

**Title 16, Division 9
Department Of Consumer Affairs
California Board of Barbering and Cosmetology**

NOTICE OF PROPOSED REGULATORY ACTION CONCERNING

Disciplinary Guidelines

California Code of Regulations

NOTICE IS HEREBY GIVEN that the Board of Barbering and Cosmetology (hereafter Board) is proposing to amend California Code of Regulations (CCR), Title 16, Division 9, Section 972 as described in the Informative Digest below, after considering all comments, objections, and recommendations regarding the proposed action. Any person interested may present statements or arguments relevant to the action proposed in writing. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board at its office no later than **September 22, 2025** or must be received by the Board at the hearing, should one be scheduled.

PUBLIC HEARING

The Board has not scheduled a public hearing on this proposed action. However, the Board will hold a hearing if it receives a written request for a public hearing from any interested person, or their authorized representative, no later than 15 days prior to the close of the written comment period. A hearing may be requested by making such request in writing addressed to the individuals listed under "Contact Person" in this notice.

WRITTEN COMMENTS AND AVAILABILITY OF CHANGED OR MODIFIED TEXT

The Board may, after considering all timely and relevant comments, adopt the proposed regulations substantially as described in this notice, or may modify the proposed regulations if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as the contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by Section 7312 of the Business and Professions Code (BPC) and Section 11425.50(e) of the Government Code (GC), and to implement, interpret, or make specific BPC sections 7403 and 7404 and GC sections 11400.20,

11425.50(e), 11500 and 11519, the Board is considering amending section 972 of title 16 of the California Code of Regulations (CCR) as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Board of Barbering and Cosmetology (Board) licenses, regulates, and investigates complaints against twelve (12) different license categories in California, totaling approximately 656,000 licensees. These licensing categories include Barber, Barber Apprentice, Cosmetology, Cosmetology Apprentice, Electrologist, Electrologist Apprentice, Esthetician, Manicurist, Hairstylist, Establishments, Mobile Units, and Personal Service Permit. Protection of the public is the Board's highest priority in exercising its licensing, regulatory, and disciplinary functions as specified in Business and Professions Code (BPC) section 7303.1. It is the Board's duty to enforce and administer the Barbering and Cosmetology Act (Chapter 10 (commencing with § 7300) of Division 3 of the BPC) (Act). The Board is authorized to establish necessary rules and regulations for the enforcement of the Act and the laws subject to its jurisdiction. (BPC § 7312.)

The document entitled "Disciplinary Guidelines" for the Board was last updated in October 2010. Since that time there have been changes to the Board's laws and regulations, and changes in the administration of various penalties for violations requiring the Disciplinary Guidelines to be updated. The Disciplinary Guidelines are used to provide guidance to the Board, Administrative Law Judges (ALJs) and other interested parties in determining the terms and conditions of discipline for licensees found to have committed actions warranting administrative discipline. Existing regulations require (at Title 16, California Code of Regulations (CCR), section 972) the Board to consider these guidelines "In reaching a decision on a disciplinary action under the Administrative Procedure Act (Government Code Section 11400 et seq.)" The Disciplinary Guidelines are incorporated by reference as a regulation, and therefore any update to the Disciplinary Guidelines will require an update in regulations at CCR section 972, as required by law in the Administrative Procedure Act (APA).

The current Disciplinary Guidelines contain many outdated terms and conditions of probation and in many instances, do not reflect recent updates to statutory law, Board regulations, and other changes that have occurred in the probationary environment since the last update in 2010. As a result, the Board proposes to update its Disciplinary Guidelines document. The proposed amendments make the Disciplinary Guidelines consistent with current law and the current probationary environment, clarify the terms and conditions of probation to reduce the likelihood of misinterpretation, and strengthen consumer protection.

Generally, the Board proposes to make non-substantive changes for word choice, consistency of language, formatting, the addition of proposed new revision dates to reflect the date the Board adopted new changes to the Disciplinary Guidelines in the title of the Disciplinary Guidelines document (to be added by OAL on the date the

Board's changes are formally approved), correcting grammar and punctuation, and changing gendered pronouns to gender-neutral words like "Respondent." In addition, the page numbers are to be updated throughout the Disciplinary Guidelines (Guidelines) document after OAL approval including pages listed in the Table of Contents, Standard Conditions of Probation and Optional Conditions of Probation sections.

