

# **CALIFORNIA BOARD OF BARBERING AND COSMETOLOGY**



**DECEMBER 2, 2019  
Board Meeting**

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



**CALIFORNIA BOARD  
OF  
BARBERING AND COSMETOLOGY**



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**MEMBERS OF THE BOARD**

Lisa Thong, President  
Andrew Drabkin, Vice President  
Jacquelyn Crabtree  
Steve Weeks  
Dr. Kari Williams

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**BOARD MEETING**

**December 2, 2019**

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

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

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**AGENDA**

9:00 A. M.

**UNTIL COMPLETION OF BUSINESS**

**OPEN SESSION:**

1. Board President's Opening Remarks (**Lisa Thong**)
2. Board Member Remarks – Informational only
3. 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))*
4. Approval of August 12, 2019 Board Meeting Minutes
5. Executive Officer's Report (**Kristy Underwood**)
  - Licensing Statistics
  - Examination Statistics
  - Disciplinary Review Committee Statistics
  - Enforcement Statistics
  - Budget Updates
  - Outreach Updates
  - Practice Status Survey Results
6. Discussion and Possible Action on the Sunset Review Process
  - Review of Trends Presented by National Council of State Governments
  - Discussion on 1600 Hour Curriculum and other State Requirements
  - Discussion and Possible Action on Future Committees to Address Examinations and Curriculum

7. Legislative Update:

Discussion and Possible Action on Proposed Bills:

- a. AB 5 (Gonzalez) - Worker Status: Independent Contractors
- b. AB 496 (Low) - Business & Professions Changes
- c. AB 1607 (Boerner Horvath) - Gender Discrimination Notification
- d. SB 606 (Glazer) - Sunset Extension

8. Proposed Regulations:

Discussion and Possible Action of Proposed Regulatory Changes:

- a. Title 16, CCR Section 950.10 (Transfer of Credit or Training)
- b. Title 16, CCR Section 961 (Instructional Materials-NIC Guides)
- c. Title 16, CCR Sections 962, 962.1 and 962.2 (Externs)
- d. Title 16, CCR Section 965.2 (Personal Service Permit)
- e. Title 16, CCR Section 970, 971 (Substantial Relationship Criteria, Criteria for Rehabilitation)
- f. Title 16, CCR Section 972 (Disciplinary Guidelines)
- g. Title 16, CCR Section 974 & 974.3 (Fine Schedule and Payment Plan)

9. Proposed Board Meeting Dates/Locations for 2020

10. Agenda Items for the Next Meeting

11. Adjournment

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

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

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

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

**BOARD MEETING**

**MINUTES OF AUGUST 12, 2019**

Hilton Garden Inn Burbank  
401 S. San Fernando Blvd.  
Burbank, California

**BOARD MEMBERS PRESENT**

Lisa Thong, President  
Andrew Drabkin, Vice President  
Jacquelyn Crabtree  
Steve Weeks  
Dr. Kari Williams

**STAFF MEMBERS PRESENT**

Kristy Underwood, Executive Officer  
Michael Santiago, DCA Legal Counsel  
Allison Lee, Board Project Manager  
Marcene Melliza, Board Analyst

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

Lisa Thong, Board President, called the meeting to order at 10:02 a.m. and confirmed the presence of a quorum.

Board President's Opening Remarks

Ms. Thong reminded everyone that the Board is, above all, a consumer protection Board that looks at all items of discussion through the lens of health and safety to California consumers while promoting ethical standards and enforcing the laws of the barbering and beauty industry.

Ms. Thong stated licensees are also consumers and their health and safety should also be a priority. She reviewed economic outlook statistics of licensees. The average mean wage for a barber is \$35,850; hairdressers, hairstylists, and cosmetologists is \$31,400; manicurists/pedicurists is \$26,260; shampooers is \$25,510; skin care specialists is \$34,780. She stated there are many questions about these numbers. She stated these statistics are based on 65,000 licensees – the number of licensees who reported under these categories with the Bureau of Labor Statistics – which is a drastic difference from the total number of current licensees. There is a huge discrepancy; underreporting is a concern. She also stated her concern about the economic security of hundreds of thousands of individuals who may not have put finances away into an IRA, paid into Social Security, or made enough to put anything into savings.

Ms. Thong asked everyone to consider the increase in homelessness and the direction this industry is headed. She asked that the regulations and policy be looked at not just through the lens of what is happening in the industry but at the broader impact of where the state is economically. It is not enough to look at decisions in the immediacy of what

the industry looks like now – instead, she stated the need to talk about what a thriving, economically sound, sustainable, and well-regulated beauty industry should look like and how to get there.

## **2. Agenda Item #2, BOARD MEMBER REMARKS – INFORMATIONAL ONLY**

Ms. Crabtree agreed with Ms. Thong's opening remarks. She thanked Ms. Thong for bringing this issue up and researching the statistics. Underreporting and economic stability have been her biggest concerns in this industry.

Dr. Williams stated she too is passionate about the economic stability of licensees. She stated she tries to educate as many individuals as possible about the importance of saving and planning for the future. She stated she, too, will change herself moving forward to ensure this is kept at the forefront during discussions around regulations for this industry.

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

Wendy Cochran, Founder, California Estheticians – Esthetician Advocacy; Founder, California Aesthetic Alliance (CAA), stated her appreciation that the Board has been listening to what she has been bringing to the Board's attention as far as labor violations. She stated her concern for licensee's futures. Labor violations in the industry that go without enforcement is shocking. She stated outside the industry there are human relations departments, taxes being taking out, etc. She thanked the Board for acknowledging that this is a massive problem within the industry.

Caroline Barboza, Barboza Barber Academy, agreed with the Board's remarks. She stated she shares the new program, CalSavers, within the barbering community to help with retirement savings.

John Trang, Attorney, Asian Americans Advancing Justice (AAAJ), Los Angeles, stated AAAJ has long been invested in nail salons and other license categories in part because of the demographic makeup of the workforce. Workers should be treated with dignity and respect and afforded all rights under the law. AAAJ supports businesses which comply with the law and believes unscrupulous employers that exploit workers and engage in ways that give them an unfair advantage over law-abiding businesses should be held accountable. The overwhelming majority of individuals who come to AAAJ have suffered workplace violations that are directly related to misclassification.

Ken Williams, President, Universal College of Beauty, former Board member, stated Ms. Thong's opening remarks were on point. He stated there are inequities within the industry but there are things this Board can do to change the landscape. He stated the industry and Board members need to work as a team. He stated it is not right that there are two oversights – the California Bureau for Private Postsecondary Education's (BPPE) and the Board. He stated the Board should be the sole authority over schools, licensing, and everything else cosmetology. He questioned that the BPPE has the expertise. He stated shampooing is an occupation but is unlicensed in the state of California. He suggested shampooing as a license category. He stated braiders are not licensed but hair braiding is an art and a science and it involves health and safety. Many individuals owe their livelihoods to the industry but some are not being treated fairly.

Moving the needle on this will take more communication and understanding. He stated he went on ride-alongs with inspectors during the years he was on the Board because he wanted to see what inspectors saw. He questioned that there is not a school owner on the Board to help make it a strong and effective Board. The schools should be supportive of this Board. He stated the need to streamline and make it easier for students to get licensed. He suggested a provisional license to allow students to work while trying to pass the examination. He suggested that the written portion of the examination be given at 1200 hours to help students pass by the time they reached the 1600-hour requirement.

Yvette Becerra, Electrologists' Association of California, stated the statistics provided in the Board President's remarks did not include electrologists. She asked what the statistics are on electrologists.

Lisa Fu, Executive Director, California Healthy Nail Salon Collaborative, provided an overview of the goals, objectives, and activities of her organization. She stated her organization has seen the challenges the nail industry members have faced as manicurists and as a result of being misclassified. She stated she will share more about how her organization supports the passage of AB 5 without an exception for manicurists.

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

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

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

- The Board recently conducted an examination in a state correctional facility. Results are pending for the two candidates who were ready to take the exam.
- Kristy will be attending the National Interstate Council's Annual Conference that will held in early September in Milwaukee.
- The top-ten consumer harm cases reported to the Board have been added to the enforcement statistics on page 9.
  - There has been a decrease in pedicure infections.
  - Skin care is currently one of the largest concerns due to the enormous number of new products and machines that are becoming available.
  - The Board is getting information out on this issue via social media.
- Staff recently attended a rally at the state capitol for senior citizens.
- Staff recently attended a community fair with Assembly Member Chris Holden.

- Staff plans to increase their attendance at consumer awareness events along with the industry events.

Mr. Drabkin asked if the increase in consumer harm cases reported is due to more reporting or if something is happening that is causing more consumer harm. He asked if perhaps the new Board signage about consumers directing questions and concerns to the Board may have impacted the statistics.

Ms. Underwood stated the simplified sign could be helping more individuals reach out to the Board but it is difficult to say for certain what caused the increase in consumer harm cases reported.

Mr. Weeks asked staff to provide statistics on the time it takes the average student to pass the examination.

### **Public Comment**

Ms. Cochran asked the Board to defined the term “app investigation.”

Ms. Underwood stated it is when an applicant marks that they have had a conviction in the past.

## **5. Agenda Item #5, APPROVAL OF April 29, 2019, BOARD MEETING MINUTES**

**MOTION:** Dr. Williams moved to approve the April 29, 2019, California State Board of Barbering and Cosmetology Meeting Minutes as presented. Mr. Drabkin seconded. Motion carried 5 yes, 0 no, and 0 abstain, per roll call vote as follows:

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

## **6. Agenda Item #6, UPDATE AND POSSIBLE ACTION REGARDING HEALTH AND SAFETY ADVISORY COMMITTEE**

Ms. Underwood reviewed the summary of the July 29, 2019, Health and Safety Advisory Committee meeting, which was included in the meeting packet. She suggested appointing an alternate Board member to serve on the Committee.

Mr. Weeks volunteered for the alternate position.

**MOTION:** Ms. Thong made a motion, seconded by Ms. Crabtree, that the Board appoints Steve Weeks as an alternate to the Health and Safety Advisory Committee. Motion carried 5 yes, 0 no, and 0 abstain, per roll call vote as follows:

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

Ms. Underwood reviewed the recommendations from the Health and Safety Advisory Committee on Assembly Bill (AB) 5, which were included in the meeting packet.

Ms. Thong stated she abstained from voting on this motion at the Committee meeting because of complex issues – booth renter permits and whether or not licensees should

be exempt from the AB 5 language, which codifies the Dynamex decision. The Dynamex decision simplifies the categorization of workers versus independent contractors. She stated the industry is primarily booth rental but that may not be the best thing for the industry. This is a difficult issue and there has not been enough time as a Board or an industry to have conversations about what needs to take place regarding the categorization.

Ms. Thong stated she has changed her mind significantly since the Committee met. She stated at that time she thought that, since the language was already in AB 5 as an exemption, the only thing the Board needed to consider was if the language should be changed to licensees and manicurists should be added to the exemption. Since then, she stated she has come to the conclusion that the Board should not support having exemptions in AB 5 for any license categories. Encouraging the industry to increase the number of independent contractors will not help the earning side of licensees.

Ms. Crabtree spoke in opposition to AB 5. She stated her four salons are employee-based. She stated many licensees do not report their income because they can get away with it. A huge number of licensees are not paying their taxes. AB 5 gives carte blanche to continue doing that. It does not set students up for success when they are being taught they can do these things and the industry is not being protected by continuing to open it up, the number of violations, the individuals being taken advantage of, and the individuals who do not understand about paying taxes.

Dr. Williams stated many individuals come into the industry to work for themselves. She stated she has experienced both sides – she has been a salon owner with booth renters and also a salon owner with employees. The industry is predominantly booth renters. Having a booth rental permit attached to a licensee sets them up to function within a salon space and have more accountability. Many students are not under the right mentorship or leadership and are set up to fail. She stated she needed more time to process the information for this complex issue.

Mr. Weeks stated he was uncomfortable with rendering a decision on this issue without hearing more discussion and public input. He suggested putting off the possible motion until after the discussion on AB 5 in Agenda Item 8.

Mr. Drabkin asked why the booth rental permit was struck from AB 5. Ms. Underwood stated this question may be answered during the AB 5 public comment period.

Ms. Thong moved this discussion to Agenda Item 8, Legislative Updates.

## **7. Agenda Item #7, UPDATE AND DISCUSSION REGARDING SPANISH LANGUAGE EXAMINATION PASS RATES**

Ms. Underwood updated the Board on Spanish language examination pass rates as follows:

- The computer-based testing vendor recently went live.
- Everyone who takes the examination in another language sees the test in both English and their language of choice.

- Staff met with the Division of Apprenticeship Standards (DAS) to discuss the low apprentice examination pass rates. No action has yet been seen as a result of that conversation. Staff recommended developing regulations on the apprentice program to strengthen that area. She gave the example that apprentices are not required to have textbooks.
- Staff is working with DCA about a potential combined score. This will also be a topic at the NIC Conference.

Mr. Drabkin asked if anything can be done for the apprenticeship program in the short-term. Ms. Underwood stated the DAS looks at completion of the program, not pass rates. The apprenticeship program for this Board is very different than apprenticeship programs for other industries such as apprentices must have a license from the Board. This will also be a topic at the NIC Conference.

Mr. Drabkin suggested putting out on social media for students who are considering entering an apprenticeship program to first look at the sponsor's pass/fair rates. Ms. Underwood stated staff has put together an Apprentice Sponsor Handbook and would like to work with every program sponsor directly about this.

### **Public Comment**

Ken Williams stated he has experienced many students who were enrolled in apprenticeship programs who do not feel qualified to take the examination. He agreed that there are issues with the program. He suggested that there be a caveat to allow apprenticeships to complete their program when they experience unforeseen circumstances such as illness or a death in the family. He also suggested that apprentices attend traditional school for a portion of their 3200 required hours.

Fred Jones, Legal Counsel, Professional Beauty Federation of California (PBFC), stated apprenticeship and scoring are two big interrelated yet separate issues. The PBFC believes, given the concerns voiced in all 50 states about unreasonable barriers to entry, that as many options as possible should be kept open to enter the license profession legally. He stated the PBFC supports the continuation of apprenticeships, in theory, but, in practice, recognizes that there have been many concerns.

Mr. Jones stated, due to the BPPE's incompetence, many individuals who wanted to start a school instead started an apprenticeship program effectively quadrupling the number of apprenticeship programs in California in less than ten years. He asked why, who are they, and what standards they are being held to.

Mr. Jones stated the exam affects all Board licensing programs. He stated the PBFC believes there should be one licensing exam with two parts with one overall pass score. He provided a brief history of the licensing examination and how it became split into two parts. He stated the changes made to the exam were done for good reasons but has led to unintended consequences such as the perception among legislators that the Board gives two licensing exams, which feeds into the narrative about unreasonable barriers to entry. Mr. Jones stated

the Board must be clear that there is one licensing exam that has two parts – theory and practical – with one overall pass score.

Ms. Cochran asked that an esthetics apprenticeship program be made available or to combine it with the electrologist apprenticeship program.

Ms. Underwood stated an apprentice must have constant supervision and be licensed as an apprentice for two years before they can work on their own.

Ms. Cochran stated for many estheticians to make the money to own the \$20,000 of Electrology equipment would take approximately two years. Individuals must own the equipment in order to be licensed as an electrologist. There is opportunity for crossover and for support of the Electrology license.

Ms. Crabtree stated the difference between other apprenticeship programs and an esthetician program is the supervising licensee can continue to perform services while supervising an apprentice in the next station, but the supervising esthetician could not perform services while supervising an apprentice. Being unable to earn a living while supervising an apprentice at all times makes it difficult.

Tona Phillips, UCB Teacher Training, stated the missing link for the apprenticeship program is leadership. She suggested requiring a permit for the individuals hosting the apprenticeship program to add responsibility and accountability. She suggested requiring equivalent hours for a school or institution but stated it is necessary for the individual to receive the information and retain it. That might be the issue for the low apprenticeship pass rate.

