

**CALIFORNIA
BOARD OF BARBERING AND COSMETOLOGY**



**JUNE 8, 2020
BOARD MEETING**

**PUBLIC
TELECONFERENCE**



**CALIFORNIA BOARD OF
BARBERING AND
COSMETOLOGY
BOARD MEETING NOTICE AND
AGENDA**

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

BOARD MEMBERS:
Lisa Thong, President
Dr. Kari Williams,
Vice President
Jacquelyn Crabtree
Andrew Drabkin
Derick Matos
Calimay Pham
Christie Tran
Steve Weeks

**PUBLIC TELECONFERENCE
MEETING**

**JUNE 8, 2020
9:00am - Until Completion of
Business**

NOTE: Pursuant to the provisions of Governor Gavin Newsom’s Executive Order N-29-20, dated March 17, 2020, neither Board member locations nor a public meeting location are provided. Public participation may be through teleconferencing as provided below.

Important Notices to the Public: The Board of Barbering and Cosmetology will hold a public meeting via a Webex Events. To participate in the WebEx Events meeting, please log on to this website the day of the meeting:

<https://dca-ca.webex.com/dca-ca/onstage/g.php?MTID=edbc4546bcf33d48f66e8af9debc6d84a>

INSTRUCTIONS FOR PARTICIPATION: Please see the instructions attached hereto to observe and participate in the meeting using WebEx from a Microsoft Windows-based PC.

Members of the public may but are not obligated to provide their names or personal information as a condition of observing or participating in the meeting. When signing into the WebEx platform, participants may be asked for their name and email address. Participants who choose not to provide their names will be required to provide a unique identifier such as their initials or another alternative, so that the meeting moderator can identify individuals who wish to make public comment; participants who choose not to provide their email address may utilize a fictitious email address in the following sample format: XXXXX@mailinator.com.

Public comments will be limited to two minutes unless, in the discretion of the Board, circumstances require a shorter period; members of the public will not be permitted to “yield” their allotted time to other members of the public to make comments.

As an alternative, members of the public who wish to observe the meeting without making public comment can do so (provided no unforeseen technical difficulties) at <https://thedcapage.wordpress.com/webcasts/>.

OPEN SESSION:

1. Call to Order/ Roll Call/ Establishment of Quorum (**Lisa Thong**)
2. Board President's Opening Remarks (**Lisa Thong**)
3. Board Member Remarks – Informational only
4. Discussion and Possible Approval of March 9, 2020 Board Meeting Minutes
5. Executive Officer's Report (**Kristy Underwood**)
 - Licensing Statistics
 - Examination Statistics
 - Disciplinary Review Committee Statistics
 - Enforcement Statistics
 - Budget Updates
 - Outreach Updates
 - Practice Status Survey Results
6. Discussion and Possible Action Regarding the 2020 Sunset Review
7. Update Regarding Impact of COVID-19 on Licensing, Examinations and Enforcement
8. Legislative Update:
 - Discussion and Possible Action on Proposed Bills:
 - AB 1928 (Kiley and Melendez) – Employment Standards
 - AB 2465 (Gonzalez) – Booth Renter Permit
 - SB 806 (Grove) – Employees: Independent Contractors
 - SB 1474 (Committee on Business, Professions and Economic Development) - Sunset
9. Discussion and Possible Action Regarding Rulemaking Proposals:
 - Amend Title 16, California Code of Regulations (CCR), section 950.10 (Transfer of Credit or Training)
 - Amend Title 16, CCR section 961 (Instructional Materials-NIC Guides)
 - Amend Title 16, CCR sections 962, 962.1 and 962.2 (Externs)
 - Add Title 16, CCR section 965.2 (Personal Service Permit)
 - Amend Title 16, CCR sections 970 and 971 (Substantial Relationship Criteria, Criteria for Rehabilitation)
 - Amend Title 16, CCR section 972 (Disciplinary Guidelines)
 - Amend Title 16, CCR section 974.1 (Disciplinary Review Committee)
10. Public Comment on Items Not on the Agenda

Note: The Board may not discuss or take any action on any item raised during this public comment section, except to decide whether to place the matter on the agenda of a future meeting (Government Code Sections 11125, 1125.7(a))
11. Suggestions for Future Agenda Items
12. Adjournment

Action may be taken on any item on the agenda. The time and order of agenda items are subject to change at the discretion of the Board President and may be taken out of order. In accordance with the Bagley-Keene Open Meeting Act, all meetings of the Board are open to the public.

