSTE

Ms. Thong invited Leslie Roste to present this agenda item.

Leslie Roste, RN, BSN, National Director, Education and Market Development, King Research, provided an overview, with the slide presentation, of the importance of a dedicated Board, increasing the impact of the Board, and the worst that can happen without a Board.

Ms. Crabtree asked if Ms. Roste's presentation slides have been shown to the Legislature to help them understand the importance of being licensed. Ms. Roste stated not in California but she has presented to legislative committees and hearings in other states.

Ms. Thong asked staff to email the link to Ms. Roste's presentation to legislative staff.

8. Agenda Item #8, EXECUTIVE OFFICER'S REPORT

a. Licensing Statistics
b. Examination Statistics
c. Disciplinary Review Committee Statistics
d. Enforcement Statistics
e. Budget Updates
f. Outreach Updates
g. Practice Status Survey Results

Kristy Underwood, Executive Officer, acknowledged new and existing staff in attendance:

- James Anderson, Board Enforcement Unit and Spanish Outreach Programs
- Rachel Gaytan, Board School Analyst
- Michelle Allee, Board Inspections Manager
- Allison Lee, Board Project Manager
- Carrie Harris, Board Enforcement Manager
- Theresa Rister, Board Cite and Fine Manager

Ms. Underwood reviewed the statistics and update reports, which were included in the meeting packet. She stated, at the Board's request, interpreter services provided at the Disciplinary Review Committee (DRC) hearings have been added to the statistics. She presented per report:

- Staff attended the International Salon and Spa Expo (ISSE) show in Long Beach in January. Attendance seemed lower than in the past.
- Health and Safety Regulations are currently being translated in Chinese, Farsi, and Arabic and will be posted on the website.
- Staff did an outreach event at the Mexican Consulate in Los Angeles and another organization has asked staff to present in Perris, Victorville, and Coachella on getting a license with an Individual Taxpayer Identification Number (ITIN) number.
- Staff is working on a communications plan directed at consumers and is looking at press releases and social media outlets.

Questions and Discussion

Mr. Weeks asked if staff will continue to do outreach annually with the Mexican Consulate. He suggested requesting to speak last and limiting the amount of time that schools can speak.

Mr. Drabkin asked staff to add a column to the examination reports of the historical examination pass rates for comparison.

Ms. Thong asked if there are numbers for the remote translations. Ms. Underwood stated staff is working on that.

Ms. Thong suggested sending a press release publicizing the translation interpreter services available to licensees. She suggested paring outreach activities in the areas where staff is traveling.

Mr. Weeks asked about the budgeting process. Ms. Underwood described the Budget Change Proposal process. She stated staff meets annually with the budget analyst to build the next year's budget. She suggested asking the budget office to present at the next Board meeting.

9. Agenda Item #9, APPROVAL OF BOARD MEETING MINUTES

- **October 22, 2018**

MOTION: Mr. Federico moved approval of the October 22, 2018, California State Board of Barbering and Cosmetology Meeting Minutes as presented. Ms. Crabtree seconded. Motion carried 6 yes, 0 no, and 0 abstain per roll call vote as follows:

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

10. Agenda Item #10, DISCUSSION AND POSSIBLE ACTION REGARDING THE 2019 BOARD MEMBER GUIDELINES AND PROCEDURES MANUAL

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

MOTION: Dr. Williams moved approval of the 2019 Guidelines and Procedure Manual as updated. Mr. Drabkin seconded. Motion carried 6 yes, 0 no, and 0 abstain per roll call vote as follows:

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

11. Agenda Item #11, APPOINTMENT OF COMMITTEE MEMBERS TO STANDING COMMITTEES FOR 2019

Ms. Underwood suggested tabling this agenda item to the next meeting due to Board vacancies.

Ms. Thong tabled this agenda item to the next Board meeting.

12. Agenda Item #12, UPDATE ON 2019 SUNSET REVIEW REPORT

Ms. Underwood stated she anticipates the report from legislative staff any day. The sunset review hearing is on February 26th. The Board will then have 30 days to prepare the final responses. She suggested an additional Board meeting in March for Board approval of the draft responses.

13. Agenda Item #13, DISCUSSION AND POSSIBLE ACTION APPROVING EDITS OF THE HEALTH AND SAFETY COURSE AFTER PILOT TESTING (BPC SECTION 7389)

Ms. Underwood summarized the Health and Safety Course Pilot Test Report, which was included in the meeting packet. She stated the recommended changes to the course made by the pilot test participants and subject matter experts are listed in page seven of the report.

MOTION: Ms. Crabtree moved approval of the Health and Safety Course Pilot Test Report. Seconded by Mr. Federico. Motion carried 6 yes, 0 no, and 0 abstain per roll call vote as follows:

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

14. Agenda Item #14, DISCUSSION AND POSSIBLE ACTION ON RECOMMENDATIONS FROM THE SPANISH LANGUAGE EXAMINATION TASK FORCE

Ms. Underwood summarized the discussion points and recommendations made by the Spanish Language Examination Task Force outlined in the Staff Memo, which was included in the meeting packet.

Michael Santiago, Board Legal Representative, stated, since this comes to the Board as a recommendation from a Committee, it comes as a motion and a second.

Questions and Discussion

Mr. Federico asked if it requires legislative approval for the Board to ask schools to provide enrollment information. Ms. Underwood stated it would require statutory authority.

Mr. Drabkin asked if English will also be at a lower grade level if translation grade levels are lowered. Ms. Underwood stated she will look into that.

VOTE: Motion carried 6 yes, 0 no, and 0 abstain per roll call vote as follows:

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

Mr. Weeks moved that the staff amend the regulatory language for the California Code of Regulations Section 932 to remove criterion-referenced scoring and instead require scoring be based on a weighted combined score where practical counts for more than the written portion. He suggested that Section 932 be amended to read “examination shall consist of a practical demonstration and a written test. In establishing passing grades and examinations, the Board shall work with its contractor to ensure practical demonstration scores shall prevail in importance over the written portion of the test by utilizing a combined weighted scoring method.” Mr. Federico seconded.

Mr. Drabkin stated the Board just voted to accept the recommendation from the Task Force for the National-Interstate Council of State Boards of Cosmetology (NIC) to do a data analysis to see if the scoring would change. This motion seeks to change it now without the analysis. He suggested tabling this motion, doing the data analysis, and expect the results presented by the March or May Board meetings.

Mr. Weeks stated it would be interesting to have this resolution going into the sunset review process to show the Legislature that the Board is diligent in looking at this issue. He stated the general consensus of the Task Force was that there would be a change.

Ms. Underwood stated, if this motion passes, staff would prepare the regulatory language that would need to come back to the Board for approval. Regulatory language would be approved as well as potentially providing the results of the data analysis at the March meeting.

Mr. Drabkin asked if staff could draft the regulatory language to have it ready if the results of the data analysis shows it would benefit. It would communicate to the Legislature during the sunset review that the Board is working on this problem and drafting the language if the results show that this is the way to go. Mr. Weeks agreed.

Ms. Thong stated she was okay with looking at a regulatory language change, but she cautioned the Board to look at this holistically. This change is coming out of a need to address the Spanish language pass rates, but changing the exam overall will impact all licensees. She asked the Board to think critically if this is the change that needs to be made to address the Spanish language pass rates. She stated changing the exam itself is not beneficial to addressing a specific challenge because it is not really addressing the challenge – it is just changing the test so that the numbers fit.

Ms. Thong stated, if the only way to increase the Spanish language pass rate is to make this change, then that is a decision that the Board can come to at the next meeting when it examines the regulatory changes to the language for testing. She stated she is wary of moving in this direction because it is not fair to Spanish language test takers that the Board is not actually looking into the root cause of why they are not passing the test in its current form, since they are the only category in which the pass rate is so low. Changing the weight of the scoring so the numbers change does not change anything on the side of the test takers and does not address their challenges.

Mr. Weeks stated the Board should also remember what is currently in the California Code – "in the conduct and grading of examinations, practical examinations shall prevail over written tests." He stated it is already there for the Board to adhere to.

Ms. Thong suggested dedicating a large portion of the next meeting to discussing this compliance issue and inviting the department that oversees the examination process to present how the Board is currently in compliance with that language and whether or not practical is currently prevailing in the scoring methodology so that everyone is on the same page in understanding how the scoring is currently working.

Public Comment

Wendy Cochran, California Aesthetic Alliance, stated testing should be the responsibility of the schools. Schools should release individuals who are competent in their practices. She suggested removing the practical test and putting the onus on the schools of releasing competent students who can provide these services on a daily basis and not under a panic situation. She stated this discussion negates Ms. Roste's presentation on the importance of understanding health and safety.

Tracy Montez, Ph.D., Chief, Division of Programs and Policy Review, DCA, stated, as a long-term state employee, she would strongly suggest that the Board not yet begin drafting regulations. There is a great opportunity to explore a number of things based on the Spanish Language Examination Task Force. This program is complex. It is good to step back and look at the examination program. It is important to be thoughtful because the past has shown that individuals can pass the practical and still miss key health and safety issues on the written test. She suggested letting the Task Force continue looking at this issue.

Mr. Jones stated two-thirds of Spanish candidates are failing the exam every year since the Board moved away from aggregate scoring. These are real people whose lives have been placed on hold because of a change of policy by this Board recommended by the Office of Professional Examination Services (OPES) in clear contradiction to state law. He stated Mr. Weeks was not quoting a regulation, rule, or policy, it was the Business and Professions Code that says that for purposes of grading, the practical demonstration shall prevail or the written. He stated the Legislature set that policy because this is a hands-on industry. It does not matter how much theoretical knowledge has been gained if the student cannot apply it in a salon setting.

Mr. Jones stated health and safety is almost the entire element of the practical examination. The idea that theoretical knowledge is the only means by which schools can convey health and safety to their students is bogus. Business and Professions Code Section 7338 states that for purposes of grading the practical shall prevail. There are clear policy reasons and clear industry realities why the practical shall prevail. The wreckage of not allowing it to prevail is that two-thirds of Spanish test-takers, who have gone through a year of schooling, cannot practice legally in the industry.

Mr. Jones stated unlicensed activity is one of the greatest threats to the industry. Because the Board is ignoring state law, it is encouraging more unlicensed activity. He stated his belief that Mr. Weeks comes to this as an incredibly diligent Board member who has done his homework. He has done his due diligence. He stated this discussion began as a bonified concern about low Spanish test scores and, given the sunset review and the influence of the Latino Caucus, this is an eyesore on the statistics. Proactive actions should be shown before going to the sunset review hearing. It is bigger than that. It is the fact that the Legislature has already made it clear, and that the Board is out of compliance with the law.

Dr. Montez stated she did not believe that her office was involved when that regulation was put in place. Business and Professions Code Section 139, which was also put in place by the Legislature in 1989, did say that the DCA's boards and bureaus are mandated to follow professional guidelines and technical standards for exam validation. These are the same professional guidelines and technical standards that are used for examinations across the nation. She stated she feels confident that the Board can defend the process that it has in place.

Ms. Roste stated individuals who pass the exam can become an instructor the next day. She stated she made the point in her presentation about junk in, junk out. If students do not know the information in theory, they arguably cannot teach it. She stated her concern that the Board does not require anything additional of instructors. She suggested making the exam the quality necessary for that individual to become an instructor for the next person who comes through school.

John Moreno, Vice President, Bakersfield Barber College, stated combining the tests will remove the stress that could cause a student to fail the practical or written exam. Failing a combined test means the student failed in the act of being sanitary in a practical and written sense. He stated he has had many students

who have finished the course leave or fail to take the test and then never go back. Students need to take their test. It would help the passage rate and possibly the rate of unlicensed individuals.

Ms. Thong clarified that the motion is for staff to come back with regulatory language regarding the weight of the practical versus the written exam.

Mr. Drabkin added that the intent is to draft the language with the pathway to making the regulatory change as opposed to having a draft available as a tool to use in the future.

Mr. Santiago stated directing staff to draft the language will require that language to be approved by the Board. Then the Board would initiate the rulemaking, which is another motion. This is in the early draft stage. The Board has leeway to do what it wants with the draft language that is brought back.

> **MOTION**: Mr. Weeks moved that the staff amend the regulatory language for the California Code of Regulations Section 932 to remove criterion-referenced scoring and instead require scoring be based on a weighted combined score where practical counts for more than the written. Section 932 shall be amended to read "examination shall consist of a practical demonstration and a written test. In establishing passing grades and examinations, the Board shall work with its contractor to ensure practical demonstration scores shall prevail in importance over the written portion of the test by utilizing a combined weighted scoring method." Seconded by Mr. Federico. Motion failed 3 yes, 3 no, and 0 abstain per roll call vote as follows:
>
> The following Board Members voted "Yes": Drabkin, Federico, and Weeks.
>
> The following Board Members voted "No": Crabtree, Thong, and Williams.

Mr. Weeks stated he voted yes to ensure that the Board is full adhering to the California Code of Regulations and to address the iniquities in the Spanish language examination pass rate.

Ms. Thong stated she voted no. There should be changes made to the code but this may not be the right direction to move in just yet. More time is required to be more thoughtful about the language being changed with this particular code. Also, the Board should be looking at other factors that are impacting Spanish language pass rates specifically including alignment with the Apprenticeship Standards Board looking into perhaps licensing individuals who teach, especially since it was found that many of the Spanish language test takers were not taking courses in Spanish. There is a lot to be done at the student and school levels before the Board begins to change the examination process.

Mr. Federico stated he voted yes because this is the beginning of something that can be changed multiple times along the way. It is good to have something on the table so the Board can continue moving along with this issue.

Ms. Crabtree stated she voted no because she agreed with Ms. Thong.

Mr. Drabkin stated he voted yes based on the fact that the Board is drafting language but not taking action on it. Drafting language now gives the Board language to take action with to modify if it chooses to go that direction.

Mr. Weeks stated he agreed with Ms. Thong's earlier suggestion to devote a significant amount of time at the next meeting to this issue and to invite individuals to attend who would provide understanding and support.

15. Agenda Item #15, UPDATE AND DISCUSSION RELATING TO CERTIFICATION OF STUDENT HOURS

Ms. Underwood stated this item has been brought before the Board several times before about the issues being found in schools. She summarized the Update on Certification of School Hours memo on the progress made since the last Board meeting, which was included in the meeting packet. Staff will follow up with the thirteen cited schools to ensure they have improved. Staff positions have been redirected to handle the increased workload and new positions will be brought in in the near future.

Questions and Discussion

Ms. Thong asked about the history of licensing teachers. She asked how it stopped and what it would take to reinstate that requirement. Ms. Underwood stated it would take a statutory change. The instructor Certificate of Authorization and practical examination was removed in 2004.

Mr. Federico agreed and stated the idea was that the Board should just be regulating the active industry and not regulating the instructors. That was given over to a now-defunct department, which would go through an approval process for instructors. It has since been given to the BPPE, whose only requirement is that individuals applying to teach must have three years of experience.

Ms. Thong asked to discuss this further at the next Board meeting and to invite a representative from the BPPE to present a review how instructors are being approved.

16. Agenda Item #16, LEGISLATIVE UPDATE: DISCUSSION AND POSSIBLE ACTION ON PROPOSED BILLS

a. AB 193 (Patterson) – Barbering and Cosmetology Scope of Practice Changes

Ms. Underwood summarized the Bill Analysis for Assembly Bill (AB) 193, which was included in the meeting packet.

Questions and Discussion

Ms. Thong suggested proactively meeting with the B&P members to ensure that they are aware of the Board's concerns. The last iteration of this bill was supported by many members of the Legislature because they saw it as a barrier to entry bill. She stated the importance of getting ahead of it this time around and being proactive with meetings to let concerns be known.

Ms. Crabtree agreed and stated the need to include showing health and safety issues that can happen as a result of deregulation.

Public Comment

Ms. Roste stated showing the photos from her presentation can come across as a scare tactic. She stated other states have identified all steps associated with each salon service and asked her, as a subject matter expert, to identify the risks at each step and what can be done to mitigate them.

Ms. Cochrane spoke in opposition to AB 193. She stated makeup is missing in the bill language. It does not address the lash artists who are already performing unlicensed services.

Jaime Schrabeck, Precision Nails, stated because the manicuring license requires the fewest number of hours and because Ms. Roste pointed out in her presentation how serious failures can be to consumers, manicurists may appear as the low-hanging fruit on the way to taking on esthetician and cosmetology licensing. She challenged the declaration that, as AB 193 proposes, licensees are burdened by their licenses and requirements to stay within a scope of practice. She asked about the meaning of "occupational licensing places an unnecessary burden on otherwise qualified workers." She asked how those workers get qualified. She stated she became qualified by going to school, passing a test, paying her licensing fees, and staying out of trouble. She stated for this bill to say that these people are qualified to do this work and somehow the Board is keeping them from participating in this industry is ridiculous.

Mr. Jones spoke in support of the motion to oppose SB 193.

MOTION: Ms. Thong moved to oppose Assembly Bill 193. Seconded by Ms. Crabtree. Motion carried 6 yes, 0 no, and 0 abstain per roll call vote as follows:

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

Mr. Drabkin asked staff to watch Assembly Bill 5, the codification of the Dynamex decision.

17. Agenda Item #17, PROPOSED REGULATIONS: DISCUSSION AND POSSIBLE ACTION OF PROPOSED REGULATORY CHANGES

Ms. Underwood reviewed the Regulations Update memo, which was included in the meeting packet. She noted the three regulation packages that will require a Board vote:

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)**

MOTION: Mr. Federico made a motion to move forward with the proposed regulation changes to the NIC translation guides. Seconded by Ms. Crabtree. Motion carried 6 yes, 0 no, and 0 abstain per roll call vote as follows:

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

d. Title 16, CCR Section 962, 962.1, and 962.2 (Externs)

MOTION: Dr. Williams made a motion to move forward with the proposed regulation changes to externships. Seconded by Ms. Crabtree. Motion carried 6 yes, 0 no, and 0 abstain per roll call vote as follows:

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

e. Title 16, CCR Section 965.2 (Personal Service Permit)

MOTION: Ms. Thong made a motion to move forward with the proposed regulation changes to the Personal Service Permit and included adding nail polish removal to the manicurist services that may be performed. Seconded by Dr. Williams. Motion carried 5 yes, 1 no, and 0 abstain per roll call vote as follows:

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

The following Board Member voted “No”: Crabtree.

Public Comment

Ms. Schrabeck stated, if manicurists are allowed to apply nail polish as part of the Personal Service Permit, they should be allowed to remove nail polish. She stated the limitations of only filing and buffing the nails and applying nail polish are very restrictive. She asked that, at a minimum, nail polish removal be added.

Ms. Schrabeck clarified that the Personal Service Permit does not replace or supplant, it must exist simultaneously with Article 2, Section 7318, which allows for practice outside a licensed establishment when a person is either mentally or physically incapacitated, which has not been defined by the Board. She noted that that licensing must be obtained from a licensed establishment.

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

g. Title 16, CCR Section 974 and 974.3 (Fine Schedule and Payment Plan)

18. Agenda Item #18, AGENDA ITEMS FOR THE NEXT MEETING

Dr. Williams asked to include a discussion on the length of mobile units in the regulations. It needs to be updated.

Mr. Weeks suggested that a committee could discuss areas to improve the language and regulations followed at the DRC hearings.

Ms. Thong suggested that the Legislative Committee look at potential new services to regulate against, given Ms. Roste’s presentation today. She suggested a presentation on new services to watch out for.

Ms. Thong suggested that the Health and Safety Committee look into the environmental impact of the industry regarding chemical disposal to consider putting together a best practice guide at the state level.

19. Agenda Item #19, ADJOURNMENT

There being no further business, the meeting was adjourned at approximately 12:30 p.m.

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Agenda Item No. 11

DATE: April 8, 2019

TO: Members, Board of Barbering and Cosmetology

FROM: Kristy Underwood, Executive Officer

SUBJECT: Update on Spanish Language Task Force Recommendations

The following provides an update of recommendations made by the Spanish Language Task Force that the Board approved at their last meeting.

1. Align Board regulations with the Division of Apprenticeship Standards

   This recommendation was specific to that fact that the Board tracks passage rates of the examination and the DAS tracks completion of a two year apprenticeship program. Board is currently looking into options on addressing this issue, however, in further review it appears that there are many more issues that the Board and the DAS must collaborate on to address the issues of low Spanish passage rates by apprentices. Please refer to the next agenda item. Board staff hope to have a more substantial status report at the next Board meeting.

2. Require student enrollment to be reported to the Board so the Board can communicate with students before they apply for the examination.

   This recommendation was made as part of the Board's sunset review report. This will be included in our future discussions with the legislature.

3. Have NIC do a data analysis to determine if pass rates would improve if the weight/scoring was changed.

   In process.

4. Explore toggle testing option.

   This will be explored during the contract process for computer based testing.

5. Find how translations at a lower grade level could impact scoring.

   The NIC develops examination items at a 8-10th grade English level. Examinations are not translated to a grade level or at a word for word level. They are appropriately transadapted.