The proposed revisions to the Guidelines also include the following substantive changes:

- Specifies what "cost recovery" means as authorized by Business and Profession Code (BPC) section 7403.
- Repeals references to "Full" and "Partial" cost recovery and, instead, further specifies the Board's policy that all disciplinary matters, including those resolved by stipulation, include recovery of all the Board's costs.
- Reflects changes to California laws and regulations since the last version of the Guidelines were approved by the Board, including the adoption of Rehabilitation Criteria that specifies the factors the Board will consider when considering whether revocation, suspension, probation, or denial of a license is imposed in a given case as outlined in CCR section 971.
- Relocates sections entitled "Conditions of Probation" and "Probationary Conditions" that specify the purpose of imposing conditions of probation, adds language regarding the fact that upon successful completion of probation, a respondent's license(s) will be fully restored; and describes the differences between "standard conditions" of probation and "optional conditions" of probation categories as they relate to the Guidelines.
- Adds a new definition for the term "designee" as used throughout the Guidelines.
- Specifies that respondents are permitted to present rehabilitation evidence and that the Board will review the evidence submitted.
- Updates the "standard conditions of probation" section to amend and reorder existing conditions, deletes the terms "Residency Outside of the State," "Suspension of License", and "Posting of Suspension Sign" from the standard conditions of probation section, and adds a new condition entitled "Petition for Reduction of Penalty" that sets out the requirements for filing these petitions, and the basis for considering whether a reduction in penalty is warranted.
- Updates the "optional conditions of probation" section to amend and reorder existing conditions, including deleting as unnecessary the "Practical Licensing Examination" condition, and adding new conditions for "Suspension of License" and "Posting of Suspension Sign" as specified to this section.

- Revises the list of Barbering and Cosmetology Act Violations and Recommended Actions to update minimum and maximum recommended penalties as specified, and adding or repealing text consistent with changes to the law since the last Guidelines revisions, including:

(A) revising titles to more accurately describe the types of violations listed in the corresponding statutes,

(B) repealing outdated titles and references to BPC sections 480(a)(1), (a)(2), (a)(3) and (c), which were grounds for denial of an application prior to amendments enacted by Assembly Bill (AB) 2138 (Chapter 995, Statutes of 2018),

(C) adding new titles and references to BPC sections 480(a)(1), (a)(2) and (e) with new proposed minimum and maximum penalties as specified,

(D) adding new BPC section 499 violations section and corresponding minimum and maximum proposed penalties for violating Section 499 (which authorizes the Board to revoke, suspend, or otherwise restrict a license on the ground that the licensee, in support of another person's application for a license, knowingly made a false statement of a material fact or knowingly omitted to state a material fact to the Board regarding the application); and,

- Revises the "Recommended Language for Applicants and Reinstatements" section to add a new proposed model order for reinstating a license when the Board grants a petition for reinstatement and places the licensee on probation after completion of conditions precedent (conditions that must be met first before the license is restored, e.g., take and successfully complete licensing examination or remedial education courses relevant to the violations).

ANTICIPATED BENEFITS OF THE PROPOSED REGULATION

The Board has determined that this regulatory proposal will have the following benefits to the health and welfare of California residents.

The Board has determined that the regulatory proposal will make the Disciplinary Guidelines consistent with current law and the current probationary environment. As a result of the proposed amendments, they will clarify how the Board will administer the Disciplinary Guidelines and will be a more useful tool for the Board, applicants and licensees, ALJs, legal counsel, and the public by providing a more accurate overview of the Board's processes in formal disciplinary actions. The updated Disciplinary Guidelines will also serve as an educational and guidance tool for the ALJs who administer hearings for the Board. These judges will benefit from greater understanding

of the various nuances of the Board's enforcement provisions and will help improve the consistency of penalties for violations of the Barbering and Cosmetology Act and its regulations.