Note: This meeting will be Webcast, provided there are no unforeseen technical difficulties or limitations. To view the Webcast, please visit <https://thedcapage.wordpress.com/webcasts/>.

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

HOW TO – Join – DCA WebEx Event

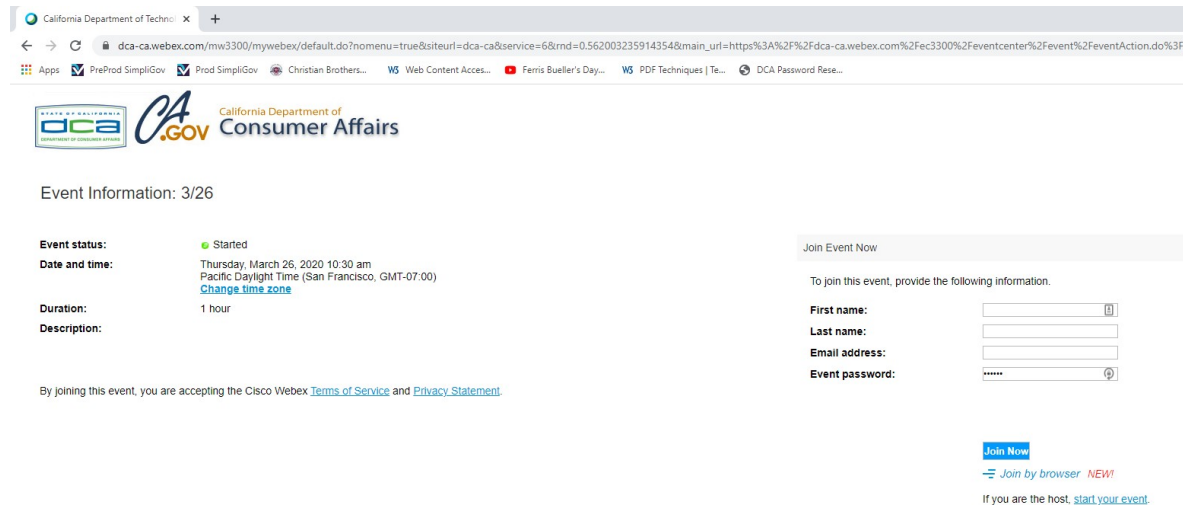
The following contains instructions to join a WebEx event hosted by the Department of Consumer Affairs (DCA).

NOTE: The preferred audio connection to our event is via telephone conference and not the microphone and speakers on your computer. Further guidance relevant to the audio connection will be outlined below.

1. Navigate to the WebEx event link provided by the DCA entity (an example link is provided below for reference) via an internet browser.