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MEMORANDUM

DATE April 9, 2019

TO: Members, Board of Barbering and Cosmetology

FROM: Kristy Underwood, Executive Officer

SUBJECT: Discussion and Possible Actions Regarding Spanish Language Examination Pass Rates

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In 2018, 78 schools had students who took the cosmetology examination in Spanish. Of the 78 schools:

- 60 schools had a pass rate below 60%
- 18 schools had a pass rate above 60%
- There was a total of 665 students
- The overall Spanish examination pass rate was 40%
- The overall pass rate for all other languages was 63%
- 19 schools (24%) were approved to teach in Spanish

SCHOOLS WITH A PASS RATE BELOW 60%

In reviewing schools that have a low pass rate on the cosmetology examination in the Spanish language, two categories were determined: schools with less than 5 students taking the examination in Spanish and schools with more than 5 students taking the examination in Spanish.

SCHOOLS WITH LESS THAN 5 STUDENTS

In reviewing the 60 schools that have a pass rate below 60%, the following was found:

- 42 of these 60 schools had less than 5 students take the examination in Spanish.
  - The 42 schools accounted for 111 students.
- 4 of these 42 schools are approved to teach and offer the course in Spanish.
  - The 4 schools accounted for 8 students.

Assumptions: 103 students chose to take the examination in Spanish even though they went to a school that is not approved to teach in Spanish nor does the school offer any materials in Spanish. This could also mean that these students were never provided the examination translation guide. Note: schools may not be approved to teach in Spanish but may still offer instruction in Spanish.

SCHOOLS WITH MORE THAN 5 STUDENTS

In reviewing the 18 schools that have a pass rate below 60% and have at least 6 or more students taking the examination, the following was found:

- 4 of the 18 are closed schools (accounting for 66 students)

Of the remaining 14 schools:

- 7 are approved to teach and offer courses in Spanish (329 students)
- 7 are not approved nor do they offer courses in Spanish (67 students)

From the 7 schools that are approved for Spanish:

School	# SP Students	Pass Rate Spanish	# All Other Languages	Pass Rate All Other Languages	Accredited
1	28	54%	6	83%	YES
2	62	29%	36	28%	YES
3	44	57%	21	38%	NO
4	20	50%	48	52%	YES
5	91	31%	43	60%	NO
6	18	50%	25	36%	NO
7	66	55%	17	76%	YES

Only 2 of these 7 schools have a pass rate above 60% in non-Spanish languages.

The other 5 schools not only have low pass rates for the Spanish language, but also in all other languages.

SCHOOLS WITH A PASS RATE ABOVE 60%

18 schools have a pass rate above 60% with a total of 108 students. Of the 18 schools:

- 3 are closed (accounting for 4 students)
- 14 schools have 5 or less students that took the examination in Spanish (26 students)
- 4 have 6 or more students (2 of these schools are approved to teach in Spanish; accounting for 78 students)

School	# SP Students	Pass Rate Spanish	# All Other Languages	Pass Rate All Other Languages
1*	10	70%	22	86%
2*	35	69%	3	67%
3	20	75%	7	29%
4	13	77%	48	79%

**Spanish approved*

The overall pass rate for the 18 schools that have a pass rate of 60% or higher is 75% for Spanish examinations and 66% for all other languages.

APPRENTICE PROGRAM

In a review of the pass rates for the apprentice cosmetology examination results, the following was found:

- 19 Apprentice programs had applicants take the examination in 2018
  - 18 of these programs had applicants who took the examination in Spanish
- 839 total applicants in 2018 were apprentices
- 680 applicants took the examination in Spanish
  - Only 33% passed the examination
- 159 applicants took the examination in all other languages
  - Only 38% passed the examination

Not one apprentice program reported a pass rate of over 60% in the Spanish examination. Not only are apprentice applicants failing the Spanish examination at an alarming rate, apprentice applicants are not passing the examination in any language.

ISSUES

- Approved text books are only required by regulation to be provided to students in approved schools. Therefore, apprentices may complete their program without ever reviewing a text book. This also includes the translation guide for the examination.
- The overall pass rate for Spanish test takers from apprentice programs is 38%.
- 81% of all apprentices are Spanish speaking.
- Apprentice programs are not required to teach the Health and Safety Course and therefore apprentices are not learning about current practices or basic labor laws.
- A cosmetology apprentice is only required to obtain 220 hours of classroom instruction.
- The full apprentice program is 3200 hours with a curriculum that covers similar topics as a traditional school, however, they receive this curriculum “on-the-job,” which is impossible to verify for the Board.
- A trainer overseeing an apprentice within an establishment is only required to not have any outstanding fines.

CONCLUSIONS

The Board’s pass rate for Spanish test takers from private schools is unreliable due to the number of candidates that choose to take the examination in Spanish (likely unbeknownst by the school) when they have attended a school that has not provided them with Spanish text books, the approved translation guide, or any instruction in the Spanish language.

Schools that have the lowest pass rates for Spanish examinations also have low pass rates in all other languages.

The issue of low Spanish pass rates may stem from the quality of education that is being provided at schools, not the examination itself.

Apprentice applicants are failing at an alarming rate in the Spanish language.

Regulations for the apprentice program must be strengthened to ensure individuals entering this program are receiving the same information as students in school.

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DATE: April 8, 2019

TO: Members, Board of Barbering and Cosmetology

FROM: Kristy Underwood, Executive Officer

SUBJECT: Instructor Requirements for Private Beauty Schools

This memo will provide an overview of what is required for an instructor in a private beauty school (cosmetology, barbering and electrology).

BOARD OF BARBERING AND COSMETOLOGY REQUIREMENTS

The Board has no statutes or regulations that pertain to instructors. However, the Bureau for Private Postsecondary Education (BPPE) does have some oversight. The Bureau's regulations state:

BUREAU OF PRIVATE POSTSECONDARY EDUCATION REQUIREMENTS

California Code of Regulations
71720. Faculty.
(b) Instructors in an Educational Program Not Leading to a Degree.

(1) An institution shall employ instructors who possess the academic, experiential and professional qualifications to teach, including a minimum of three years of experience, education and training in current practices of the subject area they are teaching. If an instructor does not possess the required three years of experience, education and training in the subject area they are teaching, the institution shall document the qualifications the instructor possesses that are equivalent to the minimum qualifications.

(2) Each instructor shall maintain their knowledge by completing continuing education courses in his or her subject area, classroom management or other courses related to teaching.

(3) The institution shall not employ or continue to employ an instructor who was adjudicated in a judicial or administrative proceeding as having violated any provision of the Act or this chapter, or as having committed any act that would constitute grounds for the denial of a license under Section 480 of the Business and Professions Code.

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BOARD OF BARBERING & COSMETOLOGY
BILL ANALYSIS

Author: Assembly Member Gonzalez **Subject: Dynamex Decision**

Bill Number: AB 5 **Version:** March 26, 2019

Existing Law:

Existing law, as established in the case of Dynamex Operations West, Inc. v. Superior Court of Los Angeles (2018) 4 Cal.5th 903 (Dynamex), creates a presumption that a worker who performs services for a hirer is an employee for purposes of claims for wages and benefits arising under wage orders issued by the Industrial Welfare Commission. Existing law requires a 3-part test, commonly known as the "ABC" test, to establish that a worker is an independent contractor for those purposes.

This Bill:

This bill would state the intent of the Legislature to codify the decision in the Dynamex case and clarify its application. The bill would provide that the factors of the "ABC" test be applied in order to determine the status of a worker as an employee or independent contractor for all provisions of the Labor Code, unless another definition or specification of "employee" is provided. The bill would codify existing exemptions for specified professions that are not subject to wage orders of the Industrial Welfare Commission or the ruling in the Dynamex case. The bill would state that its provisions do not constitute a change in, but are declaratory of, existing law.

Analysis:

As written, AB 5 does not impact any operations of the Board, however, because of the significant amount of booth renters/independent contractors within the barbering and cosmetology industry, the Board's licensees are greatly impacted.

The Dynamex decision provides the "ABC Test" for determining if someone is an independent contractor. The ABC is as follows:

> ***1. Part A: Is the worker free from the control and direction of the hiring entity in the performance of the work, both under the contract for the performance of the work and in fact?***

2. ***Part B: Does the worker perform work that is outside the usual course of the hiring entity's business?***

3. ***Part C: Is the worker customarily engaged in an independently established trade, occupation, or business of the same nature as the work performed for the hiring entity?***

The barbering and cosmetology industry has operated for many years of individuals considering themselves to be independent contractors. With the ABC Test, many of these individuals are finding that they are technically classified as employees. This could be a significant financial burden to someone who has their own clientele and received direct compensation from their clients, but according to the test may now have to be paid an hourly wage.

The Dynamex decision was issued by the California Supreme Court. This bill will place the provisions of the decision into statutes.

AMENDED IN ASSEMBLY MARCH 26, 2019

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

ASSEMBLY BILL No. 5

Introduced by Assembly Member Gonzalez

December 3, 2018

An act to add Section 2750.3 to the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 5, as amended, Gonzalez. Worker status: independent contractors.

Existing law, as established in the case of Dynamex Operations West, Inc. v. Superior Court of Los Angeles (2018) 4 Cal.5th 903 (Dynamex), creates a presumption that a worker who performs services for a hirer is an ~~employee.~~ *employee for purposes of claims for wages and benefits arising under wage orders issued by the Industrial Welfare Commission.* Existing law requires a 3-part test, commonly known as the "ABC" test, to establish that a worker is ~~independent contractor.~~ *an independent contractor for those purposes.*

This bill would state the intent of the Legislature to ~~include provisions within this bill would~~ codify the decision in the Dynamex case and clarify its application. *The bill would provide that the factors of the "ABC" test be applied in order to determine the status of a worker as an employee or independent contractor for all provisions of the Labor Code, unless another definition or specification of "employee" is provided. The bill would codify existing exemptions for specified professions that are not subject to wage orders of the Industrial Welfare Commission or the ruling in the Dynamex case. The bill would state that its provisions do not constitute a change in, but are declaratory of, existing law.*

The Labor Code makes it a crime for an employer to violate specified provisions of law with regard to an employee. By expanding the definition of an employee for purposes of these provisions, the bill would expand the definition of a crime.

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: ~~no~~ *yes*. State-mandated local program: ~~no~~ *yes*.

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

SECTION 1. The Legislature finds and declares all of the following:

(a) On April 30, 2018, the California Supreme Court issued a unanimous decision in Dynamex Operations West, Inc. v. Superior Court of Los Angeles, (2018) 4 Cal.5th 903.

(b) In its decision, the Court cited the harm to misclassified workers who lose significant workplace protections, the unfairness to employers who must compete with companies that misclassify, and the loss to the state of needed revenue from companies that use misclassification to avoid obligations such as payment of payroll taxes, payment of premiums for workers compensation, Social Security, unemployment, and disability insurance.

(c) The misclassification of workers as independent contractors has been a significant factor in the erosion of the middle class and the rise in income inequality.

(d) It is the intent of the Legislature in enacting this act to include provisions that would codify the decision of the California Supreme Court in Dynamex Operations West, Inc. v. Superior Court of Los Angeles (2018) 4 Cal.5th 903, and would clarify the decision's application in state law.

SEC. 2. Section 2750.3 is added to the Labor Code, to read:

~~2750.3. (a) It is the intent of the Legislature in enacting this section to include provisions that would codify the decision of the California Supreme Court in Dynamex Operations West, Inc. v.~~

~~Superior Court of Los Angeles (2018) 4 Cal.5th 903, and would clarify the decision's application in state law.~~

2750.3. (a) For purposes of the provisions of this code, where another definition or specification for the term "employee" is not otherwise provided, and for the wage orders of the Industrial Welfare Commission, a person providing labor or services for remuneration shall be considered an employee unless the hiring entity demonstrates that all of the following conditions are satisfied:

(1) The person is free from the control and direction of the hiring entity in connection with the performance of the work, both under the contract for the performance of the work and in fact.

(2) The person performs work that is outside the usual course of the hiring entity's business.

(3) The person is customarily engaged in an independently established trade, occupation, or business of the same nature as that involved in the work performed.

(b) This section and the holding in Dynamex Operations West, Inc. v. Superior Court of Los Angeles (2018) 4 Cal.5th 903, do not apply to the following occupations as defined below, and instead, for these occupations only, the employment relationship shall be governed by the test adopted by the California Supreme Court in the case of S. G. Borello & Sons, Inc. v Department of Industrial Relations (1989) 48 Cal.3d 341.:

(1) A person or organization who is licensed by the Department of Insurance pursuant to Chapter 5 (commencing with Section 1621), Chapter 6 (commencing with Section 1760), and Chapter 8 (commencing with Section 1831) of Part 2 of Division 1 of the Insurance Code.

(2) A physician and surgeon licensed by the State of California pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code, performing professional or medical services provided to or by a health care entity, including an entity organized as a sole proprietorship, partnership, or professional corporation as defined in Section 13401 of the Corporations Code.

(3) A securities broker-dealer or investment adviser or their agents and representatives that are registered with the Securities and Exchange Commission or the Financial Industry Regulatory Authority or licensed by the State of California under Chapter 2 (commencing with Section 25210) or Chapter 3 (commencing with

Section 25230) of Division 1 of Part 3 of Title 4 of the Corporations Code.

(4) A direct sales salesperson as described in Section 650 of the Unemployment Insurance Code, so long as the conditions for exclusion from employment under that section are met.

(c) The addition of Section 2750.3 to the Labor Code made by this act does not constitute a change in, but is declaratory of, existing law.

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

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BOARD OF BARBERING & COSMETOLOGY
BILL ANALYSIS

Author: Assembly Member Patterson **Subject:** De-Regulation

Bill Number: AB 193 **Version:** March 20, 2019

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).

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

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

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

(3) Singeing, shampooing, arranging, dressing, curling, waving, chemical waving, hair relaxing, or dyeing the hair or applying hair tonics.

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

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

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

(1) Arranging, dressing, curling, waving, machineless permanent waving, permanent waving, cleansing, cutting, shampooing, relaxing, singeing, bleaching, tinting, coloring, straightening, dyeing, applying hair tonics to, beautifying, or otherwise treating by any means, the hair of any person.

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

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

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

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

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

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

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

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

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

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

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

This Bill:

Requires DCA, beginning on January 1, 2021, to conduct a comprehensive review of all occupational licensing requirements.

Beginning January 1, 2021, requires each Board within DCA to submit to the DCA an assessment on the Board's progress in implementing policies to facilitate licensure portability for active duty service members, veterans and military spouses.

The bill would require the department to report to the Legislature on March 1, 2033, and every 2 years thereafter, on the department's progress, and would require the department to issue a final report to the Legislature no later than January 1, 2033.

The bill would require the department to apply for federal funds that have been made available specifically for the purpose of reviewing, updating, and eliminating overly burdensome licensing requirements, as provided.

Specific to the Board:

- Removes shampooing from the scope of practice of barbers and cosmetologists.
- Removes make-up from the scope of practice of a cosmetologist and an esthetician.
- Requires an individual to inform a consumer who is receiving shampooing or make-up services that they are not a barber or cosmetologist licensee.

Analysis:

The Board's top priority is consumer protection. This is accomplished in part by licensing individuals who have demonstrated minimal competency within the barbering and cosmetology scopes of practice. This bill would significantly and adversely impact the Boards mission of protecting California consumers.

Shampooing

There have been various statements in recent years that a license should not be required to perform the service of shampooing, a practice that is done by each of us in our homes. This statement may be true if the Board issued a license to individuals just to shampoo, which it does not. Shampooing is a part of a much larger process and is one step that a cosmetologist or barber should be trained on. Shampooing requires a licensed professional to place their hands on another person. Rarely, is this step just a shampoo. Shampoo often involves a scalp massage and regularly involves a client evaluation. Placing a client in a shampoo chair and positioning the neck of the client correctly is vital to ensure no injury occurs to the client. Most importantly, the shampoo procedure is the first step in client evaluation. This is where the licensed professional can detect the appearance of lice or other parasite, or an open sore that would allow and require the licensee to refuse service and refer the client to a medical professional.

Removing this vital piece of a larger process increases the risk not only to consumers but also to the individuals working in the salon.

Make-up Application

Removing required training for this service is almost guaranteed to increase consumer harm. The application of make-up, when not done properly, is one of the most common ways to transmit diseases (pink-eye being the most common). Make-up tools (brushes, lash wands, etc) not cleaned and disinfected properly after each use puts client at significant risk. Tools left unclean and then used on multiple individuals creates the potential for cross-contamination of various bacterial infections. To allow individuals to perform this service without ant training in health and safety will cause significant risk to the health and safety of consumers.

In addition, the requirement in this bill that states an unlicensed person who does not hold a barber or cosmetologist license must disclose this information prior to applying make-up or providing a shampoo is simply an encouragement for unlicensed activity. The Board cannot enforce that any individual is complying with this requirement.

Board Position:

The Board took an OPPOSE position at its last meeting on February 11, 2019.

AMENDED IN ASSEMBLY MARCH 20, 2019

AMENDED IN ASSEMBLY MARCH 5, 2019

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

ASSEMBLY BILL No. 193

Introduced by Assembly Member Patterson
(Coauthors: Assembly Members Choi, Gallagher, Lackey, Melendez, and Voepel)
(Coauthors: Senators Bates, Morrell, and Nielsen)

January 10, 2019

An act to amend Sections 7316, 19011, 19017, 19051, 19059.5, 19060.6, and 19170 of, to add and repeal Section 101.5 of, and to repeal Sections 19010.1 and 19052 of, the Business and Professions Code, ~~and to amend Section 110371 of the Health and Safety Code,~~ relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

AB 193, as amended, Patterson. Professions and vocations.

(1) Existing law establishes the Department of Consumer Affairs in the Business, Consumer Services, and Housing Agency to, among other things, ensure that certain businesses and professions that have potential impact upon the public health, safety, and welfare are adequately regulated.

This bill would require the department, beginning on January 1, 2021, to conduct a comprehensive review of all licensing requirements for each profession regulated by a board within the department and identify unnecessary licensing requirements, as defined by the bill. *The bill, beginning February 1, 2021, and every 2 years thereafter, would require each board within the department to submit to the department an*

assessment on the board's progress in implementing policies to facilitate licensure portability for active duty service members, veterans, and military spouses that includes specified information. The bill would require the department to report to the Legislature on ~~January~~ *March* 1, 2023, and every 2 years thereafter, on the department's ~~progress,~~ *progress in conducting its review,* and would require the department to issue a final report to the Legislature no later than ~~January~~ *March* 1, 2033. The bill would require the biennial reports *to the Legislature* to *include the assessment information submitted by each board to the department, to* identify the professions ~~reviewed,~~ *reviewed by the department,* each unnecessary licensing requirement, and the department's recommendations to the Legislature on whether to keep, modify, or eliminate the unnecessary licensing requirement. The bill would require the department to apply for federal funds that have been made available specifically for the purpose of reviewing, updating, and eliminating overly burdensome licensing requirements, as provided.

(2) Existing law, the Barbering and Cosmetology Act, provides for the licensure and regulation of the practice of cosmetology by the State Board of Barbering and Cosmetology in the department and defines the practice of both barbering and cosmetology to include shampooing the hair of any person. The act also specifies that, within the practice of cosmetology, there is the specialty branch of skin care, which includes applying makeup.

This bill would delete shampooing another person from the practice of barbering and cosmetology, and would delete the act of applying makeup on another person from the specialty practice of skin care. The bill would require a person who does not hold a barbering or cosmetology license to disclose that fact before the unlicensed person applies makeup to or shampoos the hair of another person.

(3) Existing law provides for the regulation of custom upholsterers by the Bureau of Household Goods and Services in the department, and requires every custom upholsterer to hold a custom upholsterer's license.

This bill would delete those provisions requiring licensure of custom upholsterers.

~~(4) The bill would make conforming and other nonsubstantive changes.~~

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

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

SECTION 1. The Legislature finds and declares all of the following:

(a) Many entities, including the Federal Trade Commission, the United States Department of Labor, and the Milton Marks "Little Hoover" Commission on California State Government Organization and Economy, have acknowledged the unnecessary burdens that occupational licensing places on otherwise qualified workers.

(b) Unnecessary licensing increases costs for consumers and restricts opportunities for workers.

(c) Researchers show that occupational licensing restrictions can result in almost three million fewer jobs and a cost of over $200,000,000,000 to consumers.

(d) The Institute for Justice estimates that burdensome licensing in California results in a loss of 195,917 jobs and $22,000,000,000 in misallocated resources.

(e) California is the most broadly and onerously licensed state in the nation and has been identified as the nation's worst licensing environment for workers in lower-income occupations.

(f) Licensing is also believed to disproportionately affect minorities and exacerbate income inequality.

SEC. 2. Section 101.5 is added to the Business and Professions Code, to read:

101.5. (a) The department shall apply for federal funds that have been made available specifically for the purposes of reviewing, updating, and eliminating overly burdensome licensing requirements.

(b) Beginning on January 1, 2021, the department shall conduct a comprehensive review of all licensing requirements for each profession and shall identify unnecessary licensing requirements. The department shall conduct the review whether or not the state receives federal funds pursuant to subdivision (a).

(c) (1) Beginning on February 1, 2021, and every two years thereafter, each board identified in Section 101 shall submit to the department an assessment on the board's progress in implementing policies to facilitate licensure portability for active duty service members, veterans, and military spouses. The assessment shall include the following information:

(A) The number of active duty service members, veterans, and military spouses who applied for licensure for each of the previous two calendar years.

(B) The board's process for expediting applications for active duty service members, veterans, and military spouses, the average processing time for an expedited application, and the number of expedited application requests received in each of the previous two calendar years.

(C) The number of applications for waived renewal fees submitted by active duty service members in each of the previous two calendar years.

