

## TITLE 16. BOARD OF BARBERING AND COSMETOLOGY

### INITIAL STATEMENT OF REASONS

Hearing Date: April 29, 2020

Subject Matter of Proposed Regulations: Personal Service Permit & Schedule of Fees

Sections Affected: 900, 965.2, and 998 of Title 16 of the California Code of Regulations

#### Specific Purpose of Regulatory Action:

The Board is seeking to add Section 965.2 to Title 16 of the California Code of Regulations (CCR) creating a Personal Service Permit (PSP), and amend Section 998 of Title 16 of the CCR to include the PSP fee. The Board also proposes to add Section 900 to Title 16 of the CCR to define the meaning of "establishment" for the purposes of the proposed Section 965.2.

#### Problem and Factual Basis/Rationale:

Currently in California, all beautification services regulated by the Board of Barbering and Cosmetology (hereinafter "the Board") are required to be performed within a Board-licensed establishment. Business and Professions Code (BPC) Section 7317 specifically states that it is unlawful for any person, firm, or corporation to engage in barbering, cosmetology or electrolysis practices, for compensation, in an establishment or mobile unit which is not licensed by the Board. Legally, Board-licensed professionals can only give services in Board-licensed establishments or mobile units. However, current trends in the beauty industry show consumers are beginning to seek services outside the walls of licensed establishments, and that a number of Board licensees are illegally offering such services in private homes, hotels, businesses, and other non-traditional locations.

During the 2015-2016 session, the Legislature passed AB 181, which was signed by the Governor and chaptered on October 2, 2015. The bill, which created BPC Section 7402.5, requires the Board to issue regulations for a personal service permit that will set forth the conditions under which the permit would be issued. The PSP was the subject of multiple discussions by the Board's Licensing and Examination Committee and four stakeholder meetings held in April-May 2016 (two of them were Webcast), as well as a survey posted on the Board's Web site from April 22-May 23, 2016. The Board then crafted the proposed language for Section 965.2. The creation of a PSP will give licensees, many now working unlawfully, the opportunity to participate legally in the workforce as "freelancers" in the beauty industry, while giving the Board oversight over their activities.

#### Section 965.2

The rationale for each subsection is as follows:

## General provisions

**Subsection (a)(1):** This subsection follows the mandate of BPC Section 7402.5, which states that PSPs authorize persons who are licensed in the Barbering and Cosmetology trades to perform services outside of licensed establishments and that PSPs are valid for two years. The Board proposes to require that PSP applicants have their Board license for at least two years before becoming eligible for a PSP, in order to motivate persons new to the barbering and cosmetology industry to acquire some hands-on experience in a shop before striking out on their own to work unsupervised in people's homes and offices. Because the Legislature, in the interest of economic development, has long sought to eliminate barriers to California licensure by offering a path to experienced out-of-state barbering and cosmetology licensees, the Board is proposing to allow out of state licensees who qualify for a California license pursuant to BPC Section 7331 to apply for a PSP.

**Subsections (a)(2):** BPC Section 7402.5 authorizes the Board to require criminal background checks for PSP applicants. The Board will require a background check in the interest of consumer safety, because PSP holders are expected to most often perform the services in the consumer's home. Failure to identify applicants who have prior criminal background could put consumers at risk.

**Subsection (a)(3):** The Board will require a fee for PSPs to cover the cost of processing applications and issuing the permits, just as it does for its other licenses.

**Subsection (a)(4):** Under BPC Subsection 7402.5(c)(5), the Legislature gives the Board the authority to require that a PSP holder maintain liability insurance. The Board believes it is crucial for the protection of consumers that PSP holders carry liability insurance against consumer harm from accidents that could occur during services. Licensed establishments routinely carry liability insurance against lawsuits resulting from their employees' work, as do persons working through "app" companies that operate like rideshare companies Uber and Lyft, connecting clients with freelance beauty professionals on the Internet. While the Board has made every effort to ensure that PSP holders only perform lower risk services, even low-risk services can lead to accidents: a client could be cut with scissors during a haircut, or slip while moving from the shampoo sink to the hairstyling chair, or suffer a skin reaction from a product used on the skin.