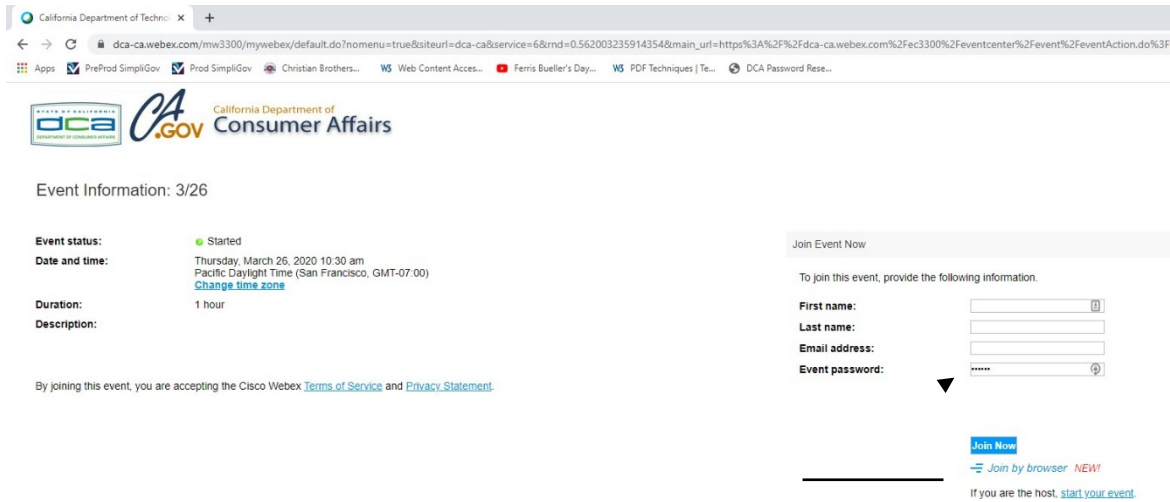
Example link:

<https://dca-ca.webex.com/dca-ca/onstage/g.php?MTID=eb0a73a251f0201d9d5ef3aaa9e978bb5>



2. The details of the event are presented on the left of the screen and the required information for you to complete is on the right.
NOTE: If there is a potential that you will participate in this event during a Public Comment period, you must identify yourself in a manner that the event Host can then identify your line and unmute it so the event participants can hear your public comment. The 'First name', 'Last name' and 'Email address' fields do not need to reflect your identity. The department will use the name or moniker you provide here to identify your communication line should you participate during public comment.

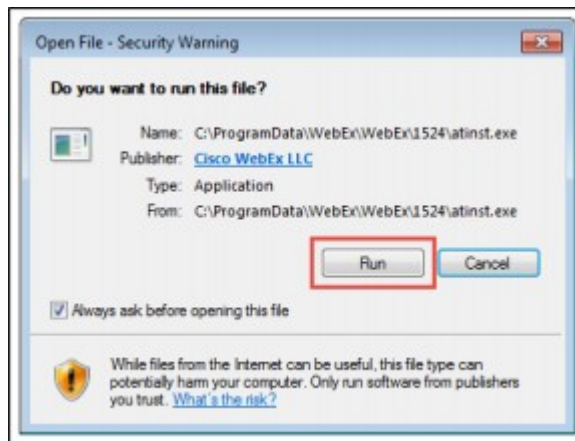
HOW TO – Join – DCA WebEx Event



3. Click the 'Join Now' button.

NOTE: The event password will be entered automatically. If you alter the password by accident, close the browser and click the event link provided again.

4. If you do not have the WebEx applet installed for your browser, a new window may open, so make sure your pop-up blocker is disabled. You may see a window asking you to open or run new software. Click 'Run'.



Depending on your computer's settings, you may be blocked from running the necessary software. If this is the case, click 'Cancel' and return to the browser tab that looks like the window below. You can bypass the above process.

Starting Webex...



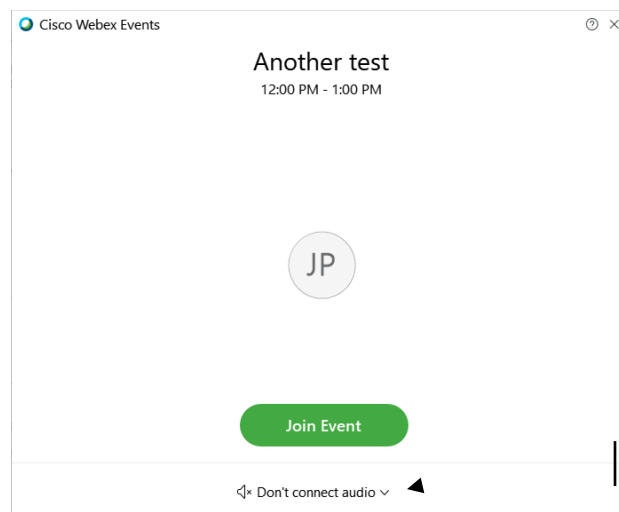
Still having trouble? [Run a temporary application](#) to join this meeting immediately.