(D) If the board issues temporary licenses pursuant to Section 115.6, the duration of, and requirements for obtaining, the temporary license.

(E) Whether an applicant may apply, and the requirements, for licensure by endorsement.

(F) A list of the states with which the board maintains reciprocity agreements, if any.

(2) The department shall submit the information received pursuant to paragraph (1) as part of the report required to be submitted to the Legislature pursuant to subdivision (d).

~~(c)~~

(d) The department shall report to the Legislature on ~~January~~ *March* 1, 2023, and every two years thereafter until the department has completed its review, on the department's progress in conducting the review. The department shall issue a final report to the Legislature no later than ~~January~~ *March* 1, 2033. Each biennial report shall be organized by board and shall include all of the following:

(1) The professions reviewed by the department in the preceding two years.

(2) Unnecessary licensing requirements identified by the department for each profession reviewed.

(3) For each unnecessary licensing requirement, the department's recommendation to the Legislature to keep, modify, or eliminate the unnecessary licensing requirement.

(4) For each unnecessary licensing requirement that the department recommends to keep, facts supporting the department's recommendation.

(5) The information submitted to the department pursuant to paragraph (2) of subdivision (c).

~~(d)~~

(e) The department may use national licensing standards, where applicable, as a baseline for evaluating the necessity of licensing requirements.

~~(e)~~

(f) For purposes of this section, the following definitions apply:

(1) "Military spouse" means a person who is married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States who is assigned to a duty station in this state under official active duty military orders.

~~(1)~~

(2) "Profession" means a profession or vocation regulated by a board identified in Section 101.

~~(2)~~

(3) "Unnecessary licensing requirement" means a licensing requirement that does not satisfy either of the following criteria:

(A) Protects the health and safety of the public or a licensee.

(B) Satisfies a national licensing or certification requirement.

~~(f)~~

(g) A report to be submitted pursuant to subdivision ~~(c)~~ *(d)* shall be submitted in compliance with Section 9795 of the Government Code.

~~(g)~~

(h) Notwithstanding Section 10231.5 of the Government Code, this section is repealed on January 1, 2034.

SEC. 3. Section 7316 of the Business and Professions Code is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) Nail care is the practice of cutting, trimming, polishing, coloring, tinting, cleansing, manicuring, or pedicuring the nails of

any person or massaging, cleansing, or beautifying from the elbow to the fingertips or the knee to the toes of any person.

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

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

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

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

(4) Shampooing hair. However, before a person who does not hold a barbering or cosmetology license shampoos the hair of another person, the unlicensed person shall disclose verbally or in writing to the other person that they do not hold a barbering or cosmetology license.

(5) Applying makeup. However, before a person who does not hold a barbering or cosmetology license applies makeup to another person, the unlicensed person shall disclose verbally or in writing to the other person that they do not hold a barbering or cosmetology license.

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

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

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

SEC. 4. Section 19010.1 of the Business and Professions Code is repealed.

SEC. 5. Section 19011 of the Business and Professions Code is amended to read:

19011. "Manufacturer" means a person who, either by themselves or through employees or agents, makes any article of upholstered furniture or bedding in whole or in part, using either new or secondhand material.

SEC. 6. Section 19017 of the Business and Professions Code is amended to read:

19017. "Owner's material" means any article or material belonging to a person for their own, or their tenant's use, that is sent to any manufacturer or bedding renovator or used in repairing or renovating.

SEC. 7. Section 19051 of the Business and Professions Code is amended to read:

19051. Every upholstered-furniture retailer, unless the person holds an importer's license, a furniture and bedding manufacturer's license, a wholesale furniture and bedding dealer's license, or a retail furniture and bedding dealer's license, shall hold a retail furniture dealer's license.

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

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

SEC. 8. Section 19052 of the Business and Professions Code is repealed.

SEC. 9. Section 19059.5 of the Business and Professions Code is amended to read:

19059.5. Every sanitizer shall hold a sanitizer's license unless the person is licensed as a home medical device retail facility by the State Department of Health Services or as an upholstered furniture and bedding manufacturer, retail furniture and bedding dealer, or retail bedding dealer.

SEC. 10. Section 19060.6 of the Business and Professions Code is amended to read:

19060.6. Every person who, on their own account, advertises, solicits, or contracts to manufacture upholstered furniture or bedding, and who either does the work themselves or has others do it, shall obtain the particular license required by this chapter for the particular type of work that the person solicits or advertises that the person will do, regardless of whether the person has a shop or factory.

SEC. 11. Section 19170 of the Business and Professions Code is amended to read:

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

	Maximum fee	Minimum fee
Importer's license	$940	$120
Furniture and bedding manufacturer's license	940	120
Wholesale furniture and bedding dealer's license	675	120
Supply dealer's license	675	120
Sanitizer's license	450	80
Retail furniture and bedding dealer's license	300	40
Retail furniture dealer's license	150	20
Retail bedding dealer's license	150	20

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

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

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

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

~~SEC. 12. Section 110371 of the Health and Safety Code is amended to read:~~

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

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

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

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

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

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BusinessCosmo
Board of Barbering & Cosmetology

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BOARD OF BARBERING & COSMETOLOGY
BILL ANALYSIS

Author: Assembly Member Low **Subject: Gendered Terms**

Bill Number: AB 496 **Version:** February 12, 2019

Existing Law:

Establishes the Department of Consumer Affairs, which is comprised of various boards. Existing law authorizes the director to audit and review, upon the director's own initiative or upon the request of a consumer or licensee, inquiries and complaints regarding, among other things, dismissals of disciplinary cases of specified licensees and requires the director to report to the Chairpersons of the Senate Business and Professions Committee and the Assembly Health Committee annually regarding any findings from such an audit or review.

Existing law defines the term "licentiate" to mean any person authorized by a license, certificate, registration, or other means to engage in a business or profession regulated or referred to, as specified.

This Bill:

This bill would replace gendered terms with nongendered terms and make other non-substantive changes.

This bill would instead require the director to report to the Chairpersons of the Senate Business, Professions and Economic Development Committee and the Assembly Business and Professions Committee.

This bill would instead define "licensee" to mean any person authorized by a license, certificate, registration, or other means to engage in a business or profession regulated or referred to, as specified, and would provide that any reference to licentiate be deemed to refer to licensee.

Analysis:

This bill would only impact terms within the Boards laws and regulations. The impact to the Board would be minimal as most laws and regulations are obtained via the website and can be easily updated.

ASSEMBLY BILL No. 496

Introduced by Assembly Member Low

February 12, 2019

An act to amend Sections 23.8, 23.9, 25, 27, 28, 30, 31, 101, 101.7, 102.3, 103, 105.5, 106, 107, 108.5, 111, 114, 114.3, 115.5, 115.6, 116, 119, 120, 121, 124, 125, 125.3, 125.6, 125.9, 127, 129, 130, 132, 136, 137, 138, and 144 of the Business and Professions Code, relating to business and professions.

LEGISLATIVE COUNSEL'S DIGEST

AB 496, as introduced, Low. Business and professions.

Under existing law, the Department of Consumer Affairs, which is under the control of the director of the Director of Consumer Affairs, is comprised of various boards, as defined, that license and regulate various professions and vocations.

This bill would replace gendered terms with nongendered terms and make various other nonsubstantive changes.

Existing law authorizes the director to audit and review, upon the director's own initiative or upon the request of a consumer or licensee, inquiries and complaints regarding, among other things, dismissals of disciplinary cases of specified licensees and requires the director to report to the Chairpersons of the Senate Business and Professions Committee and the Assembly Health Committee annually regarding any findings from such an audit or review.

This bill would instead require the director to report to the Chairpersons of the Senate Business, Professions and Economic Development Committee and the Assembly Business and Professions Committee.

Existing law defines the term "licentiate" to mean any person authorized by a license, certificate, registration, or other means to engage in a business or profession regulated or referred to, as specified.

This bill would instead define "licensee" to mean any person authorized by a license, certificate, registration, or other means to engage in a business or profession regulated or referred to, as specified, and would provide that any reference to licentiate be deemed to refer to licensee.

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

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

SECTION 1. Section 23.8 of the Business and Professions Code is amended to read:

23.8. ~~"Licentiate"~~ *"Licensee"* means any person authorized by a license, certificate, registration, or other means to engage in a business or profession regulated by this code or referred to in Sections 1000 and 3600.

Any reference to licentiate in this code shall be deemed to refer to licensee.

SEC. 2. Section 23.9 of the Business and Professions Code is amended to read:

23.9. Notwithstanding any other provision of this code, any individual who, while imprisoned in a state prison or other correctional institution, is trained, in the course of a rehabilitation program approved by the particular licensing agency concerned and provided by the prison or other correctional institution, in a particular skill, occupation, or profession for which a state license, certificate, or other evidence of proficiency is required by this code shall not, when released from the prison or institution, be denied the right to take the next regularly scheduled state examination or any examination thereafter required to obtain the license, certificate, or other evidence of proficiency and shall not be denied such license, certificate, or other evidence of proficiency, because of ~~his~~ *that individual's* imprisonment or the conviction from which the imprisonment resulted, or because ~~he~~ *the individual* obtained ~~his~~ *the individual's* training in prison or in the correctional institution, if the licensing agency, upon recommendation of the Adult Authority or the Department of the Youth Authority, as the

case may be, finds that ~~he~~ *the individual* is a fit person to be licensed.

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

25. Any person applying for a license, registration, or the first renewal of a license, after the effective date of this section, as a licensed marriage and family therapist, a licensed clinical social worker, a licensed psychologist, or a licensed professional clinical counselor shall, in addition to any other requirements, show by evidence satisfactory to the agency regulating the business or profession, that ~~he or she has~~ *they have* completed training in human sexuality as a condition of licensure. The training shall be creditable toward continuing education requirements as deemed appropriate by the agency regulating the business or profession, and the course shall not exceed more than 50 contact hours.

The Board of Psychology shall exempt from the requirements of this section any persons whose field of practice is such that they are not likely to have use for this training.

"Human sexuality" as used in this section means the study of a human being as a sexual being and how ~~he or she~~ *a human being* functions with respect thereto.

The content and length of the training shall be determined by the administrative agency regulating the business or profession and the agency shall proceed immediately upon the effective date of this section to determine what training, and the quality of staff to provide the training, is available and shall report its determination to the Legislature on or before July 1, 1977.

If a licensing board or agency proposes to establish a training program in human sexuality, the board or agency shall first consult with other licensing boards or agencies that have established or propose to establish a training program in human sexuality to ensure that the programs are compatible in scope and content.

SEC. 4. Section 27 of the Business and Professions Code is amended to read:

27. (a) Each entity specified in subdivisions (c), (d), and (e) shall provide on the Internet information regarding the status of every license issued by that entity in accordance with the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) and the Information Practices Act of 1977 (Chapter 1 (commencing with

Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code). The public information to be provided on the Internet shall include information on suspensions and revocations of licenses issued by the entity and other related enforcement action, including accusations filed pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) taken by the entity relative to persons, businesses, or facilities subject to licensure or regulation by the entity. The information may not include personal information, including home telephone number, date of birth, or social security number. Each entity shall disclose a licensee's address of record. However, each entity shall allow a licensee to provide a post office box number or other alternate address, instead of ~~his or her~~ *the licensee's* home address, as the address of record. This section shall not preclude an entity from also requiring a licensee, who has provided a post office box number or other alternative mailing address as ~~his or her~~ *the licensee's* address of record, to provide a physical business address or residence address only for the entity's internal administrative use and not for disclosure as the licensee's address of record or disclosure on the Internet.

(b) In providing information on the Internet, each entity specified in subdivisions (c) and (d) shall comply with the Department of Consumer Affairs' guidelines for access to public records.

(c) Each of the following entities within the Department of Consumer Affairs shall comply with the requirements of this section:

(1) The Board for Professional Engineers, Land Surveyors, and Geologists shall disclose information on its registrants and licensees.

(2) The Bureau of Automotive Repair shall disclose information on its licensees, including auto repair dealers, smog stations, lamp and brake stations, smog check technicians, and smog inspection certification stations.

(3) The Bureau of Household Goods and Services shall disclose information on its licensees and registrants, including major appliance repair dealers, combination dealers (electronic and appliance), electronic repair dealers, service contract sellers, ~~and~~ service contract ~~administrators.~~ *administrators, and household movers.*

(4) The Cemetery and Funeral Bureau shall disclose information on its licensees, including cemetery brokers, cemetery salespersons, cemetery managers, crematory managers, cemetery authorities, crematories, cremated remains disposers, embalmers, funeral establishments, and funeral directors.

(5) The Professional Fiduciaries Bureau shall disclose information on its licensees.

(6) The Contractors' State License Board shall disclose information on its licensees and registrants in accordance with Chapter 9 (commencing with Section 7000) of Division 3. In addition to information related to licenses as specified in subdivision (a), the board shall also disclose information provided to the board by the Labor Commissioner pursuant to Section 98.9 of the Labor Code.

(7) The Bureau for Private Postsecondary Education shall disclose information on private postsecondary institutions under its jurisdiction, including disclosure of notices to comply issued pursuant to Section 94935 of the Education Code.

(8) The California Board of Accountancy shall disclose information on its licensees and registrants.

(9) The California Architects Board shall disclose information on its licensees, including architects and landscape architects.

(10) The State Athletic Commission shall disclose information on its licensees and registrants.

(11) The State Board of Barbering and Cosmetology shall disclose information on its licensees.

~~(12) The State Board of Guide Dogs for the Blind shall disclose information on its licensees and registrants.~~

~~(13)~~

(12) The Acupuncture Board shall disclose information on its licensees.

~~(14)~~

(13) The Board of Behavioral Sciences shall disclose information on its licensees and registrants.

~~(15)~~

(14) The Dental Board of California shall disclose information on its licensees.

~~(16)~~

(15) The State Board of Optometry shall disclose information on its licensees and registrants.

~~(17)~~

(16) The Board of Psychology shall disclose information on its licensees, including psychologists, psychological assistants, and registered psychologists.

~~(18)~~

(17) The Veterinary Medical Board shall disclose information on its licensees, registrants, and permitholders.

(d) The State Board of Chiropractic Examiners shall disclose information on its licensees.

(e) The Structural Pest Control Board shall disclose information on its licensees, including applicators, field representatives, and operators in the areas of fumigation, general pest and wood destroying pests and organisms, and wood roof cleaning and treatment.

(f) The Bureau of Cannabis Control shall disclose information on its licensees.

(g) "Internet" for the purposes of this section has the meaning set forth in paragraph (6) of subdivision (f) of Section 17538.

SEC. 5. Section 28 of the Business and Professions Code is amended to read:

28. (a) The Legislature finds that there is a need to ensure that professionals of the healing arts who have demonstrable contact with victims and potential victims of child, elder, and dependent adult abuse, and abusers and potential abusers of children, elders, and dependent adults are provided with adequate and appropriate training regarding the assessment and reporting of child, elder, and dependent adult abuse that will ameliorate, reduce, and eliminate the trauma of abuse and neglect and ensure the reporting of abuse in a timely manner to prevent additional occurrences.

(b) The Board of Psychology and the Board of Behavioral Sciences shall establish required training in the area of child abuse assessment and reporting for all persons applying for initial licensure and renewal of a license as a psychologist, clinical social worker, professional clinical counselor, or marriage and family therapist. This training shall be required one time only for all persons applying for initial licensure or for licensure renewal.

(c) All persons applying for initial licensure or renewal of a license as a psychologist, clinical social worker, professional clinical counselor, or marriage and family therapist shall, in addition to all other requirements for licensure or renewal, have

completed coursework or training in child abuse assessment and reporting that meets the requirements of this section, including detailed knowledge of the Child Abuse and Neglect Reporting Act (Article 2.5 (commencing with Section 11164) of Chapter 2 of Title 1 of Part 4 of the Penal Code). The training shall meet all of the following requirements:

(1) Be obtained from one of the following sources:

(A) An accredited or approved educational institution, as defined in Sections 2902, 4980.36, 4980.37, 4996.18, and 4999.12, including extension courses offered by those institutions.

(B) A continuing education provider as specified by the responsible board by regulation.

(C) A course sponsored or offered by a professional association or a local, county, or state department of health or mental health for continuing education and approved or accepted by the responsible board.

(2) Have a minimum of seven contact hours.

(3) Include the study of the assessment and method of reporting of sexual assault, neglect, severe neglect, general neglect, willful cruelty or unjustifiable punishment, corporal punishment or injury, and abuse in out-of-home care. The training shall also include physical and behavioral indicators of abuse, crisis counseling techniques, community resources, rights and responsibilities of reporting, consequences of failure to report, caring for a child's needs after a report is made, sensitivity to previously abused children and adults, and implications and methods of treatment for children and adults.

(4) An applicant shall provide the appropriate board with documentation of completion of the required child abuse training.

(d) The Board of Psychology and the Board of Behavioral Sciences shall exempt an applicant who applies for an exemption from this section and who shows to the satisfaction of the board that there would be no need for the training in ~~his or her~~ *the applicant's* practice because of the nature of that practice.

(e) It is the intent of the Legislature that a person licensed as a psychologist, clinical social worker, professional clinical counselor, or marriage and family therapist have minimal but appropriate training in the areas of child, elder, and dependent adult abuse assessment and reporting. It is not intended that, by solely complying with this section, a practitioner is fully trained in the

subject of treatment of child, elder, and dependent adult abuse victims and abusers.

(f) The Board of Psychology and the Board of Behavioral Sciences are encouraged to include coursework regarding the assessment and reporting of elder and dependent adult abuse in the required training on aging and long-term care issues prior to licensure or license renewal.

SEC. 6. Section 30 of the Business and Professions Code is amended to read:

30. (a) (1) Notwithstanding any other law, any board, as defined in Section 22, the State Bar of California, and the Department of Real Estate shall, at the time of issuance of the license, require that the applicant provide its federal employer identification number, if the applicant is a partnership, or the applicant's social security number for all other applicants.

(2) (A) In accordance with Section 135.5, a board, as defined in Section 22, the State Bar of California, and the Department of Real Estate shall require either the individual taxpayer identification number or social security number if the applicant is an individual for a license or certificate, as defined in subparagraph (2) of subdivision (e), and for purposes of this subdivision.

(B) In implementing the requirements of subparagraph (A), a licensing board shall not require an individual to disclose either citizenship status or immigration status for purposes of licensure.

(C) A licensing board shall not deny licensure to an otherwise qualified and eligible individual based solely on his or her citizenship status or immigration status.

(D) The Legislature finds and declares that the requirements of this subdivision are consistent with subsection (d) of Section 1621 of Title 8 of the United States Code.

(b) A licensee failing to provide the federal employer identification number, or the individual taxpayer identification number or social security number shall be reported by the licensing board to the Franchise Tax Board. If the licensee fails to provide that information after notification pursuant to paragraph (1) of subdivision (b) of Section 19528 of the Revenue and Taxation Code, the licensee shall be subject to the penalty provided in paragraph (2) of subdivision (b) of Section 19528 of the Revenue and Taxation Code.

(c) In addition to the penalty specified in subdivision (b), a licensing board shall not process an application for an initial license unless the applicant provides its federal employer identification number, or individual taxpayer identification number or social security number where requested on the application.

(d) A licensing board shall, upon request of the Franchise Tax Board or the Employment Development Department, furnish to the board or the department, as applicable, the following information with respect to every licensee:

(1) Name.

(2) Address or addresses of record.

(3) Federal employer identification number if the licensee is a partnership, or the licensee's individual taxpayer identification number or social security number for all other licensees.

(4) Type of license.

(5) Effective date of license or a renewal.

(6) Expiration date of license.

(7) Whether license is active or inactive, if known.

(8) Whether license is new or a renewal.

(e) For the purposes of this section:

(1) "Licensee" means a person or entity, other than a corporation, authorized by a license, certificate, registration, or other means to engage in a business or profession regulated by this code or referred to in Section 1000 or 3600.

(2) "License" includes a certificate, registration, or any other authorization needed to engage in a business or profession regulated by this code or referred to in Section 1000 or 3600.

(3) "Licensing board" means any board, as defined in Section 22, the State Bar of California, and the Department of Real Estate.

(f) The reports required under this section shall be filed on magnetic media or in other machine-readable form, according to standards furnished by the Franchise Tax Board or the Employment Development Department, as applicable.

(g) Licensing boards shall provide to the Franchise Tax Board or the Employment Development Department the information required by this section at a time that the board or the department, as applicable, may require.

(h) Notwithstanding Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code, a federal employer identification number, individual taxpayer identification

number, or social security number furnished pursuant to this section shall not be deemed to be a public record and shall not be open to the public for inspection.

(i) A deputy, agent, clerk, officer, or employee of a licensing board described in subdivision (a), or any former officer or employee or other individual who, in the course of ~~his or her~~ *their* employment or duty, has or has had access to the information required to be furnished under this section, shall not disclose or make known in any manner that information, except as provided pursuant to this section, to the Franchise Tax Board, the Employment Development Department, the Office of the Chancellor of the California Community Colleges, a collections agency contracted to collect funds owed to the State Bar by licensees pursuant to Sections 6086.10 and 6140.5, or as provided in subdivisions (j) and (k).

(j) It is the intent of the Legislature in enacting this section to utilize the federal employer identification number, individual taxpayer identification number, or social security number for the purpose of establishing the identification of persons affected by state tax laws, for purposes of compliance with Section 17520 of the Family Code, for purposes of measuring employment outcomes of students who participate in career technical education programs offered by the California Community Colleges, and for purposes of collecting funds owed to the State Bar by licensees pursuant to Section 6086.10 and Section 6140.5 and, to that end, the information furnished pursuant to this section shall be used exclusively for those purposes.