## **8. Agenda Item #8, LEGISLATIVE UPDATE: DISCUSSION AND POSSIBLE ACTION ON PROPOSED BILLS**

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

- a. AB 5 (Gonzalez) – Worker Status: Independent Contractors**
- b. AB 496 (Low) – Business and Professions Changes**
- c. AB 613 (Low) – Regulatory Fees**
- d. AB 1271 (Diep) – Licensing Examination Reports**
- e. AB 1607 (Boerner Horvath) – Gender Discrimination Notification**
- f. SB 188 (Mitchell) – Discrimination: Hairstyles**
- g. SB 606 (Glazer) – Sunset Extension**
- h. SB 607 (Glazer) – Health and Safety Advisory Committee**

Dr. Williams stated the majority of licensees operate as booth renters or independent contractors. She stated she supports an exemption to AB 5 because of the large number of licensees and business owners who would be impacted. She also spoke in support of a booth rental license, especially in light of the Dynamex decision. A booth rental license would provide an opportunity for licensees to own their own salons within a larger co-working space. The AB 5 exemption would allow salon owners to function like a suite owner who buys a space with co-working spaces with individual establishment licenses. A booth rental license would also support the new fine regulations which separate who has the responsibility to pay fines.

Dr. Williams stated it is important for licensees to think about their financial futures. She suggested that the Board provide licensees with educational opportunities to learn more about finances and the importance of preparing for retirement.

Ms. Thong stated AB 5's ABC Test does not take away the ability for individuals to operate as booth renters. She stated the discussions on the AB 5 exemptions are about either allowing exemptions to allow the industry to continue working as it is or there will be no exemptions and the industry will no longer continue working as it is. She stated that is not the case. AB 5 codifies Dynamex, which does the ABC Test. As long as businesses follow that test and comply with it, they are still able to operate as booth renters or independent contractors. It is just stricter in terms of what that relationship looks like.

Dr. Williams referred to pages 6 and 7 of the bill and stated there currently is a test that booth renters set their own hours, book their own services, and purchase their own supplies. With this written in the bill, as long as individuals are doing those things, they are exempt from being classified as employees.

Ms. Thong stated this is what confused her with the language. It feels more restrictive about how licensees need to operate to not fall under the ABC Test. The ABC Test is simpler in terms of distinguishing if an individual is considered a worker versus an independent contractor. She stated she was unsure of the benefits that the exemption language gives to business owners.

Dr. Williams stated part B of the ABC Test creates a conflict for the salon owner who rents their booth because everyone in the salon performs hair services.

Ms. Thong stated a member of the Committee from the DIR helped her think through this clearly in terms of compliance. She stated part A of the ABC Test was created because, in the Dynamex case, the drivers could not select the clients to service or the time to work. She stated the Committee member from the DIR mentioned that it is about whether or not all three parts are in play. Booth renters or independent contractors keep their own schedule and can refuse clients, which fulfills part A.

Dr. Williams stated parts B and C create a conflict for salon owners in California who operate their businesses as booth renters because everyone in a barber shop, hair salon, and skin care establishment is performing the same services. She stated her understanding of AB 5 is that establishment owners will not be required to identify or classify the individuals in their establishment as employees as long as the ABC Test is followed. Although there are more criteria, the way the detail in the ABC Test is laid out provides clarity for the salon owner over the individual who currently owns an establishment and the changes they may have to make or the individual who is coming into the industry and plans to open a salon to understand how they would need to set up their business in this fashion.

Ms. Crabtree stated her attorney did symposiums around the ABC Test. One of the things a salon owner could do is to call their salon whatever they want but it comes back to the establishment license, the way they set up their business, and each individual and their booth rental.

Dr. Williams stated that is where a booth rental permit would be beneficial.

Ms. Crabtree agreed but asked what can be done to protect licensees who work in environments where they are labeled booth renters but are not being treated that way. AB 5 allows individuals to continue to not be protected.

Dr. Williams stated establishment owners will be held accountable for not following the criteria in the ABC Test.

Ms. Crabtree stated it is scary that only 65,000 out of 600,000 licensees report their income. She stated the need to suggest language for AB 5 to protect licensees.

Ms. Thong stated policy and the Board have always looked at things through the lens of worse-case scenario. She stated what Dr. Williams described is the best-case scenario where individuals are following whatever is being set out for booth renters. As seen from the labor statistics, individuals are not following any rules. Even if individuals actively choose to work in a booth rental situation as an independent contractor, it does not mean they will comply.

Ms. Thong agreed with Dr. Williams that it is a complex issue and stated dedicating one Board meeting to the conversation is not enough. There needs to be a conversation about how to allow for innovation and entrepreneurship in this industry. The Board has not heard much from industry to make a decision on behalf of everyone by supporting this language to move forward without input from stakeholders. She stated she is against the exemption for labor protection purposes and stated allowing this language to move forward will not be looked at positively by legislators during sunset review because this type of language signals to legislators that this Board does not take workers' rights issues into account that it has been charged to consider. The bill renewing the Board's Health and Safety Advisory Committee explicitly lists labor. Legislators will be looking at this.

Ms. Crabtree suggested that the Legislature be given the information about 65,000 out of 600,000 licensees reporting.

Ms. Thong suggested addressing the motion from the Health and Safety Advisory Committee on their recommendations to the Board and then determining what Board members think of AB 5. AB 5 has exemption language in it that is specific to barbers, electrologists, estheticians, or workers providing natural hair braiding. The motion from the Committee asks the Board to include manicurists in the exemption language, change the word "worker" to "licensees," add verbiage regarding professional license in Section E, and include all occupational licenses in the exemption.

Mr. Drabkin stated the need to learn why the booth rental permit was stuck from the previous iteration.

Mr. Underwood suggested asking for public comment, discussing, and voting on the Health and Safety Advisory Committee's motion. Taking a position on AB 5 will go hand-in-hand with how the Board votes on the Committee's motion.

### **Public Comment**

Mr. Jones agreed with Ms. Thong's comments entirely; but stated, however, politics is the art of compromise and the Legislature is a sausage mill and is never pretty. The motion before the Board is to make an ugly situation less ugly.

The other option is to fantasize about a world that could never be where there are no booth renters and everyone is protected by the Labor Code. Booth rental, on net, has diminished the professionalism of the industry and not just because of the tax evasion issues. Individuals who are willing to risk a felony to tax evade are clearly willing to risk a monetary sanction by the Board on health and safety violations. This has a direct implication to the Board's mission.

Mr. Jones stated the part B of the ABC Test makes what this industry does illegal. If Dynamex is embraced in its entirety, there will be no booth rental. He reiterated that he agreed with every comment made by Ms. Thong but stated the question is what is doable, what is possible. He stated if Dynamex became the rule with no exemption, most salons would continue to do what they are doing. And, to make it worse, they may stop asking for a license from the Board.

Mr. Jones stated he applauded Dynamex because of the need for clarity. It seeks to provide a limited exemption to certain industry sectors. He stated he then learned that this will put black barber shops out of business, which is the hub of communities. Then legislators told him the same thing and Assembly Member Gonzalez told him the beauty industry will be given an exemption because it is the loudest industry to come before the Legislature. Knowing that there will be an exemption given to the industry, the PBFC engaged the author and sponsors to make the ugly less ugly. He stated that is when Dr. Williams suggested a booth rental permit.

Mr. Jones stated clarity is the industry's best friend. He asked if the industry cannot attain perfection, a fantasy where everyone is an employee protected by Labor Code laws, then what can be done to at least root out the bad players? He stated with a booth rental permit would come an honorable list of individuals claiming they are booth renters and a list of salons that claim they have booth renters. That seemed to be the best approach. Those amendments were accepted in the Assembly but the Senate Labor Committee was against a booth rental permit. They suggested that each booth renter have their own separate business license so it stays in the Labor Code and still applies across all industry sectors.

Mr. Jones stated the Legislature came up with the term hair stylist to separate manicurists from under the umbrella of cosmetology because of the exploitation of mainly Vietnamese nail workers. Mr. Jones stated the PBFC believes all sectors of the industry should be treated equally. If one sector gets an exemption then all sectors should be given the same exemption.

Mr. Jones stated AB 5 potentially has sunset implications.

Ms. Crabtree asked if the Legislature knows that only 65,000 out of 600,000 licensees are reporting their income.

Mr. Jones stated the PBFC has been saying that forever but it unfortunately falls on deaf ears. He stated the Legislature has heard from the industry. The beauty industry was the loudest industry heard. The message was that an exemption was inevitable. He stated he made the motion at the Health and Safety Advisory

Committee to clean up the current exemption language. It is an appropriate, responsible response to AB 5. He stated he agreed that booth rental is a net negative, but if the Board determined to be completely out of AB 5, there would be no exemption for the industry from Dynamex.

Ms. Barboza stated it was easier to get a small business loan to obtain her own building because she has her own business. Being a sole proprietor gives her the freedom to go to classes and meetings and helped her to grow.

Natasha Alexander, Universal College of Beauty, stated the gap in reporting income is education. Students are not taught in schools what they must do to report. She stated she is a booth renter and does not believe booth rental is killing the industry. There will always be individuals in every industry who do not report taxes.

Jaime Schrabec, Ph.D., Owner, Precision Nails, stated, as a licensed manicurist and an owner of an employee-based nail salon, she respectfully requested that AB 5 be amended further to eliminate the imprecise discriminatory and unenforceable language regarding beauty professionals. Because the Barbering and Cosmetology Act requires that any person compensated for providing services regulated by the Board have a “valid unexpired license,” this bill must reference the Board. Unless the Legislature intends to endorse unlicensed activity, any mention of “workers” should be replaced by the appropriate and statutory license titles: cosmetologist, barber, manicurist, esthetician, and electrologist.

Dr. Schrabec noted that the phrase “natural hair braiding” is included in the current language. Those services are exempt from Board licensure but are listed among the exemptions. To protect the most exploited in the industry, all licensees must be treated equally. The exclusion of manicurists and cosmetologists who provide nail care services cannot be justified when misclassification, wage theft, and tax evasion happen across all license categories. Restricting employment options will create barriers to entry, limit business opportunities, and depress the wages of manicurists even further and result in more unlicensed activity and unfair competition.

Dr. Schrabec stated requiring that an independent business owner charge rates equal to or greater than two times the minimum wage for hours work cannot be taken seriously. Beyond being unenforceable, such a requirement does not resolve the biggest problem with the industry – lack of compliance with existing tax and labor laws. The Legislature should prioritize education and enforcement of the laws already in place so that salon owners and licensees have more resources and reasons to bear the financial burden of compliance.

Dr. Schrabec spoke in support of a booth rental permit for the purposes of transparency and accountability both legal and financial. A distinction needs to be made between licensees who operate as booth renters within a licensed establishment and those who are employed by the establishment owner. Consumers cannot be expected to make informed decisions about who they

support and choose qualified individuals and legitimate businesses if they cannot verify the individual operator's license and their booth rental employment status.

Dr. Schrabek stated, if not amended, AB 5 will adversely affect the beauty industry, the rights of its duly-licensed professionals, and the ability of the Board to protect the public and exercise its licensing, regulatory, and disciplinary functions. She stated she seconded Mr. Jones's motion at the Health and Safety Advisory Committee but she would be just as happy to have the industry completely taken out of AB 5. Whatever happens to any license category needs to happen to all license categories.

Ken Williams stated Mr. Jones and Dr. Schrabek have been giving good advice to the Board for many years. Whether or not to regulate booth rental is a big issue. He stated he did not understand why it is on the Board's plate. He agreed that the Board should take the time to hear all aspects of the law.

Ms. Cochran stated, when licensees cannot find a job in an employment-based situation in a salon, they rent or share rent of a room by a contract that is rarely enforceable. It is not only the school's responsibility to teach students how to run a business, it is licensees' responsibility to run a business and to seek out organizations that will help them. She suggested that licensees reach out to someone outside of the beauty business such as Score.org to learn how to run a business.

Ms. Cochran stated labor violations not only happen to manicurists but also to estheticians. Enforcement does not happen in this industry such as the enforcement of AB 1513 and SB 490. Independent contractors do not have support for labor violations from the DIR or DCA.

Ms. Cochran stated one-fourth of licensed estheticians are also licensed manicurists. AB 5 will put licensees into a situation of blatant violation or will force them into unlicensed activity. Also, a large percentage of other license categories are also massage therapists. Massage therapists and esthetics come hand in hand. Massage therapists are not employed but rent rooms in salons and AB 5 will make them all in violation. What is different about massage therapists is they are allowed to perform their service in individual homes and will now perform their esthetics practices there as well. AB 5 will drive licensees into illegal spaces. AB 5 will prevent the Board from being able to help exploited licensees into better situations as independent business owners.

Ms. Cochran stated she personally feels that AB 5 should be removed, but speaking for her organization, she stated there are individuals who are fair booth renters who will be negatively impacted by AB 5. She suggested that the language say Board licensees in good standing. This language gives all licensee categories equality and looks into the future for the creation of lash only, wax only, hair stylist only, and shampoo only licenses.

Ms. Crabtree stated the establishment owners will still be responsible for booth rental permit holders. Ms. Underwood stated many states have booth renters in designated

common areas. The language that was taken out of AB 5 required the Board to do regulations to establish a booth rental license.

Preeti Sharma, Lead Author, UCLA Labor Center, Nail Files Report, highlighted portions from the nail salon section of the report and offered to send the Board a copy of the report in its entirety. She stated the UCLA Labor Center is concerned about misclassification of independent contractors in the industry and that misclassification leads to an invasion of labor laws and protections. She spoke in support of AB 5 without exemptions for licensees.

Ms. Fu summarized the findings of the California Healthy Nail Salon Collaborative's outreach efforts to thousands of manicurists and salon owners statewide about workers' rights and misclassification. There is a lack of understanding and information about how to classify workers. There are also misconceptions about being an employee. She spoke in support of AB 5 without exemptions for licensees.

Ms. Crabtree asked what salon owners generally consider their licensees and if they are usually paid in cash.

Ms. Fu stated salon owners tell their licensees that they are 1099 independent contractors. Independent contractors are paid a combination of checks, cash, and funds under the table.

Mr. Trang spoke in support of AB 5 and requested that the Board oppose the current motion before the Board. AB 5 begins to clamp down on rampant misclassification and, as a result, exploitation in the industry. It simplifies the law, creates a floor but does not inhibit the creation of an independent contractor or booth renter, serves as a guardrail for vulnerable workers and law-abiding employers, encourages greater communication and intentionality, and benefits the larger community. He noted that businesses continue to thrive in states where the Dynamex ABC Test is applied. Creating carve-outs for AB 5 would do more harm than good.

Mr. Jones stated the proposed motion asks the Legislature to put a booth rental permit back into AB 5 and to specifically reference all the scope of practice license code sections. It asks for an exemption for booth rental. The alternative, which may be a motion offered later, would be that booth rental is not good and the Board would not propose a booth rental permit. Without the proposed motion, there will be no role for the Board in this debate because municipal government will then issue business licenses for workers who claim to be hair stylists. Board approval of the proposed motion will support booth rental, but it will be a new form of booth rental. The request for a booth rental permit will be a game-changer that will force booth renters out of the shadows.

Ms. Crabtree asked Ms. Thong for her thoughts on AB 5 after hearing public comment. Ms. Thong stated her opinion remained the same. Hearings are needed on this issue. If this motion was not on the floor, her preference would be to remove all of the language in AB 5 concerning the Board. She suggested holding hearings to gather input from the industry so the correct language can be created to deal with industry needs.

**MOTION:** The Health and Safety Advisory Committee recommends that the Board:

- Approach policy makers for a booth rental permit.
- Engage the AB 5 author to:
  - Appropriately refer to Board licensees (not workers) in section 6
  - Add verbiage regarding their professional license in section E
  - Request all occupational licensees to be included with the exemption

Motion did not carry with a vote of 2 yes, 3 no, and 0 abstain per roll call vote as follows:

The following Board members voted “Yes”: Weeks and Williams.

The following Board members voted “No”: Crabtree, Drabkin, and Thong.

Ms. Thong asked the Board to discuss the booth rental permit and its position on AB 5.

Mr. Drabkin stated it would be difficult to reinsert the booth rental permit into AB 5 since it has already been denied. He suggested discussing it separately and working with the Legislature on developing a booth rental permit to help solve issues should AB 5 pass.

Dr. Williams agreed. She stated the booth rental permit discussion began prior to AB 5.

Mr. Drabkin suggested a discussion on the creation of a booth rental permit at the next Board meeting.

Mr. Drabkin stated he heard several times today that, if speakers were given a choice, they would vote one way on AB 5 but their organizations want them to vote another way. He stated either everyone is exempted or certain license categories will have to be selected to be exempted over others. He suggested a support if amended position to remove the selected exemptions and deal with the intended and unintended consequences later. Perhaps the creation of a booth rental permit will add clarity and be one way to deal with those consequences.