5. To bypass step 4, click 'Run a temporary application'.
6. A dialog box will appear at the bottom of the page, click 'Run'.



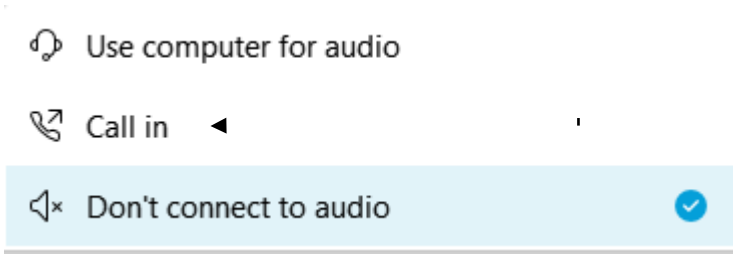
The temporary software will run, and the meeting window will open.

7. Click the audio menu below the green 'Join Event' button.

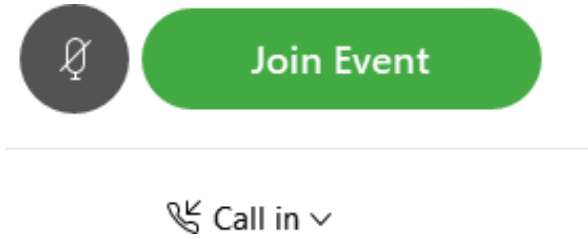


8. When the audio menu appears click 'Call in'.

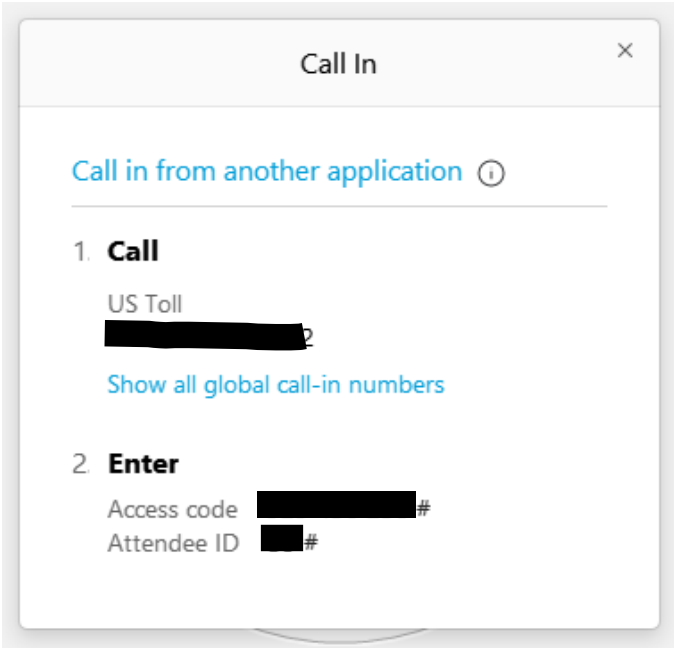
HOW TO – Join – DCA WebEx Event



9. Click 'Join Event'. The audio conference call in information will be available after you join the Event.