(k) If the board utilizes a national examination to issue a license, and if a reciprocity agreement or comity exists between the State of California and the state requesting release of the individual taxpayer identification number or social security number, any deputy, agent, clerk, officer, or employee of any licensing board described in subdivision (a) may release an individual taxpayer identification number or social security number to an examination or licensing entity, only for the purpose of verification of licensure or examination status.

(*l*) For the purposes of enforcement of Section 17520 of the Family Code, and notwithstanding any other law, a board, as defined in Section 22, the State Bar of California, and the Department of Real Estate shall at the time of issuance of the

license require that each licensee provide the individual taxpayer identification number or social security number of each individual listed on the license and any person who qualifies for the license. For the purposes of this subdivision, "licensee" means an entity that is issued a license by any board, as defined in Section 22, the State Bar of California, the Department of Real Estate, and the Department of Motor Vehicles.

(m) The department shall, upon request by the Office of the Chancellor of the California Community Colleges, furnish to the chancellor's office, as applicable, the following information with respect to every licensee:

(1) Name.

(2) Federal employer identification number if the licensee is a partnership, or the licensee's individual taxpayer identification number or social security number for all other licensees.

(3) Date of birth.

(4) Type of license.

(5) Effective date of license or a renewal.

(6) Expiration date of license.

(n) The department shall make available information pursuant to subdivision (m) only to allow the chancellor's office to measure employment outcomes of students who participate in career technical education programs offered by the California Community Colleges and recommend how these programs may be improved. Licensure information made available by the department pursuant to this section shall not be used for any other purpose.

(o) The department may make available information pursuant to subdivision (m) only to the extent that making the information available complies with state and federal privacy laws.

(p) The department may, by agreement, condition or limit the availability of licensure information pursuant to subdivision (m) in order to ensure the security of the information and to protect the privacy rights of the individuals to whom the information pertains.

(q) All of the following apply to the licensure information made available pursuant to subdivision (m):

(1) It shall be limited to only the information necessary to accomplish the purpose authorized in subdivision (n).

(2) It shall not be used in a manner that permits third parties to personally identify the individual or individuals to whom the information pertains.

(3) Except as provided in subdivision (n), it shall not be shared with or transmitted to any other party or entity without the consent of the individual or individuals to whom the information pertains.

(4) It shall be protected by reasonable security procedures and practices appropriate to the nature of the information to protect that information from unauthorized access, destruction, use, modification, or disclosure.

(5) It shall be immediately and securely destroyed when no longer needed for the purpose authorized in subdivision (n).

(r) The department or the chancellor's office may share licensure information with a third party who contracts to perform the function described in subdivision (n), if the third party is required by contract to follow the requirements of this section.

SEC. 7. Section 31 of the Business and Professions Code is amended to read:

31. (a) As used in this section, "board" means any entity listed in Section 101, the entities referred to in Sections 1000 and 3600, the State Bar, the ~~Bureau~~ *Department* of Real Estate, and any other state agency that issues a license, certificate, or registration authorizing a person to engage in a business or profession.

(b) Each applicant for the issuance or renewal of a license, certificate, registration, or other means to engage in a business or profession regulated by a board who is not in compliance with a judgment or order for support shall be subject to Section 17520 of the Family Code.

(c) "Compliance with a judgment or order for support" has the meaning given in paragraph (4) of subdivision (a) of Section 17520 of the Family Code.

(d) Each licensee or applicant whose name appears on a list of the 500 largest tax delinquencies pursuant to Section 7063 or 19195 of the Revenue and Taxation Code shall be subject to Section 494.5.

(e) Each application for a new license or renewal of a license shall indicate on the application that the law allows the ~~State Board of Equalization~~ *California Department of Tax and Fee Administration* and the Franchise Tax Board to share taxpayer information with a board and requires the licensee to pay ~~his or~~

~~her~~ *the licnesee's* state tax obligation and that ~~his or her~~ *the licensee's* license may be suspended if the state tax obligation is not paid.

(f) For purposes of this section, "tax obligation" means the tax imposed under, or in accordance with, Part 1 (commencing with Section 6001), Part 1.5 (commencing with Section 7200), Part 1.6 (commencing with Section 7251), Part 1.7 (commencing with Section 7280), Part 10 (commencing with Section 17001), or Part 11 (commencing with Section 23001) of Division 2 of the Revenue and Taxation Code.

SEC. 8. Section 101 of the Business and Professions Code is amended to read:

101. The department is comprised of the following:

(a) The Dental Board of California.

(b) The Medical Board of California.

(c) The State Board of Optometry.

(d) The California State Board of Pharmacy.

(e) The Veterinary Medical Board.

(f) The California Board of Accountancy.

(g) The California Architects Board.

(h) The State Board of Barbering and Cosmetology.

(i) The Board for Professional Engineers, Land Surveyors, and Geologists.

(j) The Contractors' State License Board.

(k) The Bureau for Private Postsecondary Education.

(*l*) The Bureau of Household Goods and Services.

(m) The Board of Registered Nursing.

(n) The Board of Behavioral Sciences.

(o) The State Athletic Commission.

(p) The Cemetery and Funeral Bureau.

(q) The Bureau of Security and Investigative Services.

(r) The Court Reporters Board of California.

(s) The Board of Vocational Nursing and Psychiatric Technicians.

(t) The Landscape Architects Technical Committee.

(u) The Division of Investigation.

(v) The Bureau of Automotive Repair.

(w) The Respiratory Care Board of California.

(x) The Acupuncture Board.

(y) The Board of Psychology.

(z) The ~~California Board of Podiatric Medicine.~~ *Podiatric Medical Board of California.*

(aa) The Physical Therapy Board of California.

(ab) The Arbitration Review Program.

(ac) The Physician Assistant Board.

(ad) The Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board.

(ae) The California Board of Occupational Therapy.

(af) The Osteopathic Medical Board of California.

(ag) The Naturopathic Medicine Committee.

(ah) The Dental Hygiene Board of California.

(ai) The Professional Fiduciaries Bureau.

(aj) The State Board of Chiropractic Examiners.

(ak) The Bureau of Real Estate Appraisers.

(al) The Structural Pest Control Board.

(am) The Bureau of Cannabis Control.

(an) Any other boards, offices, or officers subject to its jurisdiction by law.

(ao) This section shall become operative on July 1, 2018.

SEC. 9. Section 101.7 of the Business and Professions Code is amended to read:

101.7. (a) Notwithstanding any other provision of law, boards shall meet at least three times each calendar year. Boards shall meet at least once each calendar year in northern California and once each calendar year in southern California in order to facilitate participation by the public and its licensees.

(b) The director at ~~his or her~~ *the director's* discretion may exempt any board from the requirement in subdivision (a) upon a showing of good cause that the board is not able to meet at least three times in a calendar year.

(c) The director may call for a special meeting of the board when a board is not fulfilling its duties.

(d) An agency within the department that is required to provide a written notice pursuant to subdivision (a) of Section 11125 of the Government Code, may provide that notice by regular mail, email, or by both regular mail and email. An agency shall give a person who requests a notice the option of receiving the notice by regular mail, email, or by both regular mail and email. The agency shall comply with the requester's chosen form or forms of notice.

(e) An agency that plans to Web cast a meeting shall include in the meeting notice required pursuant to subdivision (a) of Section 11125 of the Government Code a statement of the board's intent to Web cast the meeting. An agency may Web cast a meeting even if the agency fails to include that statement of intent in the notice.

SEC. 10. Section 102.3 of the Business and Professions Code is amended to read:

102.3. (a) The director may enter into an interagency agreement with an appropriate entity within the Department of Consumer Affairs as provided for in Section 101 to delegate the duties, powers, purposes, responsibilities, and jurisdiction that have been succeeded and vested with the department, of a board, as defined in Section 477, which became inoperative and was repealed in accordance with Chapter 908 of the Statutes of 1994.

(b) (1) Where, pursuant to subdivision (a), an interagency agreement is entered into between the director and that entity, the entity receiving the delegation of authority may establish a technical committee to regulate, as directed by the entity, the profession subject to the authority that has been delegated. The entity may delegate to the technical committee only those powers that it received pursuant to the interagency agreement with the director. The technical committee shall have only those powers that have been delegated to it by the entity.

(2) Where the entity delegates its authority to adopt, amend, or repeal regulations to the technical committee, all regulations adopted, amended, or repealed by the technical committee shall be subject to the review and approval of the entity.

(3) The entity shall not delegate to a technical committee its authority to discipline a ~~licentiate~~ *licensee* who has violated the provisions of the applicable chapter of the Business and Professions Code that is subject to the director's delegation of authority to the entity.

(c) An interagency agreement entered into, pursuant to subdivision (a), shall continue until such time as the licensing program administered by the technical committee has undergone a review by the ~~Joint Committee on Boards, Commissions, and Consumer Protection~~ *Assembly Committee on Business and Professions and the Senate Committee on Business, Professions and Economic Development* to evaluate and determine whether the licensing program has demonstrated a public need for its

continued existence. Thereafter, at the director's discretion, the interagency agreement may be renewed.

SEC. 11. Section 103 of the Business and Professions Code is amended to read:

103. Each member of a board, commission, or committee created in the various chapters of Division 2 (commencing with Section 500) and Division 3 (commencing with Section 5000), and in Chapter 2 (commencing with Section 18600) and Chapter 3 (commencing with Section 19000) of Division 8, shall receive the moneys specified in this section when authorized by the respective provisions.

Each such member shall receive a per diem of one hundred dollars ($100) for each day actually spent in the discharge of official duties, and shall be reimbursed for traveling and other expenses necessarily incurred in the performance of official duties.

The payments in each instance shall be made only from the fund from which the expenses of the agency are paid and shall be subject to the availability of money.

Notwithstanding any other provision of law, no public officer or employee shall receive per diem salary compensation for serving on those boards, commissions, ~~committees, or the Consumer Advisory Council~~ *or committees* on any day when the officer or employee also received compensation for ~~his or her~~ *the officer or employee's* regular public employment.

SEC. 12. Section 105.5 of the Business and Professions Code is amended to read:

105.5. Notwithstanding any other provision of this code, each member of a board, commission, examining committee, or other similarly constituted agency within the department shall hold office until the appointment and qualification of ~~his~~ *that member's* successor or until one year shall have elapsed since the expiration of the term for which ~~he~~ *the member* was appointed, whichever first occurs.

SEC. 13. Section 106 of the Business and Professions Code is amended to read:

106. The Governor has power to remove from office at any time, any member of any board appointed by ~~him~~ *the Governor* for continued neglect of duties required by law, or for incompetence, or unprofessional or dishonorable conduct. Nothing in this section shall be construed as a limitation or restriction on

the power of the Governor, conferred on ~~him~~ *the Governor* by any other provision of law, to remove any member of any board.

SEC. 14. Section 107 of the Business and Professions Code is amended to read:

107. Pursuant to subdivision (e) of Section 4 of Article VII of the California Constitution, each board may appoint a person exempt from civil service and may fix ~~his or her~~ *that person's* salary, with the approval of the Department of Human Resources pursuant to Section 19825 of the Government Code, who shall be designated as an executive officer unless the licensing act of the particular board designates the person as a registrar.

SEC. 15. Section 108.5 of the Business and Professions Code is amended to read:

108.5. In any investigation, proceeding or hearing which any board, commission or officer in the department is empowered to institute, conduct, or hold, any witness appearing at such investigation, proceeding or hearing whether upon a subpoena or voluntarily, may be paid the sum of twelve dollars ($12) per day for every day in actual attendance at such investigation, proceeding or hearing and for ~~his~~ *the witness's* actual, necessary and reasonable expenses and such sums shall be a legal charge against the funds of the respective board, commission or officer; provided further, that no witness appearing other than at the instance of the board, commission or officer may be compensated out of such fund.

The board, ~~commission~~ *commission,* or officer will determine the sums due any such witness and enter the amount on its minutes.

SEC. 16. Section 111 of the Business and Professions Code is amended to read:

111. Unless otherwise expressly provided, any board may, with the approval of the appointing power, appoint qualified persons, who shall be designated as commissioners on examination, to give the whole or any portion of any examination. A commissioner on examination need not be a member of the board but ~~he~~ shall have the same qualifications as one and shall be subject to the same rules.

SEC. 17. Section 114 of the Business and Professions Code is amended to read:

114. (a) Notwithstanding any other provision of this code, any licensee or registrant of any board, commission, or bureau within the department whose license expired while the licensee or

registrant was on active duty as a member of the California National Guard or the United States Armed Forces, may, upon application, reinstate ~~his or her~~ *their* license or registration without examination or penalty, provided that all of the following requirements are satisfied:

(1) ~~His or her~~ *The licensee or registrant's* license or registration was valid at the time ~~he or she~~ *they* entered the California National Guard or the United States Armed Forces.

(2) The application for reinstatement is made while serving in the California National Guard or the United States Armed Forces, or not later than one year from the date of discharge from active service or return to inactive military status.

(3) The application for reinstatement is accompanied by an affidavit showing the date of entrance into the service, whether still in the service, or date of discharge, and the renewal fee for the current renewal period in which the application is filed is paid.

(b) If application for reinstatement is filed more than one year after discharge or return to inactive status, the applicant, in the discretion of the licensing agency, may be required to pass an examination.

(c) If application for reinstatement is filed and the licensing agency determines that the applicant has not actively engaged in the practice of ~~his or her~~ *the applicant's* profession while on active duty, then the licensing agency may require the applicant to pass an examination.

(d) Unless otherwise specifically provided in this code, any licensee or registrant who, either part time or full time, practices in this state the profession or vocation for which ~~he or she is~~ *the licensee or registrant is* licensed or registered shall be required to maintain ~~his or her~~ *their* license in good standing even though ~~he or she~~ *the licensee or registrant* is in military service.

For the purposes in this section, time spent by a licensee in receiving treatment or hospitalization in any veterans' facility during which ~~he or she~~ *the licensee* is prevented from practicing ~~his or her~~ *the licensee's* profession or vocation shall be excluded from said period of one year.

SEC. 18. Section 114.3 of the Business and Professions Code is amended to read:

114.3. (a) Notwithstanding any other ~~provision of~~ law, every board, as defined in Section 22, within the department shall waive

the renewal fees, continuing education requirements, and other renewal requirements as determined by the board, if any are applicable, for any licensee or registrant called to active duty as a member of the United States Armed Forces or the California National Guard if all of the following requirements are met:

(1) The licensee or registrant possessed a current and valid license with the board at the time ~~he or she~~ *the licensee or registrant* was called to active duty.

(2) The renewal requirements are waived only for the period during which the licensee or registrant is on active duty service.

(3) Written documentation that substantiates the licensee or registrant's active duty service is provided to the board.

(b) (1) Except as specified in paragraph (2), the licensee or registrant shall not engage in any activities requiring a license during the period that the waivers provided by this section are in effect.

(2) If the licensee or registrant will provide services for which ~~he or she~~ *the licensee or registrant* is licensed while on active duty, the board shall convert the license status to military active and no private practice of any type shall be permitted.

(c) In order to engage in any activities for which ~~he or she is~~ *the licensee or registrant is* licensed once discharged from active duty, the licensee or registrant shall meet all necessary renewal requirements as determined by the board within six months from the licensee's or registrant's date of discharge from active duty service.

(d) After a licensee or registrant receives notice of ~~his or her~~ *the licensee or registrant's* discharge date, the licensee or registrant shall notify the board of ~~his or her~~ *their* discharge from active duty within 60 days of receiving ~~his or her~~ *their* notice of discharge.

(e) A board may adopt regulations to carry out the provisions of this section.

(f) This section shall not apply to any board that has a similar license renewal waiver process statutorily authorized for that board.

SEC. 19. Section 115.5 of the Business and Professions Code is amended to read:

115.5. (a) A board within the department shall expedite the licensure process for an applicant who meets both of the following requirements:

(1) Supplies evidence satisfactory to the board that the applicant is married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States who is assigned to a duty station in this state under official active duty military orders.

(2) Holds a current license in another state, district, or territory of the United States in the profession or vocation for which ~~he or she~~ *the applicant* seeks a license from the board.

(b) A board may adopt regulations necessary to administer this section.

SEC. 20. Section 115.6 of the Business and Professions Code is amended to read:

115.6. (a) A board within the department shall, after appropriate investigation, issue the following eligible temporary licenses to an applicant if ~~he or she~~ *the applicant* meets the requirements set forth in subdivision (c):

(1) Registered nurse license by the Board of Registered Nursing.

(2) Vocational nurse license issued by the Board of Vocational Nursing and Psychiatric Technicians of the State of California.

(3) Psychiatric technician license issued by the Board of Vocational Nursing and Psychiatric Technicians of the State of California.

(4) Speech-language pathologist license issued by the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board.

(5) Audiologist license issued by the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board.

(6) Veterinarian license issued by the Veterinary Medical Board.

(7) All licenses issued by the Board for Professional Engineers, Land Surveyors, and Geologists.

(8) All licenses issued by the Medical Board of California.

(9) All licenses issued by the ~~California Board of Podiatric Medicine.~~ *Podiatric Medical Board of California.*

(b) The board may conduct an investigation of an applicant for purposes of denying or revoking a temporary license issued pursuant to this section. This investigation may include a criminal background check.

(c) An applicant seeking a temporary license pursuant to this section shall meet the following requirements:

(1) The applicant shall supply evidence satisfactory to the board that the applicant is married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States who is assigned to a duty station in this state under official active duty military orders.

(2) The applicant shall hold a current, active, and unrestricted license that confers upon ~~him or her~~ *the applicant* the authority to practice, in another state, district, or territory of the United States, the profession or vocation for which ~~he or she~~ *the applicant* seeks a temporary license from the board.

(3) The applicant shall submit an application to the board that shall include a signed affidavit attesting to the fact that ~~he or she~~ *the applicant* meets all of the requirements for the temporary license and that the information submitted in the application is accurate, to the best of ~~his or her~~ *the applicant's* knowledge. The application shall also include written verification from the applicant's original licensing jurisdiction stating that the applicant's license is in good standing in that jurisdiction.

(4) The applicant shall not have committed an act in any jurisdiction that would have constituted grounds for denial, suspension, or revocation of the license under this code at the time the act was committed. A violation of this paragraph may be grounds for the denial or revocation of a temporary license issued by the board.

(5) The applicant shall not have been disciplined by a licensing entity in another jurisdiction and shall not be the subject of an unresolved complaint, review procedure, or disciplinary proceeding conducted by a licensing entity in another jurisdiction.

(6) The applicant shall, upon request by a board, furnish a full set of fingerprints for purposes of conducting a criminal background check.

(d) A board may adopt regulations necessary to administer this section.

(e) A temporary license issued pursuant to this section may be immediately terminated upon a finding that the temporary licenseholder failed to meet any of the requirements described in subdivision (c) or provided substantively inaccurate information that would affect his or her eligibility for temporary licensure. Upon termination of the temporary license, the board shall issue a notice of termination that shall require the temporary

licenseholder to immediately cease the practice of the licensed profession upon receipt.

(f) An applicant seeking a temporary license as a civil engineer, geotechnical engineer, structural engineer, land surveyor, professional geologist, professional geophysicist, certified engineering geologist, or certified hydrogeologist pursuant to this section shall successfully pass the appropriate California-specific examination or examinations required for licensure in those respective professions by the Board for Professional Engineers, Land Surveyors, and Geologists.

(g) A temporary license issued pursuant to this section shall expire 12 months after issuance, upon issuance of an expedited license pursuant to Section 115.5, or upon denial of the application for expedited licensure by the board, whichever occurs first.

SEC. 21. Section 116 of the Business and Professions Code is amended to read:

116. (a) The director may audit and review, upon ~~his or her~~ *the director's* own initiative, or upon the request of a consumer or licensee, inquiries and complaints regarding licensees, dismissals of disciplinary cases, the opening, conduct, or closure of investigations, informal conferences, and discipline short of formal accusation by the Medical Board of California, the allied health professional boards, and the ~~California Board of Podiatric Medicine.~~ *Podiatric Medical Board of California.* The director may make recommendations for changes to the disciplinary system to the appropriate board, the Legislature, or both.

(b) The director shall report to the Chairpersons of the Senate ~~Business and~~ *Business,* Professions *and Economic Development* Committee and the Assembly ~~Health~~ *Business and Professions* Committee annually, commencing March 1, 1995, regarding ~~his or her~~ *the director's* findings from any audit, review, or monitoring and evaluation conducted pursuant to this section.

SEC. 22. Section 119 of the Business and Professions Code is amended to read:

119. Any person who does any of the following is guilty of a misdemeanor:

(a) Displays or causes or permits to be displayed or has in ~~his or her~~ *the person's* possession either of the following:

(1) A canceled, revoked, suspended, or fraudulently altered license.

(2) A fictitious license or any document simulating a license or purporting to be or have been issued as a license.

(b) Lends ~~his or her~~ *the person's* license to any other person or knowingly permits the use thereof by another.

(c) Displays or represents any license not issued to ~~him or her~~ *the person* as being ~~his or her~~ *the person's* license.

(d) Fails or refuses to surrender to the issuing authority upon its lawful written demand any license, registration, permit, or certificate which has been suspended, revoked, or canceled.

