

**CALIFORNIA  
BOARD OF BARBERING AND COSMETOLOGY**



**OCTOBER 19, 2015**

**Board Meeting**

**DEPARTMENT OF CONSUMER AFFAIRS  
1747 NORTH MARKET BLVD.  
HQ 2 HEARING ROOM 186, 1ST FLOOR  
SACRAMENTO, CA 95834**



Dr. Kari Williams, Industry Member,  
President

Richard Hedges, Public Member,  
Vice President

Mary Lou Amaro, Industry Member

Bobbie Anderson, Public Member

Polly Codorniz, Industry Member

Andrew Drabkin, Public Member

Joseph Federico, Industry Member

Kristy Underwood  
Executive Officer

Edmund G. Brown Jr., Governor  
State of California

Department of Consumer Affairs  
Board of Barbering and Cosmetology

Telephone: (916) 575-7100

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

2420 Del Paso Road, Suite 100  
Sacramento, CA 95834

# California State Board of Barbering and Cosmetology

## Board Meeting Agenda

Monday, October 19, 2015

10:00 A.M. or upon Adjournment of the Enforcement Committee Meeting

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

An additional meeting location, via teleconference, has been established at:

1038 West 80<sup>th</sup> Street  
Los Angeles, CA 90044

### ALL TIMES ARE APPROXIMATE AND SUBJECT TO CHANGE

#### OPEN SESSION:

1. Call to Order/Establishment of a Quorum (**Dr. Kari Williams**)
2. Public Comment on Items not on the Agenda  
*Note: the Board may not discuss or take action on any matter 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, 11125.7(a)]*
3. Board President's Report (**Dr. Kari Williams**)
4. Executive Officer Report (**Kristy Underwood**)
5. Approval of Board Meeting Minutes
  - July 26, 2015
6. Enforcement Committee Report, Consideration of Committee Recommendations and Possible Action (**Richard Hedges**)
  - Update on Medical Services Task Force
    - Discussion and Approval of Recommended Regulatory Language Regarding False/Misleading Advertising.
  - Discussion and Recommendations of Remedial Training for Immediate Suspensions
    - Recommendation to Amend Sections 973.3 (d), 973.4 and 937.5 of the California Code of Regulations.
7. Update and Discussions of Proposed Bills that could Impact BBC:
  - AB 181- Sunset Review Bill
  - AB 1322-Allowing Alcohol in Establishments
  - AB 750-Retiree Licenses
  - AB 888-Microbeads in Cosmetics
  - AB 85-Open Meetings

# California State Board of Barbering and Cosmetology

## 8. Proposed Regulations Updates (Possible Actions)

- Military Training - Title 16, Section 910 of the California Code of Regulations
- Administrative Fine Schedule -Title 16, Section 974 of the California Code of Regulations
- Proposed Regulatory Language to Define "Demonstrating" for Purposes of BPC 7319 (e) Exemptions.
- Consumer Notice – Title 16, Section 904 and 905 of the California Code of Regulations

## 9. Discussion Concerning Interpreters Being Provided at the Disciplinary Review Committee (DRC)

## 10. Agenda Items for Next Meeting

## 11. Public Comment

*Note: The Board may not discuss or take action on any matter 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, 11125.7(a)]*

## 12. CLOSED SESSION:

*Pursuant to Government Code Section 11126(e), the Board will Meet In Closed Session to Confer with and/or Receive Advice from Legal Counsel Regarding Pending Litigation. (Ericka Chancellor v. Board of Barbering and Cosmetology, Court Case No. BC582039, Superior Court, County of Los Angeles)*

## OPEN SESSION:

## 13. 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. The Board plans to webcast this meeting on its website at [www.barbercosmo.ca.gov](http://www.barbercosmo.ca.gov). Webcast availability cannot, however, be guaranteed due to limited resources. The meeting will not be cancelled if webcast is not available. 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.*

*No Attachment*

**Quarterly Barbering and Cosmetology  
Licensing Statistics  
Fiscal Year 15/16**

**Applications Received**

	Jul-Sept	Oct-Dec	Jan- Mar	Apr-June	YTD
<b>Establishment</b>	1,795				1,795
<b>Mobile Unit</b>	5				5
<b>Barber</b>					
Pre-App	408				408
Initial Application	346				346
Re-Exam	388				388
<b>Sub-Total</b>	<b>1,142</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1,142</b>
Reciprocity	40				40
Apprentice	156				156
<b>Cosmetology</b>					
Pre-App	1,737				1,737
Initial Application	1,249				1,249
Re-Exam	1,506				1,506
<b>Sub-Total</b>	<b>4,492</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>4,492</b>
Reciprocity	464				464
Apprentice	164				164
<b>Electrology</b>					
Pre-App	8				8
Initial Application	3				3
Re-Exam	0				0
<b>Sub-Total</b>	<b>11</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>11</b>
Reciprocity	2				2
<b>Manicuring</b>					
Pre-App	728				728
Initial Application	1,035				1,035
Re-Exam	943				943
<b>Sub-Total</b>	<b>2,706</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>2,706</b>
Reciprocity	145				145
<b>Esthetician</b>					
Pre-App	681				681
Initial Application	531				531
Re-Exam	638				638
<b>Sub-Total</b>	<b>1,850</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1,850</b>
Reciprocity	153				153
<b>Total</b>	<b>13,125</b>				<b>13,125</b>

## Examination Results (July 1, 2015-September 30, 2015)

### Practical Examinations

Administered	Passed	Failed	Total	Pass Rate	*DNA
Barber	536	93	629	85%	143
Cosmetologist	2,852	524	3,376	84%	559
Esthetician	1,253	218	1,471	85%	104
Electrologist	1	0	1	100%	0
Manicurist	1,572	655	2,227	71%	187
<b>TOTAL</b>	<b>6,214</b>	<b>1,490</b>	<b>7,704</b>	<b>81%</b>	<b>993</b>

\* Did Not Attend

### Written Examinations

Barber	Passed	Failed	Total	Pass Rate
English	321	137	458	70%
Spanish	31	22	53	58%
Vietnamese	12	6	18	67%
Korean	0	0	0	0%
<b>TOTAL</b>	<b>364</b>	<b>165</b>	<b>529</b>	<b>69%</b>

Cosmetologist	Passed	Failed	Total	Pass Rate
English	2,374	561	2,935	81%
Spanish	104	208	312	33%
Vietnamese	246	34	280	88%
Korean	21	8	29	72%
<b>TOTAL</b>	<b>2,724</b>	<b>803</b>	<b>3,527</b>	<b>77%</b>

Manicurist	Passed	Failed	Total	Pass Rate
English	450	86	536	84%
Spanish	9	5	14	64%
Vietnamese	1,090	221	1,311	83%
Korean	20	3	23	87%
<b>TOTAL</b>	<b>1,549</b>	<b>315</b>	<b>1,861</b>	<b>83%</b>

Esthetician	Passed	Failed	Total	Pass Rate
English	964	109	1,073	90%
Spanish	3	2	5	60%
Vietnamese	261	34	295	88%
Korean	28	0	28	100%
<b>TOTAL</b>	<b>1,256</b>	<b>145</b>	<b>1,373</b>	<b>91%</b>

Electrologist	Passed	Failed	Total	Pass Rate
English	4	1	5	80%
Spanish	0	0	0	0%
Vietnamese	0	0	0	0%
Korean	0	0	0	0%
<b>TOTAL</b>	<b>4</b>	<b>1</b>	<b>5</b>	<b>80%</b>

### Licenses Issued

	Jul-Sept	Oct-Dec	Jan- Mar	Apr-June	YTD
Establishment	1,680				1,680
Mobile Unit	2				2
Barber	555				555
Barber Apprentice	122				122
Cosmetology	2,918				2,918
Cosmetology Apprentice	151				151
Electrology	6				6
Electrology Apprentice	0				0
Manicuring	1,394				1,394
Esthetician	1,249				1,249
<b>Total</b>	<b>8,077</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>8,077</b>



Business, Consumer Services, and Housing Agency – Governor Edmund G. Brown Jr.  
 BOARD OF BARBERING AND COSMETOLOGY  
 P.O. Box 944226, Sacramento, CA 94244-2260  
 P (800) 952-5210 F (916) 575-7281 www.barbercosmo.ca.gov



**QUARTERLY BARBERING AND COSMETOLOGY  
 DISCIPLINARY REVIEW COMMITTEE STATISTICS**

**Fiscal Year 15-16**

**Report Date: September 30, 2015**

	July - September	YTD
--	------------------	-----

**NORTHERN**

Heard	178	178
Received	171	171
Pending <sup>1</sup>	216	216 <sup>2</sup>

**SOUTHERN**

Heard	359	359
Received	310	310
Pending <sup>1</sup>	323	323 <sup>2</sup>

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

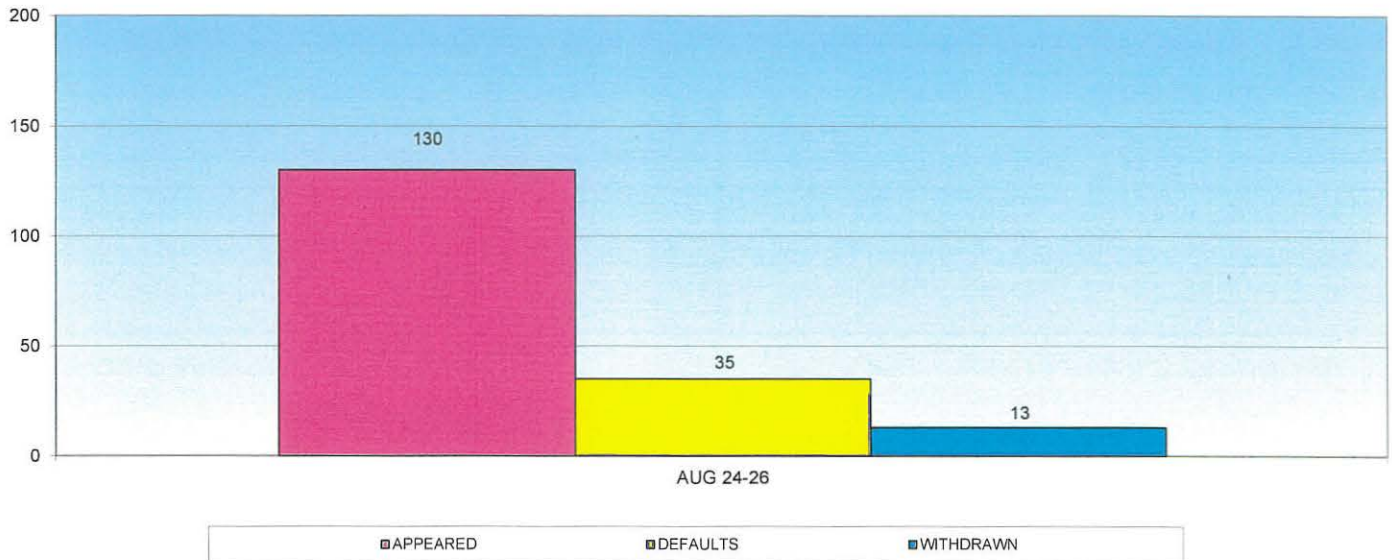
<sup>2</sup>Figure represents number of pending requests as of report date.