10. Call into the audio conference with the details provided.

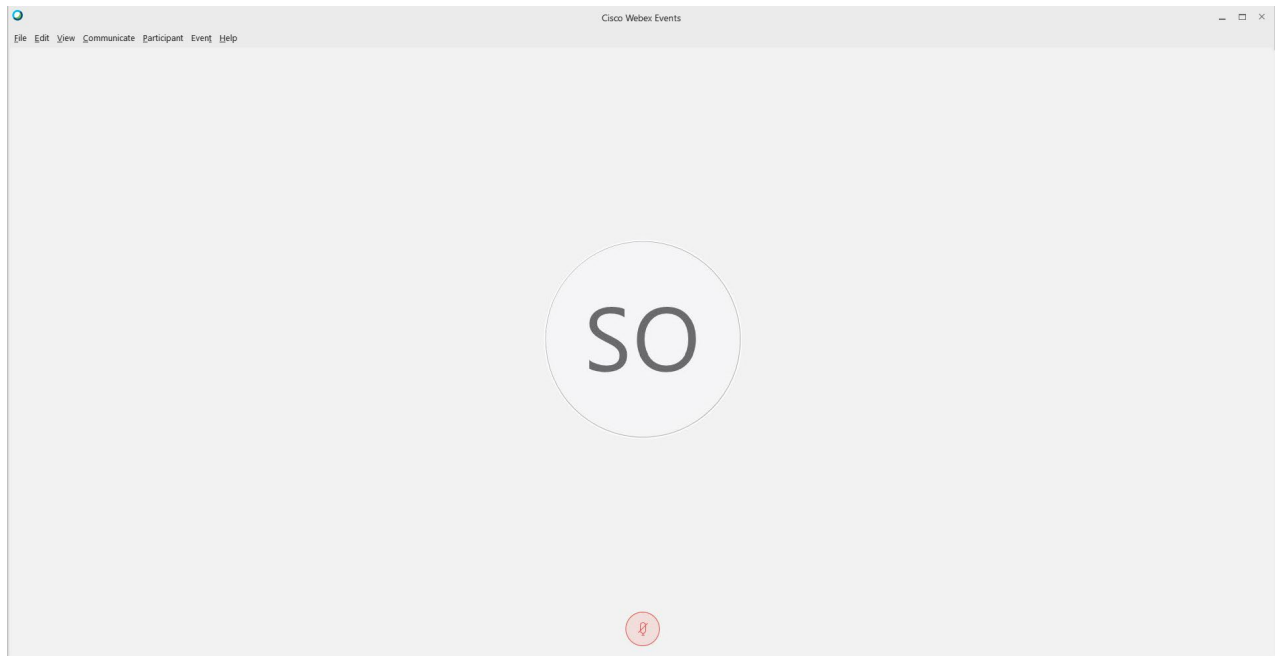


NOTE: The audio conference is the preferred method. Using your computer's microphone and speakers is not recommended.

HOW TO – Join – DCA WebEx Event

Once you successfully call into the audio conference with the information provided, your screen will look like the screen below and you have joined the event.

Congratulations!

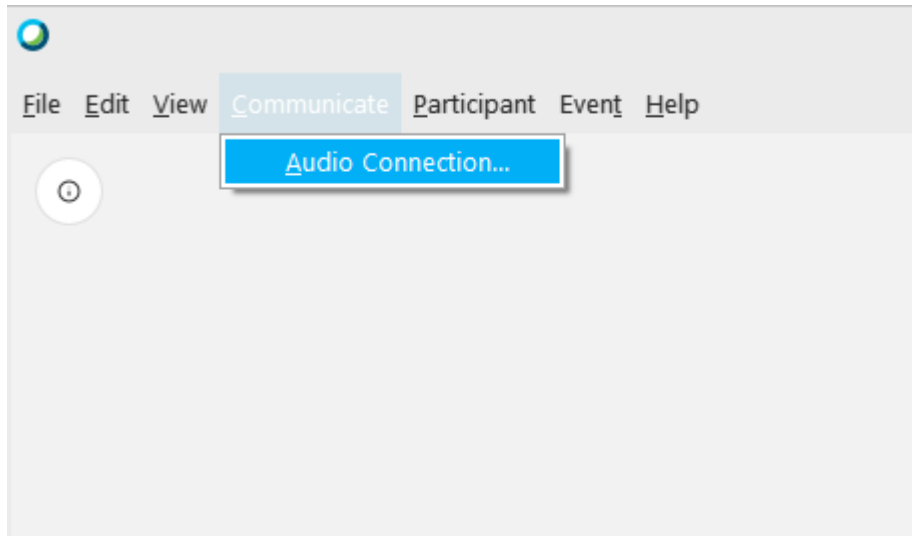


NOTE: Your audio line is muted and can only be unmuted by the event host.