Ms. Thong moved to support AB 5 if amended to remove all language referring to Board licensees and to address AB 5 and Dynamex impact on industry through the sunset hearing process. Ms. Crabtree seconded.

### **Public Comment**

Mr. Jones stated AB 5 will probably make all forms of booth rental as currently practiced illegal.

Ms. Crabtree stated she disagreed; there are other ways to conduct business. Dynamex will not kill the booth rental industry.

Mr. Trang stated Dynamex creates a floor; it does not create a ceiling. Discussions about booth rental arrangements would be permissible under part B of the ABC Test.

Dr. Schrabbeck suggested making a motion that “it would be the Board’s preference to remove all language referring to any Board occupation or service” instead of “Board licensees” and, if not, making the motion that was recommended by the Health and Safety Advisory Committee.

Ms. Crabtree suggested moving one way or the other; moving both ways lacks strength.

Ms. Cochran suggested standing up, taking the gamble, and asking the Legislature during the sunset review process for a separate bill for the industry because the industry literally touches everyone in the state of California.

**MOTION:** Ms. Thong made a motion, seconded by Ms. Crabtree, that the Board supports AB 5, Worker Status: Independent Contractors, if amended to remove all language referring to Board licensees and to address AB 5 and Dynamex impact on industry through the sunset hearing process. Motion carried 4 yes, 1 no, and 0 abstain per roll call vote as follows:

The following Board members voted “Yes”: Crabtree, Drabkin, Thong, and Williams.

The following Board member voted “No”: Weeks.

**MOTION:** Ms. Thong made a motion, seconded by Mr. Drabkin, that the Board supports AB 1607, Gender Discrimination Notification, with the amendment to change the language to reflect Board establishments. Motion carried 5 yes, 0 no, and 0 abstain per roll call vote as follows:

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

**MOTION:** Mr. Drabkin made a motion, seconded by Dr. Williams, that the Board supports SB 606, Sunset Extension. Motion carried 5 yes, 0 no, and 0 abstain per roll call vote as follows:

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

## **9. Agenda Item #9, 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 (Instructional Materials – NIC Guides)**
- d. Title 16, CCR Section 962, 962.1, and 962.2 (Externs)**
- e. Title 16, CCR Section 965.2 (Personal Service Permit)**
- f. Title 16, CCR Section 970, 971 (Substantial Relationship Criteria, Criteria for Rehabilitation)**
- g. Title 16, CCR Section 972 (Disciplinary Guidelines)**
- h. Title 16, CCR Section 974, 974.3 (Fine Schedule and Payment Plan)**

Ms. Underwood summarized the Regulation Update Memo, which was included in the meeting packet.

Staff recommendations for Section 900, Establishment:

- Change “activities practiced” to “services performed”
- Remove the word “booth”
- Add the sentence “These authorized services do not include singeing, relaxing, or dyeing the hair.”

**MOTION:** Dr. Williams moved the staff recommendations, seconded by Mr. Weeks. Motion carried 5 yes, 0 no, and 0 abstain per roll call vote as follows:

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

**10. Agenda Item #10, AGENDA ITEMS FOR THE NEXT MEETING**

Ms. Thong suggested a discussion on a booth rental permit at the next Board meeting and waxing at a future Board meeting.

**11. Agenda Item #11, ADJOURNMENT**

There being no further business, the meeting was adjourned at 1:31 p.m.

**Quarterly Barbering and Cosmetology  
Licensing Statistics  
Fiscal Year 19-20  
Applications Received**

License Type	Jul-Sept	Oct-Dec	Jan-Mar	Apr-June	YTD
<b>Establishment</b>	1,999				1,999
<b>Mobile Unit</b>	2				2
<b>Barber</b>					
Pre-App	250				250
Initial Application	431				431
Re-Exam	740				740
<b><u>Sub-Total</u></b>	<b><u>1,421</u></b>				<b><u>1,421</u></b>
Reciprocity	46				46
Apprentice	262				262
<b>Cosmetology</b>					
Pre-App	801				801
Initial Application	742				742
Re-Exam	1,285				1,285
<b><u>Sub-Total</u></b>	<b><u>2,828</u></b>				<b><u>2,828</u></b>
Reciprocity	334				334
Apprentice	200				200
<b>Electrology</b>					
Pre-App	6				6
Initial Application	2				2
Re-Exam	11				11
<b><u>Sub-Total</u></b>	<b><u>19</u></b>				<b><u>19</u></b>
Reciprocity	--				
Apprentice	--				
<b>Esthetician</b>					
Pre-App	883				883
Initial Application	529				529
Re-Exam	506				506
<b><u>Sub-Total</u></b>	<b><u>1,918</u></b>				<b><u>1,918</u></b>
Reciprocity	103				103
<b>Manicurist</b>					
Pre-App	790				790
Initial Application	567				567
Re-Exam	790				790
<b><u>Sub-Total</u></b>	<b><u>2,147</u></b>				<b><u>2,147</u></b>
Reciprocity	123				123
<b>Total</b>	<b>11,404</b>				<b>11,402</b>

## Examination Results

### July 1, 2019 through September 30, 2019

#### Practical Examinations

Administered	Passed	Failed	Total	Pass Rate
Barber	750	353	1,103	68%
Cosmetologist	1,917	580	2,497	77%
Electrologist	17	10	27	63%
Esthetician	1,702	122	1,824	93%
Manicurist	1,310	515	1,825	72%
<b>Total</b>	<b>5,696</b>	<b>1,580</b>	<b>7,276</b>	<b>78%</b>

#### Written Examinations

Barber	Passed	Failed	Total	Pass Rate
English	621	608	1,229	51%
Korean	0	2	2	0%
Spanish	39	146	185	21%
Vietnamese	21	15	36	58%
<b>TOTAL</b>	<b>681</b>	<b>771</b>	<b>1,452</b>	<b>47%</b>

Cosmo	Passed	Failed	Total	Pass Rate
English	1,433	751	2,184	66%
Korean	17	3	20	85%
Spanish	201	396	597	34%
Vietnamese	64	16	80	80%
<b>TOTAL</b>	<b>1,715</b>	<b>1,166</b>	<b>2,881</b>	<b>60%</b>

Esthetician	Passed	Failed	Total	Pass Rate
English	675	215	890	76%
Korean	15	0	15	100%
Spanish	13	3	16	81%
Vietnamese	150	16	166	90%
<b>TOTAL</b>	<b>853</b>	<b>234</b>	<b>1,087</b>	<b>78%</b>

Manicurist	Passed	Failed	Total	Pass Rate
English	153	51	204	75%
Korean	9	1	10	90%
Spanish	18	16	34	53%
Vietnamese	879	301	1,180	74%
<b>TOTAL</b>	<b>1,059</b>	<b>369</b>	<b>1,428</b>	<b>74%</b>

Electrologist	Passed	Failed	Total	Pass Rate
English	9	7	16	56%
Korean	--	--	--	--
Spanish	--	--	--	--
Vietnamese	--	--	--	--
<b>TOTAL</b>	<b>9</b>	<b>7</b>	<b>16</b>	<b>56%</b>

## Licenses Issued FY 2019-2020

License Type	Jul-Sept	Oct-Dec	Jan-Mar	Apr-June	YTD
Barber	584				584
Barber Apprentice	203				203
Cosmetology	1,707				1,707
Cosmetology Apprentice	179				179
Electrology	7				7
Electrology Apprentice	-				-
Esthetician	743				743
Manicurist	833				833
Establishment	1,934				1,934
Mobile Unit	-				-
<b>Totals</b>	<b>6,190</b>				<b>6,190</b>

## Licenses Issued Last 5 Years

License Type	FY 15/16	FY 16/17	FY 17/18	FY 18/19	FY 19/20
Barber	1,950	2,189	2,259	1,966	584
Barber Apprentice	511	665	885	854	203
Cosmetology	10,813	8,389	7,085	6,468	1,707
Cosmetology Apprentice	650	793	727	842	179
Electrology	35	26	22	31	7
Electrology Apprentice	-	-	1	-	-
Esthetician	4,747	4,818	4,007	4,890	743
Manicurist	6,298	6,550	3,787	4,414	833
Establishment	6,996	6,875	7,609	7,706	1,934
Mobile Unit	7	7	2	-	-
<b>Totals</b>	<b>32,007</b>	<b>30,312</b>	<b>26,384</b>	<b>27,171</b>	<b>6,190</b>

## License Population

Barber	31,998
Barber Apprentice	1,621
Cosmetology	312,427
Cosmetology Apprentice	1,394
Electrology	1,687
Electrology Apprentice	-
Esthetician	88,969
Manicurist	129,169
Establishment	53,325
Mobile Unit	47
<b>Total</b>	<b>620,637</b>



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](mailto:barbercosmo@dca.ca.gov)  
 Website: [www.barbercosmo.ca.gov](http://www.barbercosmo.ca.gov)



## QUARTERLY BARBERING AND COSMETOLOGY DISCIPLINARY REVIEW COMMITTEE STATISTICS

**Fiscal Year 19-20**

**Report Date: September 30, 2019**

	July - September	YTD
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### NORTHERN

Heard	0	0
Received	63	63
Pending <sup>1</sup>	111	111 <sup>2</sup>

### SOUTHERN

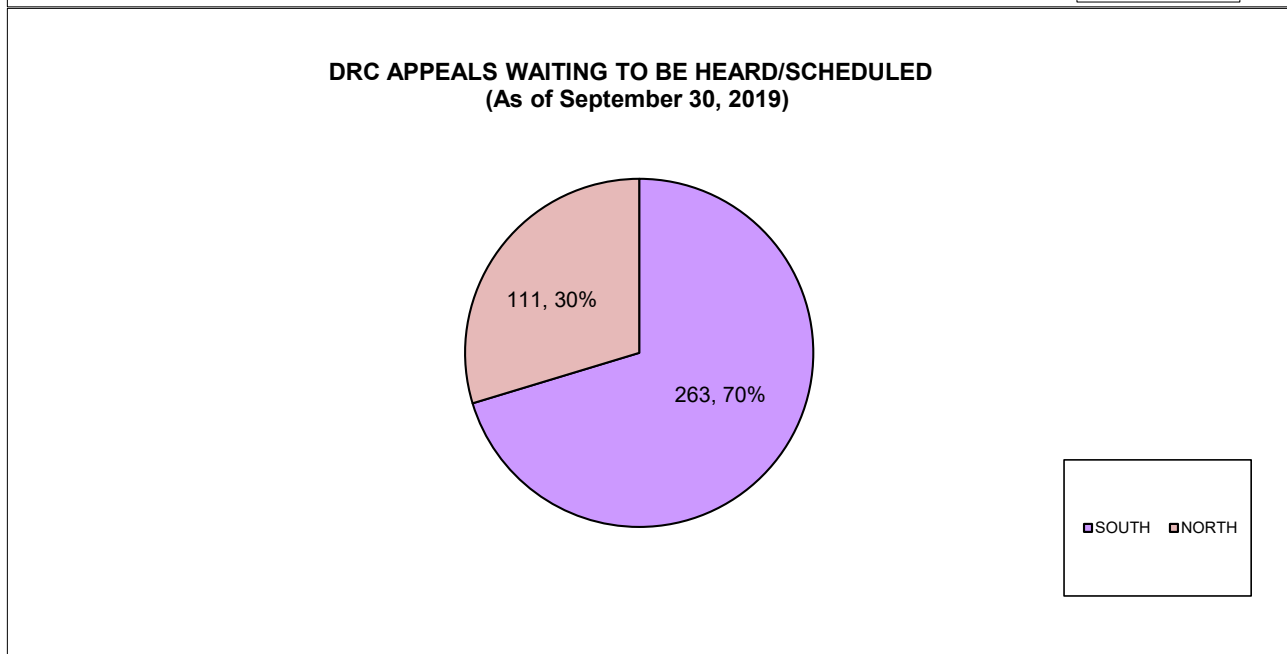
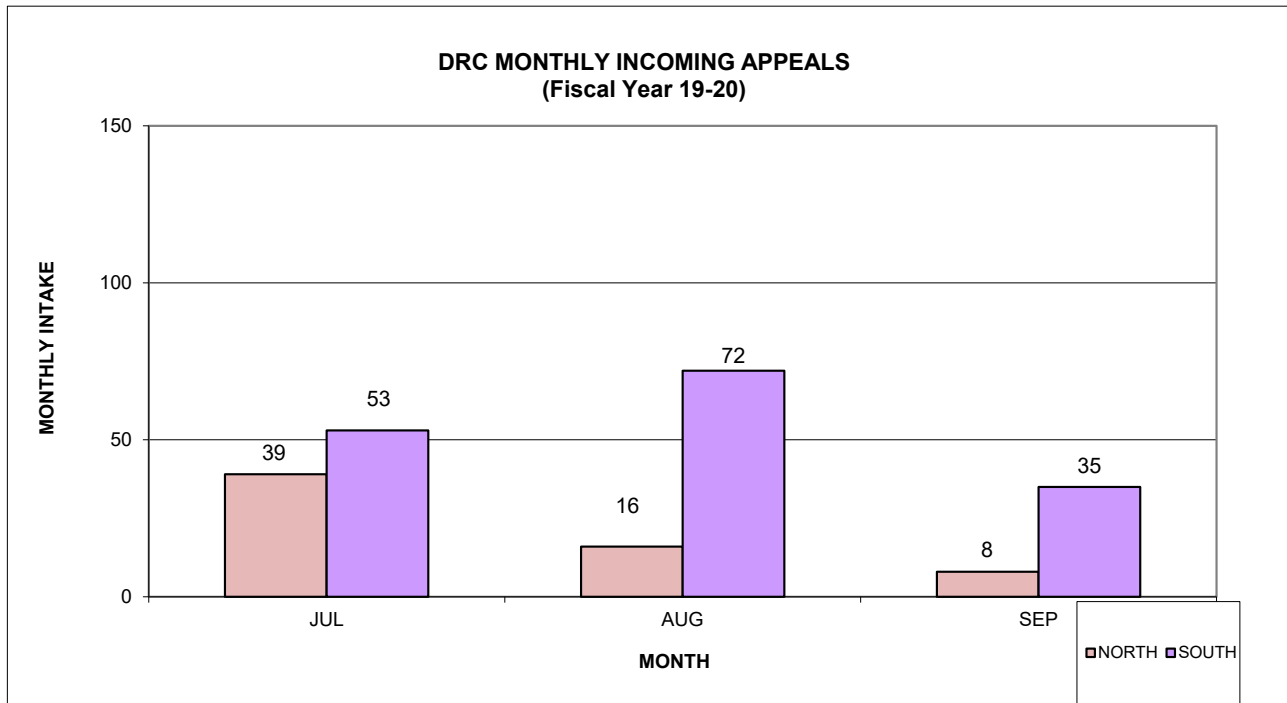
Heard	95	95
Received	160	160
Pending <sup>1</sup>	263	263 <sup>2</sup>

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

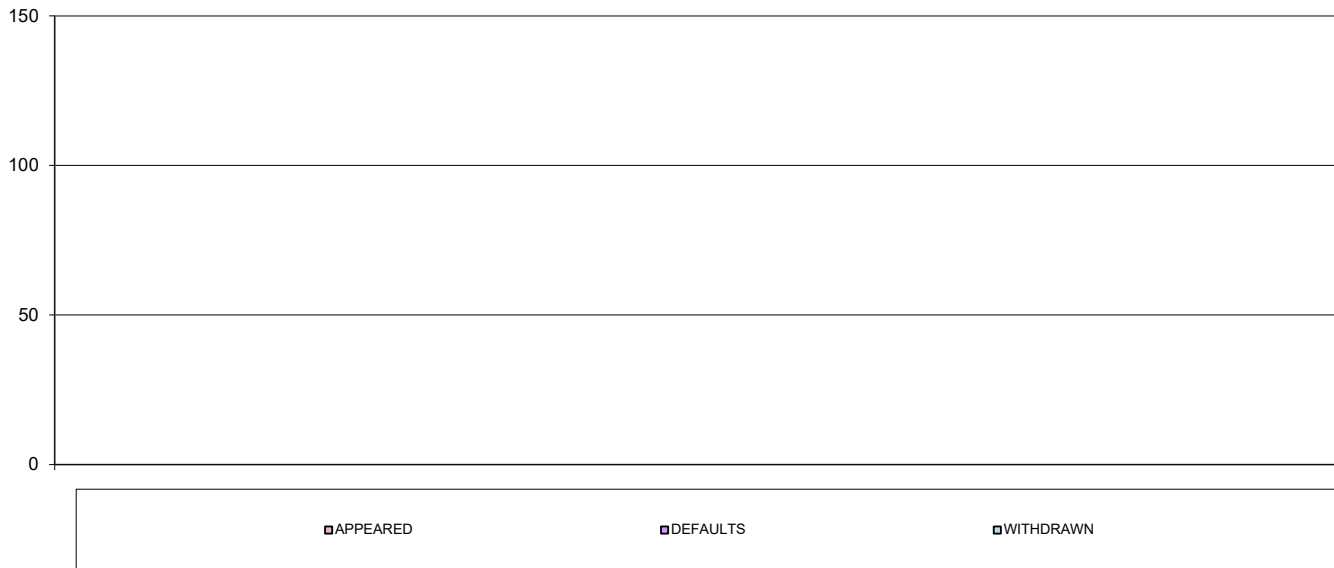
<sup>2</sup> Figure represents number of pending requests as of report date.