**2015 - 2016 SCHEDULED HEARINGS**

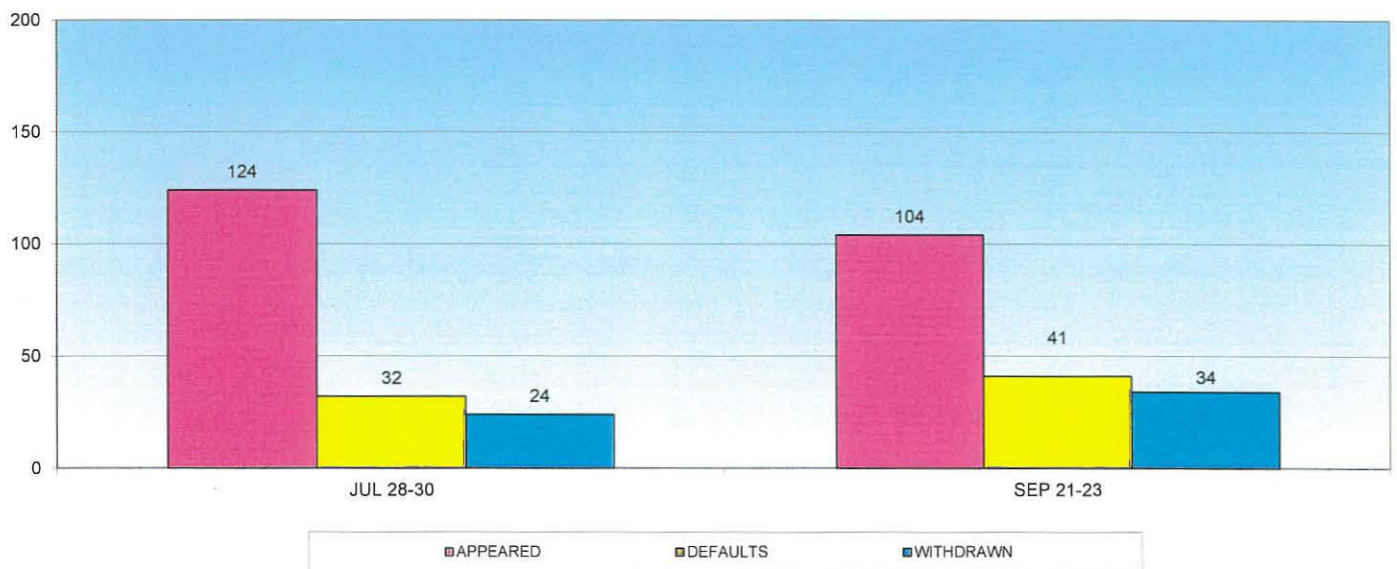
Area	Location	Date
Northern	Sacramento	October 20-22, 2015
Southern	San Diego	November 16-18, 2015
Southern	Los Angeles	December 14-16, 2015
Southern	Santa Ana	January 26-28, 2016
Northern	Sacramento	February 22-24, 2016

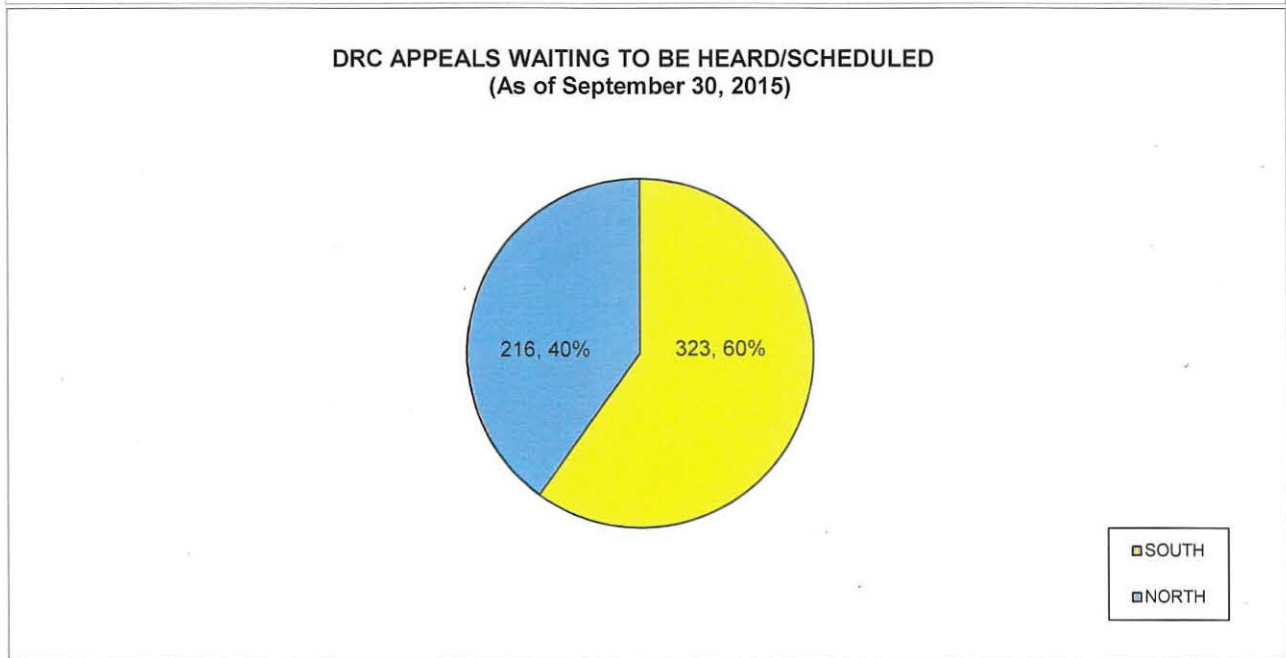
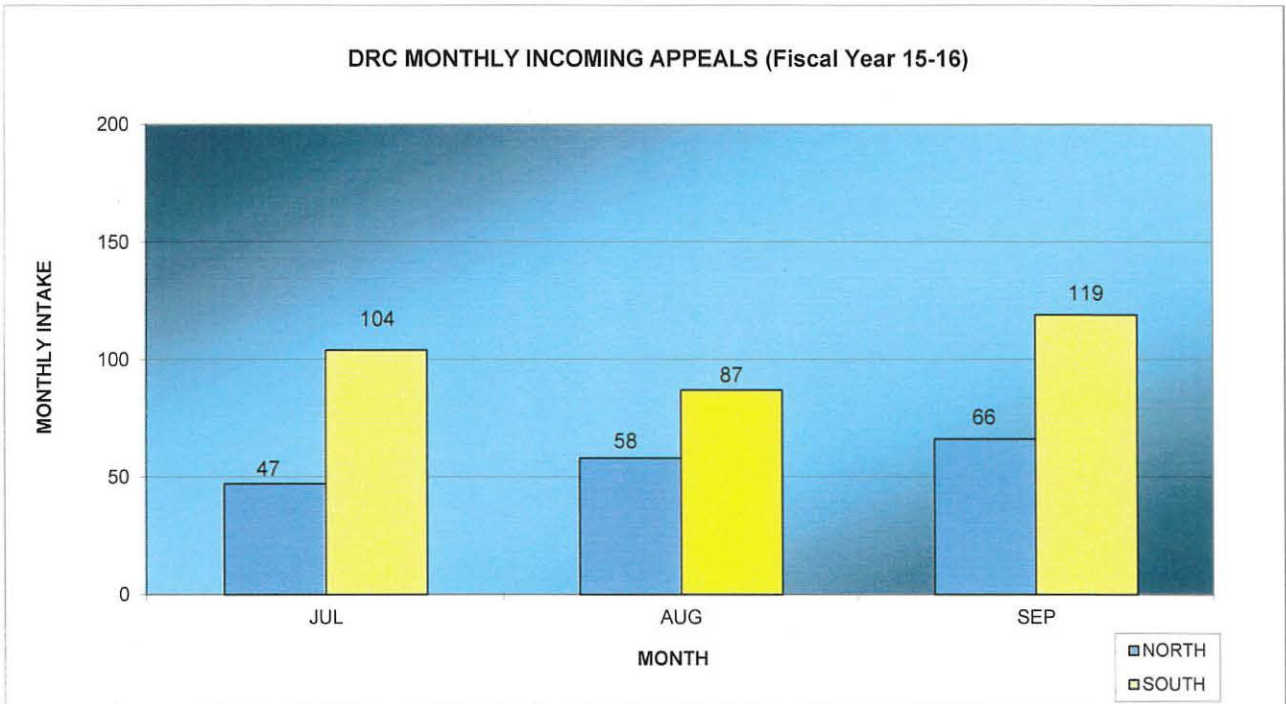


### NORTHERN APPEALS HEARD (Fiscal Year 15-16)



### SOUTHERN APPEALS HEARD (Fiscal Year 15-16)





**QUARTERLY BARBERING AND COSMETOLOGY  
ENFORCEMENT STATISTICS Fiscal Year 15-16**

	Jul-Sept	Oct-Dec	Jan- Mar	Apr-Jun	YTD
<b>COMPLAINTS</b>					
Complaints Received	849	0	0	0	849
Referred to DOI	3	0	0	0	3
Complaints Closed	786	0	0	0	786
Total Complaints Pending	1014				1014
<b>APPLICATION INVESTIGATIONS</b>					
Received	209	0	0	0	209
Pending	0	0	0	0	0
Closed	211	0	0	0	211
<b>ATTORNEY GENERAL</b>					
Referred	4	0	0	0	4
Accusations Filed	9	0	0	0	9
Statement of Issues Filed	0	0	0	0	0
Total Pending	54				54
<b>DISCIPLINARY PROCESS</b>					
Proposed Decisions	1				1
Default Decision	2				2
Stipulation	6				6
<b>DISCIPLINARY OUTCOMES</b>					
Revocation	3	0	0	0	3
Revoke, Stay, Probation	0	0	0	0	0
Revoke, Stay, Suspend/Prob	9	0	0	0	9
Revocation, Stay w/ Suspend	0	0	0	0	0
Probation Only	0	0	0	0	0
Suspension Only	0	0	0	0	0
Suspension & Probation	0	0	0	0	0
Suspension, Stay, Probation	3	0	0	0	3
Surrender of License	1	0	0	0	1
Public Reprimands	0	0	0	0	0
License Denied	0	0	0	0	0
Other	0	0	0	0	0
Total	16	0	0	0	16
<b>PROBATION</b>					
Active	122				122
<b>CITATIONS</b>					
	Jul-Sept*	Oct-Dec	Jan- Mar	Apr-Jun	YTD
Establishments	1744	0	0	0	1744
Barber	170	0	0	0	170
Barber Apprentice	8	0	0	0	8
Cosmetologist	624	0	0	0	624
Cosmetologist Apprentice	7	0	0	0	7
Electrologist	2	0	0	0	2
Electrologist Apprentice	0	0	0	0	0
Manicurist	417	0	0	0	417
Esthetician	51	0	0	0	51
Unlicensed Est.	58	0	0	0	58
Unlicensed Individual	98	0	0	0	98
Total	3179	0	0	0	3179
<b>INSPECTIONS</b>					
Establishments w/ violations	1978	0	0	0	1978
Establishments w/o violations	471	0	0	0	471
Total	2449	0	0	0	2449

\*Citations Issued from July 1, 2015 - August 31, 2015\*



## **Budget Updates**

### **Constraints:**

On April 26, 2011, the Governor issued Executive Order B-06-11 prohibiting in state or out-of-state travel unless it is mission critical or there is no cost to the state. The Board prepared a reduction plan for FY 2015-16. The plan included reducing the amount of staff who travel to Southern California to conduct disciplinary review hearings from three (3) staff to two (2) staff. All travel must be mission critical and pre-approved by the Boards' Executive Officer.