(e) Knowingly permits any unlawful use of a license issued to ~~him or her.~~ *the person.*

(f) Photographs, photostats, duplicates, manufactures, or in any way reproduces any license or facsimile thereof in a manner that it could be mistaken for a valid license, or displays or has in ~~his or her~~ *the person's* possession any such photograph, photostat, duplicate, reproduction, or facsimile unless authorized by this code.

(g) Buys or receives a fraudulent, forged, or counterfeited license knowing that it is fraudulent, forged, or counterfeited. For purposes of this subdivision, "fraudulent" means containing any misrepresentation of fact.

As used in this section, "license" includes "certificate," "permit," "authority," and "registration" or any other indicia giving authorization to engage in a business or profession regulated by this code or referred to in Section 1000 or 3600.

SEC. 23. Section 120 of the Business and Professions Code is amended to read:

120. (a) Subdivision (a) of Section 119 shall not apply to a surviving spouse having in ~~his or her~~ *the surviving spouse's* possession or displaying a deceased spouse's canceled certified public accountant certificate or canceled public accountant certificate that has been canceled by official action of the California Board of Accountancy.

(b) Notwithstanding Section 119, any person who has received a certificate of certified public accountant or a certificate of public accountant from the board may possess and may display the certificate received unless the person's certificate, permit, or registration has been suspended or revoked.

SEC. 24. Section 121 of the Business and Professions Code is amended to read:

121. No licensee who has complied with the provisions of this code relating to the renewal of ~~his or her~~ *the licensee's* license prior to expiration of such license shall be deemed to be engaged illegally in the practice of ~~his or her~~ *the licensee's* business or profession during any period between such renewal and receipt of evidence of such renewal which may occur due to delay not the fault of the applicant.

As used in this section, "license" includes "certificate," "permit," "authorization," and "registration," or any other indicia giving authorization, by any agency, board, bureau, commission, committee, or entity within the Department of Consumer Affairs, to engage in a business or profession regulated by this code or by the board referred to in the Chiropractic Act or the Osteopathic Act.

SEC. 25. Section 124 of the Business and Professions Code is amended to read:

124. Notwithstanding subdivision (c) of Section 11505 of the Government Code, whenever written notice, including a notice, order, or document served pursuant to Chapter 3.5 (commencing with Section 11340), Chapter 4 (commencing with Section 11370), or Chapter 5 (commencing with Section 11500), of Part 1 of Division 3 of Title 2 of the Government Code, is required to be given by any board in the department, the notice may be given by regular mail addressed to the last known address of the ~~licentiate~~ *licensee* or by personal service, at the option of the board.

SEC. 26. Section 125 of the Business and Professions Code is amended to read:

125. Any person, licensed under Division 1 (commencing with Section 100), Division 2 (commencing with Section 500), or Division 3 (commencing with Section 5000) is guilty of a misdemeanor and subject to the disciplinary provisions of this code applicable to ~~him or her,~~ *them,* who conspires with a person not so licensed to violate any provision of this code, or who, with intent to aid or assist that person in violating those provisions does either of the following:

(a) Allows ~~his or her~~ *their* license to be used by that person.

(b) Acts as ~~his or her~~ *their* agent or partner.

SEC. 27. Section 125.3 of the Business and Professions Code is amended to read:

125.3. (a) Except as otherwise provided by law, in any order issued in resolution of a disciplinary proceeding before any board within the department or before the Osteopathic Medical Board, upon request of the entity bringing the proceeding, the administrative law judge may direct a ~~licentiate~~ *licensee* found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

(b) In the case of a disciplined ~~licentiate~~ *licensee* that is a corporation or a partnership, the order may be made against the licensed corporate entity or licensed partnership.

(c) A certified copy of the actual costs, or a good faith estimate of costs where actual costs are not available, signed by the entity bringing the proceeding or its designated representative shall be prima facie evidence of reasonable costs of investigation and prosecution of the case. The costs shall include the amount of investigative and enforcement costs up to the date of the hearing, including, but not limited to, charges imposed by the Attorney General.

(d) The administrative law judge shall make a proposed finding of the amount of reasonable costs of investigation and prosecution of the case when requested pursuant to subdivision (a). The finding of the administrative law judge with regard to costs shall not be reviewable by the board to increase the cost award. The board may reduce or eliminate the cost award, or remand to the administrative law judge if the proposed decision fails to make a finding on costs requested pursuant to subdivision (a).

(e) If an order for recovery of costs is made and timely payment is not made as directed in the board's decision, the board may enforce the order for repayment in any appropriate court. This right of enforcement shall be in addition to any other rights the board may have as to any ~~licentiate~~ *licensee* to pay costs.

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

(g) (1) Except as provided in paragraph (2), the board shall not renew or reinstate the license of any ~~licentiate~~ *licensee* who has failed to pay all of the costs ordered under this section.

(2) Notwithstanding paragraph (1), the board may, in its discretion, conditionally renew or reinstate for a maximum of one

year the license of any ~~licentiate~~ *licensee* who demonstrates financial hardship and who enters into a formal agreement with the board to reimburse the board within that one-year period for the unpaid costs.

(h) All costs recovered under this section shall be considered a reimbursement for costs incurred and shall be deposited in the fund of the board recovering the costs to be available upon appropriation by the Legislature.

(i) Nothing in this section shall preclude a board from including the recovery of the costs of investigation and enforcement of a case in any stipulated settlement.

(j) This section does not apply to any board if a specific statutory provision in that board's licensing act provides for recovery of costs in an administrative disciplinary proceeding.

(k) Notwithstanding the provisions of this section, the Medical Board of California shall not request nor obtain from a physician and surgeon, investigation and prosecution costs for a disciplinary proceeding against the ~~licentiate.~~ *licensee.* The board shall ensure that this subdivision is revenue neutral with regard to it and that any loss of revenue or increase in costs resulting from this subdivision is offset by an increase in the amount of the initial license fee and the biennial renewal fee, as provided in subdivision (e) of Section 2435.

SEC. 28. Section 125.6 of the Business and Professions Code is amended to read:

125.6. (a) (1) With regard to an applicant, every person who holds a license under the provisions of this code is subject to disciplinary action under the disciplinary provisions of this code applicable to that person if, because of any characteristic listed or defined in subdivision (b) or (e) of Section 51 of the Civil Code, ~~he or she~~ *the person* refuses to perform the licensed activity or aids or incites the refusal to perform that licensed activity by another licensee, or if, because of any characteristic listed or defined in subdivision (b) or (e) of Section 51 of the Civil Code, ~~he or she makes~~ *the person make s* any discrimination, or restriction in the performance of the licensed activity.

(2) Nothing in this section shall be interpreted to prevent a physician or health care professional licensed pursuant to Division 2 (commencing with Section 500) from considering any of the characteristics of a patient listed in subdivision (b) or (e) of Section

51 of the Civil Code if that consideration is medically necessary and for the sole purpose of determining the appropriate diagnosis or treatment of the patient.

(3) Nothing in this section shall be interpreted to apply to discrimination by employers with regard to employees or prospective employees, nor shall this section authorize action against any club license issued pursuant to Article 4 (commencing with Section 23425) of Chapter 3 of Division 9 because of discriminatory membership policy.

(4) The presence of architectural barriers to an individual with physical disabilities that conform to applicable state or local building codes and regulations shall not constitute discrimination under this section.

(b) (1) Nothing in this section requires a person licensed pursuant to Division 2 (commencing with Section 500) to permit an individual to participate in, or benefit from, the licensed activity of the licensee where that individual poses a direct threat to the health or safety of others. For this purpose, the term "direct threat" means a significant risk to the health or safety of others that cannot be eliminated by a modification of policies, practices, or procedures or by the provision of auxiliary aids and services.

(2) Nothing in this section requires a person licensed pursuant to Division 2 (commencing with Section 500) to perform a licensed activity for which he or she is not qualified to perform.

(c) (1) "Applicant," as used in this section, means a person applying for licensed services provided by a person licensed under this code.

(2) "License," as used in this section, includes "certificate," "permit," "authority," and "registration" or any other indicia giving authorization to engage in a business or profession regulated by this code.

SEC. 29. Section 125.9 of the Business and Professions Code is amended to read:

125.9. (a) Except with respect to persons regulated under Chapter 11 (commencing with Section 7500), any board, bureau, or commission within the department, the ~~board created by the Chiropractic Initiative Act,~~ *State Board of Chiropractic Examiners,* and the Osteopathic Medical Board of California, may establish, by regulation, a system for the issuance to a licensee of a citation which may contain an order of abatement or an order to pay an

administrative fine assessed by the board, bureau, or commission where the licensee is in violation of the applicable licensing act or any regulation adopted pursuant thereto.

(b) The system shall contain the following provisions:

(1) Citations shall be in writing and shall describe with particularity the nature of the violation, including specific reference to the provision of law determined to have been violated.

(2) Whenever appropriate, the citation shall contain an order of abatement fixing a reasonable time for abatement of the violation.

(3) In no event shall the administrative fine assessed by the board, bureau, or commission exceed five thousand dollars ($5,000) for each inspection or each investigation made with respect to the violation, or five thousand dollars ($5,000) for each violation or count if the violation involves fraudulent billing submitted to an insurance company, the Medi-Cal program, or Medicare. In assessing a fine, the board, bureau, or commission shall give due consideration to the appropriateness of the amount of the fine with respect to factors such as the gravity of the violation, the good faith of the licensee, and the history of previous violations.

(4) A citation or fine assessment issued pursuant to a citation shall inform the licensee that if he or she desires a hearing to contest the finding of a violation, that hearing shall be requested by written notice to the board, bureau, or commission within 30 days of the date of issuance of the citation or assessment. If a hearing is not requested pursuant to this section, payment of any fine shall not constitute an admission of the violation charged. Hearings shall be held pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(5) Failure of a licensee to pay a fine within 30 days of the date of assessment, unless the citation is being appealed, may result in disciplinary action being taken by the board, bureau, or commission. Where a citation is not contested and a fine is not paid, the full amount of the assessed fine shall be added to the fee for renewal of the license. A license shall not be renewed without payment of the renewal fee and fine.

(c) The system may contain the following provisions:

(1) A citation may be issued without the assessment of an administrative fine.

(2) Assessment of administrative fines may be limited to only particular violations of the applicable licensing act.

(d) Notwithstanding any other provision of law, if a fine is paid to satisfy an assessment based on the finding of a violation, payment of the fine shall be represented as satisfactory resolution of the matter for purposes of public disclosure.

(e) Administrative fines collected pursuant to this section shall be deposited in the special fund of the particular board, bureau, or commission.

SEC. 30. Section 127 of the Business and Professions Code is amended to read:

127. Notwithstanding any other provision of this code, the director may require such reports from any board, commission, examining committee, or other similarly constituted agency within the department as ~~he~~ *the director* deems reasonably necessary on any phase of their operations.

SEC. 31. Section 129 of the Business and Professions Code is amended to read:

129. (a) As used in this section, "board" means every board, bureau, commission, committee, and similarly constituted agency in the department that issues licenses.

(b) Each board shall, upon receipt of any complaint respecting an individual licensed by the board, notify the complainant of the initial administrative action taken on ~~his or her~~ *the complainant's* complaint within 10 days of receipt. Each board shall notify the complainant of the final action taken on ~~his or her~~ *the complainant's* complaint. There shall be a notification made in every case in which the complainant is known. If the complaint is not within the jurisdiction of the board or if the board is unable to dispose satisfactorily of the complaint, the board shall transmit the complaint together with any evidence or information it has concerning the complaint to the agency, public or private, whose authority in the opinion of the board will provide the most effective means to secure the relief sought. The board shall notify the complainant of this action and of any other means that may be available to the complainant to secure relief.

(c) The board shall, when the board deems it appropriate, notify the person against whom the complaint is made of the nature of the complaint, may request appropriate relief for the complainant, and may meet and confer with the complainant and the licensee

in order to mediate the complaint. Nothing in this subdivision shall be construed as authorizing or requiring any board to set or to modify any fee charged by a licensee.

(d) It shall be the continuing duty of the board to ascertain patterns of complaints and to report on all actions taken with respect to those patterns of complaints to the director and to the Legislature at least once per year. The board shall evaluate those complaints dismissed for lack of jurisdiction or no violation and recommend to the director and to the Legislature at least once per year the statutory changes it deems necessary to implement the board's functions and responsibilities under this section.

(e) It shall be the continuing duty of the board to take whatever action it deems necessary, with the approval of the director, to inform the public of its functions under this section.

(f) Notwithstanding any other law, upon receipt of a child custody evaluation report submitted to a court pursuant to Chapter 6 (commencing with Section 3110) of Part 2 of Division 8 of the Family Code, the board shall notify the noncomplaining party in the underlying custody dispute, who is a subject of that report, of the pending investigation.

SEC. 32. Section 130 of the Business and Professions Code is amended to read:

130. (a) Notwithstanding any other law, the term of office of any member of an agency designated in subdivision (b) shall be for a term of four years expiring on June 1.

(b) Subdivision (a) applies to the following boards or committees:

(1) The Medical Board of California.

(2) The ~~California Board of Podiatric Medicine.~~ *Podiatric Medical Board of California.*

(3) The Physical Therapy Board of California.

(4) The Board of Registered Nursing, except as provided in subdivision (c) of Section 2703.

(5) The Board of Vocational Nursing and Psychiatric Technicians.

(6) The State Board of Optometry.

(7) The California State Board of Pharmacy.

(8) The Veterinary Medical Board.

(9) The California Architects Board.

(10) The Landscape Architect Technical Committee.

(11) The Board for Professional Engineers and Land Surveyors.
(12) The Contractors' State License Board.
~~(13) The State Board of Guide Dogs for the Blind.~~
~~(14)~~
(13) The Board of Behavioral Sciences.
~~(15)~~
(14) The Court Reporters Board of California.
~~(16)~~
(15) The State Athletic Commission.
~~(17)~~
(16) The Osteopathic Medical Board of California.
~~(18)~~
(17) The Respiratory Care Board of California.
~~(19)~~
(18) The Acupuncture Board.
~~(20)~~
(19) The Board of Psychology.
~~(21)~~
(20) The Structural Pest Control Board.

SEC. 33. Section 132 of the Business and Professions Code is amended to read:

132. No board, commission, examining committee, or any other agency within the department may institute or join any legal action against any other agency within the state or federal government without the permission of the director.

Prior to instituting or joining in a legal action against an agency of the state or federal government, a board, commission, examining committee, or any other agency within the department shall present a written request to the director to do so.

Within 30 days of receipt of the request, the director shall communicate ~~his or her~~ *the director's* approval or denial of the request and ~~his or her~~ *the director's* reasons for approval or denial to the requesting agency in writing. If the director does not act within 30 days, the request shall be deemed approved.

A requesting agency within the department may override the director's denial of its request to institute or join a legal action against a state or federal agency by a two-thirds vote of the members of the board, commission, examining committee, or other agency, which vote shall include the vote of at least one public

member of that board, commission, examining committee, or other agency.

SEC. 34. Section 136 of the Business and Professions Code is amended to read:

136. (a) Each person holding a license, certificate, registration, permit, or other authority to engage in a profession or occupation issued by a board within the department shall notify the issuing board at its principal office of any change in ~~his or her~~ *the person'* mailing address within 30 days after the change, unless the board has specified by regulations a shorter time period.

(b) Except as otherwise provided by law, failure of a ~~licentiate~~ *licensee* to comply with the requirement in subdivision (a) constitutes grounds for the issuance of a citation and administrative fine, if the board has the authority to issue citations and administrative fines.

SEC. 35. Section 137 of the Business and Professions Code is amended to read:

137. Any agency within the department may promulgate regulations requiring licensees to include their license numbers in any advertising, soliciting, or other presentments to the public.

However, nothing in this section shall be construed to authorize regulation of any person not a licensee who engages in advertising, solicitation, or who makes any other presentment to the public on behalf of a licensee. Such a person shall incur no liability pursuant to this section for communicating in any advertising, soliciting, or other presentment to the public a licensee's license number exactly as provided ~~to him~~ by the licensee or for failure to communicate such number if none is provided ~~to him~~ by the licensee.

SEC. 36. Section 138 of the Business and Professions Code is amended to read:

138. Every board in the department, as defined in Section 22, shall initiate the process of adopting regulations on or before June 30, 1999, to require its ~~licentiates,~~ *licensees,* as defined in Section 23.8, to provide notice to their clients or customers that the practitioner is licensed by this state. A board shall be exempt from the requirement to adopt regulations pursuant to this section if the board has in place, in statute or regulation, a requirement that provides for consumer notice of a practitioner's status as a licensee of this state.

SEC. 37. Section 144 of the Business and Professions Code is amended to read:

144. (a) Notwithstanding any other law, an agency designated in subdivision (b) shall require an applicant to furnish to the agency a full set of fingerprints for purposes of conducting criminal history record checks. Any agency designated in subdivision (b) may obtain and receive, at its discretion, criminal history information from the Department of Justice and the United States Federal Bureau of Investigation.

(b) Subdivision (a) applies to the following:

(1) California Board of Accountancy.

(2) State Athletic Commission.

(3) Board of Behavioral Sciences.

(4) Court Reporters Board of California.

~~(5) State Board of Guide Dogs for the Blind.~~

~~(6)~~

(5) California State Board of Pharmacy.

~~(7)~~

(6) Board of Registered Nursing.

~~(8)~~

(7) Veterinary Medical Board.

~~(9)~~

(8) Board of Vocational Nursing and Psychiatric Technicians.

~~(10)~~

(9) Respiratory Care Board of California.

~~(11)~~

(10) Physical Therapy Board of California.

~~(12)~~

(11) Physician Assistant ~~Committee of the Medical Board of California.~~ *Committee.*

~~(13)~~

(12) Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board.

~~(14)~~

(13) Medical Board of California.

~~(15)~~

(14) State Board of Optometry.

~~(16)~~

(15) Acupuncture Board.

~~(17)~~

(16) Cemetery and Funeral Bureau.

~~(18)~~

(17) Bureau of Security and Investigative Services.

~~(19)~~

(18) Division of Investigation.

~~(20)~~

(19) Board of Psychology.

~~(21)~~

(20) California Board of Occupational Therapy.

~~(22)~~

(21) Structural Pest Control Board.

~~(23)~~

(22) Contractors' State License Board.

~~(24)~~

(23) Naturopathic Medicine Committee.

~~(25)~~

(24) Professional Fiduciaries Bureau.

~~(26)~~

(25) Board for Professional Engineers, Land Surveyors, and Geologists.

~~(27)~~

(26) Bureau of Cannabis Control.

~~(28) California Board of Podiatric Medicine.~~

(27) Podiatric Medical Board of California.

~~(29)~~

(28) Osteopathic Medical Board of California.

(c) For purposes of paragraph ~~(26)~~ *(25)* of subdivision (b), the term "applicant" shall be limited to an initial applicant who has never been registered or licensed by the board or to an applicant for a new licensure or registration category.

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Board of Barbering & Cosmetology

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BOARD OF BARBERING & COSMETOLOGY
BILL ANALYSIS

Author: Assembly Member Low

Subject: Regulatory Fees

Bill Number: AB 613

Version: February 14, 2019

Existing Law:

Establishes the Department of Consumer Affairs, which is comprised of boards that are generally authorized to charge a fee for the cost of administering their programs.

This Bill:

This bill would authorize each Board to increase every four years any fee by an amount not to exceed the increase in the California Consumer Price Index for the preceding four years. This bill would require the Director of DCA to approve any fee increase.

Analysis:

The Board currently has its fees established to be the actual cost of administering the functions of the Board. We do not anticipate any fee increase in the near future. This bill has no current impact on the operations of the Board nor would we foresee any concerns should there be a need to increase fees.

ASSEMBLY BILL No. 613

Introduced by Assembly Member Low

February 14, 2019

An act to add Section 101.1 to the Business and Professions Code, relating to professions and vocations, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 613, as introduced, Low. Professions and vocations: regulatory fees.

Exiting law establishes the Department of Consumer Affairs, which is comprised of boards that are established for the purpose of regulating various professions and vocations, and generally authorizes a board to charge fees for the reasonable regulatory cost of administering the regulatory program for the profession or vocation. Existing law establishes the Professions and Vocations Fund in the State Treasury, which consists of specified special funds and accounts, some of which are continuously appropriated.

This bill would authorize each board within the department to increase every 4 years any fee authorized to be imposed by that board by an amount not to exceed the increase in the California Consumer Price Index for the preceding 4 years, subject to specified conditions. The bill would require the Director of Consumer Affairs to approve any fee increase proposed by a board except under specified circumstances. By authorizing an increase in the amount of fees deposited into a continuously appropriated fund, this bill would make an appropriation.

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

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

SECTION 1. Section 101.1 is added to the Business and Professions Code, to read:

101.1. (a) Notwithstanding any other law, no more than once every four years, any board listed in Section 101 may increase any fee authorized to be imposed by that board by an amount not to exceed the increase in the California Consumer Price Index, as determined pursuant to Section 2212 of the Revenue and Taxation Code, for the preceding four years in accordance with the following:

(1) The board shall provide its calculations and proposed fee, rounded to the nearest whole dollar, to the director and the director shall approve the fee increase unless any of the following apply:

(A) The board has unencumbered funds in an amount that is equal to more than the board's operating budget for the next two fiscal years.

(B) The fee would exceed the reasonable regulatory costs to the board in administering the provisions for which the fee is authorized.

(C) The director determines that the fee increase would be injurious to the public health, safety, or welfare.