### 2020 SCHEDULED HEARINGS

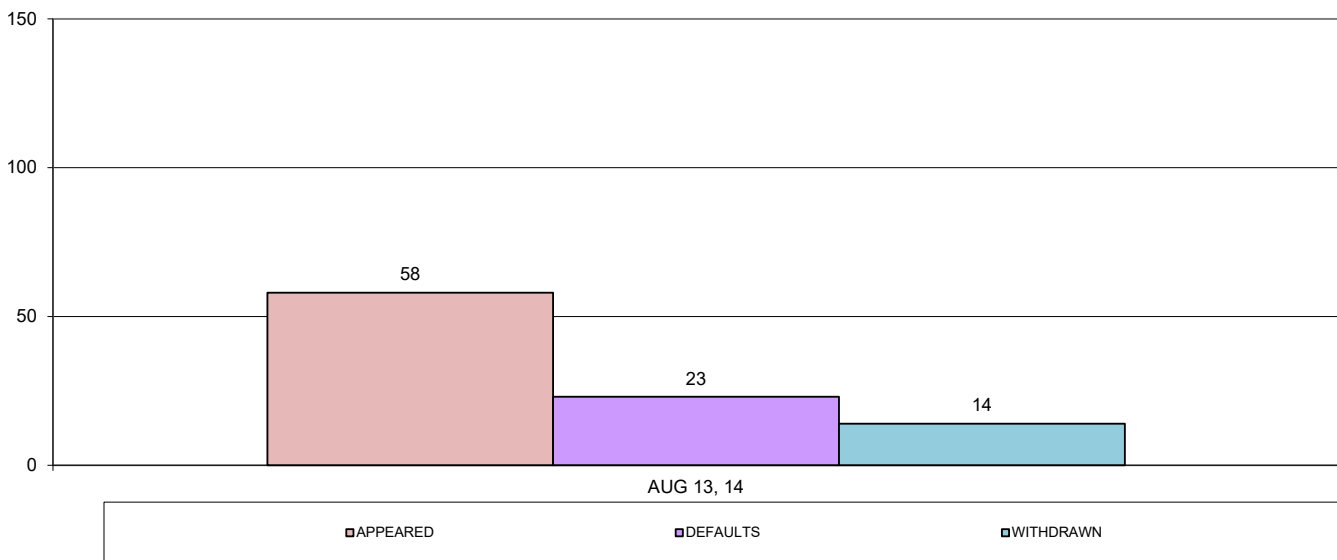
Area	Location	Date
Southern	Burbank	Feb. 10, 11, 12, 2020
Northern	Sacramento	Mar. 10, 11, 2020



**NORTHERN APPEALS HEARD  
(Fiscal Year 19-20)  
NO APPEALS TO REPORT**



**SOUTHERN APPEALS HEARD  
(Fiscal Year 19-20)**



**QUARTERLY BARBERING AND COSMETOLOGY  
ENFORCEMENT STATISTICS Fiscal Year 19-20**

	Jul-Sept	Oct-Dec	Jan- Mar	Apr-Jun	YTD
<b>COMPLAINTS</b>					
Complaints Received	1348				1348
Referred to DOI	2				2
Complaints Closed	1059				1059
Total Complaints Pending	1353				1353
Average Days to Close	70				70
<b>APPLICATION INVESTIGATIONS*</b>					
Received	4				4
Pending	0				0
Closed	6				6
<b>ATTORNEY GENERAL</b>					
Referred	13				13
Accusations Filed	21				21
Statement of Issues Filed	0				0
Total Pending	76				76
<b>DISCIPLINARY PROCESS</b>					
Proposed Decisions	1				1
Default Decision	4				4
Stipulation	12				12
<b>DISCIPLINARY OUTCOMES</b>					
Revocation	7				7
Revoke, Stay, Probation	1				1
Revoke, Stay, Suspend/Prob	12				12
Revocation, Stay w/ Suspend	0				0
Probation Only	0				0
Suspension Only	0				0
Suspension & Probation	0				0
Suspension, Stay, Probation	1				1
Surrender of License	5				5
Public Reprimands	0				0
License Denied	0				0
Other	0				0
Total	26				26
<b>PROBATION</b>					
Active	133				133
	Jul-Sept	Oct-Dec	Jan- Mar	Apr-Jun	YTD
<b>CITATIONS</b>					
Establishments	1623				1623
Barber	173				173
Barber Apprentice	33				33
Cosmetologist	595				595
Cosmetologist Apprentice	13				13
Electrologist	0				0
Electrologist Apprentice	0				0
Manicurist	480				480
Esthetician	133				133
Unlicensed Est.	89				89
Unlicensed Individual	122				122
Total	3261				3261
<b>INSPECTIONS</b>					
Establishments w/ violations	1903				1903
Establishments w/o violations	624				624
Total	2527				2527

## Complaints Received

### July 2019 through September 2019

Complaint Type	Anonymous	Internal	Public	Totals
Fraud	10	8	3	21
Health & Safety	382	43	100	525
Non-Jurisdictional	47	4	63	114
Incompetence/Negligence	0	0	112	112
Other	1	3	1	5
Personal Conduct	0	0	0	0
Unlicensed Activity	251	258	55	564
App Investigation	0	2	0	2
Totals	691	318	334	1343

### Last 5 Fiscal Years

Category	FY 15-16	FY 16-17	FY 17-18	FY 18-19	FY 19-20*
Fraud	82	61	84	86	30
Health & Safety	1310	1616	1604	1637	678
Non-Jurisdictional	294	284	319	354	137
Incompetence/Negligence	333	270	438	407	150
Other	42	35	19	39	6
Personal Conduct	19	20	6	2	0
Unlicensed Activity	1651	1817	1555	1841	752
App Investigation	0	0	1061	194	2
Totals	3731	4103	5086	4560	1755

\*Includes October, 2019

**Board of Barbering and Cosmetology**  
**Fiscal Year 2019/2020**  
**Projected Expenditures 09/30/19**

Personnel Services	ALLOTMENT	BBC Projected Expenditures	Projected Year
Permanent	4,855,000	3,951,053	903,947
Expert Examiners	453,000	427,538	25,462
Temporary	134,000	116,756	17,244
BL 12-03 Blanket	0	0	0
Statutory-Exempt	104,000	128,652	(24,652)
Board Member Commission	0	14,236	(14,236)
Overtime	0	1,000	(1,000)
<b>Total Salary &amp; Wages</b>	<b>5,546,000</b>	<b>4,639,235</b>	<b>906,765</b>
<b>Net Salary &amp; Wages</b>	<b>5,546,000</b>	<b>4,639,235</b>	<b>906,765</b>
Staff Benefits	2,904,000	2,635,916	268,084
<b>Total of Personnel Services</b>	<b>8,450,000</b>	<b>7,275,151</b>	<b>1,174,849</b>
Operating Expenses & Equipment (OE&E)	Allotment	BBC Projected Expenditures	Projected Year End Balance
General Expense	231,000	156,752	74,248
Printing	275,000	402,773	(127,773)
Communication	41,000	55,070	(14,070)
Postage	283,000	88,391	194,609
Insurance	4,000	24,605	(20,605)
Travel In State	83,000	82,111	889
Travel, Out-of-State	0	1,445	(1,445)
Training	11,000	1,474	9,526
Facilities Operations	1,022,000	937,596	84,404
Utilities	0	0	0
Consultant & Professional Svs. - Interdept.	82,000	20,000	62,000
Consultant & Professional Svs. - External	373,000	214,556	158,444
Depart. and Central Admin. Services	6,954,000	7,039,116	(85,116)
Consolidated Data Center	68,000	20,041	47,959
Information Technology	38,000	27,712	10,288
Central Admin Pro Rata	0	0	0
Examinations	1,354,000	2,244,006	(890,006)
Major Equipment	0	0	0
Minor Equipment	16,000	77,367	(61,367)
Other Items of Expense	5,000	719	4,281
Vehicle Operations	38,000	42,223	(4,223)
Enforcement	1,768,000	1,034,946	733,054
Special Items of Expenses	0	6,767	(6,767)
<b>Total Operating Expenses &amp; Equipment</b>	<b>12,646,000</b>	<b>12,477,670</b>	<b>168,330</b>
<b>Total Personal Services Expenses</b>	<b>8,450,000</b>	<b>7,275,151</b>	<b>1,174,849</b>
Total reimbursements	(57,000)	(57,000)	
<b>Total</b>	<b>21,039,000</b>	<b>19,695,821</b>	<b>1,343,179</b>

# 0069 - Barbering and Cosmetology Contingency Fund

## Analysis of Fund Condition

Prepared 11.18.2019

(Dollars in Thousands)

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

### 2019-20 Budget Act

	PY 2017-18	PY 2018-19	Budget Act CY 2019-20	BY 2020-21
<b>BEGINNING BALANCE</b>	\$ 20,565	\$ 20,692	\$ 19,304	\$ 41,042
Prior Year Adjustment	\$ -	\$ -	\$ -	\$ -
Adjusted Beginning Balance	\$ 20,565	\$ 20,692	\$ 19,304	\$ 41,042
<b>REVENUES AND TRANSFERS</b>				
Revenues:				
4121200 Delinquent fees	\$ 1,177	\$ 1,113	\$ 1,146	\$ 1,146
4127400 Renewal fees	\$ 12,342	\$ 12,022	\$ 12,382	\$ 12,382
4129200 Other regulatory fees	\$ 6,157	\$ 5,101	\$ 5,230	\$ 5,230
4129400 Other regulatory licenses and permits	\$ 4,547	\$ 4,129	\$ 4,225	\$ 4,225
4163000 Income from surplus money investments	\$ 64	\$ 285	\$ 272	\$ 613
4171400 Escheat - unclaimed checks, warrants, bonds, and coupons	\$ 10	\$ 12	\$ 12	\$ 12
4171500 Escheat - unclaimed property	\$ 3	\$ -	\$ -	\$ -
4172500 Miscellaneous revenues	\$ 13	\$ 12	\$ 12	\$ 12
Total Revenues	\$ 24,313	\$ 22,674	\$ 23,279	\$ 23,620
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	\$ 23,620
Total Resources	\$ 44,878	\$ 43,366	\$ 63,583	\$ 64,662
<b>EXPENDITURES</b>				
1111 Department of Consumer Affairs Program Expenditures (State Operations)	\$ 22,561	\$ 22,460	\$ 21,039	\$ 21,670
8880 Financial Information System for California (State Operations)	\$ 28	\$ 2	\$ -3	\$ -3
9892 Supplemental Pension Payments (State Operations)	\$ -	\$ 134	\$ 316	\$ 316
9900 Statewide General Administrative Expenditures (Pro Rata) (State Operations)	\$ 1,597	\$ 1,466	\$ 1,189	\$ 1,189
Total Disbursements	\$ 24,186	\$ 24,062	\$ 22,541	\$ 23,172
<b>FUND BALANCE</b>				
Reserve for economic uncertainties	\$ 20,692	\$ 19,304	\$ 41,042	\$ 41,490
<b>Months in Reserve</b>	10.3	10.3	21.3	20.9

#### NOTES:

- ASSUMES WORKLOAD AND REVENUE PROJECTIONS ARE REALIZED IN BY+1 AND ON-GOING.
- ASSUMES APPROPRIATION GROWTH OF 3% PER YEAR BEGINNING IN BY+1.
- ASSUMES INTEREST RATE AT 1.5%.
- ASSUMES FULL APPROPRIATION IN PY 2017-18 and 2018-19



## MEMORANDUM

DATE December 2, 2019  
TO: Members, Board of Barbering and Cosmetology  
FROM: Kristy Underwood, Executive Officer  
SUBJECT: Outreach Update

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### Participated:

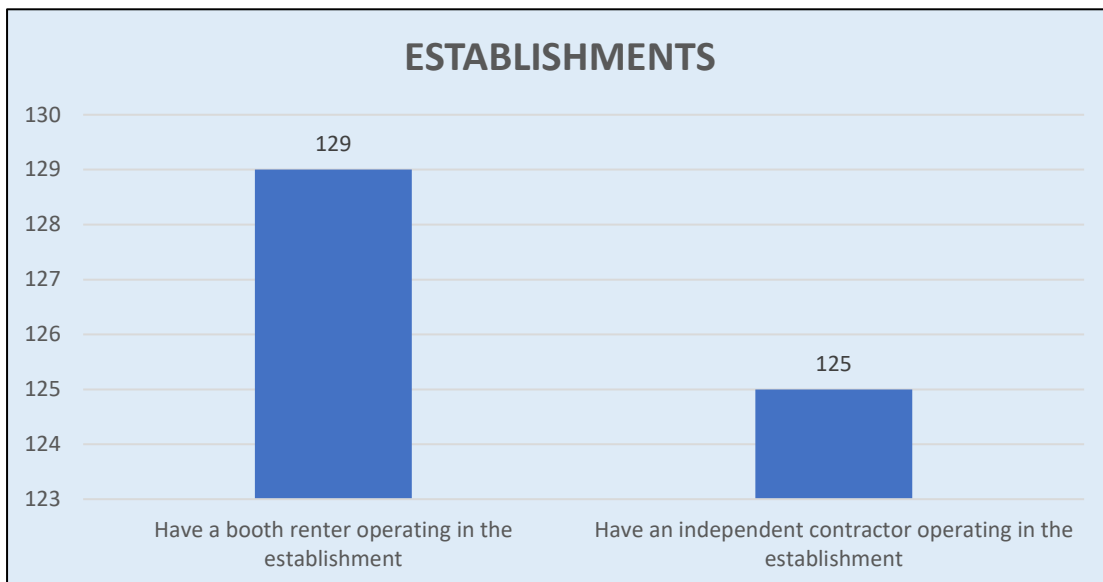
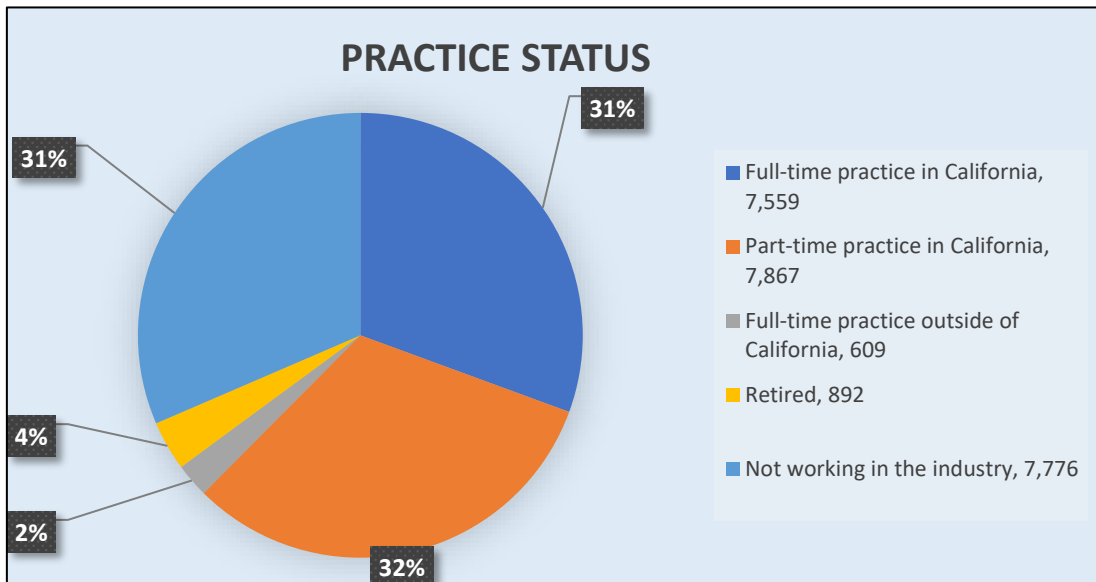
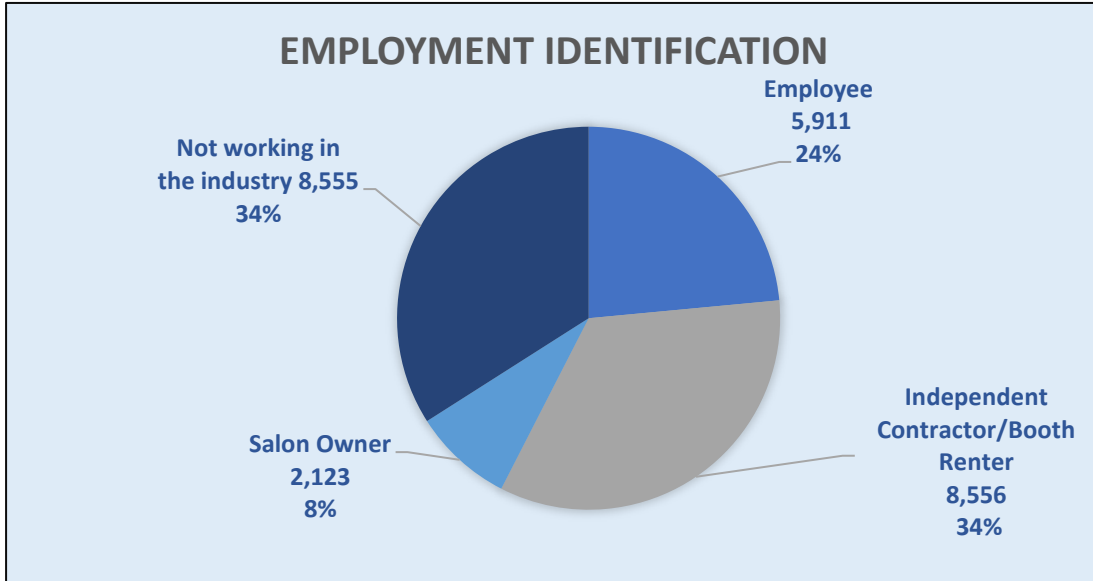
August 3, 2019	Assemblymember Chris Holden's Community Resource Fair and Block Party-Pasadena Attendees: Marcene Melliza and James Anderson
August 25-26, 2019	Face and Body Spa and Expo San Jose Convention Center Attendees: Kristy Underwood, Theresa Rister and Marcene Melliza
September 22, 2019	NailPro Sacramento Cal Expo Attendees: Marcene Melliza and James Anderson
October 7, 2019	Sacramento City College Cosmetology School Attendees: Kristy Underwood and Marcene Melliza