### **1. Budget 2015/16 Fiscal Year (July 2015 - June 2016):**

**Attachment 1** displays projected expenditures for end of the year.

**Board of Barbering and Cosmetology**  
**Fiscal Year 2015/2016**  
**Projected Expenditures 08/31/15**

<b>Personnel Services</b>	<b>ALLOTMENT</b>	<b>BBC Projected Expenditures</b>	<b>Projected Year</b>
Permanent	4,070,473	4,003,148	67,325
Expert Examiners	452,554	340,000	112,554
Temporary	134,000	223,621	(89,621)
BL 12-03 Blanket	0	223,621	223,621
Statutory-Exempt	106,716	18,852	87,864
Board Member Commission	0	16,200	(16,200)
Overtime	0	500	(500)
<b>Total Salary &amp; Wages</b>	<b>4,763,743</b>	<b>4,825,942</b>	<b>385,043</b>
<b>Net Salary &amp; Wages</b>	<b>4,763,743</b>	<b>4,825,942</b>	<b>(62,199)</b>
Staff Benefits	2,250,320	2,385,774	(135,454)
<b>Total of Personnel Services</b>	<b>7,014,063</b>	<b>7,211,716</b>	<b>(197,653)</b>
<b>Operating Expenses &amp; Equipment (OE&amp;E)</b>	<b>Allotment</b>	<b>BBC Projected Expenditures</b>	<b>Projected Year End Balance</b>
General Expense	192,111	190,000	2,111
Printing	170,707	330,000	(159,293)
Communication	40,605	40,000	605
Postage	283,384	150,000	133,384
Insurance	4,489	4,489	0
Travel In State	82,789	130,000	(47,211)
Travel, Out-of-State	0	0	0
Training	10,513	400	10,113
Facilities Operations	1,288,599	906,990	381,609
Utilities	0	1,240	(1,240)
Consultant & Professional Svs. - Interdept.	125,781	0	125,781
Consultant & Professional Svs. - External	474,506	358,178	116,328
Depart. and Central Admin. Services	10,456,424	10,456,424	0
Consolidated Data Center	68,468	4,000	64,468
DP Maintenance	38,376	38,000	376
Central Admin Pro Rata	1,151,771	1,151,771	0
Examinations	1,394,177	1,782,836	(388,659)
Major Equipment	79,500	108,084	(28,584)
Minor Equipment	12,300	14,000	(1,700)
Other Items of Expense	7,288	0	7,288
Vehicle Operations	37,784	70,000	(32,216)
Enforcement	1,670,365	849,269	821,096
Special Items of Expenses	0	0	0
<b>Total Operating Expenses &amp; Equipment</b>	<b>17,589,937</b>	<b>16,585,681</b>	<b>1,004,256</b>
<b>Total Personal Services Expenses</b>	<b>24,604,000</b>	<b>23,842,684</b>	<b>(197,653)</b>
Total reimbursements	(57,000)		(8,599)
<b>Total</b>	<b>24,547,000</b>	<b>23,748,996</b>	<b>798,004</b>

# 0069 - Barbering and Cosmetology Analysis of Fund Condition

7/31/2015

(Dollars in Thousands)

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

## 2015 Budget Act

	Actual 2014-15	CY 2015-16	BY 2016-17	BY+1 2017-18
<b>BEGINNING BALANCE</b>	\$ 15,919	\$ 19,123	\$ 17,446	\$ 15,619
Prior Year Adjustment	\$ 355	\$ -	\$ -	\$ -
Adjusted Beginning Balance	\$ 16,274	\$ 19,123	\$ 17,446	\$ 15,619
<b>REVENUES AND TRANSFERS</b>				
Revenues:				
125600 Other regulatory fees	\$ 6,309	\$ 5,254	\$ 5,254	\$ 5,254
125700 Other regulatory licenses and permits	\$ 4,659	\$ 5,219	\$ 5,219	\$ 5,219
125800 Renewal fees	\$ 11,458	\$ 11,449	\$ 11,449	\$ 11,449
125900 Delinquent fees	\$ 1,056	\$ 897	\$ 897	\$ 897
141200 Sales of documents	\$ 1	\$ 1	\$ 1	\$ 1
142500 Miscellaneous services to the public	\$ -	\$ -	\$ -	\$ -
150300 Income from surplus money investments	\$ 41	\$ 55	\$ 47	\$ 40
150500 Interest Income from Interfund Loans	\$ -	\$ -	\$ -	\$ -
160100 Settlements and Judgements	\$ 6	\$ 6	\$ 6	\$ 6
160400 Sale of fixed assets	\$ -	\$ -	\$ -	\$ -
161000 Escheat of unclaimed checks and warrants	\$ 10	\$ 10	\$ 10	\$ 10
161400 Miscellaneous revenues	\$ 17	\$ 17	\$ 17	\$ 17
Totals, Revenues	\$ 23,557	\$ 22,908	\$ 22,900	\$ 22,893
Transfers from Other Funds				
Proposed GF Loan Repayment				
Transfers to Other Funds				
GF Loan per item 1110-011-0069, Budget Act of 2011				
Totals, Revenues and Transfers	\$ 23,557	\$ 22,908	\$ 22,900	\$ 22,893
Totals, Resources	\$ 39,831	\$ 42,031	\$ 40,346	\$ 38,512
<b>EXPENDITURES</b>				
Disbursements:				
0840 State Controller (State Operations)	\$ 1	\$ -	\$ -	\$ -
1110 Program Expenditures (State Operations)	\$ 20,690	\$ 24,547	\$ 24,727	\$ 25,222
1111 Program Expenditures (State Operations)				
8880 Financial Information System for California (State Ops)	\$ 17	\$ 38	\$ -	\$ -
9670 Equity Claims / Board of Control (State Operations)	\$ -	\$ -	\$ -	\$ -
Total Disbursements	\$ 20,708	\$ 24,585	\$ 24,727	\$ 25,222
<b>FUND BALANCE</b>				
Reserve for economic uncertainties	\$ 19,123	\$ 17,446	\$ 15,619	\$ 13,290
<b>Months in Reserve</b>	9.3	8.5	7.4	6.2

### NOTES:

- ASSUMES WORKLOAD AND REVENUE PROJECTIONS ARE REALIZED IN BY+1 AND ON-GOING.
- ASSUMES APPROPRIATION GROWTH OF 2% PER YEAR BEGINNING IN BY+1.
- ASSUMES INTEREST RATE AT 0.3%.



### FY 15-16 Outreach/Industry Events

#### Participated:

- July 7, 2015 Sacramento and Company News 10 – Safe Salon  
Speaker: Kristy Underwood
- July 28, 2015 Regis Manager Meeting – New Regulation Update  
(Orange County)  
Attendees: Kristy Underwood, Tami Guess and  
Marcene Melliza
- August 9, 2015 Electrologist Association – New Regulation Update  
(Sacramento)  
Attendees: Kristy Underwood, Tami Guess and  
Marcene Melliza
- August 22-24, 2015 San Jose Face & Body Show (San Jose)  
Attendees: Kristy Underwood, Tami Guess and  
Patricia Garcia
- September 20, 2015 Nail Pro Show (Sacramento Convention Center)  
Attendees: Kristy Underwood, Tami Guess,  
Marcene Melliza and Patricia Garcia

#### Tentatively Scheduled:

- January 30 – February 1, 2016 International Salon and Spa Expo (ISSE)  
(Long Beach)  
Attendees: Kristy Underwood, Tami Guess,  
Marcene Melliza and Patricia Garcia



BUSINESS, CONSUMER SERVICES, AND HOUSING AGENCY • GOVERNOR EDMUND G. BROWN JR  
BOARD OF BARBERING AND COSMETOLOGY  
P.O. Box 944226, Sacramento, CA 94244-2260  
P (800) 952-5210 F (916) 575-7281 www.barbercosmo.ca.gov



**Draft**  
**CALIFORNIA STATE BOARD OF  
BARBERING AND COSMETOLOGY**  
**BOARD MEETING**

**MINUTES OF JULY 26, 2015**

Holiday Inn Orange County Airport  
2726 South Grand Ave  
Santa Ana, CA 92705

**BOARD MEMBERS PRESENT**

Dr. Kari Williams, President  
Richard Hedges, Vice President  
Mary Lou Amaro  
Bobbie Anderson  
Polly Codorniz  
Andrew Drabkin  
Joseph Federico

**STAFF MEMBERS PRESENT**

Kristy Underwood, Executive Officer  
Tami Guess, Board Analyst  
Marcene Melliza, Board Analyst  
Rebecca Bon, Legal Counsel

**1. Agenda Item #1, WELCOME AND INTRODUCTIONS**

Dr. Kari Williams, Board President, called the meeting to order at 10:17 a.m.

**2. Agenda Item #2, PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA**

Mirela Marinescu, International School of Beauty, would like the issue of dermaplaning discussed by the Board in regards to allowing Estheticians to perform this service.

Victor Robbins, Missing Link Innovation, demonstrated the 1703 Clipper Sterilizer. Their company would like to see this product mandatory in establishments to help protect the health of licensees and consumers.

James Petta, Barber, shared his concerns about an unlicensed individual performing services in his area. He was directed to provided Kristy Underwood the information and it would be forwarded to the Board's Enforcement unit.

**3. Agenda Item #3, BOARD PRESIDENT'S REPORT**

Dr. Williams did not have anything to report. She did however want to thank the Disciplinary Review Committee (DRC) and staff for their hard work and long hours. There is currently no backlog in DRC and they are seeing cases much quicker. Dr. Williams extended an opportunity to other Board members to report on any items.



Mr. Hedges shared a brochure on Madam C.J Walker, a woman who suffered hair loss as a child, and as an adult, she created a hair care product line. He is requesting the Board post this encouraging story on the Board's website.

Mr. Hedges commented on the recent New York Times article called "The Price of Nice Nails". He encourages everyone to read the article.

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

Ms. Kristy Underwood, Executive Officer, reported. She reviewed the additional documents that were provided to the Board members prior to the start of the Board meeting. These items included updated stats, agenda item #9 meeting materials and the Supplement to the 2013 Board's Rules and Regulations. She shared that the Supplement, as well as an explanation chart have been translated into Korean, Spanish and Vietnamese and all are posted on the website at [www.barbercosmo.ca.gov](http://www.barbercosmo.ca.gov).

Ms. Underwood shared that the Board is including instructions on how to obtain the new regulations with licensee's renewal notices and also the Board's inspectors are distributing information as well.

Ms. Underwood provided an update on the Spanish pass rate. The Board continues to gather data to help better understand where the issues are. There has been a Spanish survey created to distribute at the examination sites to students that have taken the exam in Spanish. She will have more information at the next Board meeting.

Mr. Hedges recommended the Board ask the Legislature for funds or apply for a loan from a nonprofit organization to possibly help fund a pilot program using proctors to read the exam in conversational Spanish.

Ms. Amaro commented that she had spoken to an employee of a Spanish speaking school and it was relayed to her that there could be a loss in the translations during instruction.

Mr. Hedges suggested that the Board watch the amount of appeals being filed and if a backlog occurs that the DRC go back to a four day work week if needed.

#### **5. Agenda Item # 5, APPOINTMENT OF COMMITTEE MEMBERS**

Polly Codorniz was appointed as a member of the Education and Outreach Committee and the Enforcement and Inspection Committee.

Dr. Kari Williams stepped down as a member of the Enforcement and Inspection Committee.

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

Upon motion by Mr. Hedges, seconded by Mr. Federico the minutes from the April 20, 2015 Board Meeting were approved by a 7-0 vote.

## 7 . **Agenda Item #7, UPDATE ON MEDICAL SERVICES TASK FORCE**

The Board was provided a memorandum about the Medical Services Task Force meeting held on May 4, 2015 and had the opportunity to ask questions. Dr. Williams shared that the meeting was productive and recommendations to the Board may come at the next Board meeting. The Task Force will meet again in August 2015.

## 8 . **Agenda Item # 8, UPDATE AND DISCUSSIONS OF PROPOSED BILLS THAT COULD IMPACT BBC:**

- **AB 181 - Sunset Review Bill**

Ms. Underwood provided an update on this bill. The bill extends the Board's Sunset date to January 2020. It does include several new items that were in the Board's Sunset Report:

- Requires the Board to review the 1,600-hour training requirement for cosmetologists; conduct an occupational analysis of the cosmetology profession in California; and conduct a review of the national written examination for cosmetologists and of the California practical examination, in order to evaluate whether the examinations assess critical competencies for California cosmetologists and meet professional testing standards
- Requires the Board to review the Spanish language examination and curriculum requirements if, by January 1, 2016, the pass rate for Spanish speakers does not increase to the average pass rate for all other language examinations during the two-year period prior to January 1, 2016.
- Requires the Board to issue regulations for a personal service permit, as defined, that would allow a licensee to perform services outside of a licensed establishment. The bill may require an applicant for a personal service permit to have proof of liability insurance, and would authorize fees for the issuance and renewal of a personal service permit. The bill would require the board to report to the Legislature, on or before July 1, 2017, as specified, regarding the regulatory process and the issuance of personal service permits.
- Requires the Board to adopt regulations that establish a protocol for inspecting establishments when an inspector has difficulty understanding or communicating with the owner, manager, or employees of the establishment due to language barriers. The protocol would need to be reviewed every two years to ensure it remains current.
- Requires the Board to establish a permanent Health and Safety Advisory Committee to provide the board with advice and recommendations on health and safety issues.
- Make various non-substantive changes to remove obsolete mandates and references in the Barbering and Cosmetology Act.