The Board established the \$1 million minimum figure because this is a standard minimum within the industry that most freelancers carry if they are associated with an "app" company. Staff believes that this minimum is sufficient, although staff research indicates that the policies that are available tend to offer larger limits. For example, the Professional Beauty Association (PBA), a national trade organization, offers policies with \$3 million in coverage for about \$100 a year. It is possible even less-expensive coverage may become available after the PSP is introduced, since most of these barbering and cosmetology policies cover falls and other injuries at barbershops and salons, which wouldn't apply under a PSP, and injuries from higher-risk services that could not be performed under the Board's proposal for PSPs.

**Subsection (b):** This subsection is required because the Board, in order to help protect the public, must be able to verify the PSP holder has insurance and discipline those who fail to meet the insurance mandate.

**Subsections (c) through (f):** BPC Section 7316 identifies the services that may be

performed by barbers, cosmetologists, estheticians and manicurists in a licensed, brick-and-mortar establishment. However, the Board doesn't believe all those services should be allowed outside of a licensed establishment under a PSP because to do so could endanger consumers. The Board's top priority, as mandated under BPC Section 7303.1, is to protect consumers.

To that end, the Board's Licensing and Examination Committee requested a risk assessment from Board staff of the various services offered at brick-and-mortar establishments in each licensing category (barber, cosmetologist, manicurist, esthetician). The assessment identified the barbering and cosmetology services identified in BPC Section 7316 as either low-, medium-, or high-risk. That assessment led the Board to propose that only low- to medium-risk services that had received minimal or no complaints of consumer harm, be performed by PSP holders. Those services are as follows:

### Barber services

**Subsection (c)(1) Shampooing:** Under BPC Subsection 7316(a)(3), barbers are allowed to shampoo hair. Shampooing is identified as medium-risk in the assessment because of the possibility that shampoo products could get in the client's eyes. That risk is very minor and no greater in a barbershop than it is at home, where most people shampoo their own hair without incident. Because of this, and because the Board rarely, if ever, receives consumer harm complaints about shampooing in establishments, the Board is proposing that PSP holders be allowed to perform shampooing on clients outside of a licensed establishment.

**Subsection (c)(2) Cutting, styling, dressing, arranging, curling and waving hair:** Under BPC Subsection 7316(a), barbers are permitted to cut, style, dress, arrange, curl, and wave hair. When these tasks involve the use of scissors, clippers, combs and curling irons, they are rarely, if ever, subject to consumer harm complaints and are considered low-risk by the Board. To that extent, the Board proposes to allow these tasks to be performed outside of a licensed establishment by PSP holders. The Board considers activities which require the use of fire and/or chemicals to be high risk and inappropriate for performance outside of a licensed establishment. Therefore, the Board deliberately excludes "chemical waving," which requires the use of chemicals and is distinguished from "waving" in BPC Subsection 7316(a)(3), from the tasks it proposes to allow PSP holders to perform. In addition, in order to stress that "styling" and "dressing" should not be interpreted to include singeing, dyeing or relaxing hair, which require the use of fire and/or chemicals, the Board expressly excludes those activities from the tasks it proposes to allow PSP holders to perform.

**Subsection (c)(3) Applying hair tonics:** Under BPC Subsection 7316(a)(3), barbers may apply hair tonics. These tonics, which hold the hair in place and give it a sheen, can be purchased by consumers over-the-counter and are rarely, if ever, subject to consumer harm complaints. Because of this, these products are considered low-risk by the Board, which proposes to allow their use outside of a licensed establishment by PSP holders.