(2) The adjustment of fees and publication of the adjusted fee list is not subject to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2) of the Government Code.

(b) For purposes of this section, "fee" includes any fees authorized to be imposed by a board for regulatory costs. "Fee" does not include administrative fines, civil penalties, or criminal penalties.

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BOARD OF BARBERING & COSMETOLOGY
BILL ANALYSIS

Author: Assembly Member Kiley

Subject: Mobile Units

Bill Number: AB 817

Version: February 20, 2019

Existing Law:

Establishes the requirements for a mobile unit as:

ARTICLE 7
Mobile Units

7354. "Mobile Unit"
For purposes of this article, "mobile unit" means any self-contained, self supporting, enclosed mobile unit which is at least 24 feet in length which is licensed as an establishment for the practice of any occupation licensed by the board and which complies with this article and all health and safety regulations established by the board.

7355. Application for License
(a) Any person, firm, or corporation desiring to operate a mobile unit shall make an application to the board for a license containing the information and data set forth in subdivision (b). The applicant, if an individual, or each officer, director, and partner, if the applicant is other than an individual, shall not have committed acts or crimes which are grounds for denial of licensure pursuant to Section 480. A license issued pursuant to this section shall authorize the operation of the unit only within those geographical boundaries designated by the board. Operation of the unit outside of the geographical boundaries for which the license is issued shall be unlawful, unless a license for the expanded geographic area has been obtained upon compliance with this article applicable to the issuance of a license in the first instance.

(b) Each application shall include the following:
(1) A detailed floor plan showing the location of doors, windows, restroom facilities, sinks, lift or ramps, ventilation, equipment, and dimensions of the mobile unit in compliance with this article.
(2) Proof of purchase or lease of the mobile unit and shop equipment.
(3) The required fee.
(4) Copies of applicable county and city licenses or permits to provide the mobile barbering, cosmetology, or electrolysis services in each county and city of operation and the locations therein where the services will be offered.

(5) Proof of compliance with applicable city, county, and state plumbing, electrical, and fire laws.
(6) Proof of a valid California driver's license issued to an officer or employee responsible for driving the mobile unit.
(7) A permanent base address from which the mobile unit shall operate. (c) After initial approval of the floor plan and application has been granted, the applicant shall schedule an appointment to show the mobile unit to the board, or representative of the board, for final approval.

7356. Application to Transfer Ownership or Control

An application to transfer ownership or control of an existing licensed mobile unit shall be filed by the purchaser or lessor with the board within 10 days after purchase. Each application shall include the following:

(a) A detailed floor plan showing the location of doors, windows, restroom facilities, sinks, lift or ramps, ventilation, equipment, and dimensions of the mobile unit.
(b) Bills of sale or lease documents proving purchase or lease of existing equipment and the mobile unit.
(c) The existing mobile unit license.
(d) The required fee.
(e) Copies of applicable city and county licenses or permits to provide the mobile services in each county and city of operation issued in the new owner's name.
(f) Proof of compliance with applicable city, county, and state plumbing, electrical, and fire laws.
(g) Proof of a valid California driver's license issued to an officer or employee responsible for driving the mobile unit.

7357. Compliance with Regulations; Required Equipment

(a) Mobile units shall comply with regulations adopted by the board that assure that the unit shall be kept clean, in good repair, and in compliance with this article.
(b) Each mobile unit shall be equipped with each of the following functioning systems:

(1) A self-contained, potable water supply. The potable water tanks shall be not less than 100 gallons, and the holding tanks shall be of adequate capacity. In the event of depletion of potable water, operation shall cease until the supply is replenished.
(2) Continuous, on-demand hot water tanks which shall be not less than six- gallon capacity. (3) A self-contained, recirculating, flush chemical toilet with holding tank.
(4) A covered galvanized, stainless steel, or other noncorrosive metal container for purposes of depositing hair clippings, refuse, and other waste materials.
(5) A split-lead generator with a remote starter, muffler, and a vent to the outside.
(6) A sealed combustible heater with an outside vent.

7358. Mobile Unit to be in Charge of Licensee

A mobile unit shall at all times be in the charge of a person licensed pursuant to this chapter except an apprentice.

7359. Employment of Unlicensed Persons

It is unlawful for any person, firm or corporation to hire, employ, allow to be employed, or permit to work, in or about a mobile unit, any person who performs or practices any occupation regulated under this chapter who is not duly licensed by the board.
Any person violating this section is guilty of a misdemeanor.

7360. Use of Portion of Mobile Unit for Residential Purposes
No person having charge of a mobile unit, whether as an owner or an employee, shall permit any room, or part thereof, in which any occupation regulated under this chapter is conducted or practiced, to be used for residential purposes or for any other purpose that would tend to make the unit unsanitary, unhealthy, or unsafe, or endanger the health and safety of the consuming public.

This section shall not apply when the mobile unit is used for purposes other than the practice of any occupation regulated under this chapter outside of the designated geographical boundaries for which it is licensed.

7361. Application of Provisions of Chapter
All laws governing establishments under this chapter, except Article 6 (commencing with Section 7346), apply to mobile units, unless otherwise provided. ARTICLE 8 Schools, Instructors, and Curricula

This Bill:

- Removes the length requirement that a mobile unit must be 24 feet in length.
- Removes the requirements for geographical boundaries on where the mobile unit shall operate.
- Removes the requirement that an application for a new mobile unit or the purchase of an existing mobile unit must contain copies of applicable city and/or county licenses or permits and would instead require a signed acknowledgement that the applicant is in compliance with all applicable city and county requirements.
- Removes the requirement that an application for a new mobile unit or the purchase of an existing mobile unit must contain proof of compliance with applicable city, county and state plumbing, electrical and fire laws and would instead require a signed acknowledgement that the applicant is in compliance with all applicable city, county and state plumbing, electrical and fire laws.
- Removes the requirement for a potable water tank in the size of 100-gallons and instead states that potable water is only required for shampoo services.
- Removed the requirement for a self contained, recirculating, flush chemical toilet with a holding tank.
- Removes the requirement for a covered galvanized, stainless steel, or other noncorrosive metal container for the purpose of disposing hair clippings, refuse, and other waste.
- Removes the requirement for the mobile unit to have a split-lead generator with a remote starter, muffler, and a vent to the outside.
- Removes the requirement for the mobile unit to have a combustible heater with a outside vent.
- Requires the mobile unit to have adequate ventilation.

Analysis:

The Board currently has 47 licensed mobile units, of that amount, 24 new mobile unit licenses were issued over the last 5 years. In 2005, there were only 10 licensed mobile units. Statistics show that this is a growing service in California.

The Board surveyed all states to determine similar requirements. 18 states responded:

9 States license mobile units
2 states have a specified requirement for the length of the unit.
1 state has a requirement for the of potable water tank in a specific size.
0 states limit the unit to a geographical area.
5 states require that the unit have hot and cold running water
5 states require a toilet
4 states require ventilation

Over the last several years the Board has received many inquires as to the requirements of mobile units. There have been two common concerns from individuals looking to open a mobile unit: the potable water tank is too large and the length of the unit is too long. This bill will address those two concerns by elimination the potable water and of a specified length of the unit.

Board staff believe that this bill removes requirements that are not needed to ensure the safety of a consumer. The board has no records of disciplinary action ever taken against a mobile unit and has only found minor violations during inspections.

ASSEMBLY BILL No. 817

Introduced by Assembly Member Kiley

February 20, 2019

An act to amend Sections 7354, 7355, 7356, and 7357 of the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

AB 817, as introduced, Kiley. Barbering and cosmetology: mobile units.

Existing law, the Barbering and Cosmetology Act, establishes the State Board of Barbering and Cosmetology for the licensure and regulation of barbering and cosmetology. The act, for provisions related to the operation and licensing of mobile units, defines a mobile unit to mean a self-contained, self-supporting, enclosed mobile unit that is at least 24 feet in length, that is licensed as an establishment for the practice of any occupation licensed by the board, and that complies with specified provisions and regulations. The act requires an application for a state license to operate a mobile unit and an application to transfer ownership or control of a licensed mobile unit to include, among other items, a detailed floor plan, specified proof of purchase or lease of the mobile unit and shop equipment, copies of certain local licenses or permits, and proof of compliance with applicable city, county, and state plumbing, electrical, and fire laws. The act requires a state license to authorize the operation of the unit only within designated geographical boundaries, and makes the operation of the unit outside those boundaries unlawful, unless a license for the expanded geographical area has been obtained, as specified. The act requires a mobile unit to be equipped with a list of specified functioning systems, including, among others,

a specified container for waste materials, a specified toilet, and a self-contained, potable water supply, as specified. The act requires, in the event of depletion of potable water, the operation of the mobile unit to cease until the supply is replenished. A violation of the act is a crime, unless otherwise provided.

This bill would revise the definition of mobile unit to mean a self-contained, self-supporting, enclosed movable unit in which any activity licensed under this chapter is practiced. The bill would remove the requirements that the above-described applications include copies of certain local licenses or permits and proof of compliance with applicable city, county, and state plumbing, electrical, and fire laws, and would, instead, require those applications to include a signed acknowledgment under penalty of perjury that they are in compliance with all applicable city and county requirements, including plumbing, electrical, and fire laws. The bill would remove the requirement that the application for a state license include proof of purchase or lease of the shop equipment. The bill would remove the geographical boundaries limitations on the license to operate a mobile unit. The bill would revise the list of functioning systems with which a mobile unit is required to be equipped to, among other things, remove the specified container for waste materials and the specified toilet. The bill would make the requirement that a mobile unit be equipped with a self-contained, potable water supply contingent upon the mobile unit offering shampooing services, and would remove the requirement that operation of the mobile unit cease if the supply is depleted. By imposing additional requirements on persons licensed under the Barbering and Cosmetology Act, a violation of which is a crime, and by expanding the crime of perjury, the bill would impose a state-mandated local program.

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

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

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

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

1 SECTION 1. Section 7354 of the Business and Professions
2 Code is amended to read:

7354. For purposes of this article, "mobile unit" means ~~any~~ *a* self-contained, self-supporting, enclosed ~~mobile~~ *movable* unit ~~which is at least 24 feet in length which is licensed as an establishment for the practice of any occupation licensed by the board and which complies with this article and all health and safety regulations established by the board.~~ *in which any activity licensed under this chapter is practiced.*

SEC. 2. Section 7355 of the Business and Professions Code is amended to read:

7355. (a) ~~Any~~ *A* person, firm, or corporation desiring to operate a mobile unit shall make an application to the board for a license containing the information and data set forth in subdivision (b). The applicant, if an individual, or each officer, director, and partner, if the applicant is other than an individual, shall not have committed acts or crimes which are grounds for denial of licensure pursuant to Section 480. ~~A license issued pursuant to this section shall authorize the operation of the unit only within those geographical boundaries designated by the board. Operation of the unit outside of the geographical boundaries for which the license is issued shall be unlawful, unless a license for the expanded geographic area has been obtained upon compliance with this article applicable to the issuance of a license in the first instance.~~

(b) Each application shall include the following:

(1) A detailed floor plan showing the location of doors, windows, restroom facilities, sinks, lift or ramps, ventilation, equipment, and dimensions of the mobile ~~unit in compliance with this article.~~ *unit.*

(2) Proof of purchase or lease of the mobile ~~unit and shop equipment.~~ *unit.*

(3) The required fee.

~~(4) Copies of applicable county and city licenses or permits to provide the mobile barbering, cosmetology, or electrolysis services in each county and city of operation and the locations therein where the services will be offered.~~

~~(5) Proof of compliance with applicable city, county, and state plumbing, electrical, and fire laws.~~

(4) A signed acknowledgment that the applicant is in compliance with all applicable city and county requirements, including plumbing, electrical, and fire laws.

~~(6)~~

(5) Proof of a valid California driver's license issued to an officer or employee responsible for driving the mobile unit.

~~(7)~~

(6) A permanent base address from which the mobile unit shall operate.

(c) After initial approval of the floor plan and application has been granted, the applicant shall schedule an appointment to show the mobile unit to the board, or representative of the board, for final approval.

SEC. 3. Section 7356 of the Business and Professions Code is amended to read:

7356. An application to transfer ownership or control of an existing licensed mobile unit shall be filed by the purchaser or lessor with the board within 10 days after purchase. Each application shall include the following:

(a) A detailed floor plan showing the location of doors, windows, restroom facilities, sinks, lift or ramps, ventilation, equipment, and dimensions of the mobile unit.

(b) Bills of sale or lease documents proving purchase or lease of existing equipment and the mobile unit.

(c) The existing mobile unit license.

(d) The required fee.

~~(e) Copies of applicable city and county licenses or permits to provide the mobile services in each county and city of operation issued in the new owner's name.~~

~~(f) Proof of compliance with applicable city, county, and state plumbing, electrical, and fire laws.~~

(e) A signed acknowledgment that the applicant is in compliance with all applicable city and county requirements, including plumbing, electrical, and fire laws.

~~(g)~~

(f) Proof of a valid California driver's license issued to an officer or employee responsible for driving the mobile unit.

SEC. 4. Section 7357 of the Business and Professions Code is amended to read:

7357. (a) ~~Mobile units~~ *A mobile unit* shall comply with regulations adopted by the board that assure that the unit shall be kept clean, in good repair, and in compliance with this article.

(b) ~~Each~~ *A* mobile unit shall be equipped with each of the following functioning systems:

(1) A self-contained, potable water ~~supply. The potable water tanks shall be not less than 100 gallons, and the holding tanks shall be of adequate capacity. In the event of depletion of potable water, operation shall cease until the supply is replenished.~~ *supply if shampooing services are offered.*

(2) Continuous, on-demand hot water tanks which shall be not less than six-gallon capacity.

~~(3) A self-contained, recirculating, flush chemical toilet with holding tank.~~

~~(4) A covered galvanized, stainless steel, or other noncorrosive metal container for purposes of depositing hair clippings, refuse, and other waste materials.~~

~~(5) A split-lead generator with a remote starter, muffler, and a vent to the outside.~~

~~(6) A sealed combustible heater with an outside vent.~~

(3) A system of adequate ventilation.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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BOARD OF BARBERING & COSMETOLOGY
BILL ANALYSIS

Author: Assembly Member Diep

Subject: Barriers; examinations

Bill Number: AB 1271

Version: February 21, 2019

Existing Law:

Existing law provides for the licensure and regulation of professions and vocations by various boards that comprise the Department of Consumer Affairs.

This Bill:

This bill would require the department, on or before January 1, 2021, to provide a report to the Assembly Committee on Business and Professions and the Senate Committee on Business, Professions and Economic Development that contains specified information relating to licensing examinations for each licensed profession and vocation under the department's jurisdiction.

Analysis:

This bill would require the DCA to report on the following in regard to licensing examinations:

(a) Whether licensure requires completion of a board-approved education or training program.
(b) Whether licensure requires passage of a written or clinical licensing examination.
(c) Whether an examination fee is required in addition to any other initial licensure or application fees and, if so, the amount of the examination fee.
(d) To the extent feasible, information on the average length of time between submitting a licensure application and taking the licensing examination.
(e) Information on average passage rates for the licensing examination and, to the extent feasible, information on the percentage of yearly applicants who ultimately never receive a license due to one or more examination failures.

This bill is requiring the DCA to prepare this report, however, the Board would be included in this report and has the required information readily available.

ASSEMBLY BILL No. 1271

Introduced by Assembly Member Diep

February 21, 2019

An act relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

AB 1271, as introduced, Diep. Licensing examinations: report.

Existing law provides for the licensure and regulation of professions and vocations by various boards that comprise the Department of Consumer Affairs.

This bill would require the department, on or before January 1, 2021, to provide a report to the Assembly Committee on Business and Professions and the Senate Committee on Business, Professions and Economic Development that contains specified information relating to licensing examinations for each licensed profession and vocation under the department's jurisdiction.

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

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

SECTION 1. The intent of the Legislature in enacting this act is to seek opportunities to reduce barriers to professional licensing by eliminating licensing examinations that are found largely to duplicate already required formal education and training.

SEC. 2. On or before January 1, 2021, the Department of Consumer Affairs shall provide a report to the Assembly Committee on Business and Professions and the Senate Committee

on Business, Professions and Economic Development that contains the following summary information for each licensed profession and vocation under its jurisdiction:

(a) Whether licensure requires completion of a board-approved education or training program.

(b) Whether licensure requires passage of a written or clinical licensing examination.

(c) Whether an examination fee is required in addition to any other initial licensure or application fees and, if so, the amount of the examination fee.

(d) To the extent feasible, information on the average length of time between submitting a licensure application and taking the licensing examination.

(e) Information on average passage rates for the licensing examination and, to the extent feasible, information on the percentage of yearly applicants who ultimately never receive a license due to one or more examination failures.

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BOARD OF BARBERING & COSMETOLOGY
BILL ANALYSIS

Author: Assembly Member Boerner Horvath

Subject: Gender Discrimination Notification

Bill Number: AB 1607

Version: February 22, 2019

Existing Law:

Prohibits businesses from discriminating against persons because of a persons gender with respect to the process of services.

This Bill:

Requires a city, county or city and county that issues local business licenses to written notification of the above provision at the time the business license is issued. It also allows the city and/or county to increase their fee to be able to provide this information.

Analysis:

Effective January 1, 2019, the Board was required to distribute a gender discrimination pamphlet at the time of initial establishment license, renewal establishment license, and at the time of inspection. This is currently in place. This bill will also provide this information at the time an application is made to the city or county to receive a business license.

This bill has no impact on the Board's current operations, however, it does provide additional information to establishment licensees on the laws prohibiting gender discrimination on services provided in the barbering and cosmetology industry.

ASSEMBLY BILL No. 1607

Introduced by Assembly Member Boerner Horvath

February 22, 2019

An act to amend Section 51.6 of the Civil Code, relating to civil rights.

LEGISLATIVE COUNSEL'S DIGEST

AB 1607, as introduced, Boerner Horvath. Gender discrimination: notification.

Existing law prohibits a business establishment from discriminating against a person because of the person's gender with respect to the price charged for services of similar or like kind. Existing law also requires specified business establishments to disclose in writing the pricing for each standard service, as defined, to display, in a specified manner, a sign stating that it is illegal to base pricing on gender and that a complete price list is available upon request, and to display, in a specified manner, a price list, and to provide the customer with a copy of the complete price list upon request.

This bill would require a city, county, or city and county that issues local business licenses to provide written notification of the above provisions to the licensee at the time the business license is issued. The bill would authorize a city, county, or city and county to increase the fee for a business license to cover the reasonable cost of providing the notice.

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:

SECTION 1. Section 51.6 of the Civil Code is amended to read:

51.6. (a) This section shall be known, and may be cited, as the Gender Tax Repeal Act of 1995.

(b) No business establishment of any kind whatsoever may discriminate, with respect to the price charged for services of similar or like kind, against a person because of the person's gender.

(c) Nothing in subdivision (b) prohibits price differences based specifically upon the amount of time, difficulty, or cost of providing the services.

(d) Except as provided in subdivision (f), the remedies for a violation of this section are the remedies provided in subdivision (a) of Section 52. However, an action under this section is independent of any other remedy or procedure that may be available to an aggrieved party.

(e) This act does not alter or affect the provisions of the Health and Safety Code, the Insurance Code, or other laws that govern health care service plan or insurer underwriting or rating practices.

(f) (1) The following business establishments shall clearly and conspicuously disclose to the customer in writing the pricing for each standard service provided:

(A) Tailors or businesses providing aftermarket clothing alterations.

(B) Barbers or hair salons.

(C) Dry cleaners and laundries providing services to individuals.

(2) The price list shall be posted in an area conspicuous to customers. Posted price lists shall be in no less than 14-point boldface type and clearly and completely display pricing for every standard service offered by the business under paragraph (1).

(3) The business establishment shall provide the customer with a complete written price list upon request.

(4) The business establishment shall display in a conspicuous place at least one clearly visible sign, printed in no less than 24-point boldface type, which reads: "CALIFORNIA LAW PROHIBITS ANY BUSINESS ESTABLISHMENT FROM DISCRIMINATING, WITH RESPECT TO THE PRICE CHARGED FOR SERVICES OF SIMILAR OR LIKE KIND, AGAINST A PERSON BECAUSE OF THE PERSON'S GENDER. A COMPLETE PRICE LIST IS AVAILABLE UPON REQUEST."

(5) A business establishment that fails to correct a violation of this subdivision within 30 days of receiving written notice of the violation is liable for a civil penalty of one thousand dollars ($1,000).

(6) For the purposes of this subdivision, "standard service" means the 15 most frequently requested services provided by the business.

(g) (1) All businesses shall receive a written notice of these provisions at the time they receive a business license.

(2) A city, county, or city and county that issues business licenses may increase the fee for that license in an amount not exceed the reasonable costs of providing the written notice above.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

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BOARD OF BARBERING & COSMETOLOGY
BILL ANALYSIS

Author: Senator Grove
Co-Authors: Senators Bates, Borgeas, Chang, Jones, Moorlach, Morrell, Nielsen, Stone, and Wilk

Subject: Labor Code re: Dynamax

Bill Number: SB 238

Version: February 11, 2019

Existing Law:

Existing law, as established in the case of Dynamex Operations W. v. Superior Court (2018) 4 Cal.5th 903 (Dynamex), creates a presumption that a worker who performs services for a hirer is an employee. Existing law requires a 3-part test, commonly known as the "ABC" test, to establish that a worker is an independent contractor for purposes of claims for wages and benefits arising under wage orders issued by the Industrial Welfare Commission.