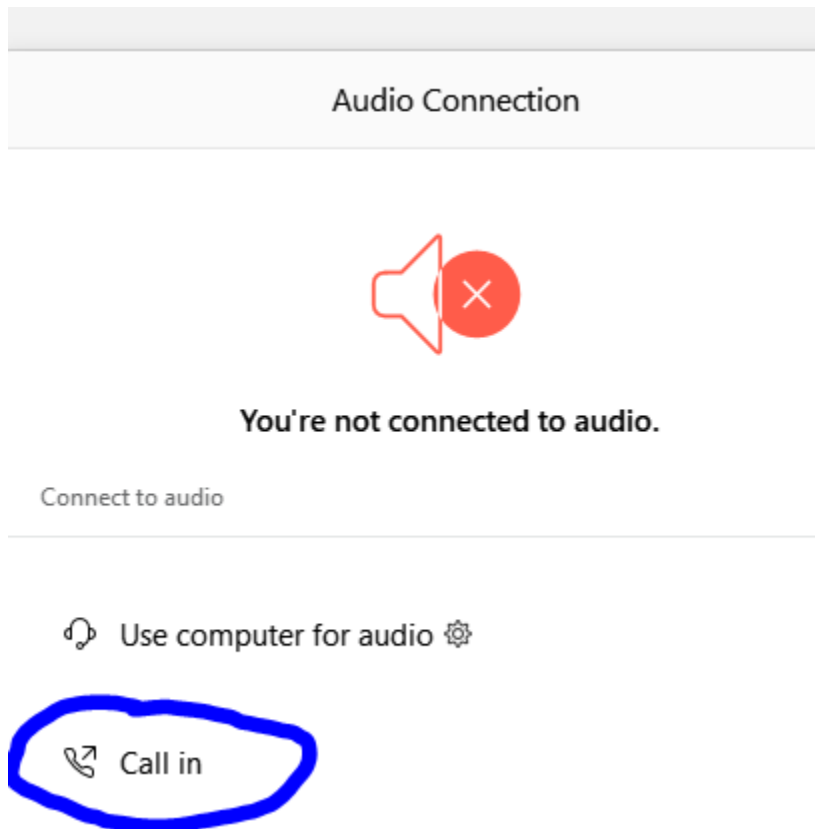
If you join the meeting using your computer's microphone and audio, or you didn't connect audio at all, you can still set that up while you are in the meeting.

Select 'Communicate' and 'Audio Connection' from top left of your screen.

HOW TO – Join – DCA WebEx Event



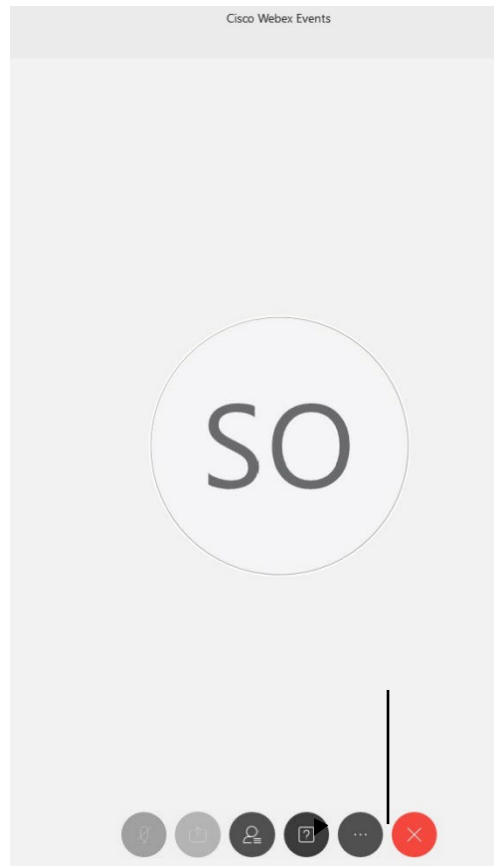
The 'Call In' information can be displayed by selecting 'Call in' then 'View'



You will then be presented the dial in information for you to call in from any phone.