**Subsection (c)(4) Applying powders, clays, antiseptics and oils to the scalp:** Under BPC Subsection 7316(a)(4), barbers may use products like talcum powder, sculpting waxes, antiseptics (such as rubbing alcohol for the removal of dandruff and to clean the scalp) and oils to make the hair shine. These products are considered low-risk by the Board because they can all be purchased over-the-counter and are rarely, if ever, the subject of consumer harm complaints. The Board therefore proposes to allow their use outside of a licensed

establishment by PSP holders.

**Subsection (c)(5) Trimming the beard:** BPC Subsection 7316(a)(1), barbers are allowed to trim beards. Much like haircutting, beard trimming involves the use of clippers, or scissors and comb. Because beard trimming is rarely, if ever, subject to consumer harm complaints, this service is considered low-risk by the Board, which proposes that the practice be allowed outside of a licensed establishment by PSP holders.

#### Cosmetologist services

**Subsection (d)(1) Shampooing:** Under BPC Subsection 7316(b)(1), cosmetologists are allowed to shampoo hair. Shampooing is identified as medium-risk in the assessment because of the possibility that shampoo products could get in the client's eyes. That risk is very minor and no greater in a salon than it is at home, where most people shampoo their own hair without incident. Because of this, and because the Board rarely, if ever, receives consumer harm complaints about shampooing in establishments, the Board is proposing that PSP holders be allowed to perform shampooing on clients outside of a licensed establishment.

**Subsection (d)(2) Cutting, styling, dressing, arranging, curling and waving hair:** Under BPC Subsection 7316(b)(1), cosmetologists are permitted to cut, style, dress, arrange, curl and wave hair. When these tasks involve the use of scissors, clippers, combs and curling irons, they are rarely, if ever, subject to consumer harm complaints and are considered low-risk by the Board. To that extent, the Board proposes to allow these tasks to be performed outside of a licensed establishment by PSP holders. The Board considers activities which require the use of fire and/or chemicals to be high risk and inappropriate for performance outside of a licensed establishment. Therefore, the Board deliberately excludes "machineless permanent waving" and "permanent waving," which require the use of chemicals and are distinguished from "waving" in BPC Subsection 7316(b)(1), from the tasks it proposes to allow PSP holders to perform. In addition, in order to stress that "styling" and "dressing" should not be interpreted to include singeing, dyeing or relaxing hair, which require the use of fire and/or chemicals, the Board expressly excludes those activities from the tasks it proposes to allow PSP holders to perform.

**Subsection (d)(3) Applying hair tonics:** Under BPC Subsection 7316(b)(1), cosmetologists may apply hair tonics. These tonics, which hold the hair in place and give it a sheen, can be purchased by consumers over-the-counter and are rarely, if ever, subject to consumer harm complaints. Because of this, these products are considered low-risk by the Board, which proposes to allow their use outside of a licensed establishment by PSP holders.

**Subsection (d)(4) Applying powders, clays, antiseptics and oils to the scalp:** BPC Subsections 7316(b)(2), (b)(3), (c)(1)(B), and (c)(1)(C) allow cosmetologists to use products such as cosmetic preparations, antiseptics, lotions, tonics or creams. All of these products are available for purchase over-the-counter and are rarely, if ever, subject to consumer harm complaints. Because of this, the Board considers them low-risk and proposes to allow their use outside of a licensed establishment by PSP holders. While clays and oils are not specifically mentioned in those subsections, they are commonly used in hairdressing and/or to beautify the skin, activities that fall within the scope of practice for cosmetologists. These products are also available for over-the-counter purchase and are rarely, if ever, subject to consumer harm complaints. The Board therefore considers them low risk and proposes to

allow them to be used outside of a licensed establishment by PSP holders.