Mr. Federico commented on the 1600 hours training for cosmetologists. He suggested the Board should look at competency based education, as well as online education as supplemental options to help students prepare for their examinations. He also commented on the personal service permit. He recommended the permit be issued in tandem with a booth renter permit, which would be easier to regulate.

**Public Comment**

Mr. Andre Nizetich, American Board of Certified Haircolorists, supported the idea of the online education and advised the Board to be sure to review the online training videos prior to approving.

Sharlyn Ada, Marinello Schools, agreed there is a place for some online training, but the hands-on training is essential for the practical examination. She also shared that Nevada has reduced their required hours to 1600 hours effective October 1<sup>st</sup>.

Mr. Hedges motioned to maintain a support position of AB181. This was seconded by Ms. Anderson. The motion was approved with a 7-0 vote.

- **AB 1322 - Allowing Alcohol in Establishments**

Ms. Underwood provided an update on this bill and shared that the bill is currently being held in the Senate Committee on Governmental Organization. The bill would allow the Board's licensees to service alcoholic beverages to clients ages 21 and over without a license or a permit, provided there is no extra fee charged for those beverages. The bill has since been amended to add the following provisions:

- The salon or barbershop's establishment license must be in good standing with the Board of Barbering and Cosmetology;
- No more than 12 ounces of beer or 6 ounces of wine may be served to any one client;
- Beer or wine can be provided only during the establishment's business hours and in no case later than 10 p.m.

Several of the Board members shared their concerns on whose responsibility it would be to enforce that underage and excessive drinking was taking place. They commented that it should not be the Board's inspector's responsibility to monitor these practices.

Ms. Underwood stated that the bill does not clearly define what government entity would be responsible for enforcing the law.

**Public Comment**

Sharlyn Ada commented that the Board's job is to protect consumers for the practice of Cosmetology, not for monitoring the drinking of alcohol.

Jaime Schrabec, Precision Nails, strongly opposes this bill.

Mr. Andre Nizetich commented that serving alcohol in an establishment, is not much different than serving alcohol in one's home. The person serving the alcohol who should be held responsible.

Mr. Hedges motioned that the Board oppose AB 1322 as it is written. This was seconded by Dr. Williams. The motion passed with a 5-2 vote.

- **AB 750 - Retiree licenses**

Ms. Underwood provided an update on this bill. As of July 1, 2015, the bill was been held under submission in the Assembly Appropriations Committee. The bill would authorize any of the boards, bureaus, commissions, or programs within DCA to establish by regulation a system for a retire category of license for persons who are not actively engaged in the practice of their profession or vocation, and would prohibit the holder of a retired license from engaging in any activity for which a license is required, unless regulation specifies the criteria for a retired licensee to practice his or her profession. The bill would authorize a board upon its own determination, and would require a board upon receipt of a complaint from any person, to investigate the actions of any licensee, including, among others, a person with a license that is retired or inactive.

**Public Comment**

Mirela Marinescu, asked if the Board would consider a discount on renewals for seniors and also those licensees who have many years of experience, that they would not be required to take the exam.

Mr. Hedges motioned that the Board support AB 750 if it is amended to reflect that after 5 years, the retiree would have to retest. This was seconded by Dr. Williams. The motion passed with a 7-0 vote.

- **AB 888 - Microbeads in Cosmetics**

Ms. Underwood provided an update on this bill. Beginning January 1, 2020, this bill prohibits a person from selling or offering for promotional purposes a personal care product containing plastic microbeads that is used to exfoliate or cleanse in a rinse-off product. It also specifies that this provision does not apply to products that contain plastic microbeads in an amount less than one part per million or products containing natural exfoliants. The bill also establishes enforcement provisions, including civil penalties not to exceed \$2,500 per day for each violation, as specified. It also authorizes the Attorney General, a district attorney, a city attorney, or a city prosecutor to enforce the requirements of this bill and specifies that penalties collected be retained by the office that brought the action. As of July 1, 2015, this bill was referred to the Senate Judiciary Committee.

Mr. Drabkin motioned that the Board watch AB 888. This was seconded by Mr. Federico. The motion passed with a 6-0 vote. (Mr. Hedges abstained)

- **AB 85 - Open Meetings**

Ms. Underwood provided an updated on this bill. This bill is an urgency measure. It is intended to clarify that, under the Bagley-Keene Open Meeting Act, a two-member advisory committee of a state body is a "state body" if a member of that state body sits on the advisory committee and the committee receives funds from the state body. As of July 1, 2015 this bill has been referred to the Senate Committee on Governmental Organization

Mr. Hedges motioned that the Board opposed AB 85. This was seconded by Mr. Drabkin. The motion passed with a 7-0 vote.

**9. Agenda Item #9, DISCUSSION AND RECOMMENDATIONS TO AMEND SECTION 904 AND 905 OF THE CALIFORNIA CODE OF REGULATIONS RELATING TO THE CONSUMER INFORMATION POSTING.**

Ms. Underwood reviewed the staff recommendation to change regulations to require establishments to only post the Notice to Consumers. This would eliminate the current Health and Safety Poster requirement. A motion would be needed to start the regulatory process. The revised notice would be 8 ½ x 11 in size, and would include the Board's website and contact information. It would be available on the Board's website, the Board's social media pages, mailed with new establishment licenses and also distributed by the inspectors.

Mr. Hedges motioned that the Board approve the new posting with the caveat that there will be a direct link to the regulations on the poster. This was seconded by Ms. Anderson. The motion passed with a 7-0 vote.

**Public Comment**

Jaime Schraback applauds the Board's decision to make this change.

Sharlyn Ada commented that this will greatly reduce the Board's, as well as her school's costs.

Kim Adams, Paul Mitchell the School, suggested the Board add a QR code to the Notice.

Several Board members suggested that specific requirements regarding the Notice's size, font type and size be written into regulations. Ms. Underwood agreed and staff will be providing recommended wording to the Board at a future Board meeting.

**10. Agenda Item #10, PROPOSED REGULATIONS UPDATES:**

Dr. Williams deferred to Ms. Underwood to provide updates on the follow items:

- **Text book Approval - Title 16, Section 961 of the California Code of Regulations**

Ms. Underwood stated this rulemaking has been approved by the Office of Administrative Law and will go into effect on October 1.

Ms. Underwood provided updates on the following three rulemaking documents which required approval by the Board:

- **Military Training - Title 16, Section 910 of the California Code of Regulations**

Ms. Underwood reported that the Board held a public hearing on this rulemaking on June 17, 2015. The final language and the final statement of reasons are being presented to the Board for approval. The file will then go to the Department of Consumer Affairs for review.

- **Administrative Fine Schedule -Title 16, Section 974 of the California Code of Regulations**

Ms. Underwood reported that the Board held a public hearing on this rulemaking on June 17, 2015. The final language and the final statement of reasons are being presented to the Board for approval. The file will then go to the Department of Consumer Affairs for review.

- **Proposed Regulatory Language to Define “Demonstrating” for Purposes of BPC 7319(e) Exemptions.**

Ms. Underwood reported that staff had to make some changes to the language of this proposed rulemaking and is resubmitting it for Board approval.

Mr. Hedges motioned to approve all three rulemaking documents. This was seconded by Mr. Drabkin. The motion passed with a 7-0 vote.

**11. Agenda Item #11, DISCUSSION ON CURRENT MARKET TRENDS REGARDING THE DISINFECTION OF FOOT SPAS**

Mr. Federico discussed the advances the Pedi throne market is making and wants to make sure the Board’s regulations are staying updated with current trends. He shared that he is seeing more disposable products, as well as sink-like chairs being used in the pedicure industry.

Mr. Hedges suggested the Board invite members of the pedicure industry to demonstrate some of those products, so the Board has a better understanding of the newer technology.

**Public Comment**

Jaime Schrabec commented that inviting manufacturers to demonstrate their products is a good idea, as long as the manufacturers provide proof, that what they have come up with does protect the equipment and consumers from the bacteria and other items that are concerning to the Board.

Andre Nizetich, provided the Board members with a copy of the American Board of Certified Hair Colorists Study Portfolio. He was advised by staff that the responsibility to approve education materials, including textbooks and reference books has been transferred to the National Institute of State Boards of Cosmetology.

**12. Agenda Item # 12, PROPOSED BOARD MEETING DATES FOR 2016**

Ms. Underwood reminded the Board the dates are tentative and if any board member has a conflict with a meeting date, to email her with their concerns. Mr. Drabkin asked if the October date could be moved to November after the elections.

Mr. Hedges motioned to approve the tentative dates, with the provision that the dates may change. This was seconded by Dr. Williams. The motion passed with a 7-0 vote.

**13. Agenda Item # 13, AGENDA ITEMS FOR NEXT MEETING**

**Public Comment**

Jaime Schrabec would like the Board to create two new Task Forces. One with the Department of Labor, and the other CAL/OSHA. They can address the labor issues, as well as health and safety of the Board’s licensees.

Mr. Hedges agreed with Ms. Schrabek and commented that it is the Board's obligation to make sure the conditions in establishments are healthy for the licensees, as well as the consumers.

**14. Agenda Item # 14, PUBLIC COMMENT**

Mirela Marinescu suggested that the Board consider not turning away students on their test date if there is something wrong with their ID, address, Proof of Training or a similar issue. The students cannot afford to reapply and travel again to the site. She suggested the Board allow them to take the test, and retain the student's new license until the correct information is provided.

Ms. Underwood commented that the Board has recently made improvements at the examination sites to assist students with similar circumstances.

Adrienne Jackson Wright, Educator, asked when the September NIC handbooks would be available. Her contact information was provided to staff.

**15. Agenda Item # 15, CLOSED SESSION**

**16. Agenda Item # 16, ADJOURNMENT**

With no further business, the meeting was adjourned.



**Board of Barbering and Cosmetology**  
P.O. Box 944226, Sacramento, CA 94244  
P (800) 952-7574 F (916) 574-7574 | [www.barbercosmo.ca.gov](http://www.barbercosmo.ca.gov)

---

## MEMORANDUM

TO: Enforcement Committee Members,  
Board of Barbering and Cosmetology

Date: September 1, 2015

FROM: Tami Guess, Board Policy Analyst  
Board of Barbering and Cosmetology

SUBJECT: Medical Services Task Force

---

On May 4, 2015, and August 3, 2015, a task force met comprised of two Board members, Board staff, a dermatologist, a representative from the California Medical Board, estheticians, analysts from the Department of Public Health and representation from various legal and industry associations.

### INTENT

The focus of the task force was to discuss regulatory changes that could clarify services that can be performed by Board licensees.

### SUMMARY

Items that were discussed included:

- Discussion on how to define the terms “Med Spa” and “Practice of medicine”.
- Discussion on the clarification of skin care services, specifically, which skin care services could be considered practice of medicine.
- Discussion of terms to identify in-scope services commonly used in the cosmetic industry.
- Discussion on how to prevent false and/or misleading advertising with regard to beauty services.
- Discussion on adding regulatory language to the California Code of Regulations regarding the advertising of practice of medicine.

### Results

The Medical Services task force approved the Industry Bulletin – Skin Care Machines/Devices, which is currently posted on the Board’s website.



The Task Force has approved regulatory language pertaining to the prevention of false and misleading advertising with regard to Beauty services. It is submitted for Committee discussion and approval.

The Task Force is submitting an Equipment Evaluation form for the Committee's review and approval. This form could be used when licensees are considering the purchase of a skin care machine. Upon approval, this form will be made accessible on the Board's website under the CASafeSalon tab.

Further meetings of this task force are at the discretion of the Board.