This Bill:

This bill allows for an analysis of whether a worker is economically dependent upon the hiring entity to determine whether that worker is an employee. This analysis shall be based upon the economic reality of the worker's relationship with the hiring entity by considering only the following six factors:

(a) The nature and degree of control by the principal.
(b) The worker's opportunities for profit and loss.
(c) The amount of the worker's investment in facilities and equipment.
(d) The permanency of the relationship.
(e) The required skill necessary for success.
(f) The extent to which the services rendered are an integral part of the principal's business

Analysis:
While this bill does not impact the operations of the Board, it would have a significant impact on the industry. The factors listed in the bill to determine if an individual should be classified by an employee are less stringent than the ABC test that was established by the supreme court decision.

Attached is the fact sheet provided by the authors office regarding SB 238.

SENATOR SHANNON GROVE
SENATE DISTRICT 16

SB 238 – Dynamex Bill
Factors For Determining Employee Status

SUMMARY

SB 238 will conform California's test for determining employment status for purposes of wage orders to the test established by the federal Fair Labor Standards Act. This "economic realities test" is predicated on 6 factors that determine whether an employee is economically dependent upon the employer:

1. The nature and degree of control by the principal.
2. The worker's opportunities for profit and loss.
3. The amount of the worker's investment in facilities and equipment.
4. The permanency of the relationship.
5. The required skill necessary for success.
6. The extent to which the services rendered are an integral part of the principal's business.

EXISTING LAW

Existing law as established in the case of Dynamex Operations W. v. Superior Court (2018) 4 Cal.5th 903 (Dynamex) creates a presumption that a worker who performs services for a hirer is an employee. The law also requires a 3-part test, commonly known as the "ABC" test, to establish that a worker is an independent contractor for purposes of claims for wages and benefits arising under wage orders issued by the Industrial Welfare Commission.

PROBLEM

The independent contracting model has been under assault in California for a number of years. It culminated on April 30, 2018 with the California Supreme Court's landmark decision in Dynamex Operations W. v. Superior Court, (2018) 4 Cal.5th 903, where the Court, in throwing out 29 years of precedence and a near 30-year old test, created an entirely new test for determining whether an individual is an independent contractor or an employee. Prior to this decision, the determination of whether an employer was an independent contractor or employee was based upon the 1989 California Supreme Court decision in S.G. Borello & Sons, Inc. v. Dept. of Industrial Relations (1989) 48Cal.3d 341, where the Court created an 11 point "economic realities" test. This 11-point test known as the "Borello" test largely focused on the degree of control the employer has over hours, equipment, and supervision.

The new ABC test is a one-size-fits-all, far more restrictive and stringent test consisting of just three factors that makes it very difficult, if not impossible, for many companies and workers currently working under an independent contractor model to continue doing so.

In fact, it puts the livelihood of nearly two million Californians who choose to work as independent contractors at risk. It negatively impacts contractors from all types of industries such as barbering and cosmetology, agriculture, education, health care, construction, technology, transportation, and art just to name a few. It is particularly problematic to the new "Gig" economy that thrives on and requires the flexibility provided by the independent contracting model. This decision will also disproportionally affect the young, diverse and educated workforce who are increasingly choosing to be freelancers and independent contractors.

It also eliminates the choice that more and more Californians are making for their work and quality of life.

THE SOLUTION

SB 238 will allow hard working Californians to be independent contractors again. As such, they will no longer have to worry about the government forcing them to become employees.

According to a 2018 Bureau of Labor Statistics Economic report, 79 percent of independent contractors prefer their work situation to traditional employment and a 2017 survey revealed that most full-time workers who left their jobs made more money as a freelancer within a year.

If California is really the land of opportunity, the Legislature needs to protect workers' rights and freedoms to ensure they have the ability to choose when they work, where they work, what they work on, and how much they earn.

FISCAL

Unknown at this time

SPONSOR

Author Sponsored

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AMENDED IN SENATE MARCH 28, 2019

SENATE BILL No. 238

Introduced by Senator Grove
(Coauthors: Senators Bates, Borgeas, Chang, Jones, Moorlach, Morrell, Nielsen, Stone, and Wilk)

February 11, 2019

An act to ~~amend Section 2750.5 of~~ *add Section 2750.2 to* the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

SB 238, as amended, Grove. ~~Employment relations.~~ *Worker status: factors for determination of employee status.*

Existing law, as established in the case of Dynamex Operations W. v. Superior Court (2018) 4 Cal.5th 903 (Dynamex), creates a presumption that a worker who performs services for a hirer is an employee. Existing law requires a 3-part test, commonly known as the "ABC" test, to establish that a worker is an independent contractor for purposes of claims for wages and benefits arising under wage orders issued by the Industrial Welfare Commission.

This bill would instead, for purposes of claims for wages and benefits arising under wage orders, analyze whether the worker is economically dependent upon the hiring entity to determine whether that worker is an employee based upon the economic reality of the relationship with the hiring entity. The bill would require this analysis to be based solely upon enumerated factors that are similar to those used as a part of the Economic Realities Test in the federal Fair Labor Standards Act of 1938. This bill would provide legislative findings and declarations in support of these provisions, and would state in the findings and declarations that it is the intent of the Legislature that the test under

these provisions be applied retroactively to claims filed on and after April 30, 2018.

~~Existing law provides a rebuttable presumption affecting the burden of proof that a worker performing services for which a license is required under the Contractors' State License Law, or performing services for a person who is required to obtain that license, is an employee, rather than an independent contractor, and specifies factors to establish proof of independent contractor status.~~

~~This bill would make nonsubstantive changes to these provisions.~~

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

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

SECTION 1. The Legislature finds and declares all of the following:

(a) On April 30, 2018, the California Supreme Court issued a landmark decision in Dynamex Operations W. v. Superior Court, (2018) 4 Cal.5th 903 by overturning 29 years of precedence established in S. G. Borello & Sons, Inc. v. Department of Industrial Relations (1989) 48 Cal.3d 341.

(b) The decision replaces the multifactor test for determining employment status from the Borello case with the ABC test, a one-size-fits-all and far more restrictive test consisting of just three factors, of which all must be met in order for an individual to be classified as an independent contractor.

(c) The decision puts the livelihood of nearly 2,000,000 Californians who choose to work as independent contractors at risk.

(d) The decision eliminates the choice that more and more Californians are making for their work and quality of life.

(e) The decision moves the state backwards and does not accurately reflect today's realities, including the changing demands of the modern workplace.

(f) Prior to this decision, the ABC test never existed in California law or regulation.

(g) Such a momentous policy change should not be made by judicial fiat; instead, it should be made by the Legislature.

(h) The federal Fair Labor Standards Act 1938 (FLSA) provides a good model for determining employment status, as it is flexible

enough to reflect today's realities and modern workplace demands while also protecting the rights of workers.

(i) Conforming California's law for determining employment status to the FLSA will also simplify compliance for employers and workers who will no longer have to navigate two different sets of rules.

(j) It is the intent of the Legislature to conform California's test for determining employment status for purposes of wage orders to the test established by the federal Fair Labor Standards Act.

(k) It is the intent of the Legislature that this test for determining employment status for purposes of wage orders shall be interpreted to apply in California as it is applied under the federal Fair Labor Standards Act, including an emphasis on the degree of control and the specification that no one factor controls, but rather the totality of the circumstances.

(l) It is also the intent of the Legislature that this test will be effective for all claims filed on and after April 30, 2018.

SEC. 2. Section 2750.2 is added to the Labor Code, to read:

2750.2. For purposes of the wage orders under the provisions of this code and the wage orders of the Industrial Welfare Commission, the determination of whether a person providing labor or services for remuneration is considered an employee shall be based upon an analysis of whether that person is economically dependent upon the hiring entity. This analysis shall be based upon the economic reality of the worker's relationship with the hiring entity by considering only the following six factors:

(a) The nature and degree of control by the principal.

(b) The worker's opportunities for profit and loss.

(c) The amount of the worker's investment in facilities and equipment.

(d) The permanency of the relationship.

(e) The required skill necessary for success.

(f) The extent to which the services rendered are an integral part of the principal's business.

~~SECTION 1. Section 2750.5 of the Labor Code is amended to read:~~

~~2750.5. (a) There is a rebuttable presumption affecting the burden of proof that an individual performing services for which a license is required pursuant to Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code,~~

~~or who is performing such services for a person who is required to obtain such a license is an employee rather than an independent contractor. Proof of independent contractor status includes satisfactory proof of these factors:~~

~~(1) That the individual has the right to control, and discretion as to the manner of, performance of the contract for services in that the result of the work and not the means by which it is accomplished is the primary factor bargained for.~~

~~(2) That the individual is customarily engaged in an independently established business.~~

~~(3) That the individual's independent contractor status is bona fide and not a subterfuge to avoid employee status. A bona fide independent contractor status is further evidenced by the presence of cumulative factors such as substantial investment other than personal services in the business, holding out to be in business for oneself, bargaining for a contract to complete a specific project for compensation by project rather than by time, control over the time and place the work is performed, supplying the tools or instrumentalities used in the work other than tools and instrumentalities normally and customarily provided by employees, hiring employees, performing work that is not ordinarily in the course of the principal's work, performing work that requires a particular skill, holding a license pursuant to the Business and Professions Code, the intent by the parties that the work relationship is of an independent contractor status, or that the relationship is not severable or terminable at will by the principal but gives rise to an action for breach of contract.~~

~~(b) In addition to the factors contained in paragraphs (1), (2), and (3) of subdivision (a), a person performing any function or activity for which a license is required pursuant to Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code shall hold a valid contractors' license as a condition of having independent contractor status.~~

~~(c) For purposes of workers' compensation law, this presumption is a supplement to the existing statutory definitions of employee and independent contractor, and is not intended to lessen the coverage of employees under Division 4 and Division 5.~~

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Board of Barbering & Cosmetology

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DEPARTMENT OF CONSUMER AFFAIRS • BOARD OF BARBERING AND COSMETOLOGY
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BOARD OF BARBERING & COSMETOLOGY
BILL ANALYSIS

Author: Senator Glazer **Subject: Health and Safety**

Bill Number: SB 607 **Version:** February 22, 2019

Existing Law:

Existing law, 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 and requires the board to establish a Health and Safety Advisory Committee to provide the board with advice and recommendations on health and safety issues before the board that impact licensees, including, among other things, how to ensure licensees are aware of basic labor laws.

This Bill:

This bill would require the committee to include at least 3 board members and would require the committee to also provide the board with advice and recommendations on information on professional cosmetic labeling requirements.

Analysis:

This bill is likely to be amended to include additional information relating to the Board. As currently written, the addition of one member to the advisory committee is not substantial. Board staff will continue to monitor this bill for future amendments.

SENATE BILL No. 607

Introduced by Senator Glazer

February 22, 2019

An act to amend Section 7314.3 of the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

SB 607, as introduced, Glazer. Barbering and Cosmetology.

Existing law, 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 and requires the board to establish a Health and Safety Advisory Committee to provide the board with advice and recommendations on health and safety issues before the board that impact licensees, including, among other things, how to ensure licensees are aware of basic labor laws.

This bill would require the committee to include at least 3 board members and would require the committee to also provide the board with advice and recommendations on information on professional cosmetic labeling requirements.

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

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

SECTION 1. Section 7314.3 of the Business and Professions Code, as added by Section 2 of Chapter 312 of the Statutes of 2017, is amended to read:

7314.3. (a) The board shall establish a Health and Safety Advisory ~~Committee~~ *Committee, which shall include no less than*

three board members, to provide the board with advice and recommendations on health and safety issues before the board that impact licensees, including *information on professional cosmetic labeling requirements,* how to ensure licensees are aware of basic labor ~~laws~~ *laws,* and how to ensure licensees have awareness about physical and sexual abuse their clients may be experiencing.

(b) For purposes of this section, basic labor laws include, but are not limited to, all of the following:

(1) Key differences between the legal rights, benefits, and obligations of an employee and an independent contractor.

(2) Wage and hour rights of an hourly employee.

(3) Antidiscrimination laws relating to the use of a particular language in the workplace.

(4) Antiretaliation laws relating to a worker's right to file complaints with the Department of Industrial Relations.

(5) How to obtain more information about state and federal labor laws.

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

(1) Domestic violence.

(2) Sexual assault.

(3) Human trafficking.

(4) Elder abuse.

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

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Board of Barbering & Cosmetology

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MEMORANDUM

DATE	April 29, 2019
TO	Members, Board of Barbering and Cosmetology
FROM	Kristy Underwood, Executive Officer
SUBJECT	**Regulations Update**

Action Item(s):

- Title 16, CCR Section 970, 971 (Substantial Relationship Criteria, Criteria for Rehabilitation) *This language needs to be approved.*

- Title 16, CCR Section 972 (Disciplinary Guidelines) *This language as well as the revised Disciplinary Guidelines booklet need to be approved.*

- Title 16, CCR Section 974 & 974.3 (Fine Schedule and Payment Plan) *This language was previouly approved but a new approval is needed because of revisions to Section 984 in the fine schedule. That section has now been split into its subsections (a), (b) and (e). The revised language and filing documents have already been forwarded to the Department of Consumer Affairs (DCA) and are under internal review.*

Status Updates

The following regulation packages are under internal review at DCA.

- Title 16, CCR Section 904 (Definition of Access)
- Title 16, CCR Section 950.10 (Transfer of Credit or Training)
- Title 16, CCR Section 965.2 (Personal Service Permit)

Staff is developing the filing documents on the following regulation packages

- Title 16, CCR Section 961 (National Interstate Council (NIC) Translation Guides)
- Title 16, CCR Sections 962, 962.1 and 962.2 (Externs)

BOARD OF BARBERING AND COSMETOLOGY

Division 9, Title 16, of the California Code of Regulations.

SPECIFIC LANGUAGE

LEGEND	
Underlined	**Indicates proposed amendments or additions to the existing regulation.**
~~Strikeout~~	**Indicates proposed deletions to the existing**

- **Amend Section 970, Title 16, California Code of Regulations, as follows:**

970. Substantial Relationship Criteria

(a) For the purpose of denial, suspension, or revocation of a license issued under Chapter 10 of Division 3 of the Business and Professions Code pursuant to Division 1.5 (commencing with Section 475) of that same code, a crime or act shall be considered substantially related to the qualifications, functions, and duties of the licensee if to a substantial degree it evidences present or potential unfitness of the licensee to perform the functions authorized by the licensee in a manner consistent with the public health, safety or welfare. ~~The crimes or acts shall include, but not be limited to, those involving the following:~~

~~(a) Any violation of the provisions of Chapter 10 of Division 3 of the Business and Professions Code.~~

~~(b) Criminal offenses, including but not limited to, lewd conduct, or use or sale of drugs or narcotics, committed in the course of or in association with the performance of the functions or duties authorized by such license.~~

(b) In making the substantial relationship determination required under subdivision (a) for a crime, the board shall consider the following criteria:

(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 a board licensee.

Note: Authority cited: Section 7312, Business and Professions Code. Reference: Sections 135, 163.5, Division 1.5 (Section 475, et seq.), 7321, 7321.5, 7324, 7326, 7330, 7333 and 7404, Business and Professions Code.

- **Amend Section 971, Title 16, California Code of Regulations, as follows:**

971. Criteria for Rehabilitation

(a) When considering the denial of a license~~e,~~ pursuant to section 480 of the Business and Professions Code~~, for which application has been made under Chapter 10, Division 3 of the Business and Professions Code,~~ on the ground that the applicant was convicted of a crime, the board shall consider whether the applicant made a showing of rehabilitation and is presently eligible for a license, if the applicant completed the criminal sentence at issue without a violation of parole or probation. In making this determination, the board shall consider the following criteria: ~~the board, in evaluating the rehabilitation of the applicant and his or her present eligibility for a license, shall consider the following criteria:~~

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

(1) The nature and gravity of the crime(s).

~~(2) Evidence of any act(s) committed subsequent to the act(s) or crime(s) under consideration as grounds for denial which also could be considered as grounds for denial under Section 480 of the Business and Professions Code~~.

(2) The length(s) of the applicable parole or probation period(s).

~~(3) The time that has elapsed since commission of the act(s) or crime(s) referred to in subdivision (1) or (2).~~

(3) The extent to which the applicable parole or probation period was shortened or lengthened, and the reason(s) the period was modified.

~~(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.~~

(4) The terms or conditions of parole or probation and the extent to which they bear on the applicant's rehabilitation.

~~(5) Evidence, if any, or rehabilitation submitted by the applicant.~~

(5) The extent to which the terms or conditions of parole or probation were modified, and the reason(s) for modification.

(b) If subdivision (a) is inapplicable, or the board determines that the applicant did not make the showing of rehabilitation based on the criteria in subdivision (a), the board shall apply the following criteria in evaluating an

applicant's rehabilitation. The board shall find that the applicant made a showing of

rehabilitation and is presently eligible for a license if, after considering the following criteria, the

board finds that the applicant is rehabilitated:

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

(2) Evidence of any act(s) or crimes committed subsequent to the act(s) or crime(s) under consideration as grounds for denial which also could be considered as grounds for denial under Section 480 of the Business and Professions Code.

(3) The time that has elapsed since commission of the act(s) or crime(s) referred to in subdivision (1) or (2).

(4) Whether the applicant has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the applicant.

(5) The criteria in subdivision (a)(1)-(5), as applicable.

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

~~(b)~~ (c) When considering the suspension or revocation of a license~~, issued under Chapter 10, Division 3 of the Business and Professions Code~~ under Section 490 of ~~that same code~~ the Business and Professions Code on the ground that the licensee was convicted of a crime, the board shall consider whether the applicant made a showing of rehabilitation and is presently eligible for a license, if the licensee completed the criminal sentence at issue without a violation of parole or probation. In making this determination, the board shall consider the following criteria: ~~in evaluating the rehabilitation of such person and his or her present eligibility for a license, shall consider the following criteria:~~

~~(1) Nature and severity of the act(s) or offense(s).~~

(1) The nature and gravity of the crime(s).

~~(2) Total criminal record.~~

(2) The length(s) of the applicable parole or probation period(s).

~~(3) The time that has elapsed since commission of the act(s) or offense(s)~~.

(3) The extent to which the applicable parole or probation period was shortened or lengthened, and the reason(s) the period was modified.

~~(4) Whether the licensee has complied with any terms of parole, probation, restitution or any other sanctions imposed against the licensee.~~

(4) The terms or conditions of parole or probation and the extent to which they bear on the applicant's rehabilitation.

~~(5) If applicable, evidence of expungement proceedings pursuant to section 1203.4 of the Penal Code~~.

(5) The extent to which the terms or conditions of parole or probation were modified, and the reason(s) for modification.

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

(d) If subdivision (c) is inapplicable, or the board determines that the licensee did not make the showing of rehabilitation based on the criteria in subdivision (c), the board shall apply the following criteria in evaluating a licensee's rehabilitation. The board shall find that the licensee made a showing of rehabilitation and is presently eligible for a license if, after considering the following criteria, the board finds that the licensee is rehabilitated:

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

(2) Evidence of any act(s) or crimes committed subsequent to the act(s) or crime(s) under consideration as grounds for denial which also could be considered as grounds for denial under Section 480 of the Business and Professions Code.

(3) The time that has elapsed since commission of the act(s) or crime(s) referred to in subdivision (1) or (2).

(4) Whether the applicant has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the applicant.

(5) The criteria in subdivision (c)(1)-(5), as applicable.

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

~~(c)~~ (e) When considering a petition for reinstatement of a license, the board shall evaluate evidence of rehabilitation submitted by the petitioner, considering those criteria of rehabilitation specified in subsection ~~(b)~~ (d).

Note: Authority cited: Sections 7312, Business and Professions Code. Reference: Division 1.5 (Sections 475, et seq.), 7321, 7321.5, 7324, 7326, 7330, 7333 and 7404, Business and Professions Code.

BOARD OF BARBERING AND COSMETOLOGY

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SPECIFIC LANGUAGE

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~~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~~ April 2019 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.

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Review of Disciplinary Guidelines Updates

Revised April 2019

Page 1:	Updated the version date
Pages 2-3:	Updated page numbers
Page 5:	Removed "Partial Cost Recovery"
Page 7	Updated verbiage in section "Factors to Be Considered" to match changes to CCR 970 and 971 as result of AB 2138
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 ~~October 2010~~ April 2019

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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.

~~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:~~ the board shall consider whether the applicant made a showing of rehabilitation and is presently eligible for a license, if the licensee completed the criminal sentence at issue without a violation of parole or probation. In making this determination, the board shall consider the following criteria:

(1) The nature and gravity of the crime(s).

(2) The length(s) of the applicable parole or probation period(s).

(3) The extent to which the applicable parole or probation period was shortened or lengthened, and the reason(s) the period was modified.

(4) The terms or conditions of parole or probation and the extent to which they bear on the applicant's rehabilitation.

(5) The extent to which the terms or conditions of parole or probation were modified, and the reason(s) for modification.

If the above is inapplicable, or the board determines that the licensee did not make the showing of rehabilitation based on the criteria above, the board shall apply the following criteria in evaluating a licensee's rehabilitation. The board shall find that the licensee made a showing of rehabilitation if, after considering the following criteria, the board finds that the licensee is rehabilitated:

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

(2) Evidence of any act(s) or crimes committed subsequent to the act(s) or crime(s) under consideration as grounds for denial which also could be considered as grounds for denial under Section 480 of the Business and Professions Code.