**Subsection (d)(5) Cleaning, massaging, or stimulating the face and neck by means of the hands with the use of cleansing agents, antiseptics, tonics, lotions, or creams. This does not include chemical exfoliation or exfoliation with the use of a tool, machine or device:** Under BPC Subsection 7316 (c)(1)(C), cosmetologists are permitted to perform esthetics, or skin care, services with cleaning agents, antiseptics, tonics, lotions and creams that are available over-the-counter. Moreover, their use is rarely, if ever, subject to consumer harm complaints. However, the Board is proposing to prohibit the use of chemical exfoliation products, which can be caustic and burn the skin and must be disposed of in the controlled environment of an establishment. Many jurisdictions prohibit the disposal of these types of chemicals down household drains. The Board considers services performed with those chemicals to be high-risk: chemical services are among the top five most common consumer harm complaints the Board receives. The Board also proposing to prohibit the use of tools, machines or devices for exfoliation. Many new tools and machines are introduced to the beauty industry every year and the Board has no way of evaluating them to determine which machines may be operated safely. Moreover, many of the devices the Board has examined allow exfoliation below the epidermis, which is a violation of the Board strictures against invasive procedures set forth in Section 991 of the CCR. Some devices offer different levels of use, with certain settings that may only be safely used by medical professionals. The Board fears some PSP holders will be tempted to use those settings and work beyond their scope of practice. The safest option for consumers is for the Board to prohibit the use of these machines altogether outside of licensed establishments by PSP holders.

**Subsection (d)(6) Removing hair from the body of any person with tweezers:** Under BPC Subsections 7316(b)(4) and (c)(1)(A), cosmetologists in licensed establishments are allowed to remove superfluous hair using a variety of means, including hot wax, chemicals, devices and tweezers. One of the most common consumer harm complaints that the Board receives concerns waxing. Allowing this service outside of an establishment could increase the risk of burns and infection and therefore is considered high risk by the Board. The wax must be heated and must be applied in a clean environment. Waxing opens the skin pores, which could allow for the entry of bacteria. Performing this service only in an establishment helps ensure that it is in a controlled, clean environment. Removal of hair using caustic chemical also poses risks for clients because the chemicals can cause burns if not applied properly or left on too long. Devices may also present a danger if used outside of an establishment. New mechanical tools or devices are introduced to the beauty industry every year and the Board has no way of evaluating them to determine which may be operated safely. Moreover, many of the devices the Board has seen have settings that cross over into medical usage (such as lasers or intense pulse light), which is outside the scope of practice for all Board licensees. Tweezers are considered low-risk by the Board, with few if any consumer harm complaints arising from their use in hair removal. For these reasons, the Board is proposing that only the removal of hair with tweezers be permitted outside of a licensed establishment by PSP holders.

**Subsection (d)(7) Applying make-up or strip lashes:** BPC Subsection 7316(c)(1)(A) allows cosmetologists to apply make-up and apply false eyelashes. Neither of these activities is high-risk: many clients do these tasks for themselves at home without any difficulty and these services are rarely, if ever, subject to consumer harm complaints in establishments. For these reasons, the Board is proposing to allow these services outside of a licensed establishment by PSP holders.

**Subsection (d)(8) Buffing and Filing Nails with Non-Electrical Tools:** BPC Subsection 7316(b)(5) authorizes cosmetologists to perform nail care, which includes the filing and buffing of nails. This service is considered low-risk as many clients do these tasks for themselves at home without difficulty, using emery boards and buffing blocks. They are rarely, if ever, subject to consumer harm complaints when performed in establishments. Therefore, the Board is proposing to allow these services to be performed outside of a licensed establishment by PSP holders.

**Subsection (d)(9) Applying and Removing Nail Polish:** BPC Subsection 7316(b)(5) authorizes cosmetologists to perform nail care, which includes applying and removing nail polish. These services are considered low-risk as many clients do these tasks for themselves at home without difficulty, using various polishes and polish removers, such as acetone. They are rarely, if ever, subject to consumer harm complaints when performed in establishments. Therefore, the Board is proposing to allow these services to be performed outside of a licensed establishment by PSP holders.