# Equipment Evaluation Form

## **Equipment Identification**

Name of Equipment:

Type of Equipment:

Model Number:

## **Intended Use**

What is the manufacturer's intended use?

What is your intended use?

## **Distributor's/Manufacturer's Contact Information**

Name:

Address:

City:        State:        Zip:

Tel:

Fax:

Email:

Website:

## **Registrations / Certifications**

Is the manufacturer registered with the FDA? If yes, what is the registration number?

Is the equipment registered with the FDA? If yes, what is the registration number and class?

Insert a copy of the Safety Data Sheet.

## **Safety Considerations**

What safety certifications does this equipment have (i.e. UL, CSA, CE)?

Does the manufacturer carry liability insurance on this equipment? If so, how much?

Did you obtain a certificate of liability insurance from your own insurance provider? Is the certificate of insurance available? (Insert a copy if available)

Does the manufacturer provide cleaning/disinfection protocols for the equipment? (If so, insert a copy of the protocol)

Are there any reasons that make it inadvisable to use this equipment on a person (contraindications)?

## Article 11. Administrative Fines and Citations

The Board considers a person practicing medicine if the person does, advertises or offers to do, one or more of the following:

1. Advertise, offers, holds out to the public or represents in a manner that the person is authorized to practice medicine in this State.
  - a. Append the letters M.D. or D. O. to the name of the person or use the words, Doctor, Physician, Surgeon, or an abbreviation or combination thereof, or letters or words of similar import in connection with the name of the person, or a trade name in which the person is interested, in the conduct of an occupation or profession pertaining to the diagnosis or treatment of human diseases or conditions. (i.e. Medical Esthetician (Aesthetician), Oncology Esthetician (Aesthetician, Medical Manicurist)
2. Advertises, offers, holds themselves out to the public or represents themselves as practicing, a system or mode of treating the sick or afflicted or who diagnose, treats, operates for, or prescribes for an ailment, blemish, deformity, disease, disfigurement, disorder, injury, or other physical or mental condition of a person, including, but not limited to, the treating of spider veins, lesions, growths or rashes.
3. Advertises, offers, holds out to the public or represents in a manner that the person is authorized to perform a procedures that by a means, method, device or tool that can damage the living skin (dermis) and subcutaneous tissues, including but not limited to, the use of scalpels, syringes, lasers, microwave energy, radio frequencies (with the exception of Electrologists), electrical impulses; and other energy emitting devices, thermal destruction (with the exception of Electrologists), needles (with the exception of Electrology needles or probes), chemical application, particle sanding, and other foreign or natural substances by injection or insertion.
4. Advertises, offers, holds out to the public or represents in a manner that the person is authorized to undertake to perform a surgical operation upon a person, or puncture or pierce the skin in a manner, including but not limited to, mole removal, skin tag removal and/or spot removal.
5. Advertises, offers, holds out to the public, or represents in a manner that the person is authorized to undertake to prescribe, give or administer a drug or medicine for the use of another person.

## Industry Bulletin – 8/4/15 – Skin Care Machines/Devices

The Board of Barbering and Cosmetology (Board) does not approve or regulate equipment or products used in the barbering and beauty industry. Consequently, the Board provides no opinion on the contemplated use of any machine a licensee is considering purchasing.

The Barbering and Cosmetology Act (Act) defines the scope of practice of cosmetology and its specialty branch of skin care. (California Business and Professions Code, section 7316 (b) and (c).) A person licensed as a cosmetologist or esthetician is required to limit their practice and services rendered to the public to only those areas for which they are licensed. (California Business and Professions Code, section 7317.) The Act confers no authority to practice medicine or surgery. (California Business and Professions Code, section 7320.) The Board's regulations specifically prohibit invasive procedures which results in the removal, destruction, incision, or piercing of a client's skin beyond the epidermis or the application of electricity which visibly contracts the muscle (Title 16, California Code of Regulations, section 991.) Licensed cosmetologists and estheticians are cautioned not to engage in any invasive procedures.

The use of electrical stimulation in providing skin care services falls within the practice of an esthetician under certain conditions. So long as the machines providing the electrical stimulation do not deliver an electrical current that will visibly contract the muscle of the body or face and/or result in the destruction or removal of the skin below the client's epidermis. The machines perimeters must be set to stimulate the muscle not to contract the muscle.

The Board understands that the following machines/devices while used in a proper current range may not constitute an invasive procedure:

- Galvanic Current
- Microcurrent
- High Frequency Current
- Ultrasonic (Low frequency, low powered, topical devices intended for skin cleansing, exfoliation and product application)
- LED devices (410 nm – 945 nm. (nm = nanometers))

The following services may be **considered invasive** or practice of medicine:

- Radio Frequency (except electrolysis licensees)
- Electrical Muscle Stimulators (EMS) - Faradic type devices
- Intense Pulsed Light (IPL) therapies (photo facials)
- X-rays
- Ultrasound (Facial Lifting)
- Photo Light Therapy
- Endermology/Endermologie
- Injections of any sort

- Derma rolling or derma planing
- Removal of moles, age spots, skin tags and/or freckles

If the machine produces any of the following, you are working out of your scope of practice:

- Bleeding
- Bruising
- Edema
- Inflammation
- Oozing
- Excoriation
- Scabbing
- Removal of skin below the epidermis
- Piercing of skin
- Heating or burning the skin

Questions to consider in determining if you are working within your scope of practice:

Is my intent of service to beautify the skin?  
Am I treating a disease or illness?

### **Intended Use**

Intended use can be established in a number of ways. For example:

How is the product being advertised? Is the product being marketed as a cosmetic for beautification or does the advertising claim to treat or cure an ailment?

*A skin cream can advertise that it smooth's and beautifies your skin (cosmetic use), however, if it advertises that it will cure or treat acne it could be considered practice of medicine.*

What is the consumer's perception of the product/machine? Why is the consumer purchasing the service and what does the consumer expect out of the service?

*A machine could advertise that it assists in the penetration of hydrating moisturizers for the beautification of your skin (cosmetic use) however, if it claims to reduce cellulite or manage pain, it could be considered practice of medicine.*

Do the ingredients cause the product to be considering practice of medicine?

*A skin peeling agent could advertise that its use will remove unwanted dead skin cells and promote vibrant, glowing skin, (cosmetic use) however, if the skin peeling agent claimed to remove brown spots or scarring, it could be considered practice of medicine.*

For additional consideration of how to establish a product's or machine's intended use, please see the U.S. Food and Drug Administration (FDA) publication, "Is It a Cosmetic, a Drug, or Both? (Or is It Soap?)"

[http://www.fda.gov/cosmetics/guidanceregulation/lawsregulations/ucm074201.htm#Intended\\_use](http://www.fda.gov/cosmetics/guidanceregulation/lawsregulations/ucm074201.htm#Intended_use)

### **Consumer Notice**

The Board does not approve or regulate the sale of skin care machinery. Every year thousands of skin care machines are manufactured and brought into the United States. These machines may or may not have gone through proper testing and/or FDA approvals. Be diligent - make sure you know what you are buying. The Board does not have regulatory authority over the manufacturing and/or selling of machinery. It is the licensee's responsibility to know if they can use the purchased machine within their respective scope of practice.

#### **Items to consider before purchasing skin care equipment**

- Is the machine registered with the FDA and compliant with FDA requirements?
- Make sure you know the machines intent of use, claims of the machine, and FDA classification (select FDA class 2 devices and all Class 3 devices are out of scope for our licensees)
- Does the machine have any safety certifications? Does it carry the UL, CSA or CE listed mark on the device and power cord?
- Is the manufacturer ISO 13485 certified?
- Does the manufacturer maintain liability insurance on the machine?
- Have you been provided with instructions on how to properly clean/disinfect the machine?
- Are there any associated contraindications associated with the use of the machine?

If you are unsure of the answers to these questions, ask the manufacturer prior to purchasing the machine.

**NOTE:** The Board recommends licensees maintain an Equipment Evaluation Binder on site for questions that may arise regarding the machine during a Board inspection. For information on how assemble an Equipment Evaluation Binder, see the Board's website [www.barbercosmo.ca.gov](http://www.barbercosmo.ca.gov) under CA Safe Salon.





**Board of Barbering and Cosmetology**  
PO Box 944226, Sacramento, CA 94244  
P (800) 952-7574 F (916) 574-7574 | [www.barbercosmo.ca.gov](http://www.barbercosmo.ca.gov)

---

## MEMORANDUM

TO: Members, Board of Barbering and Cosmetology      Date: October 19, 2015

FROM: Kristy Underwood, Executive Officer  
Board of Barbering and Cosmetology

SUBJECT: Remedial Training for Manicuring and Pedicuring Violations

---

### Background

Section 7403.2 of the Business and Professions Code allows the Board to immediately suspend a license and place that license on probation, relating to manicure and pedicure equipment violations. As part of this probation, the licensee is required to complete an 8 hour remedial education course. Section 7303.2(b)(1) states:

The licensee shall undertake board-approved remedial training related to the health and safety laws and regulations applicable to the establishment.

The Board developed regulations that defined this statute in the California Code of Regulations sections 973.3, 973.4 and 973.5 (see attached). In summary, these regulations provide for the following:

- The course must be 8 hours.
- The course must be approved by the Board.
- The course must focus on disinfection and sanitation of pedicure and manicure equipment.
- The course must specifically address the health and safety regulations.
- Requirements for course approval.

### Issue

Board staff is finding that licensees are having a difficult time finding an approved course. In addition, the course does not need to be provided by a Board approved school. This means anyone can put together a course outline and the board would not have the authority to deny the request, even if a provider has no knowledge of the manicuring and pedicuring industry. Also, staff believes that 8 hours may be too high of a requirement when the focus should be on manicuring and pedicuring and specifically the cleaning and disinfection of footspas.



## Recommendation

Staff recommends that the Board consider the following recommendations:

Allow Board staff to develop its own remedial education course that can be provided as a web based program. Board staff will present the course to the Board's Education and Outreach Committee and if approved submit to the full Board.

In developing the course, staff may make a recommendation for a shorter more precise course that truly focuses on the required subjects.

Should the Board approve the new course, regulations would need to be amended to allow for the new process.

### **973.3 Terms and Conditions of Probation**

A licensee that has been subject to immediate suspension and placed on probation pursuant to Business and Professions Code section 7403.2 and regulation section 973, shall comply with the following terms and conditions:

(a) A licensee on probation must submit to the board on a monthly basis a report that indicates the following, and is signed under penalty of perjury:

(1) A copy of all pedicure cleaning logs; and

(2) Proof, if any, of completion of board approved remedial training as defined by regulation section 973.4.

(b) An establishment of a licensee that has been placed on probation shall be inspected on a quarterly basis and may be inspected more frequently. The owner of the establishment is responsible for paying all fees required to cover the costs for inspection. The fee for inspection shall be \$42 for each workstation at the establishment. A workstation is a pedicure station or a manicure station.

(c) A licensee on probation shall pay all administrative fines. In a case of economic hardship, the licensee may request to have a payment plan established by the board.

(d) A licensee who has been subject to suspension and placed on probation in accordance with section 7403.2 of the Business and Professions Code shall complete an 8-hour board approved remedial training course.

NOTE: Authority cited: Section 7312, Business and Professions Code. Reference: Section 7403.2, Business and Professions Code.

### **973.4 Remedial Training Defined**

Remedial training shall be a course of instruction approved by the board that focuses on the disinfection and sanitation of pedicure and manicure equipment. The remedial training course shall specifically address the board's health and safety laws and regulations.

NOTE: Authority cited: Section 7312, Business and Professions Code. Reference: Section 7403.2, Business and Professions Code.

### **973.5 Approval of Remedial Training Courses**

(a) In order for a remedial training course to be approved by the board, a provider shall complete an application for course approval that provides the following information to the board:

(1) Description of course contents. The course content shall be pertinent to the health and safety laws and regulations of the board. The course shall focus on the safety and sanitation of pedicure and manicure equipment.

(2) Method of instruction of course offered. Teaching methods for each course shall be described, e.g. lecture, seminar, audiovisual, etc.