### Upcoming

December 11, 2019	Assemblyman Diep Informational Event Westminster Attendees: TBA
January 25-27, 2020	International Salon and Spa Expo Long Beach Attendees: TBA

# RENEWAL QUESTIONNAIRE

July 1 - September 30, 2019





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](mailto:barbercosmo@dca.ca.gov)  
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## MEMORANDUM

DATE December 2, 2019

TO: Members, Board of Barbering and Cosmetology

FROM: Kristy Underwood, Executive Officer

SUBJECT: Review of Trends Presented by National Council of State Governments

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On October 14, 2019, the Council of State Governments (CSG) gave a presentation at the Joint Oversight Hearing of Senate Business, Professions and Economic Development and Assembly Business and Professions. This memo is to provide a summary of noted trends by CSG and how the California Board of Barbering and Cosmetology (Board) has contributed.

### **Trend #1: Targeted Reform for Specific Populations**

Some state governments have reduced barriers to licensing specifically for military spouses, individuals with criminal records, and immigrants/foreign-trained applicants.

For military spouses, various states issue a license by endorsement, temporary license, expedited licensure, or exemption. Effective January 1, 2013, the Board expedites licensure for honorably discharged members of the United States Armed Forces and for spouses or domestic partners of active-duty military personnel. The Board also waives renewal requirements for military personnel when they are called to active duty. The Board's website has a "Military Resources" button displayed, which links to the Department of Consumer Affairs' "Military Member Resources" website.

Regarding individuals with criminal records, some state governments put a time limitation on whether convictions may be considered during application review or they have preliminary eligibility determination. The Board allows individuals to submit a "Pre-Approval Application for Criminal Pleas/Convictions" form. This form is available on the Board's website and was designed to expedite the approval process and avoid any delays in obtaining an examination date once the required course is completed. The Board also allows individuals who have been convicted of a crime to apply to take the examination. Applicants must submit the "Disclosure Statement Regarding Criminal Pleas/Convictions" form with their application. These are evaluated on a case-by-case basis. Some of the factors that are considered include: the length of time since the conviction, the nature of the conviction, evidence of rehabilitation since the conviction, and whether the crime (or act) is substantially related to the qualification, functions, or duties of the licensee. Lastly, the Board works with the California Department of Corrections and Rehabilitation to administer licensure examinations for prisoners from three state prisons.

GSC would like state governments to implement competency assessments and move away from time-based licensing requirements. The Board has a “Guide for Exam Applicants with Foreign Training and Work Experience” on the website which explains what application, forms, and documentations are required to qualify to take the Board’s licensing exam.

### **Trend #2: Universal License Recognition**

Montana, Pennsylvania, and Arizona have universal recognition for out of state licenses, meaning they provide licensure by endorsement of out-of-state applicants if the applicant meets certain criteria.

The Board’s reciprocity information is provided below under Trend #5.

### **Trend #3: Establishing a Sunrise/Sunset Process**

Some states are establishing a sunrise/sunset process. California has sunset review and an established sunrise process.

### **Trend #4: Changing Regulatory Structure**

Most states centralize boards, while some remain autonomous.

California’s Board is under a centralized agency (Department of Consumer Affairs), which is beneficial for administrative functions and promoting the overall mission of consumer protection.

### **Trend #5: Interstate Compacts**

CSG believes states should have interstate compacts (formal contracts through the legislative process) agreeing to reciprocity, so licensees may move across state lines without going through the licensing process again. CSG compared this to how an individual with a state-issued driver’s license may drive a vehicle in any state.

Pursuant to Business and Professions Code 7331 (effective January 1, 2007), the Board grants licenses to reciprocity applicants that submit all of the following:

- (a) A completed application form and all fees required by the board.
- (b) Proof of a current license issued by another state to practice that meets all of the following requirements:
  - (1) It is not revoked, suspended, or otherwise restricted.
  - (2) It is in good standing.
  - (3) It has been active for three of the last five years, during which time the applicant has not been subject to disciplinary action or a criminal conviction.

Reciprocity applications are accepted via the BreEZe online system and the Board accepts states to send license certifications through email, which reduces processing times by weeks.

If an out-of-state applicant does not qualify for reciprocity, the Board allows applicants to substitute their licensed work experience for school hours (every 3 full months earned as a licensed person in another state is accepted as 100 hours).

States have different school, training, and hour requirements, along with license types, so the Board strives to assist out-of-state licensees become licensed in California without putting the public’s health and safety at risk.

## BOARD OF BARBERING & COSMETOLOGY

### BILL ANALYSIS

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**Author:** Assembly Member Gonzalez

**Subject:** Dynamex Decision

**Principal Coauthor:** Rendon (A)

**Coauthors:** Bonta (A), Carrillo (A), Durazo (S),  
Gloria (A), Kalra (A), Leyva (S), McCarty (A),  
Medina (A), Skinner (S), Mark Stone (A), Wicks (A)

**Bill Number:** AB 5

**Version:** September 18, 2019

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#### **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 for purposes of the provisions of the Labor Code, the Unemployment Insurance Code, and the wage orders of the Industrial Welfare Commission, a person providing labor or services for remuneration shall be considered an employee rather than an independent contractor unless the hiring entity demonstrates that the person is free from the control and direction of the hiring entity in connection with the performance of the work, the person performs work that is outside the usual course of the hiring entity’s business, and the person is customarily engaged in an independently established trade, occupation, or business. The bill, notwithstanding this provision, would provide that any statutory exception from employment status or any extension of employer status or liability remains in effect, and that if a court rules that the 3-part test cannot be applied, then the determination of employee or independent contractor status shall be governed by the test adopted in *S. G. Borello & Sons, Inc. v. Department of Industrial Relations* (1989) 48 Cal.3d 341 (*Borello*). The bill would exempt specified occupations from the application of *Dynamex* and would instead provide that these occupations are governed by *Borello*.

The exempt specified occupations relating to the Board are as follows:

Services provided by a licensed esthetician, licensed electrologist, licensed manicurist, licensed barber, or licensed cosmetologist provided that the individual:

(I) Sets their own rates, processes their own payments, and is paid directly by clients.

(II) Sets their own hours of work and has sole discretion to decide the number of clients and which clients for whom they will provide services.

(III) Has their own book of business and schedules their own appointments.

(IV) Maintains their own business license for the services offered to clients.

(V) If the individual is performing services at the location of the hiring entity, then the individual issues a Form 1099 to the salon or business owner from which they rent their business space.

(VI) This subdivision shall become inoperative, with respect to licensed manicurists, on January 1, 2022.

### **Analysis:**

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 impacted. Individuals in the barbering and cosmetology industry have operated for many years considering themselves to be independent contractors. If these individuals are now technically classified as employees, this could be a significant financial burden to someone who has their own clientele and receives 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.

## **Assembly Bill No. 5**

### **CHAPTER 296**

An act to amend Section 3351 of, and to add Section 2750.3 to, the Labor Code, and to amend Sections 606.5 and 621 of the Unemployment Insurance Code, relating to employment, and making an appropriation therefor.

[Approved by Governor September 18, 2019. Filed with  
Secretary of State September 18, 2019.]

#### **LEGISLATIVE COUNSEL'S DIGEST**

**AB 5, Gonzalez. Worker status: employees and 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 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.

Existing law, for purposes of unemployment insurance provisions, requires employers to make contributions with respect to unemployment insurance and disability insurance from the wages paid to their employees. Existing law defines “employee” for those purposes to include, among other individuals, any individual who, under the usual common law rules applicable in determining the employer-employee relationship, has the status of an employee.

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 for purposes of the provisions of the Labor Code, the Unemployment Insurance Code, and the wage orders of the Industrial Welfare Commission, a person providing labor or services for remuneration shall be considered an employee rather than an independent contractor unless the hiring entity demonstrates that the person is free from the control and direction of the hiring entity in connection with the performance of the work, the person performs work that is outside the usual course of the hiring entity’s business, and the person is customarily engaged in an independently established trade, occupation, or business. The bill, notwithstanding this provision, would provide that any statutory exception from employment status or any extension of employer status or liability remains in effect, and that if a court rules that the 3-part test cannot be applied, then the determination of employee or independent contractor status shall be governed by the test adopted in *S. G. Borello & Sons, Inc. v. Department of Industrial Relations* (1989) 48 Cal.3d 341 (*Borello*). The bill would exempt specified occupations from the application of *Dynamex*, and would instead provide that these

occupations are governed by Borello. These exempt occupations would include, among others, licensed insurance agents, certain licensed health care professionals, registered securities broker-dealers or investment advisers, direct sales salespersons, real estate licensees, commercial fishermen, workers providing licensed barber or cosmetology services, and others performing work under a contract for professional services, with another business entity, or pursuant to a subcontract in the construction industry.

The bill would also require the Employment Development Department, on or before March 1, 2021, and each March 1 thereafter, to issue an annual report to the Legislature on the use of unemployment insurance in the commercial fishing industry. The bill would make the exemption for commercial fishermen applicable only until January 1, 2023, and the exemption for licensed manicurists applicable only until January 1, 2022. The bill would authorize an action for injunctive relief to prevent employee misclassification to be brought by the Attorney General and specified local prosecuting agencies.

This bill would also redefine the definition of “employee” described above, for purposes of unemployment insurance provisions, to include an individual providing labor or services for remuneration who has the status of an employee rather than an independent contractor, unless the hiring entity demonstrates that the individual meets all of specified conditions, including that the individual performs work that is outside the usual course of the hiring entity’s business. Because this bill would increase the categories of individuals eligible to receive benefits from, and thus would result in additional moneys being deposited into, the Unemployment Fund, a continuously appropriated fund, the bill would make an appropriation. The bill would state that addition of the provision to the Labor Code does not constitute a change in, but is declaratory of, existing law with regard to violations of the Labor Code relating to wage orders of the Industrial Welfare Commission. The bill would also state that specified Labor Code provisions of the bill apply retroactively to existing claims and actions to the maximum extent permitted by law while other provisions apply to work performed on or after January 1, 2020. The bill would additionally provide that the bill’s provisions do not permit an employer to reclassify an individual who was an employee on January 1, 2019, to an independent contractor due to the bill’s enactment.

Existing provisions of the Labor Code make it a crime for an employer to violate specified provisions of law with regard to an employee. The Unemployment Insurance Code also makes it a crime to violate specified provisions of law with regard to benefits and payments.

By expanding the definition of an employee for purposes of these provisions, the bill would expand the definition of a crime, thereby imposing 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.

Appropriation: 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 (*Dynamex*).

(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* and would clarify the decision's application in state law.

(e) It is also the intent of the Legislature in enacting this act to ensure workers who are currently exploited by being misclassified as independent contractors instead of recognized as employees have the basic rights and protections they deserve under the law, including a minimum wage, workers' compensation if they are injured on the job, unemployment insurance, paid sick leave, and paid family leave. By codifying the California Supreme Court's landmark, unanimous *Dynamex* decision, this act restores these important protections to potentially several million workers who have been denied these basic workplace rights that all employees are entitled to under the law.

(f) The *Dynamex* decision interpreted one of the three alternative definitions of "employ," the "suffer or permit" definition, from the wage orders of the Industrial Welfare Commission (IWC). Nothing in this act is intended to affect the application of alternative definitions from the IWC wage orders of the term "employ," which were not addressed by the holding of *Dynamex*.

(g) Nothing in this act is intended to diminish the flexibility of employees to work part-time or intermittent schedules or to work for multiple employers.

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

2750.3. (a) (1) For purposes of the provisions of this code and the Unemployment Insurance Code, and for the wage orders of the Industrial Welfare Commission, a person providing labor or services for remuneration

shall be considered an employee rather than an independent contractor unless the hiring entity demonstrates that all of the following conditions are satisfied:

(A) 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.

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

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

(2) Notwithstanding paragraph (1), any exceptions to the terms "employee," "employer," "employ," or "independent contractor," and any extensions of employer status or liability, that are expressly made by a provision of this code, the Unemployment Insurance Code, or in an applicable order of the Industrial Welfare Commission, including, but not limited to, the definition of "employee" in subdivision 2(E) of Wage Order No. 2, shall remain in effect for the purposes set forth therein.

(3) If a court of law rules that the three-part test in paragraph (1) cannot be applied to a particular context based on grounds other than an express exception to employment status as provided under paragraph (2), then the determination of employee or independent contractor status in that context shall instead be governed by the California Supreme Court's decision in *S. G. Borello & Sons, Inc. v. Department of Industrial Relations* (1989) 48 Cal.3d 341 (Borello).

(b) Subdivision (a) and the holding in *Dynamex Operations West, Inc. v. Superior Court of Los Angeles* (2018) 4 Cal.5th 903 (Dynamex), do not apply to the following occupations as defined in the paragraphs below, and instead, the determination of employee or independent contractor status for individuals in those occupations shall be governed by Borello.

(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), or Chapter 8 (commencing with Section 1831) of Part 2 of Division 1 of the Insurance Code.

(2) A physician and surgeon, dentist, podiatrist, psychologist, or veterinarian 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. Nothing in this subdivision shall apply to the employment settings currently or potentially governed by collective bargaining agreements for the licensees identified in this paragraph.

(3) An individual who holds an active license from the State of California and is practicing one of the following recognized professions: lawyer, architect, engineer, private investigator, or accountant.

(4) 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.

(5) 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.

(6) A commercial fisherman working on an American vessel as defined in subparagraph (A) below.