(3) The time that has elapsed since commission of the act(s) or crime(s) referred to in subdivision (1) or (2).

(4) Whether the applicant has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the applicant.

(5) The criteria in subdivision (c)(1)-(5), as applicable.

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

~~1. Nature and severity of the act(s) or offense(s).~~

~~2. Total criminal record.~~

~~3. Whether the licensee has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.~~

~~4. If applicable, evidence of expungement proceedings pursuant to section 1203.4 of the Penal Code.~~

When considering whether denial of a license is to be imposed, ~~factors such as the following should be considered:~~ on the ground that the applicant was convicted of a crime, the board shall consider whether the applicant made a showing of rehabilitation and is presently eligible for a license, if the applicant completed the criminal sentence at issue without a violation of parole or probation. In making this determination, the board shall consider the following criteria:

(1) The nature and gravity of the crime(s).

(2) The length(s) of the applicable parole or probation period(s).

(3) The extent to which the applicable parole or probation period was shortened or lengthened, and the reason(s) the period was modified.

(4) The terms or conditions of parole or probation and the extent to which they bear on the applicant's rehabilitation.

(5) The extent to which the terms or conditions of parole or probation were modified, and the reason(s) for modification.

If the above is inapplicable, or the board determines that the applicant did not make the showing of rehabilitation based on the criteria in above, the board shall apply the following criteria in evaluating an applicant's rehabilitation. The board shall find that the applicant made a showing of rehabilitation and is presently eligible for a license if, after considering the following criteria, the board finds that the applicant is rehabilitated:

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

(2) Evidence of any act(s) or crimes committed subsequent to the act(s) or crime(s) under consideration as grounds for denial which also could be considered as grounds for denial under Section 480 of the Business and Professions Code.

(3) The time that has elapsed since commission of the act(s) or crime(s) referred to in subdivision (1) or (2).

(4) Whether the applicant has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the applicant.

(5) The criteria in subdivision (a)(1)-(5), as applicable.

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

~~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 ~~16~~ 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

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

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 ANY CRIME WITHIN THE LAST SEVEN (7) YEARS THAT IS SUBSTANTIALLY RELATED TO THE QUALIFICATIONS, FUNCTIONS, OR DUTIES OF A LICENSEE. THE RECORD OF CONVICTION OF THE CRIME SHALL BE CONCLUSIVE EVIDENCE OF THE FACT THE CONVICTION OCCURRED, BUT ONLY OF THAT FACT. CRIMES THAT ARE CONSIDERED A "SERIOUS FELONY" (PENAL CODE 1192.7), A "VIOLENT FELONY" OR A FELONY THAT REQUIRES REGISTRATION [PENAL CODE 290(D)(2) OR (3) AND PENAL CODE 667.5(C)] ARE NOT SUBJECT TO THE SEVEN-YEAR LIMITATION.

~~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.~~

Any conviction that has been dismissed, expunged, or resulted in a disposition other than a conviction, or if the applicant provides a certificate of rehabilitation under chapter 3.5 (commencing with penal code section 4852.01), shall not be grounds for denial of a license.

Recommended Penalty:

- **Maximum:** Revocation
  Denial of License
  Full Cost Recovery
- **Minimum:** Revocation, stayed
  License issued with Terms and Conditions appropriate to crime
  Probation, ~~3 years~~ 2 years (for misdemeanor)
  3 years (less than 3 felonies)
  5 years (more than 3 felonies)
  ~~Partial Cost Recovery~~ Full Cost Recovery

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

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

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

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

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

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

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

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.**~~

CONVICTION OF ANY CRIME WITHIN THE LAST SEVEN (7) YEARS THAT IS SUBSTANTIALLY RELATED TO THE QUALIFICATIONS, FUNCTIONS, OR DUTIES OF A LICENSEE. THE RECORD OF CONVICTION OF THE CRIME SHALL BE CONCLUSIVE EVIDENCE OF THE FACT THE CONVICTION OCCURRED, BUT ONLY OF THAT FACT. CRIMES THAT ARE CONSIDERED A "SERIOUS FELONY" (PENAL CODE 1192.7), A "VIOLENT FELONY" OR A FELONY THAT REQUIRES REGISTRATION [PENAL CODE 290(D)(2) OR (3) AND PENAL CODE 667.5(C)] ARE NOT SUBJECT TO THE SEVEN-YEAR LIMITATION.

Any conviction that has been dismissed, expunged, or resulted in a disposition other than a conviction, or if the applicant provides a certificate of rehabilitation under chapter 3.5 (commencing with penal code section 4852.01), shall not be grounds for denial of the license.

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

480(a)(3) DONE ANY ACT WHICH IF DONE BY A LICENTIATE 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

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

(~~1~~ 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 DISICPLINARY 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 Respondents 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~~ 9) 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~~ 10) 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.

(~~1~~ 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 statues dealing with the particular agency contain different provisions for reinstatement or reduction of penalty."

BOARD OF BARBERING AND COSMETOLOGY

Division 9, Title 16, of the California Code of Regulations.

SPECIFIC LANGUAGE

LEGEND	
Underlined	**Indicates proposed amendments or additions to the existing regulation.**
~~Strikeout~~	**Indicates proposed deletions to the existing regulation.**

- **Amend Section 974, Title 16, California Code of Regulations, as follows:**

§ 974. Schedule of Administrative Fines.

(a) An administrative fine may be assessed for violations of the specified sections of the Business and Professions Code and of Division 9 of Title 16 of the California Code of Regulations as follows (in dollars):

Section	1st Violation	2nd Violation	3rd Violation	Waivable
7313. Access to Establishment for Inspection	250	500	750	No
For the purposes of Business and Professions Code section 7407.1, fine applies to the holder of the establishment license				
7317. Unlicensed Establishment	500	1,000	1,000	No
7317. Unlicensed Individual	1,000	1,000	1,000	No
7317. Expired Establishment License	250	300	500	No
For the purposes of Business and Professions Code section 7407.1, fine applies to the holder of the establishment license				
7317. Expired Individual License	250	300	500	No
For the purposes of Business and Professions Code section 7407.1, fine applies to the individual licensee				
7317. Individual Working in an Expired Establishment	25	50	100	No
For the purposes of Business and Professions Code section 7407.1, fine applies to the individual licensee				
7317. Individual Working in an Unlicensed Establishment	250	300	500	No
For the purposes of Business and Professions Code section 7407.1, fine applies to the individual licensee				
7320. Practice of Medicine	1,000	1,000	1,000	No

For the purposes of Business and Professions Code section 7407.1, fine applies to the holder of the establishment license; fine also applies to the individual licensee when the individual licensee can be determined and is present				
7320.1. Use of Illegal Metal Tools	250	500	500	No
For the purposes of Business and Professions Code section 7407.1, fine applies to the holder of the establishment license; fine also applies to the individual licensee when the individual licensee can be determined and is present				
7320.2. Illegal Treatment Methods	500	500	500	No
For the purposes of Business and Professions Code section 7407.1, fine applies to the holder of the establishment license; fine also applies to the individual licensee when the individual licensee can be determined and is present				
7336. No Supervision of Apprentice	100	150	200	No
For the purposes of Business and Professions Code section 7407.1, fine applies to the holder of the individual license				
7348. No Licensee in Charge of Establishment	100	150	200	No
For the purposes of Business and Professions Code section 7407.1, fine applies to the holder of the establishment license				
7349. Employing Unlicensed Persons	1,000	1,000	1,000	No
For the purposes of Business and Professions Code section 7407.1, fine applies to the holder of the establishment license				
7349. Employing Unlicensed Persons – Expired License	250	300	500	No
For the purposes of Business and Professions Code section 7407.1, fine applies to the holder of the establishment license				
7349.1. Illegal Use of a Barber Pole	25	50	100	No
For the purposes of Business and Professions Code section 7407.1, fine applies to the holder of the establishment license				
7350. Establishment – Residential Use/Entrance/Prohibited Use	50	100	150	No
For the purposes of Business and Professions Code section 7407.1, fine applies to the holder of the establishment license				
7351. Restroom Requirement – Clean/Storage/Floor/Vented	50	100	150	No
For the purposes of Business and Professions Code section 7407.1, fine applies to the holder of the establishment license				
7352. No Soap/Towels or Air Hand Dryers in Hand Washing Facilities	50	100	150	No
For the purposes of Business and Professions Code section 7407.1, fine applies to the holder of the establishment license				
7353.4. Labor Rights Notice Not Posted	50	100	150	No
For the purposes of Business and Professions Code section 7407.1, fine applies to the holder of the establishment license				
7358. No Licensee in Charge of Mobile Unit	100	150	200	No
7359. Employing Unlicensed Person in Mobile Unit	1,000	1,000	1,000	No
7360. Mobile Unit – Residential/Prohibited Use	50	100	150	No

7400. No Change of Address Notice Filed	50	100	150	No
For the purposes of Business and Professions Code section 7407.1, fine applies to the individual licensee				
7404(l). Interference with Inspection	~~200~~ 1,000	~~300~~1,000	~~500~~1,000	No
For the purposes of Business and Professions Code section 7407.1, fine applies to the holder of the establishment license; fine may also apply to the individual licensee when the individual licensee is solely responsible for interfering with an inspection				
904(d). No Photographic Identification Available	50	100	150	No
For the purposes of Business and Professions Code section 7407.1, fine applies to the individual licensee				
905. Consumer Info. Not Posted~~/Incorrect Size of Print (Health & Safety)~~	50	100	150	No
For the purposes of Business and Professions Code section 7407.1, fine applies to the holder of the establishment license				
920. Apprentice Training Records Not Available/Incomplete	100	150	200	No
For the purposes of Business and Professions Code section 7407.1, fine applies to the individual licensee				
965. Display of Licenses	50	100	150	No
For the purposes of Business and Professions Code section 7407.1, fine applies to the holder of the establishment license when an establishment license is not conspicuously posted in the reception area; fine applies to the individual licensee and the holder of the establishment license when the individual's license is not conspicuously posted at his or her primary work station				
978(a)(1), (a)(2),(a)(3),(a)(4). Receptacles, Cabinets and Containers	50	100	150	No
For the purposes of Business and Professions Code section 7407.1, fine applies to the holder of the establishment license				
978(a)(5). Insufficient Disinfectant in Container for Total Immersion	100	150	200	No
For the purposes of Business and Professions Code section 7407.1, fine applies to the holder of the establishment license				
978(a)(6). No Steam/Dry Heat Sterilizer for Electrology Tools	500	1,000	1,500	No
For the purposes of Business and Professions Code section 7407.1, fine applies to the holder of the establishment license				
978(b). No Disinfectant Solution Available for Use	250	300	500	No
For the purposes of Business and Professions Code section 7407.1, fine applies to the holder of the establishment license				
978(c). No Manufacturer-Labeled Container for Disinfectant	250	300	500	No
For the purposes of Section 7407.1 (BPC), fine applies to the holder of the establishment license				
979. Disinfecting Non-Electrical Tools and Equipment	100	250	500	No
For the purposes of Business and Professions Code section 7407.1, fine applies to the individual licensee when the individual licensee can be determined and is present; fine applies to the holder of the establishment license when the individual licensee cannot be determined or is not present, or the violation has been found repeatedly in the establishment				
980(a). Incorrect Disinfection of Electrical Items	100	250	500	No

For the purposes of Business and Professions Code section 7407.1, fine applies to the individual licensee when the individual licensee can be determined and is present; fine applies to the holder of the establishment license when the individual licensee cannot be determined or is not present, or the violation has been found repeatedly in the establishment				
980(b). Incorrect Storage of Electrical Disinfected Items	50	100	150	No
For the purposes of Business and Professions Code section 7407.1, fine applies to the individual licensee when the individual licensee can be determined and is present; fine applies to the holder of the establishment license when the individual licensee cannot be determined or is not present, or the violation has been found repeatedly in the establishment				
980(c). Incorrect Storage of Soiled Electrical Tools	50	100	150	No
For the purposes of Business and Professions Code section 7407.1, fine applies to the individual licensee when the individual licensee can be determined and is present; fine applies to the holder of the establishment license when the individual licensee cannot be determined or is not present, or the violation has been found repeatedly in the establishment				
980.1. Incorrect Disinfection of Pedicure Spas (Per Chair)	500	500	500	No
For the purposes of Business and Professions Code section 7407.1, fine applies to the holder of the establishment license; fine may also apply to the individual licensee when the individual licensee can be determined and is present				
980.1(c)(7). 980.1(d)(8). Incorrect/Missing Log 980.1(e)(4).	100	150	200	No
For the purposes of Business and Professions Code section 7407.1, fine applies to the holder of the establishment license; fine may also apply to the individual licensee when the individual licensee can be determined and is present				
980.1(g). Failure to List Chair as “Not in Service” in Log; No Sign Displayed on Chair	50	100	150	No
For the purposes of Business and Professions Code section 7407.1, fine applies to the holder of the establishment license; fine may also apply to the individual licensee when the individual licensee can be determined and is present				
980.2. Incorrect Disinfection of “Pipeless” Footspas (Per Unit)	500	500	500	No
For the purposes of Business and Professions Code section 7407.1, fine applies to the holder of the establishment license; fine may also apply to the individual licensee when the individual licensee can be determined and is present				
980.2(b)(7). 980.2(c)(6). Incorrect/Missing Log 980.2(d)(3).	100	150	200	No
For the purposes of Business and Professions Code section 7407.1, fine applies to the holder of the establishment license; fine may also apply to the individual licensee when the individual licensee can be determined and is present				
980.2(f). Failure to List Chair as “Not in Service” in Log; No Sign Displayed on Chair	50	100	150	No
For the purposes of Business and Professions Code section 7407.1, fine applies to the holder of the establishment license; fine may also apply to the individual licensee when the individual licensee can be determined and is present				
980.3. Incorrect Disinfection of “Non-Whirlpool Foot Basin” (Per Unit)	100	150	200	No
For the purposes of Business and Professions Code section 7407.1, fine applies to the holder of the establishment license; fine may also apply to the individual licensee when the individual licensee can be determined and is present				

980.3(b)(6). Incorrect/Missing Log	50	100	150	No
For the purposes of Business and Professions Code section 7407.1, fine applies to the holder of the establishment license; fine may also apply to the individual licensee when the individual licensee can be determined and is present				
980.3(e). Improper Storage of Basins or Tubs	50	100	150	No
For the purposes of Business and Professions Code section 7407.1, fine applies to the holder of the establishment license; fine may also apply to the individual licensee when the individual licensee can be determined and is present				
980.4. Incorrect Disinfection of foot basin or tub after use of disposable liner	500	500	500	No
For the purposes of Business and Professions Code section 7407.1, fine applies to the holder of the establishment license; fine may also apply to the individual licensee when the individual licensee can be determined and is present				
980.4(a)(2). Incorrect/Missing Log	50	100	150	No
For the purposes of Business and Professions Code section 7407.1, fine applies to the holder of the establishment license; fine may also apply to the individual licensee when the individual licensee can be determined and is present				
980.4(a)(4). Failure to Maintain Supply of Five (5) Disposable Liners per Foot Tub Basin	250	300	500	No
For the purposes of Business and Professions Code section 7407.1, fine applies to the holder of the establishment license				
981(a). No Disposal of Non-Disinfected Items	100	150	200	No
For the purposes of Business and Professions Code section 7407.1, fine applies to the individual licensee when the individual licensee can be determined and is present; fine also applies to the holder of the establishment license when the individual licensee cannot be determined or is not present, or the violation has been found repeatedly in the establishment				
981(b). Improper Storage of New Supplies and Disposable tools	50	100	150	No
For the purposes of Business and Professions Code section 7407.1, fine applies to the individual licensee when the individual licensee can be determined and is present; fine also applies to the holder of the establishment license when the individual licensee cannot be determined or is not present, or the violation has been found repeatedly in the establishment				
981(c). Carry Tools or Supplies in or on Garments	50	100	150	No
For the purposes of Business and Professions Code section 7407.1, fine applies to the individual licensee				
982. Incorrect Sterilization of Electrology Tools	100	150	200	No
For the purposes of Business and Professions Code section 7407.1, fine applies to the individual licensee when the individual licensee can be determined and is present; fine also applies to the holder of the establishment license when the individual licensee cannot be determined or is not present, or the violation has been found repeatedly in the establishment				
983. Personal Cleanliness	50	100	150	No
For the purposes of Business and Professions Code section 7407.1, fine applies to the individual licensee				
984(a). Allow Licensee with Infectious/Communicable Disease to Work on Person ~~with Infectious/Communicable Disease~~	100	250	500	No
For the purposes of Business and Professions Code section 7407.1, fine applies to the holder of the establishment license				

984(b). Allow or Require a Licensee to Work on Person with Infectious/Communicable Disease	100	250	500	No
For the purposes of Business and Professions Code section 7407.1, fine applies to the holder of the establishment license				
984(e). ~~Work on Person with Infectious/ Communicable Disease~~ Performing Services on Inflamed, Broken, Infected or Erupted Skin or Scalp Surface/Working without Gloves when Skin on Hands Is Inflamed, Broken, Infected or Erupted	100	250	500	No
For the purposes of Business and Professions Code section 7407.1, fine applies to the individual licensee				
985. No Use of Neck Strips or Towel	50	100	150	No
For the purposes of Business and Professions Code section 7407.1, fine applies to the individual licensee				
986. Neck Dusters/Brushes Not Clean or Sanitary	50	100	150	No
For the purposes of Business and Professions Code section 7407.1, fine applies to the individual licensee when the individual licensee can be determined and is present; fine also applies to the holder of the establishment license when the individual licensee cannot be determined or is not present, or the violation has been found repeatedly in the establishment				
987. Towels	50	100	150	No
For the purposes of Business and Professions Code section 7407.1, fine applies to the individual licensee when the individual licensee can be determined and is present; fine also applies to the holder of the establishment license when the individual licensee cannot be determined or is not present, or the violation has been found repeatedly in the establishment				
988. Liquids, Creams, Powders and Cosmetics	50	100	150	No
For the purposes of Business and Professions Code section 7407.1, fine applies to the individual licensee when the individual licensee can be determined and is present; fine also applies to the holder of the establishment license when the individual licensee cannot be determined or is not present, or the violation has been found repeatedly in the establishment				
989. Prohibited Hazardous Substance/Use of Product	500	500	500	No
For the purposes of Business and Professions Code section 7407.1, fine applies to the holder of the establishment license				
990. Headrests and Treatment Tables	50	100	150	No
For the purposes of Business and Professions Code section 7407.1, fine applies to the individual licensee when the individual licensee can be determined and is present; fine also applies to the holder of the establishment license when the individual licensee cannot be determined or is not present, or the violation has been found repeatedly in the establishment				
991. Performing Invasive Procedures	500	500	500	No
For the purposes of Business and Professions Code section 7407.1, fine applies to the individual licensee when the individual licensee can be determined and is present; fine also applies to the holder of the establishment license when the individual licensee cannot be determined or is not present, or the violation has been found repeatedly in the establishment				
992. Performing Invasive Skin Exfoliation/Dermis	500	500	500	No
For the purposes of Business and Professions Code section 7407.1, fine applies to the individual licensee when the individual licensee can be determined and is present; fine also applies to the holder of the establishment license when the individual licensee cannot be determined or is not present, or the violation has been found repeatedly in the establishment				

993. Prohibited Tools	300	400	500	No
For the purposes of Business and Professions Code section 7407.1, fine applies to the holder of the establishment license				
994. Cleanliness and Repair	50	100	150	No
For the purposes of Business and Professions Code section 7407.1, fine applies to the holder of the establishment license				
995(b), (c), (d), (e). Plumbing Standards-1-00	50	100	150	No
For the purposes of Business and Professions Code section 7407.1, fine applies to the holder of the establishment license				

(b) A violation indicated in subdivision (a) as not waivable means that the Board, in its discretion, has determined that the violation cannot be corrected pursuant to Business and Professions Code section 7407, and therefore that the fine for the first violation may not be avoided as provided for in ~~Section~~ Business and Professions Code section 7409 ~~of the Business and Professions Code~~.

NOTE: Authority cited: Sections 7312, 7406 and 7407, Business and Professions Code. Reference: Sections 7353.4, 7406, 7407, 7407.1, ~~and~~ 7409, Business and Professions Code.

- **Adopt Section 974.3, Title 16, California Code of Regulations, as follows:**

§ 974.3. Installment Payment Plan.

(a) A licensee with any administrative fine exceeding $500 may request a payment plan consisting of no more than 12 monthly installments. The licensee must request the payment plan in writing. After the licensee requests a payment plan, the board will provide to the licensee a schedule of payments indicating the due date and amount of the payment.

(b) A licensee's payment plan will be cancelled by the board if the licensee fails to follow any of the terms and conditions of the payment plan.

(c) If a licensee's payment plan is cancelled by the board, the licensee will not be allowed to:

(1) Renew any board-issued license he or she holds until all outstanding fines are paid in full;

(2) Request a payment plan for any subsequent administrative fine.

(d) A licensee who is paying an administrative fine in accordance with the provisions of this section shall be permitted to renew any board-issued license he or she holds even if the fines have not been paid in full by the renewal date.

Note: Authority cited: Section 7312, 7408.1 and 7414, Business and Professions Code. Reference: Sections 7408.1 and 7414, Business and Professions Code.