(3) Proof that instructors are qualified to teach the specified course content by virtue of their prior education, training, and experience. A resume of each instructor shall be forwarded with the application for approval.

(4) The application for course approval shall state the name of the provider and location where instruction will be given.

(b) Any modifications or subsequent changes to an approved remedial training course shall meet the requirements provided in this section and are subject to approval of the board.

(c) The board shall withdraw the approval of any course for failure to comply with any provisions of this section. The withdrawal for approval shall continue until such time as the training course provider meets the requirements of this section and obtains written approval from the board.

NOTE: Authority cited: Section 7312, Business and Professions Code. Reference: Section 7403.2, Business and Professions Code.



**Board of Barbering and Cosmetology-Department of Consumer Affairs**  
PO Box 944226, Sacramento, CA 94244  
P (800) 952-5210 F (916) 574-7574 | www.barbercosmo.ca.gov



## MEMORANDUM

<b>DATE</b>	October 9, 2015
<b>TO</b>	Members, Board of Barbering and Cosmetology
<b>FROM</b>	Kristy Underwood, Executive Officer
<b>SUBJECT</b>	<b>Legislative Update</b>

- **AB 181**      Sunset Review Bill

**Status:**      The bill has been signed by Gov. Brown. (attached)
- **AB 1322**    Allow alcohol to be served in barbering and cosmetology establishments.

**Status:**      The bill is being held in the Senate Committee on Government Organization further hearing.
- **AB 750**      Creation of a retired licensee category.

**Status:**      This bill is being held under submission in the Assembly Appropriations Committee.
- **AB 888**      Prohibit plastic microbeads in cosmetics.

**Status:**      The bill has been signed by Gov. Brown. (attached)
- **AB 85**        **Require** two-member advisory committees to be subject to the Bagley-Keene Open Meeting

**Status:**      This bill was vetoed by Gov. Brown.

**Assembly Bill No. 181**

## CHAPTER 430

An act to amend Sections 5055, 5070.1, 5087, 6735, 7083, 7200, 7200.5, 7200.7, 7201, 7202, 7208, 7209, 7209.5, 7210.5, 7211.1, 7211.2, 7215, 7215.5, 7217, 7303, 7303.2, 7313, 7395.1, 7401, 7404, 7407, 7685, 7818, 8508, 8513, 8552, 8611, and 17913 of, to add Sections 7314.3 and 7402.5 to, and to repeal Sections 7304, 7308, and 8516.5 of, the Business and Professions Code, and to amend Section 13995.40 of the Government Code, relating to business and professions.

[Approved by Governor October 2, 2015. Filed with Secretary of State October 2, 2015.]

## LEGISLATIVE COUNSEL'S DIGEST

AB 181, Bonilla. Business and professions.

(1) Existing law provides for the practice of accountancy by the California Board of Accountancy. Existing law, until January 1, 2019, authorizes an individual whose principal place of business is not in this state and who has a valid and current license, certificate, or permit to practice public accountancy from another state to engage in the practice of public accountancy in this state under a practice privilege without obtaining a certificate or license subject to specified requirements. Existing law provides that an accountant whose license was canceled by operation of law, after nonrenewal, as specified, may, upon application to the board and meeting specified requirements, have his or her license placed into a retired status.

This bill would authorize an individual practicing public accountancy in this state under a practice privilege to be styled and known as a "certified public accountant" and use the abbreviation "C.P.A." The bill would prohibit the board from restoring that license in retired status to active or inactive status and instead would require the individual to apply for a new license in order to restore his or her license.

Existing law authorizes the board to issue a certified public accountant (CPA) license to an applicant who holds a valid and unrevoked CPA license in another state, under specified conditions.

This bill would require that an out-of-state applicant hold a current, active, and unrestricted CPA license in order to be issued a CPA license under this provision.

(2) The Professional Engineers Act provides for the regulation and licensure of professional engineers by the Board for Professional Engineers, Land Surveyors, and Geologists. A violation of the licensing provisions of the act is a misdemeanor. Existing law requires all civil engineering plans, calculations, specifications, and reports to be prepared by, or under the responsible charge of, a licensed civil engineer, as specified. Existing law requires all civil engineering plans, calculations, specifications, and reports for the construction of all public school structures to be prepared by, or under the responsible charge of, a licensed architect or a licensed civil engineer who is also licensed as a structural engineer. Existing law requires all civil engineering plans, calculations, specifications, and reports for the construction of all hospitals and other medical facilities having surgery and emergency treatment areas to be prepared by, or under the responsible charge of, a licensed civil engineer who is also licensed as a structural engineer.

This bill would repeal the requirements that all civil engineering plans and other specified documents for construction of public school structures be prepared by, or under the responsible charge of, a licensed architect or a licensed civil engineer who is also licensed as a structural engineer. The bill would also repeal the requirements that all civil engineering plans and other specified documents for construction of specified hospital and medical facilities be prepared by, or under the responsible charge of, a licensed civil engineer who is also licensed as a structural engineer.

(3) Existing law establishes within the Department of Consumer Affairs a State Board of Guide Dogs for the Blind, which consists of 7 members appointed by the Governor. Existing law authorizes the board to issue licenses for guide dog training and instructional services. A violation of these licensing provisions is a misdemeanor.

This bill would also include dogs trained and provided for visually impaired persons within these licensing requirements. The bill would change reporting requirements from a calendar year to a fiscal year period and would make technical changes.

(4) The Barbering and Cosmetology Act provides for the licensure and regulation, including inspection, of barbers and cosmetologists by the State Board of Barbering and Cosmetology in the Department of Consumer Affairs. Existing law requires that the board consist of certain members, and authorizes the board to appoint an executive officer. Under existing law, these provisions are repealed on January 1, 2016.

This bill would extend the operation of the board and the executive officer to January 1, 2020.

Existing law also requires the board to conduct specified reviews and reports by various dates in the past.

This bill would delete those requirements and would require the board, no later than November 1, 2018, to conduct specified reviews regarding training and examinations and report its findings to specified committees of the Legislature. The bill would require the board to establish a protocol for inspecting establishments when an inspector has difficulty understanding or communicating with the owner, manager, or employees of the establishment due to language barriers, and to evaluate the protocol every two years to ensure that it remains current. The bill would require the board to establish a Health and Safety Advisory Committee to provide the board with advice and recommendations on health and safety issues before the board. The bill would also require the board to issue regulations for a personal service permit, as defined, that, among other things, may require an applicant for a personal service permit to have proof of liability insurance, and would authorize fees for the issuance and renewal of a personal service permit. The bill would require the board to report to the Legislature, on or before July 1, 2017, as specified, regarding the regulatory process and the issuance of personal service permits. The bill would also make technical, nonsubstantive changes to these provisions.

(5) Under the Funeral Directors and Embalmers Law, the Cemetery and Funeral Bureau regulates licensed funeral establishments and requires that they be operated by a licensed funeral director who is required to provide written information regarding funeral goods and services and prices to consumers. Existing law requires a funeral establishment that maintains an Internet Web site to also post that information on its Internet Web site provided by a link from the homepage. A violation of these provisions is a misdemeanor.

This bill would require that the funeral establishment's Internet Web site contain specified key words.

(6) Existing law provides for the licensure and regulation of structural pest control operators and registered companies by the Structural Pest Control Board. The California Constitution provides that laborers of every class who have worked upon or have furnished material for a property have a lien upon that property for the value of the labor done and material furnished. The California Constitution requires the Legislature to provide, by law, for the speedy and efficient enforcement of those liens. Existing law requires specified registered companies to provide notice regarding possible liens, as specified, to the owner of property prior to entering into a contract to provide work on that property. A violation of these provisions is a misdemeanor.

This bill would extend the notice requirements to all registered companies.

Existing law requires a structural pest control operator to provide a report detailing the results of an inspection for wood destroying pests or organisms prior to commencing work on a contract or expressing an opinion regarding the presence or absence of wood destroying pests or organisms, to the Structural Pest Control Board, within the Department of Consumer Affairs, as specified. Existing law requires that the pest control operator deliver a copy of the report to the person requesting inspection, or designated

agent, within 10 business days of the inspection. Existing law requires a pest control operator to deliver a copy of that report to the owner or the owner's agent within 10 working days of an inspection.

This bill would remove the requirement that the pest control operator provide the owner of the property or the owner's agent with a copy of the report, unless the owner was the person who requested the inspection.

(7) Existing law creates the California Travel and Tourism Commission and provides for the membership and meetings of the commission.

This bill would specify that all meetings of the commission take place in California and would authorize commissioners to attend meetings of the commission by conference telephone or other technology.

(8) This bill would make various other nonsubstantive changes.

(9) Because this bill would expand the definition of a crime, it would impose a state-mandated local program.

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

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

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

#### SECTION 1.

Section 5055 of the Business and Professions Code is amended to read:  
5055.

Any person who has received from the board a certificate of certified public accountant, or who is authorized to practice public accountancy in this state pursuant to Article 5.1 (commencing with Section 5096), may, subject to Section 5051, be styled and known as a "certified public accountant" and may also use the abbreviation "C.P.A." No other person, except a firm registered under this chapter, shall assume or use that title, designation, or abbreviation or any other title, designation, sign, card, or device tending to indicate that the person using it is a certified public accountant.

#### SEC. 2.

Section 5070.1 of the Business and Professions Code is amended to read:  
5070.1.

(a) The board may establish, by regulation, a system for the placement of a license into a retired status, upon application, for certified public accountants and public accountants who are not actively engaged in the practice of public accountancy or any activity that requires them to be licensed by the board.

(b) No licensee with a license in a retired status shall engage in any activity for which a permit is required.

(c) The board shall deny an applicant's application to place a license in a retired status if the permit is subject to an outstanding order of the board, is suspended, revoked, or otherwise punitively restricted by the board, or is subject to disciplinary action under this chapter.

(d) (1) The holder of a license that was canceled pursuant to Section 5070.7 may apply for the placement of that license in a retired status pursuant to subdivision (a).

(2) Upon approval of an application made pursuant to paragraph (1), the board shall reissue that license in a retired status.

(3) The holder of a canceled license that was placed in retired status between January 1, 1994, and January 1, 1999, inclusive, shall not be required to meet the qualifications established pursuant to subdivision (e), but shall be subject to all other requirements of this section.

(e) The board shall establish minimum qualifications to place a license in retired status.

(f) The board may exempt the holder of a license in a retired status from the renewal

and the dog is not too old to be retrained as a guide for another person who is blind or visually impaired.

(3) If, in the school's opinion, the dog is no longer a safe guide and the user refuses to cease using the dog as a guide after being requested by the school to cease this use.

(d) The guide dog school shall make no distinction as to the quality or extent of followup or supportive services available to its blind graduates based on whether they elect to acquire title to their dogs or allow title to remain with the school after the probationary year. The school may, however, make this distinction when assessing reasonable and appropriate charges for followup training, instruction, veterinary, or boarding services.

(e) No applicant for admission to a guide dog training school, nor any enrolled student, shall be required by the school prior to completion of his or her training to sign any instrument or to announce his or her intention regarding transfer of title of the dog from the school to himself or herself upon completion of the training and probation period.

#### SEC. 19.

Section 7217 of the Business and Professions Code is amended to read:

#### 7217.

(a) Within 60 days after the termination of the fiscal year of a school, there shall be furnished to the board the following:

(1) A list of students accepted for training and those who have completed training.

(2) A list of the number of dogs trained.

(b) Within 90 days after the end of a fiscal year, there shall be furnished to the board an independent audit of the school's finances by a certified public accountant licensed by this state.

#### SEC. 20.

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 him or her 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, 2020, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2020, 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. 21.

Section 7303.2 of the Business and Professions Code is amended to read:

#### 7303.2.

The board shall conduct the following reviews, and shall report its findings and



recommendations to the Assembly Committee on Business and Professions and the Senate Committee on Business, Professions, and Economic Development no later than November 1, 2018:

(a) The board, pursuant to Section 139, shall review the 1,600-hour training requirement for cosmetologists, conduct an occupational analysis of the cosmetology profession in California, and conduct a review of the national written examination for cosmetologists and of the practical examination, in order to evaluate whether both examinations assess critical competencies for California cosmetologists and meet professional testing standards.