### Esthetician services

**Subsection (e)(1) Cleaning, massaging, or stimulating the face and neck by means of the hands with the use of cleansing agents, antiseptics, tonics, lotions, or creams. This does not include chemical exfoliation or exfoliation with the use of a tool, machine or device:** Under BPC Subsection 7316 (c)(1)(C), estheticians are permitted to use skin care cleaning agents, antiseptics, tonics, lotions and creams that are available over-the-counter. The only prohibition proposed by the Board concerns the use of chemical exfoliation products, which can be caustic and burn the skin and must be disposed of in the controlled environment of an establishment. Many jurisdictions prohibit the disposal of these types of chemicals down household drains. The Board considers services performed with those chemicals to be high-risk. The Board also proposes prohibiting the use of tools, machines or devices for exfoliation. Many new tools and machines are introduced to the beauty industry every year and the Board has no way of evaluating them to determine which machines may be operated safely. Moreover, many of the devices the Board has examined offer different levels of use. Some settings may only be safely used by medical professionals, and the Board fears some PSP holders may be tempted to use those settings. The safest option for consumers is for the Board to prohibit the use of these machines altogether.

**Subsection (e)(2) Applying make-up or strip lashes:** BPC Subsection 7316(c)(1)(A) allows estheticians to apply make-up and apply false eyelashes. Neither of these activities is high-risk: many clients do these tasks for themselves at home without any difficulty and these services are rarely, if ever, subject to consumer harm complaints in establishments. For these reasons, the Board is proposing to allow these services outside of a licensed establishment by PSP holders.

**Subsection (e)(3) Removing hair from the body of any person with tweezers:** Under BPC Subsections 7316(b)(4) and (c)(1)(A), estheticians in licensed establishments are allowed to remove superfluous hair using a variety of means, including hot wax, chemicals, devices and tweezers. One of the most common consumer harm complaints that the Board receives concerns waxing. Allowing this service outside of an establishment could increase the risk of burns and infection and therefore is considered high risk by the Board. The wax must be heated and must be applied in a clean environment. Waxing opens the skin pores, which

could allow for the entry of bacteria. Performing this service only in an establishment helps ensure that it is in a controlled, clean environment. Removal of hair using caustic chemical also poses risks for clients because the chemicals can cause burns if not applied properly or left on too long. Because of these factors, the only low-risk method of hair removal is with tweezers, which is why the Board is proposing that only the removal of hair with tweezers be permitted outside of a licensed establishment by PSP holders.

#### Manicurist services

**Subsection (f)(1) Buffing and Filing Nails with Non-Electrical Tools:** BPC Subsection 7316(b)(5) authorizes manicurists to perform nail care, which includes the filing and buffing of nails. This service is considered low-risk as many clients do these tasks for themselves at home without difficulty, using emery boards and buffing blocks. They are rarely, if ever, subject to consumer harm complaints when performed in establishments. Therefore, the Board is proposing to allow these services to be performed outside of a licensed establishment by PSP holders.

**Subsection (f)(2) Applying and Removing Nail Polish:** BPC Subsection 7316(b)(5) authorizes manicurists to perform nail care, which includes applying and removing nail polish. These services are considered low-risk as many clients do these tasks for themselves at home without difficulty, using various polishes and polish removers, such as acetone. They are rarely, if ever, subject to consumer harm complaints when performed in establishments. Therefore, the Board is proposing to allow these services to be performed outside of a licensed establishment by PSP holders.

**Subsection (g):** The Board suggests that PSP holders use disposable tools whenever possible because there's a greater likelihood that non-disposable tools may be dirty, particularly if they are not properly disinfected. Dirty tools spread disease more easily. Disposable tools, on the other hand, are intrinsically safer than tools that need to be disinfected, in that they are thrown away after use on each client. Although the risk of using contaminated tools is reduced with disposable tools, the proposed regulation does not require their use in all cases, but instead strongly recommends that they be used, ultimately leaving use of disposable tools in any particular circumstance to the judgment of the PSP holder. The Board adopted this guideline approach because non-disposable tools can be made equally safe as disposable tools if they are properly disinfected. In addition, disposable tools are not always available, and a determination of whether financial, geographical, or other practical barriers make use of disposable tools impossible is inherently subjective. Imposing an affirmative requirement to use disposable tools in all cases may therefore cause undue burden to conscientious PSP holders who properly disinfect their tools.