(A) For the purposes of this paragraph:

(i) “American vessel” has the same meaning as defined in Section 125.5 of the Unemployment Insurance Code.

(ii) “Commercial fisherman” means a person who has a valid, unrevoked commercial fishing license issued pursuant to Article 3 (commencing with Section 7850) of Chapter 1 of Part 3 of Division 6 of the Fish and Game Code.

(iii) “Working on an American vessel” means the taking or the attempt to take fish, shellfish, or other fishery resources of the state by any means, and includes each individual aboard an American vessel operated for fishing purposes who participates directly or indirectly in the taking of these raw fishery products, including maintaining the vessel or equipment used aboard the vessel. However, “working on an American vessel” does not apply to anyone aboard a licensed commercial fishing vessel as a visitor or guest who does not directly or indirectly participate in the taking.

(B) For the purposes of this paragraph, a commercial fisherman working on an American vessel is eligible for unemployment insurance benefits if they meet the definition of “employment” in Section 609 of the Unemployment Insurance Code and are otherwise eligible for those benefits pursuant to the provisions of the Unemployment Insurance Code.

(C) On or before March 1, 2021, and each March 1 thereafter, the Employment Development Department shall issue an annual report to the Legislature on the use of unemployment insurance in the commercial fishing industry. This report shall include, but not be limited to, reporting the number of commercial fishermen who apply for unemployment insurance benefits, the number of commercial fishermen who have their claims disputed, the number of commercial fishermen who have their claims denied, and the number of commercial fishermen who receive unemployment insurance benefits. The report required by this subparagraph shall be submitted in compliance with Section 9795 of the Government Code.

(D) This paragraph shall become inoperative on January 1, 2023, unless extended by the Legislature.

(c) (1) Subdivision (a) and the holding in *Dynamex* do not apply to a contract for “professional services” as defined below, and instead the determination of whether the individual is an employee or independent

contractor shall be governed by Borello if the hiring entity demonstrates that all of the following factors are satisfied:

(A) The individual maintains a business location, which may include the individual's residence, that is separate from the hiring entity. Nothing in this subdivision prohibits an individual from choosing to perform services at the location of the hiring entity.

(B) If work is performed more than six months after the effective date of this section, the individual has a business license, in addition to any required professional licenses or permits for the individual to practice in their profession.

(C) The individual has the ability to set or negotiate their own rates for the services performed.

(D) Outside of project completion dates and reasonable business hours, the individual has the ability to set the individual's own hours.

(E) The individual is customarily engaged in the same type of work performed under contract with another hiring entity or holds themselves out to other potential customers as available to perform the same type of work.

(F) The individual customarily and regularly exercises discretion and independent judgment in the performance of the services.

(2) For purposes of this subdivision:

(A) An "individual" includes an individual providing services through a sole proprietorship or other business entity.

(B) "Professional services" means services that meet any of the following:

(i) Marketing, provided that the contracted work is original and creative in character and the result of which depends primarily on the invention, imagination, or talent of the employee or work that is an essential part of or necessarily incident to any of the contracted work.

(ii) Administrator of human resources, provided that the contracted work is predominantly intellectual and varied in character and is of such character that the output produced or the result accomplished cannot be standardized in relation to a given period of time.

(iii) Travel agent services provided by either of the following: (I) a person regulated by the Attorney General under Article 2.6 (commencing with Section 17550) of Chapter 1 of Part 3 of Division 7 of the Business and Professions Code, or (II) an individual who is a seller of travel within the meaning of subdivision (a) of Section 17550.1 of the Business and Professions Code and who is exempt from the registration under subdivision (g) of Section 17550.20 of the Business and Professions Code.

(iv) Graphic design.

(v) Grant writer.

(vi) Fine artist.

(vii) Services provided by an enrolled agent who is licensed by the United States Department of the Treasury to practice before the Internal Revenue Service pursuant to Part 10 of Subtitle A of Title 31 of the Code of Federal Regulations.

(viii) Payment processing agent through an independent sales organization.

(ix) Services provided by a still photographer or photojournalist who do not license content submissions to the putative employer more than 35 times per year. This clause is not applicable to an individual who works on motion pictures, which includes, but is not limited to, projects produced for theatrical, television, internet streaming for any device, commercial productions, broadcast news, music videos, and live shows, whether distributed live or recorded for later broadcast, regardless of the distribution platform. For purposes of this clause a “submission” is one or more items or forms of content produced by a still photographer or photojournalist that: (I) pertains to a specific event or specific subject; (II) is provided for in a contract that defines the scope of the work; and (III) is accepted by and licensed to the publication or stock photography company and published or posted. Nothing in this section shall prevent a photographer or artist from displaying their work product for sale.

(x) Services provided by a freelance writer, editor, or newspaper cartoonist who does not provide content submissions to the putative employer more than 35 times per year. Items of content produced on a recurring basis related to a general topic shall be considered separate submissions for purposes of calculating the 35 times per year. For purposes of this clause, a “submission” is one or more items or forms of content by a freelance journalist that: (I) pertains to a specific event or topic; (II) is provided for in a contract that defines the scope of the work; (III) is accepted by the publication or company and published or posted for sale.

(xi) Services provided by a licensed esthetician, licensed electrologist, licensed manicurist, licensed barber, or licensed cosmetologist provided that the individual:

(I) Sets their own rates, processes their own payments, and is paid directly by clients.

(II) Sets their own hours of work and has sole discretion to decide the number of clients and which clients for whom they will provide services.

(III) Has their own book of business and schedules their own appointments.

(IV) Maintains their own business license for the services offered to clients.

(V) If the individual is performing services at the location of the hiring entity, then the individual issues a Form 1099 to the salon or business owner from which they rent their business space.

(VI) This subdivision shall become inoperative, with respect to licensed manicurists, on January 1, 2022.

(d) Subdivision (a) and the holding in *Dynamex* do not apply to the following, which are subject to the Business and Professions Code:

(1) A real estate licensee licensed by the State of California pursuant to Division 4 (commencing with Section 10000) of the Business and Professions Code, for whom the determination of employee or independent contractor status shall be governed by subdivision (b) of Section 10032 of the Business and Professions Code. If that section is not applicable, then this determination shall be governed as follows: (A) for purposes of

unemployment insurance by Section 650 of the Unemployment Insurance Code; (B) for purposes of workers compensation by Section 3200 et seq.; and (C) for all other purposes in the Labor Code by Borello. The statutorily imposed duties of a responsible broker under Section 10015.1 of the Business and Professions Code are not factors to be considered under the Borello test.

(2) A repossession agency licensed pursuant to Section 7500.2 of the Business and Professions Code, for whom the determination of employee or independent contractor status shall be governed by Section 7500.2 of the Business and Professions Code, if the repossession agency is free from the control and direction of the hiring person or entity in connection with the performance of the work, both under the contract for the performance of the work and in fact.

(e) Subdivision (a) and the holding in *Dynamex* do not apply to a bona fide business-to-business contracting relationship, as defined below, under the following conditions:

(1) If a business entity formed as a sole proprietorship, partnership, limited liability company, limited liability partnership, or corporation (“business service provider”) contracts to provide services to another such business (“contracting business”), the determination of employee or independent contractor status of the business services provider shall be governed by Borello, if the contracting business demonstrates that all of the following criteria are satisfied:

(A) The business service provider is free from the control and direction of the contracting business entity in connection with the performance of the work, both under the contract for the performance of the work and in fact.

(B) The business service provider is providing services directly to the contracting business rather than to customers of the contracting business.

(C) The contract with the business service provider is in writing.

(D) If the work is performed in a jurisdiction that requires the business service provider to have a business license or business tax registration, the business service provider has the required business license or business tax registration.

(E) The business service provider maintains a business location that is separate from the business or work location of the contracting business.

(F) The business service provider is customarily engaged in an independently established business of the same nature as that involved in the work performed.

(G) The business service provider actually contracts with other businesses to provide the same or similar services and maintains a clientele without restrictions from the hiring entity.

(H) The business service provider advertises and holds itself out to the public as available to provide the same or similar services.

(I) The business service provider provides its own tools, vehicles, and equipment to perform the services.

(J) The business service provider can negotiate its own rates.

(K) Consistent with the nature of the work, the business service provider can set its own hours and location of work.

(L) The business service provider is not performing the type of work for which a license from the Contractor's State License Board is required, pursuant to Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code.

(2) This subdivision does not apply to an individual worker, as opposed to a business entity, who performs labor or services for a contracting business.

(3) The determination of whether an individual working for a business service provider is an employee or independent contractor of the business service provider is governed by paragraph (1) of subdivision (a).

(4) This subdivision does not alter or supersede any existing rights under Section 2810.3.

(f) Subdivision (a) and the holding in *Dynamex* do not apply to the relationship between a contractor and an individual performing work pursuant to a subcontract in the construction industry, and instead the determination of whether the individual is an employee of the contractor shall be governed by Section 2750.5 and by *Borello*, if the contractor demonstrates that all the following criteria are satisfied:

(1) The subcontract is in writing.

(2) The subcontractor is licensed by the Contractors State License Board and the work is within the scope of that license.

(3) If the subcontractor is domiciled in a jurisdiction that requires the subcontractor to have a business license or business tax registration, the subcontractor has the required business license or business tax registration.

(4) The subcontractor maintains a business location that is separate from the business or work location of the contractor.

(5) The subcontractor has the authority to hire and to fire other persons to provide or to assist in providing the services.

(6) The subcontractor assumes financial responsibility for errors or omissions in labor or services as evidenced by insurance, legally authorized indemnity obligations, performance bonds, or warranties relating to the labor or services being provided.

(7) The subcontractor is customarily engaged in an independently established business of the same nature as that involved in the work performed.

(8) (A) Paragraph (2) shall not apply to a subcontractor providing construction trucking services for which a contractor's license is not required by Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code, provided that all of the following criteria are satisfied:

(i) The subcontractor is a business entity formed as a sole proprietorship, partnership, limited liability company, limited liability partnership, or corporation.

(ii) For work performed after January 1, 2020, the subcontractor is registered with the Department of Industrial Relations as a public works

contractor pursuant to Section 1725.5, regardless of whether the subcontract involves public work.

(iii) The subcontractor utilizes its own employees to perform the construction trucking services, unless the subcontractor is a sole proprietor who operates their own truck to perform the entire subcontract and holds a valid motor carrier permit issued by the Department of Motor Vehicles.

(iv) The subcontractor negotiates and contracts with, and is compensated directly by, the licensed contractor.

(B) For work performed after January 1, 2020, any business entity that provides construction trucking services to a licensed contractor utilizing more than one truck shall be deemed the employer for all drivers of those trucks.

(C) For purposes of this paragraph, “construction trucking services” mean hauling and trucking services provided in the construction industry pursuant to a contract with a licensed contractor utilizing vehicles that require a commercial driver’s license to operate or have a gross vehicle weight rating of 26,001 or more pounds.

(D) This paragraph shall only apply to work performed before January 1, 2022.

(E) Nothing in this paragraph prohibits an individual who owns their truck from working as an employee of a trucking company and utilizing that truck in the scope of that employment. An individual employee providing their own truck for use by an employer trucking company shall be reimbursed by the trucking company for the reasonable expense incurred for the use of the employee owned truck.

(g) Subdivision (a) and the holding in *Dynamex* do not apply to the relationship between a referral agency and a service provider, as defined below, under the following conditions:

(1) If a business entity formed as a sole proprietor, partnership, limited liability company, limited liability partnership, or corporation (“service provider”) provides services to clients through a referral agency, the determination whether the service provider is an employee of the referral agency shall be governed by *Borello*, if the referral agency demonstrates that all of the following criteria are satisfied:

(A) The service provider is free from the control and direction of the referral agency in connection with the performance of the work for the client, both as a matter of contract and in fact.

(B) If the work for the client is performed in a jurisdiction that requires the service provider to have a business license or business tax registration, the service provider has the required business license or business tax registration.

(C) If the work for the client requires the service provider to hold a state contractor’s license pursuant to Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code, the service provider has the required contractor’s license.

(D) The service provider delivers services to the client under service provider’s name, rather than under the name of the referral agency.

(E) The service provider provides its own tools and supplies to perform the services.

(F) The service provider is customarily engaged in an independently established business of the same nature as that involved in the work performed for the client.

(G) The service provider maintains a clientele without any restrictions from the referral agency and the service provider is free to seek work elsewhere, including through a competing agency.

(H) The service provider sets its own hours and terms of work and is free to accept or reject clients and contracts.

(I) The service provider sets its own rates for services performed, without deduction by the referral agency.

(J) The service provider is not penalized in any form for rejecting clients or contracts. This subparagraph does not apply if the service provider accepts a client or contract and then fails to fulfill any of its contractual obligations.

(2) For purposes of this subdivision, the following definitions apply:

(A) “Animal services” means services related to daytime and nighttime pet care including pet boarding under Section 122380 of the Health and Safety Code.

(B) “Client” means a person or business that engages a service contractor through a referral agency.

(C) “Referral agency” is a business that connects clients with service providers that provide graphic design, photography, tutoring, event planning, minor home repair, moving, home cleaning, errands, furniture assembly, animal services, dog walking, dog grooming, web design, picture hanging, pool cleaning, or yard cleanup.

(D) “Referral agency contract” is the agency’s contract with clients and service contractors governing the use of its intermediary services described in subparagraph (C).

(E) “Service provider” means a person or business who agrees to the referral agency’s contract and uses the referral agency to connect with clients.

(F) “Tutor” means a person who develops and teaches their own curriculum. A “tutor” does not include a person who teaches a curriculum created by a public school or who contracts with a public school through a referral company for purposes of teaching students of a public school.

(3) This subdivision does not apply to an individual worker, as opposed to a business entity, who performs services for a client through a referral agency. The determination whether such an individual is an employee of a referral agency is governed by subdivision (a).

(h) Subdivision (a) and the holding in *Dynamex* do not apply to the relationship between a motor club holding a certificate of authority issued pursuant to Chapter 2 (commencing with Section 12160) of Part 5 of Division 2 of the Insurance Code and an individual performing services pursuant to a contract between the motor club and a third party to provide motor club services utilizing the employees and vehicles of the third party and, instead, the determination whether such an individual is an employee

of the motor club shall be governed by Borello, if the motor club demonstrates that the third party is a separate and independent business from the motor club.

(i) (1) The addition of subdivision (a) to this section of the Labor Code by this act does not constitute a change in, but is declaratory of, existing law with regard to wage orders of the Industrial Welfare Commission and violations of the Labor Code relating to wage orders.

(2) Insofar as the application of subdivisions (b), (c), (d), (e), (f), (g), and (h) of this section would relieve an employer from liability, those subdivisions shall apply retroactively to existing claims and actions to the maximum extent permitted by law.

(3) Except as provided in paragraphs (1) and (2) of this subdivision, the provisions of this section of the Labor Code shall apply to work performed on or after January 1, 2020.

(j) In addition to any other remedies available, an action for injunctive relief to prevent the continued misclassification of employees as independent contractors may be prosecuted against the putative employer in a court of competent jurisdiction by the Attorney General or by a city attorney of a city having a population in excess of 750,000, or by a city attorney in a city and county or, with the consent of the district attorney, by a city prosecutor in a city having a full-time city prosecutor in the name of the people of the State of California upon their own complaint or upon the complaint of a board, officer, person, corporation, or association.

SEC. 3. Section 3351 of the Labor Code, as amended by Section 33 of Chapter 38 of the Statutes of 2019, is amended to read:

3351. "Employee" means every person in the service of an employer under any appointment or contract of hire or apprenticeship, express or implied, oral or written, whether lawfully or unlawfully employed, and includes:

(a) Aliens and minors.

(b) All elected and appointed paid public officers.

(c) All officers and members of boards of directors of quasi-public or private corporations while rendering actual service for the corporations for pay. An officer or member of a board of directors may elect to be excluded from coverage in accordance with paragraph (16), (18), or (19) of subdivision (a) of Section 3352.

(d) Except as provided in paragraph (8) of subdivision (a) of Section 3352, any person employed by the owner or occupant of a residential dwelling whose duties are incidental to the ownership, maintenance, or use of the dwelling, including the care and supervision of children, or whose duties are personal and not in the course of the trade, business, profession, or occupation of the owner or occupant.

(e) All persons incarcerated in a state penal or correctional institution while engaged in assigned work or employment as defined in paragraph (1) of subdivision (a) of Section 10021 of Title 8 of the California Code of Regulations, or engaged in work performed under contract.