(b) The board shall review the Spanish language examination if, by January 1, 2016, the pass rate for Spanish speakers did not increase to the average pass rate for all other language examinations during the two-year period prior to January 1, 2016.

SEC. 22.

Section 7304 of the Business and Professions Code is repealed.

SEC. 23.

Section 7308 of the Business and Professions Code is repealed.

SEC. 24.

Section 7313 of the Business and Professions Code is amended to read:

7313.

(a) (1) To ensure compliance with the laws and regulations of this chapter, the board's executive officer and authorized representatives shall, except as provided by Section 159.5, have access to, and shall inspect, any establishment or mobile unit during business hours or at any time in which barbering, cosmetology, or electrolysis are being performed. It is the intent of the Legislature that inspections be conducted on Saturdays and Sundays as well as weekdays, if collective bargaining agreements and civil service provisions permit.

(2) The board shall maintain a program of random and targeted inspections of establishments to ensure compliance with applicable laws relating to the public health and safety and the conduct and operation of establishments. The board or its authorized representatives shall inspect establishments to reasonably determine compliance levels and to identify market conditions that require targeted enforcement. The board shall not reduce the number of employees assigned to perform random inspections, targeted inspections, and investigations relating to field operations below the level funded by the annual Budget Act and described in supporting budget documents, and shall not redirect funds or personnel-years allocated to those inspection and investigation purposes to other purposes.

(b) To ensure compliance with health and safety requirements adopted by the board, the executive officer and authorized representatives shall, except as provided in Section 159.5, have access to, and shall inspect the premises of, all schools in which the practice of barbering, cosmetology, or electrolysis is performed on the public. Notices of violation shall be issued to schools for violations of regulations governing conditions related to the health and safety of patrons. Each notice shall specify the section violated and a timespan within which the violation must be corrected. A copy of the notice of violation shall be provided to the Bureau for Private Postsecondary Education.

(c) With prior written authorization from the board or its executive officer, any member of the board may enter and visit, in his or her capacity as a board member, any establishment, during business hours or at any time when barbering, cosmetology, or electrolysis is being performed. The visitation by a board member shall be for the purpose of conducting official board business, but shall not be used as a basis for any licensing disciplinary action by the board.

(d) The board shall adopt a protocol for inspecting establishments when an inspector has difficulty understanding or communicating with the owner, manager, or employees of the establishment due to language barriers. The board shall evaluate the protocol every two years to ensure the protocol remains current.

SEC. 25.

Section 7314.3 is added to the Business and Professions Code, to read:

## 7314.3.

The board shall establish a Health and Safety Advisory Committee to provide the board with advice and recommendations on health and safety issues before the board.  
SEC. 26.

Section 7395.1 of the Business and Professions Code is amended to read:  
7395.1.

(a) A student who is enrolled in a school of cosmetology approved by the Bureau for Private Postsecondary Education in a course approved by the board may, upon completion of a minimum of 60 percent of the clock hours required for graduation in the course, work as an unpaid extern in a cosmetology establishment participating in the educational program of the school of cosmetology.

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

(c) The externship program shall be conducted in cosmetology establishments meeting all of the following criteria:

(1) The establishment is licensed by the board.

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

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

(4) Licensees working at the establishment work for salaries or commissions rather than on a space rental basis.

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

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

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

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

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

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

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

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

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

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

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

SEC. 27.

Section 7401 of the Business and Professions Code is amended to read:

7401.

(a) An individual licensed pursuant to Section 7396 shall report to the board at the time of license renewal, his or her practice status, designated as one of the following:

- (1) Full-time practice in California.
- (2) Full-time practice outside of California.
- (3) Part-time practice in California.
- (4) Not working in the industry.
- (5) Retired.
- (6) Other practice status, as may be further defined by the board.

(b) An individual licensed pursuant to Section 7396 shall, at the time of license renewal, identify himself or herself on the application as one of the following:

- (1) Employee.
- (2) Independent contractor or booth renter.
- (3) Salon owner.

(c) An individual licensed pursuant to Section 7347 shall report to the board at the time of license renewal, whether either of the following is applicable to him or her:

- (1) He or she has a booth renter operating in the establishment.
- (2) He or she has an independent contractor operating in the establishment.

SEC. 28.

Section 7402.5 is added to the Business and Professions Code, to read:

7402.5.

(a) For purposes of this section, a "personal service permit" means a permit that authorizes an individual to perform services, for which he or she holds a license pursuant to this chapter, outside of an establishment, as defined in Section 7346, in accordance with the regulations established by the board.

(b) The board may issue a personal service permit to an individual who meets the criteria for a personal service permit set forth in regulation.

(c) The board shall issue regulations regarding a personal service permit. In establishing the regulations, the board shall hold, at a minimum, two stakeholder meetings.

(1) The board shall determine the appropriate licensing categories that may apply for a personal service permit in order to protect consumer safety.

(2) The board shall authorize a personal service permit holder to perform services outside of a licensed establishment.

(3) The board shall not exempt a personal service permit holder from any of the board's existing regulations or requirements on health and safety.

(4) The board shall not require a personal service permit holder to be employed by an establishment, unless the board determines that it would be necessary in order to maintain consumer safety.

(5) The regulations may require an applicant for a personal service permit to have proof of liability insurance and to pass a criminal background clearance.

(d) A personal service permit shall be valid for two years and shall be renewed prior to expiration. The fee for a personal service permit shall be no greater than fifty dollars (\$50). The fee for the renewal of a personal service permit shall be no greater than fifty dollars (\$50). The delinquency fee shall be 50 percent of the renewal fee in effect on the date of the renewal.

(e) The board shall report on the progress of the regulatory process and issuance of

personal service permits to the Legislature on or before July 1, 2017.

(1) The report shall be submitted in compliance with Section 9795 of the Government Code.

(2) The requirement to report to the Legislature under this subdivision is inoperative on July 1, 2021, pursuant to Section 10231.5 of the Government Code.

SEC. 29.

Section 7404 of the Business and Professions Code is amended to read:  
7404.

The grounds for disciplinary action are as follows:

(a) Unprofessional conduct which includes, but is not limited to, any of the following:

(1) Incompetence or gross negligence, including failure to comply with generally accepted standards for the practice of barbering, cosmetology, or electrology or disregard for the health and safety of patrons.

(2) Repeated similar negligent acts.

(3) Conviction of any crime substantially related to the qualifications, functions, or duties of the licenseholder, in which case, the records of conviction or a certified copy shall be conclusive evidence thereof.

(4) Advertising by means of knowingly false or deceptive statements.

(b) Failure to comply with the requirements of this chapter.

(c) Failure to comply with the rules governing health and safety adopted by the board and approved by the State Department of Public Health, for the regulation of establishments, or any practice licensed and regulated under this chapter.

(d) Failure to comply with the rules adopted by the board for the regulation of establishments, or any practice licensed and regulated under this chapter.

(e) Continued practice by a person knowingly having an infectious or contagious disease.

(f) Habitual drunkenness, habitual use of or addiction to the use of any controlled substance.

(g) Obtaining or attempting to obtain practice in any occupation licensed and regulated under this chapter, or money, or compensation in any form, by fraudulent misrepresentation.

(h) Failure to display the license or health and safety rules and regulations in a conspicuous place.

(i) Engaging, outside of a licensed establishment and for compensation in any form whatever, in any practice for which a license is required under this chapter, except that when the service is provided because of illness or other physical or mental incapacitation of the recipient of the service and when performed by a licensee obtained for the purpose from a licensed establishment.

(j) Permitting a license to be used where the holder is not personally, actively, and continuously engaged in business.

(k) The making of any false statement as to a material matter in any oath or affidavit, which is required by the provisions of this chapter.

(l) Refusal to permit or interference with an inspection authorized under this chapter.

(m) Any action or conduct which would have warranted the denial of a license.

(n) Failure to surrender a license that was issued in error or by mistake.

SEC. 30.

Section 7407 of the Business and Professions Code is amended to read:  
7407.

The board shall establish by regulation a schedule of administrative fines for violations of this chapter. All moneys collected under this section shall be deposited in the board's contingent fund.

The schedule shall indicate for each type of violation whether, in the board's discretion, the violation can be corrected. The board shall ensure that it and the Bureau for Private Postsecondary Education do not issue citations for the same violation.

SEC. 31.

Section 7685 of the Business and Professions Code is amended to read:



**Assembly Bill No. 888**

## CHAPTER 594

An act to add Chapter 5.9 (commencing with Section 42360) to Part 3 of Division 30 of the Public Resources Code, relating to waste management.

[Approved by Governor October 8, 2015. Filed with Secretary of State October 8, 2015.]

## LEGISLATIVE COUNSEL'S DIGEST

AB 888, Bloom. Waste management: plastic microbeads.

The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65) prohibits any person, in the course of doing business, from knowingly and intentionally exposing any individual to a chemical known to the state to cause cancer or reproductive toxicity without giving a specified warning, or from discharging or releasing such a chemical into any source of drinking water, except as specified. Existing law prohibits the sale of expanded polystyrene packaging material by a wholesaler or manufacturer. Existing law prohibits a person from selling a plastic product in this state that is labeled with the term "compostable," "home compostable," or "marine degradable" unless, at the time of sale, the plastic product meets the applicable ASTM International standard specification.

This bill would prohibit, on and after January 1, 2020, a person, as defined, from selling or offering for promotional purposes in this state a personal care product containing plastic microbeads that are used to exfoliate or cleanse in a rinse-off product, as specified. The bill would exempt from those prohibitions the sale or promotional offer of a product containing less than 1 part per million (ppm) by weight of plastic microbeads.

The bill would make a violator liable for a civil penalty not to exceed \$2,500 per day for each violation. The bill would authorize the penalty to be assessed and recovered in a civil action brought in any court of competent jurisdiction by the Attorney General or local officials. The bill would require the civil penalties collected in an action brought pursuant to the act to be retained by the office that brought the action.

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

## SECTION 1.

Chapter 5.9 (commencing with Section 42360) is added to Part 3 of Division 30 of the Public Resources Code, to read:

## CHAPTER 5.9. PLASTIC MICROBEADS NUISANCE PREVENTION LAW

## 42360.

The Legislature finds and declares all of the following:

(a) Plastic does not biodegrade into elements or compounds commonly found in nature like other organic materials, but, instead, upon exposure to the elements photodegrades into smaller pieces of plastic causing land and water pollution that is virtually impossible to remediate.

(b) Plastic pollution is the dominant type of anthropogenic debris found throughout the marine environment.

(c) Plastic pollution is an environmental and human health hazard and a public nuisance.

(d) Microplastics that are five millimeters or less in diameter become bioavailable as soon as they enter the marine environment and are ingested by marine organisms.

(e) Microplastics are persistent organic compounds that attract other pollutants commonly present in the environment, many of which are recognized to have serious

deleterious impacts on human health or the environment, including DDT, DDE, PCBs, and flame retardants.

(f) PAHs, PCBs, and PBDEs from plastic transfer to fish tissue when ingested and bioaccumulate.

(g) Fish that humans consume have been found to ingest microplastics, which are then ingested by the humans who consume these fish.

(h) Consumer personal care products such as facial scrubs, soaps, and toothpaste increasingly contain thousands of microplastics in the form of plastic microbeads that are flushed down drains or make their way into the environment by other means as part of their intended use.

(i) Plastic microbeads in personal care products are generally not recoverable through ordinary wastewater treatment and can be released into the environment.

(j) Plastic microbeads have been found in surface waters within the United States, as well as in fish, marine mammals, reptiles, mussels, and worms.

(k) There are economically feasible alternatives to plastic microbeads used in personal care products, as evidenced by the current use of biodegradable, natural, abrasive materials in personal care products such as beeswax, shells, nuts, seeds, and sand.

42361.

As used in this chapter, the following terms have the following meanings:

(a) "Person" means an individual, business, or other entity.