**Subsection (h):** This language follows the mandate of BPC Section 7402.5 (c)(3), which prohibits the Board from exempting PSP holders from any of the Board's health and safety regulations or requirements.

#### Personal Service Permit Consumer Notice and receipt for services rendered

**Subsection (i)(1):** The Personal Service Permit Consumer Notice proposed in this subsection is necessary for the Board to enforce its laws and regulations with regard to PSP holders. The Board's enforcement efforts typically center around inspections by Board staff. The Board's inspection program, however, is limited to inspecting licensed establishments under BPC

Section 7313. Because of this, the Board must rely on consumers to alert them of possible violations of the Board's rules and regulations. To that end, the Board is proposing to require that PSP holders give their clients a Personal Service Consumer Notice that tells client where they can file a complaint, the address of the Board's Web Site, where the complaint can be electronically filed, and the Board's telephone number if they wish to complain by phone or have questions regarding the law. The notice also informs clients where they can find the rules and regulations that govern the Barbering and Cosmetology industry in California. This is information that the client might need to ascertain if he or she witnessed a violation by the PSP holder.

**Subsection (i)(2)(A):** A signed, dated consumer receipt is necessary to help the Board verify that a PSP holder has given his or her client the Personal Service Permit Consumer Notice required under Subsection (i)(1).

**Subsection (i)(2)(B):** The consumer's name is necessary to help the Board verify that the consumer is a real person.

**Subsection (i) (2)(C):** The consumer's phone number is necessary as a primary means of contact for the Board to verify that he or she received the consumer notice required under Subsection (i)(1).

**Subsection (i)(2)(D):** The consumer's email address is necessary as an alternate means of contacting a client to verify that he or she received the consumer notice required under Subsection (i)(1).

**Subsection (i)(2)(E):** The list of services must be included on the receipt – and a copy of that receipt must be provided to the consumer -- because it is the only way a consumer could prove, and the Board could verify, that a consumer received a service that may have resulted in harm. This increases the Board's ability to protect consumers in an environment that cannot be inspected, such as private homes and businesses where inspectors are not permitted. It also protects the licensee in case a fraudulent complaint is received on a service that was not provided.

In the event of an investigation, the only way for the Board to verify that a PSP holder was in fact giving his or her clients the Personal Service Permit Consumer Notice required under Subsection (i)(1) would be for the Board to be able to review Consumer Notice receipts. The receipt requirement therefore helps the PSP holder avoid disciplinary action. The Board, under BPC Subsection 7312(a)(4), is authorized to discipline persons who have been found to have violated the Barbering and Cosmetology Act, of which BPC Section 7402.5 is a part. The Board is proposing that the PSP holder maintain receipts so that the Board may review them if necessary. The Board is proposing the receipt be held by the PSP holder for five years from the date of service because five years is how far back the Board looks for previous violations to determine if a violation is a first, second or third offense.

Finally, in a nod to the Digital Age, the Board proposes to allow the notice and receipt requirements be satisfied electronically. Many businesses, including many barbering and cosmetology establishments, give their customers the option of receiving copies of receipts and other service-related documents (warranties, for instance), via electronic mail or text, which are time-stamped and can be easily saved electronically by both parties.

## **Incorporation of Document by Reference**

The Board wishes to incorporate by reference the consumer notice identified in the Specific Language as Personal Service Permit Consumer Notice (BBC-PSP (2020)). The incorporation by reference method is being used because it would be impractical to publish a full-color notice in its actual 5-by-7-inch size in the California Code of Regulations, which is published in multiple formats, from small booklets to online text, usually in black and white. The rationale for inclusion of a consumer notice requirement in this regulation may be found under the heading “Personal Service Permit Consumer Notice and receipt for services rendered,” above.