This regulatory proposal does not affect worker safety because it does not involve worker safety.

This regulatory proposal does not affect the state's environment because it does not involve the environment.

CONSISTENCY AND COMPATIBILITY WITH EXISTING STATE REGULATIONS

During the process of developing this regulatory proposal, the Board conducted a search of any similar regulations on these topics and has concluded that these regulations are neither inconsistent nor incompatible with existing state regulations.

INCORPORATION BY REFERENCE

This proposal would incorporate by reference the document entitled "'Disciplinary Guidelines" (~~Revised October 2010~~ [Date to be inserted upon approval by OAL] Edition)". The Disciplinary Guidelines are incorporated by reference as they are too lengthy and cumbersome to be included in the CCR.

DISCLOSURES REGARDING THIS PROPOSED ACTION

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

None. The proposed regulations do not result in a fiscal impact to the state.

This proposal does not change the fines for violations, so no additional revenues are anticipated. This proposal provides a more accurate overview of the Board's processes in formal disciplinary actions, which will provide greater clarity to licensees, consumers, the Board, the Office of the California Attorney General, and the Administrative Law Judges (ALJs) by outlining relevant and transparent standards directly related to violations outlined in law.

The Board does not anticipate additional workload or costs resulting from the proposed regulations.

Nondiscretionary Costs/Savings to Local Agencies: None

Mandate Imposed on Local Agencies or School Districts: None

Cost to Any Local Agency or School District for Which Government Code Sections 17500 - 17630 Require Reimbursement: None

Significant Effect on Housing Costs: None

Business Impact Estimates:

The Board has made the initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. This initial determination is based on the following facts/documents/testimony or other evidence:

The proposed regulatory action only impacts licensees and applicants who are disciplined by the Board for violations of the laws and regulations within its jurisdiction. The proposed regulatory action only affects licensees and applicants who, through their conduct, subject themselves to disciplinary action for violations of the laws and regulations within the Board's jurisdiction. Any "adverse economic impact" would only occur as the result of a disciplinary order following a formal administrative proceeding and a finding of fact affirming a violation of the laws or regulations within the Board's jurisdiction. Any potential "adverse economic impact" may be avoided simply by complying with the existing laws and regulations governing the professions regulated by the Board.

Cost Impact on Representative Private Person or Business

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. The proposed regulations would revise existing disciplinary guidelines but do not change fine amounts. The proposed regulatory action only affects licensees and applicants who, through their own conduct, subject themselves to disciplinary action for violations of the laws and regulations within the Board's jurisdiction. Any potential "adverse economic impact" may be avoided simply by complying with the existing laws and regulations governing the professions regulated by the Board.

EFFECT ON SMALL BUSINESS

The Board has determined that the proposed regulations may affect small businesses. The proposed regulatory action only affects licensees who, through their own conduct, subject themselves to disciplinary action for violations of the laws and regulations within the Board's jurisdiction. Any potential "adverse economic impact" may be avoided simply by complying with the existing laws and regulations governing the professions regulated by the Board.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

Impact on Jobs/Businesses:

The Board has determined that this regulatory proposal will not have a significant impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California. The proposed regulatory action only impacts licensees and applicants who, through their own conduct, are subject to disciplinary action for violations of the laws and regulations within the Board's jurisdiction. Therefore, the overall economic impact on businesses and jobs is insignificant.

Benefits of Regulation:

The Board has determined that this regulatory proposal will have the following benefits to the health and welfare of California residents: The Board has determined that updating the Disciplinary Guidelines through this regulatory proposal will benefit the health and welfare of California residents by enhancing the Board's ability to take appropriate action against licensees and applicants who, through their conduct, subject themselves to disciplinary action by violating the Act or Board regulations.

Additionally, this proposal will benefit the assigned Deputy Attorneys General, ALJs, and others involved in the disciplinary process by ensuring consistency in the interpretation and application of penalties in administrative disciplinary actions. This regulatory proposal does not affect worker safety and this proposal is not related to the state's environment.