(b) (1) "Personal care product" means an article intended to be rubbed, poured, sprinkled, or sprayed on, introduced to, or otherwise applied to, the human body or any part thereof for cleansing, beautifying, promoting attractiveness, or altering the appearance, and an article intended for use as a component of that type of article.

(2) "Personal care product" does not include a prescription drug, as defined in Section 110010.2 of the Health and Safety Code.

(c) "Plastic microbead" means an intentionally added solid plastic particle measuring five millimeters or less in every dimension.

42362.

On and after January 1, 2020, a person shall not sell or offer for promotional purposes in this state any personal care products containing plastic microbeads that are used to exfoliate or cleanse in a rinse-off product, including, but not limited to, toothpaste.

42363.

Section 42362 shall not apply to a person that sells or offers for promotional purposes a personal care product containing plastic microbeads in an amount less than 1 part per million (ppm) by weight.

42364.

(a) A person who violates or threatens to violate Section 42362 may be enjoined in any court of competent jurisdiction.

(b) (1) A person who has violated Section 42362 is liable for a civil penalty not to exceed two thousand five hundred dollars (\$2,500) per day for each violation in addition to any other penalty established by law. That civil penalty may be assessed and recovered in a civil action brought in any court of competent jurisdiction.

(2) In assessing the amount of a civil penalty for a violation of this chapter, the court shall consider all of the following:

(A) The nature and extent of the violation.

(B) The number of, and severity of, the violations.

(C) The economic effect of the penalty on the violator.

(D) Whether the violator took good faith measures to comply with this chapter and when these measures were taken.

(E) The deterrent effect that the imposition of the penalty would have on both the violator and the regulated community as a whole.

(F) Any other factor that justice may require.

(c) Actions pursuant to this section may be brought by the Attorney General in the name of the people of the state, by a district attorney, by a city attorney, or by a city prosecutor in a city or city and county having a full-time city prosecutor.

(d) Civil penalties collected pursuant to this section shall be paid to the office of the city attorney, city prosecutor, district attorney, or Attorney General, whichever office brought the action.

42366.

This chapter does not alter or diminish any legal obligation otherwise required in common law or by statute or regulation, and this chapter does not create or enlarge any defense in any action to enforce the legal obligation. Penalties and sanctions imposed pursuant to this chapter shall be in addition to any penalties or sanctions otherwise prescribed by law.

---

0

93





Board of Barbering and Cosmetology-Department of Consumer Affairs  
PO Box 944226, Sacramento, CA 94244  
P (800) 952-5210 F (916) 574-7574 | www.barbercosmo.ca.gov



## MEMORANDUM

<b>DATE</b>	October 2, 2015
<b>TO</b>	Members, Board of Barbering and Cosmetology
<b>FROM</b>	Kristy Underwood, Executive Officer
<b>SUBJECT</b>	<b>Regulations Update</b>

- **Military Training:** Upon the advice of the Board’s counsel, staff has made a revision to the language of this proposed rulemaking that requires Board approval. If approved by the Board, the revision will require a 15-day public comment period.

**Action:** The Board should vote on the attached language.

- **Administrative Fine Schedule:** This rulemaking is being reviewed by the Department of Consumer Affairs (DCA). If approved by the DCA Director, the file will then be forwarded to the Business, Consumer Services and Housing Agency. From there, it will be submitted to the Office of Administrative Law for final approval.

**Action:** No action is needed.

- **Demonstration of Products:** A public hearing on this proposed rulemaking was held Oct. 14, 2015. Staff will now produce the final statement of reasons for approval by the Board at its next meeting.

**Action:** No action is needed.

- **Consumer Notice:** Staff has made several revisions to the proposed language that requires Board approval.

**Action:** The Board should vote on the attached language and sample of the new Consumer Notice.

## BOARD OF BARBERING AND COSMETOLOGY

*Division 9, Title 16, of the California Code of Regulations.*

FIRST MODIFIED TEXT

### LEGEND

<b><u>Underlined</u></b>	<b>Indicates proposed amendments or additions to the existing regulation.</b>
<b><del>Strikeout</del></b>	<b>Indicates proposed deletions to the existing regulation.</b>

- **Amend Section 910, Title 16, California Code of Regulations, as follows:**

#### **§ 910. Out-of-State Applicants.**

(a) An applicant who desires to establish eligibility for examination for a license in this state upon the basis of practice, study or training outside this state, or supplementary training in a licensed school in this state, or any combination thereof, shall furnish proof of his or her qualifications to the board as follows:

(1) An applicant who desires credit for practices in another state or country shall file with the board, on the form prescribed by it (Form #03E-145, Affidavit of Experience-Form C, Rev1/91), an affidavit from a disinterested person verifying such practice, together with an authenticated statement from the licensing agency in the state or country where such practice took place showing that the applicant was licensed to engage in such practice, if a license was required therefor.

(2) An applicant who has completed any number of hours of study and training in a school in another state or country, and who desires credit for such hours toward study and training in this state, shall file with the board, on the form prescribed by it (Form #03B-144, Out-of-State Beauty School Training Record-Form B, Rev. 8/94), an authenticated statement from the school or the training took place showing the number of hours of study and training completed in each subject and when such study and training occurred.

(3) An applicant who desires credit for supplementary training completed in a licensed school in this State shall file with the board an authenticated statement from such school showing the number of hours of such training successfully completed in each subject.

(b) An applicant for examination who is employed on a military reservation to practice any profession licensed under Chapter 10 of Division 3 of the Business and Professions Code must present an authenticated statement from the military reservation verifying the employment and may use the practice obtained to qualify for examination.

(c) An applicant for examination who has comparable applicable education, training, or experience learned obtained while on-duty in the United States armed services shall may submit to the Board his or her Verification of Military Experience and Training (V-Met) records to the Board for evaluation, and the Board may use those records to qualify the applicant for examination.

*Note: Authority cited: Section 7312, Business and Professions Code. Reference: Sections 35, 7321, 7321.5, 7324, 7326, 7330, 7331, 7337 and 7391, Business and Professions Code.*



**BOARD OF BARBERING AND COSMETOLOGY**

*Division 9, Title 16, of the California Code of Regulations.*

**SPECIFIC LANGUAGE**

**LEGEND**

<b><u>Underlined</u></b>	<b>Indicates proposed amendments or additions to the existing regulation.</b>
<b><del>Strikeout</del></b>	<b>Indicates proposed deletions to the existing regulation.</b>

- **Amend Section 904, Title 16, California Code of Regulations, as follows:**

**904. Enforcement**

~~(a) A copy of the board's Health and Safety Rules, as specified in Article 12 of the Rules and Regulations, shall be conspicuously posted in:~~

- ~~(1) Reception areas of both schools and establishments, and~~
- ~~(2) Theory rooms of schools.~~

~~(a)~~ **(b)** The holder or holders of an establishment license or a mobile unit license, and the person in charge of any such establishment or mobile unit, shall be responsible for implementing and maintaining the Health and Safety Rules in such establishment or mobile unit individually and jointly with all persons in or employed by or working in or on the premises of such establishment or mobile unit.

~~(b)~~ **(c)** All licensed barbers, cosmetologists, estheticians, manicurists, electrologists, instructors, or apprentices shall be held individually responsible for implementation and maintenance of the Health and Safety Rules.

~~(c)~~ **(d)** All persons performing acts of a barber, cosmetologist, esthetician, manicurist or electrologist, except students in schools, shall, upon request of an authorized representative of the board, present satisfactory proof of identification. Satisfactory proof shall be in the form of a photographic driver's license or photographic identification card issued by any state, federal, or other recognized government entity.

~~(d)~~ **(e)** Failure to present valid proof of identification shall be grounds for disciplinary action.

*NOTE: Authority cited: Section 7312, Business and Professions Code. Reference: Sections 7312, 7313, 7317 and 7404, Business and Professions Code.*

- Amend Section 905, Title 16, California Code of Regulations, as follows:

### 905. Posting of Consumer Information Message

(a) ~~The following consumer information message shall be included at the bottom of the front page of the copy of the Health and Safety Rules, which must be conspicuously posted in reception areas of both schools and establishments. accordance with Section 904, in all establishments:~~

#### MESSAGE TO THE CONSUMER

This establishment is licensed by the California State Board of Barbering and Cosmetology. The board can address the following problems:

- Health and Safety (including unsanitary conditions and failure to disinfect instruments after each use)
- Incompetence and Negligence
- Misrepresentation or False Advertising of Services
- Unlicensed Practice of Barbering, Cosmetology, Manicuring, Esthetics or Electrology.

~~If you would like to receive a Consumer Complaint Guide or if you have any unresolved questions regarding services provided in this establishment, please call or write the Board of Barbering and Cosmetology at (800) 952-5210, P.O. Box 944226, Sacramento, California 94244-2260.~~

To file a complaint please contact the Board at [www.barbercosmo.ca.gov](http://www.barbercosmo.ca.gov) or (800) 952-5210. The Board's laws and regulations can be found on the Board's website at: [www.barbercosmo.ca.gov](http://www.barbercosmo.ca.gov).

(b) The heading of the consumer information message, "Message to the Consumer," shall be printed in at least 36 point boldface type. The body of the consumer information message must be printed in at least 14 point boldface type. The notice shall be printed on paper that measures 8 ½ X 11 inches.

*NOTE: Authority cited: Section 7312, Business and Professions Code. Reference: Sections 129(e), and 7404(b), Business and Professions Code.*



# MESSAGE TO THE CONSUMER

This Establishment Is Licensed By The  
California State Board of Barbering and Cosmetology.  
The Board Can Address The Following Problems:

- ❖ **HEALTH AND SAFETY**  
(Including unsanitary conditions and failure to disinfect instruments after each use)
- ❖ **INCOMPETENCE AND NEGLIGENCE**
- ❖ **MISREPRESENTATION OR FALSE ADVERTISING OF SERVICES**
- ❖ **UNLICENSED PRACTICE OF BARBERING, COSMETOLOGY,  
MANICURING, ESTHETICS, OR ELECTROLOGY.**

TO FILE A COMPLAINT PLEASE CONTACT THE BOARD AT  
[www.barbercosmo.ca.gov](http://www.barbercosmo.ca.gov)

or

**(800) 952-5210**

The Board's laws and regulations can be found on the Board's website at:

[www.barbercosmo.ca.gov](http://www.barbercosmo.ca.gov)





**Board of Barbering and Cosmetology**  
 PO Box 944226, Sacramento, CA 94244  
 P (800) 952-7574 F (916) 574-7574 | www.barbercosmo.ca.gov

## MEMORANDUM

TO: Members, Board of Barbering and Cosmetology Date: October 19, 2015

FROM: Kristy Underwood, Executive Officer  
 Board of Barbering and Cosmetology

SUBJECT: Interpreters at Disciplinary Review Committee Hearings

### Background

The Board has received various inquiries regarding providing interpreters at the Disciplinary Review Committee hearings (DRC). The Board has never provided this service in the past because the hearings are considered informal. The Board does provide interpreters, when requested, at all formal disciplinary hearings.

### Items to Consider

- The cost of certified interpreters is \$215 an hour
- DRC schedules an average of 3,000 cases a year
- It can be assumed that 70% are limited in the English language.

### Potential Costs

The following information is being provided to facilitate this discussion. The Board could address this issue in two ways; contract with an interpretation service or hire bilingual staff.

#### *Interpreters*

# of individuals	# of minutes per case	# of total hours	Annual Cost
2,100	15	525	\$112,875

#### *Hiring Bi-Lingual Staff*

# of staff	Cost per Position	Annual Cost
2	\$3,106	\$74,544

*Highest volume of language would be Vietnamese and Spanish.*

## Discussion

The Board should discuss how/if it would like to pursue this topic. It should be noted that no costs can be absorbed by the Board therefore, a budget change proposal (BCP) would be required to obtain funding for either option. The Board should also be aware that in the past it has been difficult to hire individuals that are bilingual. In addition to being bilingual, the individual would be required to be on a State Civil Service list in order to be hired. The Board would also have to justify workload to obtain new positions.



*No Attachment*

*Closed Session*

*No Attachment*