(f) All working members of a partnership or limited liability company receiving wages irrespective of profits from the partnership or limited liability company. A general partner of a partnership or a managing member of a limited liability company may elect to be excluded from coverage in accordance with paragraph (17) of subdivision (a) of Section 3352.

(g) A person who holds the power to revoke a trust, with respect to shares of a private corporation held in trust or general partnership or limited liability company interests held in trust. To the extent that this person is deemed to be an employee described in subdivision (c) or (f), as applicable, the person may also elect to be excluded from coverage as described in subdivision (c) or (f), as applicable, if that person otherwise meets the criteria for exclusion, as described in Section 3352.

(h) A person committed to a state hospital facility under the State Department of State Hospitals, as defined in Section 4100 of the Welfare and Institutions Code, while engaged in and assigned work in a vocation rehabilitation program, including a sheltered workshop.

(i) Beginning on July 1, 2020, any individual who is an employee pursuant to Section 2750.3. This subdivision shall not apply retroactively.

SEC. 4. Section 606.5 of the Unemployment Insurance Code is amended to read:

606.5. (a) Whether an individual or entity is the employer of specific employees shall be determined pursuant to subdivision (b) of Section 621, except as provided in subdivisions (b) and (c).

(b) As used in this section, a “temporary services employer” and a “leasing employer” is an employing unit that contracts with clients or customers to supply workers to perform services for the client or customer and performs all of the following functions:

(1) Negotiates with clients or customers for such matters as time, place, type of work, working conditions, quality, and price of the services.

(2) Determines assignments or reassignments of workers, even though workers retain the right to refuse specific assignments.

(3) Retains the authority to assign or reassign a worker to other clients or customers when a worker is determined unacceptable by a specific client or customer.

(4) Assigns or reassigns the worker to perform services for a client or customer.

(5) Sets the rate of pay of the worker, whether or not through negotiation.

(6) Pays the worker from its own account or accounts.

(7) Retains the right to hire and terminate workers.

(c) If an individual or entity contracts to supply an employee to perform services for a customer or client, and is a leasing employer or a temporary services employer, the individual or entity is the employer of the employee who performs the services. If an individual or entity contracts to supply an employee to perform services for a client or customer and is not a leasing employer or a temporary services employer, the client or customer is the employer of the employee who performs the services. An individual or entity that contracts to supply an employee to perform services for a customer

or client and pays wages to the employee for the services, but is not a leasing employer or a temporary services employer, pays the wages as the agent of the employer.

(d) In circumstances which are in essence the loan of an employee from one employer to another employer wherein direction and control of the manner and means of performing the services changes to the employer to whom the employee is loaned, the loaning employer shall continue to be the employer of the employee if the loaning employer continues to pay remuneration to the employee, whether or not reimbursed by the other employer. If the employer to whom the employee is loaned pays remuneration to the employee for the services performed, that employer shall be considered the employer for the purposes of any remuneration paid to the employee by the employer, regardless of whether the loaning employer also pays remuneration to the employee.

SEC. 5. Section 621 of the Unemployment Insurance Code is amended to read:

621. "Employee" means all of the following:

(a) Any officer of a corporation.

(b) Any individual providing labor or services for remuneration has the status of an employee rather than an independent contractor unless the hiring entity demonstrates all of the following conditions:

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

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

(c) (1) Any individual, other than an individual who is an employee under subdivision (a) or (b), who performs services for remuneration for any employing unit if the contract of service contemplates that substantially all of those services are to be performed personally by that individual either:

(A) As an agent-driver or commission-driver engaged in distributing meat products, vegetable products, fruit products, bakery products, beverages (other than milk), or laundry or drycleaning services, for their principal.

(B) As a traveling or city salesperson, other than as an agent-driver or commission-driver, engaged upon a full-time basis in the solicitation on behalf of, and the transmission to, their principal (except for sideline sales activities on behalf of some other person) of orders from wholesalers, retailers, contractors, or operators of hotels, restaurants, or other similar establishments for merchandise for resale or supplies for use in their business operations.

(C) As a home worker performing work, according to specifications furnished by the person for whom the services are performed, on materials or goods furnished by that person that are required to be returned to that person or a designee thereof.

(2) An individual shall not be included in the term “employee” under the provisions of this subdivision if that individual has a substantial investment in facilities used in connection with the performance of those services, other than in facilities for transportation, or if the services are in the nature of a single transaction not part of a continuing relationship with the employing unit for whom the services are performed.

(d) Any individual who is an employee pursuant to Section 601.5 or 686.

(e) Any individual whose services are in subject employment pursuant to an election for coverage under any provision of Article 4 (commencing with Section 701) of this chapter.

(f) Any member of a limited liability company that is treated as a corporation for federal income tax purposes.

SEC. 6. No provision of this measure shall permit an employer to reclassify an individual who was an employee on January 1, 2019, to an independent contractor due to this measure’s enactment.

SEC. 7. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

## **BOARD OF BARBERING & COSMETOLOGY**

### **BILL ANALYSIS**

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**Author:** Assembly Member Low

**Subject:** Gendered Terms

**Bill Number:** AB 496

**Version:** September 27, 2019

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#### **Existing Law:**

Existing law establishes the Department of Consumer Affairs, which is comprised of various boards, and provides that the Governor has power to remove from office any member of any board appointed by the Governor for specified reasons, including incompetence.

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 provide that the appointing authority has power to remove a board member from office for specified reasons.

This bill would 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.

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

This bill would provide that any section of any act that is enacted by the Legislature during the 2019 calendar year that takes effect on or before January 1, 2020, and affects any section of law amended by this bill, would prevail over this bill, whether that act is enacted prior to, or subsequent to, the enactment of this bill.

**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**

### **CHAPTER 351**

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, 144, 151, 152, 152.6, 153, 156.1, 158, 159.5, 161, 210, 328, 450, and 450.3 of the Business and Professions Code, relating to business and professions.

[Approved by Governor September 27, 2019. Filed with  
Secretary of State September 27, 2019.]

#### **LEGISLATIVE COUNSEL'S DIGEST**

**AB 496, Low. Business and professions.**

Under existing law, the Department of Consumer Affairs, which is under the control of the director of the Department of Consumer Affairs, is comprised of various boards, as defined, that license and regulate various professions and vocations. With respect to the Department of Consumer Affairs, existing law provides that the Governor has power to remove from office any member of any board appointed by the Governor for specified reasons, including incompetence.

This bill would instead provide that the appointing authority has power to remove a board member from office for those specified reasons.

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.

This bill would make other conforming and nonsubstantive changes, including replacing gendered terms with nongendered terms, updating cross-references, and deleting obsolete provisions.

This bill would provide that any section of any act that is enacted by the Legislature during the 2019 calendar year that takes effect on or before January 1, 2020, and affects any section of law amended by this bill, would prevail over this bill, whether that act is enacted prior to, or subsequent to, the enactment of this bill.

*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. "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 that individual's imprisonment or the conviction from which the imprisonment resulted, or because the individual obtained 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 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 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 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 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 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, service contract 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 Acupuncture Board shall disclose information on its licensees.

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

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

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

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

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

(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 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 the individual's 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 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 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 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 the licensee's state tax obligation and that 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 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 two 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 has discretion to 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 two 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 webcast 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 webcast the meeting. An agency may webcast 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 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 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, or committees on any day when the officer or employee also received compensation for 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 that member's successor or until one year shall have elapsed since the expiration of the term for which the member was appointed, whichever first occurs.

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

106. The appointing authority has power to remove from office at any time any member of any board appointed by the appointing authority 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 appointing authority conferred on the appointing authority 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 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 that any board, commission, or officer in the department is empowered to institute, conduct, or hold, any witness appearing at the 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 the investigation, proceeding, or hearing and for the witness's actual, necessary, and reasonable expenses and those 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 the fund.

The board, commission, or officer shall determine the sums due to any 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 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 their license or registration without examination or penalty, provided that all of the following requirements are satisfied:

(1) The licensee or registrant's license or registration was valid at the time 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 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 the licensee or registrant is licensed or registered shall be required to maintain their license in good standing even though 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 the licensee is prevented from practicing 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 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 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 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 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 the licensee or registrant's discharge date, the licensee or registrant shall notify the board of their discharge from active duty within 60 days of receiving 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 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 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 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 the applicant the authority to practice, in another state, district, or territory of the United States, the profession or vocation for which 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 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 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 the person's 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 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 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, Professions and Economic Development Committee and the Assembly Business and Professions Committee annually, commencing March 1, 1995, regarding 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 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 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 the person as being 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 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 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 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 the licensee's license prior to expiration of such license shall be deemed to be engaged illegally in the practice of 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 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 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 their license to be used by that person.
- (b) Acts as 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 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 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 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 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 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 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, 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, the person makes 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 the person 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 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 the licensee 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 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 the complainant’s complaint within 10 days of receipt. Each board shall notify the complainant of the final action taken on 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 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 Board of Behavioral Sciences.
- (14) The Court Reporters Board of California.
- (15) The State Athletic Commission.
- (16) The Osteopathic Medical Board of California.
- (17) The Respiratory Care Board of California.
- (18) The Acupuncture Board.
- (19) The Board of Psychology.
- (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 the director's approval or denial of the request and 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 the person's 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 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 by the licensee or for failure to communicate such number if none is provided 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 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) California State Board of Pharmacy.
  - (6) Board of Registered Nursing.
  - (7) Veterinary Medical Board.
  - (8) Board of Vocational Nursing and Psychiatric Technicians.
  - (9) Respiratory Care Board of California.
  - (10) Physical Therapy Board of California.
  - (11) Physician Assistant Committee.
  - (12) Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board.
  - (13) Medical Board of California.
  - (14) State Board of Optometry.
  - (15) Acupuncture Board.
  - (16) Cemetery and Funeral Bureau.
  - (17) Bureau of Security and Investigative Services.
  - (18) Division of Investigation.
  - (19) Board of Psychology.
  - (20) California Board of Occupational Therapy.
  - (21) Structural Pest Control Board.
  - (22) Contractors' State License Board.
  - (23) Naturopathic Medicine Committee.
  - (24) Professional Fiduciaries Bureau.
  - (25) Board for Professional Engineers, Land Surveyors, and Geologists.
  - (26) Bureau of Cannabis Control.
  - (27) Podiatric Medical Board of California.
  - (28) Osteopathic Medical Board of California.
- (c) For purposes of paragraph (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.

SEC. 38. Section 151 of the Business and Professions Code is amended to read:

151. The director is appointed by the Governor and holds office at the Governor's pleasure. The director shall receive the annual salary provided for by Chapter 6 (commencing with Section 11550) of Part 1 of Division 3 of Title 2 of the Government Code, and the director's necessary traveling expenses.

SEC. 39. Section 152 of the Business and Professions Code is amended to read:

152. For the purpose of administration, the reregistration and clerical work of the department is organized by the director, subject to the approval of the Governor, in such manner as the director deems necessary properly to segregate and conduct the work of the department.

SEC. 40. Section 152.6 of the Business and Professions Code is amended to read:

152.6. Notwithstanding any other provision of this code, each board within the department shall, in cooperation with the director, establish such license periods and renewal dates for all licenses in such manner as best to distribute the renewal work of all boards throughout each year and permit the most efficient, and economical use of personnel and equipment. To the extent practicable, provision shall be made for the proration or other adjustment of fees in such manner that no person shall be required to pay a greater or lesser fee than the person would have been required to pay if the change in license periods or renewal dates had not occurred.

As used in this section "license" includes "certificate," "permit," "authority," "registration," and similar indicia of authority to engage in a business or profession, and "board" includes "board," "bureau," "commission," "committee," and an individual who is authorized to renew a license.

SEC. 41. Section 153 of the Business and Professions Code is amended to read:

153. The director may investigate the work of the boards in the department and may obtain a copy of all records and full and complete data in all official matters in possession of the boards and their members, officers, or employees, other than examination questions prior to submission to applicants at scheduled examinations.

SEC. 42. Section 156.1 of the Business and Professions Code is amended to read:

156.1. (a) Notwithstanding any other law, individuals or entities contracting with the department or any board within the department for the provision of services relating to the treatment and rehabilitation of licensees impaired by alcohol or dangerous drugs shall retain all records and documents pertaining to those services until such time as these records and documents have been reviewed for audit by the department. These records and documents shall be retained for three years from the date of the last

treatment or service rendered to that licensee, after which time the records and documents may be purged and destroyed by the contract vendor. This provision shall supersede any other law relating to the purging or destruction of records pertaining to those treatment and rehabilitation programs.

(b) Unless otherwise expressly provided by statute or regulation, all records and documents pertaining to services for the treatment and rehabilitation of licensees impaired by alcohol or dangerous drugs provided by any contract vendor to the department or to any board within the department shall be kept confidential and are not subject to discovery or subpoena.

(c) With respect to all other contracts for services with the department, or any board within the department other than those set forth in subdivision (a), the director or chief deputy director may request an examination and audit by the department's internal auditor of all performance under the contract. For this purpose, all documents and records of the contract vendor in connection with such performance shall be retained by the vendor for a period of three years after final payment under the contract. Nothing in this section shall affect the authority of the State Auditor to conduct any examination or audit under the terms of Section 8546.7 of the Government Code.

SEC. 43. Section 158 of the Business and Professions Code is amended to read:

158. With the approval of the Director of Consumer Affairs, the boards and commissions comprising the department or subject to its jurisdiction may make refunds to applicants who are found ineligible to take the examinations or whose credentials are insufficient to entitle them to certificates or licenses.

Notwithstanding any other law, any application fees, license fees, or penalties imposed and collected illegally, by mistake, inadvertence, or error shall be refunded. Claims authorized by the department shall be filed with the State Controller, and the Controller shall draw a warrant against the fund of the agency in payment of the refund.

SEC. 44. Section 159.5 of the Business and Professions Code is amended to read:

159.5. (a) (1) There is in the department the Division of Investigation. The division is in the charge of a person with the title of chief of the division.

(2) Except as provided in Section 160, investigators who have the authority of peace officers, as specified in subdivision (a) of Section 160 and in subdivision (a) of Section 830.3 of the Penal Code, shall be in the division and shall be appointed by the director.

(b) (1) There is in the Division of Investigation the Health Quality Investigation Unit. The primary responsibility of the unit is to investigate violations of law or regulation within the jurisdiction of the Medical Board of California, the Podiatric Medical Board of California, the Board of Psychology, the Osteopathic Medical Board of California, the Physician Assistant Board, or any entities under the jurisdiction of the Medical Board of California.

(2) The Medical Board of California shall not be charged an hourly rate for the performance of investigations by the unit.

SEC. 45. Section 161 of the Business and Professions Code is amended to read:

161. The department, or any board in the department, may, 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), make available to the public copies of any part of its respective public records, or compilations, extracts, or summaries of information contained in its public records, at a charge sufficient to pay the actual cost thereof. That charge shall be determined by the director with the approval of the Department of General Services.

SEC. 46. Section 210 of the Business and Professions Code is amended to read:

210. (a) (1) The department may enter into a contract with a vendor for the BreEZe system, the integrated, enterprisewide enforcement case management and licensing system described in the department's strategic plan, no sooner than 30 days after notification in writing to the chairpersons of the Appropriations Committees of each house of the Legislature and the Chairperson of the Joint Legislative Budget Committee.

(2) The amount of BreEZe system vendor contract funds, authorized pursuant to this section, shall be consistent with the project costs approved by the office of the State Chief Information Officer based on its review and approval of the most recent BreEZe Special Project Report to be submitted by the department prior to contract award at the conclusion of procurement activities.

(3) Paragraph (2) shall apply to all Budget Act items for the department that have an appropriation for the BreEZe system.

(b) (1) If the department enters into a contract with a vendor for the BreEZe system pursuant to subdivision (a), the department shall, by December 31, 2014, submit to the Legislature, the Senate Committee on Business, Professions and Economic Development, the Assembly Committee on Business and Professions, and the budget committees of each house, a report analyzing the workload of licensing personnel employed by boards within the department participating in the BreEZe system.

(2) A report to the Legislature pursuant to this subdivision shall be submitted in compliance with Section 9795 of the Government Code.

(3) This subdivision shall become inoperative on December 1, 2018, pursuant to Section 10231.5 of the Government Code.