Business Reporting Requirements:

Although quarterly reporting is an existing requirement, this regulatory action requires licensees (some of whom own businesses or who have establishment licenses) to file a more specific report with the Board. The regulatory action adds new quarterly reporting requirements for what constitutes a "complete report" in compliance with the standard term "(3) Quarterly Reports of Compliance". A complete "Quarterly Report of Compliance" would contain:

- (A) Respondent's personal information, including:
 - (i) Respondent's full legal name (first, last, middle, suffix (if any)),
 - (ii) Case number,
 - (iii) License number,
 - (iv) License expiration date
 - (v) Telephone number,

- (vi) Email address, if any,
- (vii) Address of record with the Board (mailing address), and,
- (viii) Residence Address (if different than address of record).
- (B) For Respondents who own an establishment, identifying establishment information including:
 - (i) the establishment's name,
 - (ii) the establishment's license number,
 - (iii) the establishment's license expiration date,
 - (iv) the establishment's address of record with the Board.
- (C) Respondent's employment information, including the following information regarding where Respondent works:
 - (i) the establishment's name,
 - (ii) the establishment's license number,
 - (iii) the establishment's physical address,
 - (iv) the establishment's telephone number,
 - (v) the Respondent's total work schedule for a standard week (Monday-Sunday), including Respondent's scheduled work hours for each day of a standard week (e.g., state work week hours: "Mondays (8 hours), Tuesdays (4 hours), etc.). For days not worked Respondent shall indicate "N/A" next to each day of the standard week where they are not scheduled to work when reporting their total work schedule.
- (D) Written disclosures regarding whether Respondent has complied with each condition of probation contained in this Decision since their last quarterly report or as of this report (if this is their first quarterly report); and, if applicable,
- (E) If a Respondent discloses they are not in compliance with any condition of probation, a written statement explaining why Respondent is not in compliance with any particular condition(s) of probation. The new condition of probation would also require a probationer to identify a coordinating physician, nurse practitioner, or physician assistant who shall report to the Board on a quarterly basis the respondent's compliance with this condition.

The Board has determined that it is necessary for the health, safety, or welfare of the people of the State that the regulation apply to businesses. These reports are required to be filed to ensure that all necessary information is provided by respondents to help

the Board monitor whether respondent is practicing safely and in compliance with the laws and regulations governing their licenses.

These reporting requirements are similar to those required by other boards in the Department of Consumer Affairs for licensees on probation and quarterly reporting is a current condition of probation. As a result, compliance with the reporting requirements are anticipated to be completed within normal business operations without incurring additional costs.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Board must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed; would be as effective and less burdensome to affected private persons than the proposal described in this Notice; or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Any interested person may submit comments to the Board in writing relevant to the above determinations at 1625 N. Market Blvd., Ste 202, Sacramento, CA 95834 during the written comment period, or at the hearing if one is scheduled or requested.

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND RULEMAKING FILE

The Board has compiled a record for this regulatory action, which includes the Initial Statement of Reasons, proposed regulatory text, a document incorporated by reference and all the information upon which the proposal is based. This material is contained in the rulemaking file and is available for public inspection upon request to the Contact Persons named in this Notice.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, and any document incorporated by reference, and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained upon request from the Contact Person named below.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below. You may obtain a copy of the final statement of reasons once it has been

prepared, by making a written request to the contact person named below or by accessing the Web site listed below.

CONTACT PERSON

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name: Allison Lee
Address: 1625 N. Market Blvd., Ste 202
Sacramento, CA 95834
Telephone No.: (279) 278-5107
Fax No.: (916) 928-6810
E-Mail Address: Allison.Lee@dca.ca.gov

The backup contact person is:

Name: James Zimmerman
Address: 1625 N. Market Blvd., Ste 202
Sacramento, CA 95834
Telephone No.: (279) 236-5077
Fax No.: (916) 928-6810
E-Mail Address: James.Zimmerman@dca.ca.gov

Website Access and Availability of Documents on the Internet: Materials regarding this proposal can be found at: http://www.barbercosmo.ca.gov/laws_regs/prop_regs.shtml.