## **Section 900**

The Legislature’s intent in passing AB 181 was to allow PSP holders to work outside of an “establishment”, the meaning of which is described very broadly in BPC Section 7346 as follows:

*“7346. (a) For purposes of this chapter, “establishment” means any premises, building or part of a building where any activity licensed under this chapter is practiced.*

*(b) “Establishment” also includes any premises, building, or part of a building in which natural hair styling is practiced for compensation.” (Emphasis added.)*

However, this definition, broadly interpreted, would make anywhere licensed activities are practiced an “establishment,” including licensed activities practiced by a PSP holder at an offsite location like a hotel, wedding, or client’s home. Such a broad interpretation would thwart the Legislature’s intent to authorize a PSP holder to perform licensed activities “outside of an establishment” (BPC Subsection 7402.5(a)), and would make these offsite locations subject to the same licensing requirements as a licensed salon or spa. (See BPC Section 7347 et seq.) The Board therefore proposes to include Section 900 to clarify the definition of the term “establishment,” for purposes of PSPs, to exclude these offsite locations in order to be consistent with the more specific use of that term in BPC Section 7402.5.

## **Section 998**

The Board is proposing to set the initial license fee at \$25. The Board set the fee according to the estimated cost of issuing the license. The renewal fee would be \$10, an amount also set according to the cost of processing the renewal. The license renewal delinquency fee would be half of the cost to renew a license, or \$5, as mandated by BPC Subdivision 7402.5(d).

## **Underlying Data**

None

## **Business Impact**

This regulation only affects individual licensees and will not have a significant adverse economic impact on businesses because it doesn’t require any additional expense or any new reporting, recordkeeping or compliance requirements on the part of businesses. Rather, individual licensees will need to spend approximately \$95 to cover the Board’s proposed PSP initial fee of \$25 and the criminal background check. They will also need to keep records of their services and customers under proposed Subsection 965.2(h). The renewal cost for PSP

holders is estimated to be \$10. However, the Board believes these expenses will not have an adverse impact on PSP holders because the expenses will represent a negligible portion of the income received from the services provided.

### Economic Impact Assessment

This regulatory proposal will not create or eliminate jobs, or affect the environment or worker health and safety. Many Board licensees already appear to be working – illegally under California law – as freelancers, using the internet and “app” companies that operate like rideshare organizations Uber and Lyft to connect with clients. The creation of a PSP would make the work these licensees do legal, without increasing their actual number. Because the creation of a PSP would not increase the total number of workers providing services authorized by a permit, the regulatory proposal would also not result in the creation, elimination, or expansion of existing businesses in California. There is a benefit to the health and welfare of Californians because the Board will be better able to enforce the activities of licensees working outside of licensed establishments.

### Anticipated Benefits

This regulation would benefit licensees who currently offer offsite services illegally by legitimizing their offsite practice. The regulation will also benefit the health and safety of consumers, as the Board will be able to exert some oversight over services performed in private homes and other venues that are not licensed barbering and cosmetology establishments, as PSP holders will undergo a criminal background check and be required to give their customers a card informing consumers where they can file a complaint.

### Specific Technologies or Equipment

This regulation does not mandate the use of specific technologies or equipment.

### Consideration of Alternatives

No reasonable alternative to the regulatory proposal would be either more effective in carrying out the purpose for which the action is proposed or would be as effective or less burdensome to affected private persons and equally effective in achieving the purposes of the regulation in a manner that ensures full compliance with the law being implemented or made specific.

The Board considered the alternative of taking no action to issue regulations regarding a PSP, but the Board rejected this option because BPC Section 7402.5 requires this action be taken, and taking no action would therefore ignore a mandate of the Legislature.