(c) (1) Notwithstanding any other provision of law, upon the request of the Department of Consumer Affairs, the Department of Finance may augment the budgets of the boards, bureaus, commissions, committees, programs, and divisions that comprise the Department of Consumer Affairs, as defined in Section 101, for expenditure of non-General Fund moneys to pay BreEZe project costs. The augmentation may be made no sooner than

30 days after notification in writing to the chairpersons of the committees in each house of the Legislature that consider appropriations and the Chairperson of the Joint Legislative Budget Committee, or no sooner than whatever lesser time the chairperson of the joint committee may in each instance determine. The amount of funds augmented pursuant to the authority of this subdivision shall be consistent with project cost increases approved by the Secretary of California Technology based on the secretary's review and approval of the most recent BreEZe Special Project Report to be submitted at the conclusion of procurement activities. This subdivision shall apply to all Budget Act items for the boards, bureaus, commissions, committees, programs, and divisions that comprise the Department of Consumer Affairs, as defined in Section 101, that have an appropriation for the BreEZe system in the Budget Act of 2011.

(2) This subdivision shall become inoperative upon enactment of the Budget Act of 2012.

SEC. 47. Section 328 of the Business and Professions Code is amended to read:

328. (a) In order to implement the Consumer Protection Enforcement Initiative of 2010, the director, through the Division of Investigation, shall implement "Complaint Prioritization Guidelines" for boards to utilize in prioritizing their respective complaint and investigative workloads. The guidelines shall be used to determine the referral of complaints to the division and those that are retained by the health care boards for investigation.

(b) Neither the Medical Board of California nor the Podiatric Medical Board of California shall be required to utilize the guidelines implemented pursuant to subdivision (a).

(c) On or before July 1, 2019, the director shall amend the guidelines implemented pursuant to subdivision (a) to include the category of "allegations of serious harm to a minor" under the "urgent" or "highest priority" level.

SEC. 48. Section 450 of the Business and Professions Code is amended to read:

450. In addition to the qualifications provided in the respective chapters of this code, a public member or a lay member of any board shall not be, nor shall they have been within the period of five years immediately preceding their appointment, any of the following:

(a) An employer, or an officer, director, or substantially full-time representative of an employer or group of employers, of any licensee of a board, except that this subdivision shall not preclude the appointment of a person who maintains infrequent employer status with a licensee, or maintains a client, patient, or customer relationship with a licensee that does not constitute more than 2 percent of the practice or business of the licensee.

(b) A person maintaining a contractual relationship with a licensee of a board that would constitute more than 2 percent of the practice or business of the licensee, or an officer, director, or substantially full-time representative of that person or group of persons.

(c) An employee of a licensee of a board, or a representative of the employee, except that this subdivision shall not preclude the appointment of a person who maintains an infrequent employee relationship or renders professional or related services to a licensee if the employment or service does not constitute more than 2 percent of the employment or practice of the member of the board.

SEC. 49. Section 450.3 of the Business and Professions Code is amended to read:

450.3. No public member shall either at the time of their appointment or during their tenure in office have any financial interest in any organization subject to regulation by the board, commission, or committee of which they are a member.

SEC. 50. Any section of any act enacted by the Legislature during the 2019 calendar year that takes effect on or before January 1, 2020, and that amends, amends and renumbers, adds, repeals and adds, or repeals a section of law that is amended by this act, shall prevail over this act, whether that act is enacted prior to, or subsequent to, the enactment of this act.

## BOARD OF BARBERING & COSMETOLOGY

### BILL ANALYSIS

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**Author:** Assembly Member Boerner Horvath  
**Coauthor:** Stern (S)

**Subject:** Gender Discrimination  
**Notification**

**Bill Number:** AB 1607

**Version:** September 12, 2019

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#### **Existing Law:**

Existing law prohibits businesses from discriminating against persons because of a person's gender with respect to the price charged for services of similar or like kind.

Existing law 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.

Existing law requires the Department of Consumer Affairs to develop a pamphlet or other informational materials to explain a business establishment's rights and obligations under these provisions. Existing law requires the department to provide the pamphlet or other informational materials to affected business establishments at specified times and to make the pamphlet or other informational materials available on the department's internet website.

#### **This Bill:**

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 or renewed in English, Spanish, Chinese, Tagalog, Vietnamese, and Korean commencing January 1, 2021. The bill would declare that it addresses a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities. By requiring local agencies to comply with these requirements, this bill would impose a state-mandated local program.

This bill would require DCA to develop by October 1, 2020, written notification in English, Spanish, Chinese, Tagalog, Vietnamese, and Korean to explain that the business is prohibited from charging different prices for similar services based on the customer's gender. This bill would also require the department to revise the pamphlet as necessary.

**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**

### **CHAPTER 293**

An act to amend Sections 51.6 and 55.63 of the Civil Code, relating to civil rights.

[Approved by Governor September 12, 2019. Filed with  
Secretary of State September 12, 2019.]

#### **LEGISLATIVE COUNSEL'S DIGEST**

AB 1607, 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. Existing law requires the Department of Consumer Affairs to develop a pamphlet or other informational materials to explain a business establishment's rights and obligations under these provisions. Existing law requires the department to provide the pamphlet or other informational materials to affected business establishments at specified times and to make the pamphlet or other informational materials available on the department's internet website.

This bill would, commencing January 1, 2021, require a city, county, or city and county that issues local business licenses to provide written notification in English, Spanish, Chinese, Tagalog, Vietnamese, and Korean of the above provisions to the licensee at the time the business license is issued or renewed. The bill would declare that it addresses a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities. By requiring local agencies to comply with these requirements, this bill would impose a state-mandated local program.

The bill would require the Department of Consumer Affairs to develop, by October 1, 2020, a written notification of the above provisions in English, Spanish, Chinese, Tagalog, Vietnamese, and Korean and would require the notification to be available for download from the department's internet website. The bill would authorize a city, county, or city and county to provide the department's written notification to a business and to increase the fee for a business license to cover the reasonable cost of providing the notice. The bill would, commencing October 1, 2020, require the department to provide the pamphlet and other informational materials in English, Spanish,

Chinese, Tagalog, Vietnamese, and Korean. The bill would require the department to subsequently revise the pamphlet and notice, as necessary.

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

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

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

SECTION 1. Section 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) Commencing January 1, 2021, a city, county, or city and county that issues business licenses shall provide a business, at the time the business is issued the license or when the license is renewed, written notice of these provisions in English, Spanish, Chinese, Tagalog, Vietnamese, and Korean. In order to comply with this paragraph, a city, county, or city and county may provide the business with the notice created by the Department of Consumer Affairs under subdivision (b) of Section 55.63.

(2) A city, county, or city and county that issues business licenses may increase the fee for that license in an amount not to exceed the reasonable costs of providing the written notice above.

(h) The Legislature finds and declares that this section addresses a matter of statewide concern rather than a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, this section applies to all cities, including charter cities.

SEC. 2. Section 55.63 of the Civil Code is amended to read:

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

(2) The department shall provide the pamphlet or other informational materials required by paragraph (1) to an affected business establishment at the time that the business establishment applies for or renews a license, at the time of any inspection, or at both times. The department shall post a copy of the pamphlet or other informational materials on its internet website.

(3) Commencing October 1, 2020, the department shall provide the pamphlet and other informational materials required by paragraph (1) in English, Spanish, Chinese, Tagalog, Vietnamese, and Korean.

(b) By October 1, 2020, the department shall develop a written notice explaining the requirements and obligations specified in Section 51.6. The notice shall be available in English, Spanish, Chinese, Tagalog, Vietnamese, and Korean. The department shall post a copy of the notice in each language on its internet website in a format available for download. The department shall subsequently revise the notice, as necessary.

SEC. 3. 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.

## BOARD OF BARBERING & COSMETOLOGY

### BILL ANALYSIS

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**Author:** Senator Glazer

**Subject:** Sunset Review

**Bill Number:** SB 606

**Version:** September 27, 2019

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#### **Existing Law:**

Existing law provides for the licensure and regulation of barbering and cosmetology by the State Board of Barbering and Cosmetology and authorizes the board to appoint an executive officer. Under existing law, these provisions are repealed on January 1, 2020.

#### **This Bill:**

This bill would extend the operation of the Board of Barbering and Cosmetology to January 1, 2021.

#### **Analysis:**

SB 606 is the sunset bill established for the Board. This bill would extend the sunset date of the Board from January 1, 2020 to January 1, 2021.

## **Senate Bill No. 606**

### **CHAPTER 375**

An act to amend Sections 2847.1, 2847.3, 7303, 7602, 7646, and 7650 of the Business and Professions Code, relating to professions and vocations.

[Approved by Governor September 27, 2019. Filed with  
Secretary of State September 27, 2019.]

#### **LEGISLATIVE COUNSEL'S DIGEST**

SB 606, Glazer. Professions and vocations.

(1) Existing law, until January 1, 2021, establishes the Board of Vocational Nursing and Psychiatric Technicians to license and regulate vocational nurses and psychiatric technicians. Existing law, before January 1, 2018, requires the board to select an executive officer to perform duties delegated by the board. Existing law, commencing January 1, 2018, requires the Governor rather than the board to appoint an executive officer and, commencing January 1, 2020, requires the executive officer to again be appointed by the board.

This bill would extend the operation of the provisions requiring the Governor rather than the board to appoint an executive officer to January 1, 2021.

(2) The Barbering and Cosmetology Act provides for the licensure and regulation of the practice of barbering and cosmetology by the State Board of Barbering and Cosmetology in the Department of Consumer Affairs. Existing law authorizes the board to appoint an executive officer. Existing law repeals those provisions on January 1, 2020.

This bill would extend the operation of those provisions to January 1, 2021.

(3) The Cemetery and Funeral Act provides for the licensure and regulation of cemeteries, crematories, funeral establishments, and their personnel, including embalmers, by the Cemetery and Funeral Bureau, which is within the Department of Consumer Affairs. The act makes the bureau's powers and duties, as set forth in this act, subject to review by the appropriate policy committees of the Legislature as if the act's provisions are scheduled to be repealed on January 1, 2020. The act requires the bureau to require an applicant for licensure as an embalmer to pass 2 examinations. The act authorized an applicant who previously failed the examination administered by the bureau prior to January 1, 2010, to retake the examination until June 30, 2010. That act also authorizes the bureau, from time to time, to examine the requirements for the licensure of embalmers in other states, as specified.

This bill would make the board's powers and duties subject to review as if the act's provisions are scheduled to be repealed on January 1, 2024. The

bill would delete the obsolete provision that authorized certain applicants to retake the examination, and would delete the phrase “from time to time” from the provision authorizing the bureau to examine licensure requirements for embalmers in other states.

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

SECTION 1. Section 2847.1 of the Business and Professions Code is amended to read:

2847.1. (a) The board shall select an executive officer who shall perform duties as are delegated by the board and who shall be responsible to it for the accomplishment of those duties. The executive officer shall not be a member of the board.

(b) With the approval of the Director of Finance, the board shall fix the salary of the executive officer.

(c) The executive officer shall be entitled to traveling and other necessary expenses in the performance of their duties. The executive officer shall make a statement, certified before a duly authorized person, that the expenses have been actually incurred.

(d) Commencing January 1, 2018, the executive officer appointed by the board pursuant to subdivision (a) is abolished. Thereafter, until January 1, 2021, the executive officer shall be appointed as set forth in Section 2847.3. Commencing January 1, 2021, the executive officer shall, again, be appointed by the board as set forth in subdivision (a).

(e) This section shall remain in effect only until January 1, 2022, and as of that date is repealed.

SEC. 2. Section 2847.3 of the Business and Professions Code is amended to read:

2847.3. (a) Commencing January 1, 2018, the executive officer position established pursuant to subdivision (a) of Section 2847.1 is temporarily abolished. Commencing January 1, 2018, the Governor shall appoint an executive officer who shall perform duties as are delegated by the board and who shall be responsible for the accomplishment of those duties. The executive officer shall exercise all powers, discharge all responsibilities, and administer and enforce all laws pursuant to this chapter and Chapter 10 (commencing with Section 4500) of Division 2 that are necessary to perform the duties delegated by the board.

(b) The executive officer shall serve at the pleasure of the Governor and the Governor shall fix the salary of the executive officer. The executive officer shall not be a member of the board.

(c) The executive officer shall be entitled to traveling and other necessary expenses in the performance of their duties.

(d) This section shall become operative on January 1, 2018, and shall remain in effect only until January 1, 2021, and as of that date is repealed.

SEC. 3. Section 7303 of the Business and Professions Code is amended to read:

7303. (a) Notwithstanding Article 8 (commencing with Section 9148) of Chapter 1.5 of Part 1 of Division 2 of Title 2 of the Government Code, there is in the Department of Consumer Affairs the State Board of Barbering and Cosmetology in which the administration of this chapter is vested.

(b) The board shall consist of nine members. Five members shall be public members, and four members shall represent the professions. The Governor shall appoint three of the public members and the four professional members. The Senate Committee on Rules and the Speaker of the Assembly shall each appoint one public member. Members of the board shall be appointed for a term of four years, except that of the members appointed by the Governor, two of the public members and two of the professions members shall be appointed for an initial term of two years. No board member may serve longer than two consecutive terms.

(c) The board may appoint an executive officer who is exempt from civil service. The executive officer shall exercise the powers and perform the duties delegated by the board and vested in the executive officer by this chapter. The appointment of the executive officer is subject to the approval of the director. In the event that a newly authorized board replaces an existing or previous bureau, the director may appoint an interim executive officer for the board who shall serve temporarily until the new board appoints a permanent executive officer.

(d) The executive officer shall provide examiners, inspectors, and other personnel necessary to carry out the provisions of this chapter.

(e) This section shall remain in effect only until January 1, 2021, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2021, deletes or extends that date. Notwithstanding any other law, the repeal of this section renders the board subject to review by the appropriate policy committees of the Legislature.

SEC. 4. Section 7602 of the Business and Professions Code is amended to read:

7602. (a) (1) There is in the department the Cemetery and Funeral Bureau, under the supervision and control of the director.

(2) The director may appoint a chief at a salary to be fixed and determined by the director, with the approval of the Director of Finance. The duty of enforcing and administering this chapter is vested in the chief, and the chief is responsible to the director. The chief shall serve at the pleasure of the director.

(3) Every power granted or duty imposed upon the director under this chapter may be exercised or performed in the name of the director by a deputy director or by the chief, subject to conditions and limitations the director may prescribe.

(b) Notwithstanding any other law, the powers and duties of the bureau, as set forth in this chapter, shall be subject to review by the appropriate policy committees of the Legislature. The review shall be performed as if this chapter is scheduled to be repealed on January 1, 2024.

SEC. 5. Section 7646 of the Business and Professions Code is amended to read:

7646. (a) The bureau shall require the applicant to pass both of the following:

(1) The sciences section of the national examination administered by the International Conference of Funeral Service Examining Boards, or its equivalent, as determined by the bureau.

(2) An examination, administered by the bureau, on the state's laws and the rules and regulations of the bureau, including those sections of the Health and Safety Code which pertain to the funeral industry.

(b) An applicant who has previously passed the sciences section of the national examination described in paragraph (1) of subdivision (a) shall be deemed to be in compliance with that paragraph.

SEC. 6. Section 7650 of the Business and Professions Code is amended to read:

7650. The bureau may examine the requirements for the issuance of licenses to embalmers in other states of the United States and cause a record to be kept of those states in which standards are maintained for embalmers, not lower than those provided in this chapter.



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## MEMORANDUM

<b>DATE</b>	December 2, 2019
<b>TO</b>	Members, Board of Barbering and Cosmetology
<b>FROM</b>	Kristy Underwood, Executive Officer
<b>SUBJECT</b>	Regulations Update

**The following package has been approved by OAL (Effective January 1):**

- Title 16, CCR Section 974 & 974.3 (Fine Schedule and Payment Plan)

**The following regulation packages are under internal review at DCA:**

- Title 16, CCR Section 950.10 (Transfer of Credit or Training)
- Title 16, CCR Section 965.2 (Personal Service Permit)
- Title 16, CCR Section 972 (Disciplinary Guidelines)
- Title 16, CCR Section 970, 971 (Substantial Relationship Criteria, Criteria for Rehabilitation)

**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)



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## **PROPOSED BOARD MEETINGS 2020**

March 9, 2020 – Reinstatement Hearings/Board Meeting – Sacramento

June 8, 2020 – Reinstatement Hearings/Board Meeting – Southern California

September 14, 2020 – Board Meeting – Sacramento

December 7, 2020 - Board Meeting – San Diego