Participating During a Public Comment Period

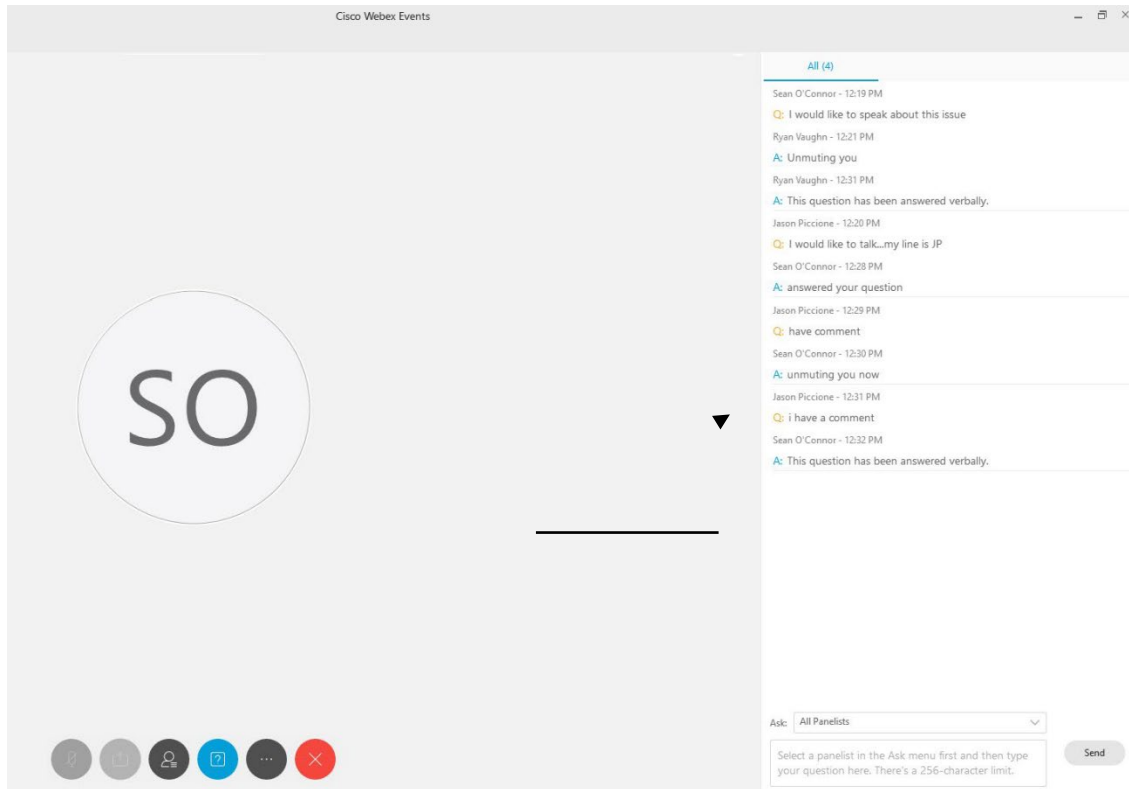
At certain times during the event, the facilitator may call for public comment. If you would like to make a public comment, click on the 'Q and A' button near the bottom, center of your WebEx session.



This will bring up the 'Q and A' chat box.

NOTE: The 'Q and A' button will only be available when the event host opens it during a public comment period.

HOW TO – Join – DCA WebEx Event



To request time to speak during a public comment period, make sure the 'Ask' menu is set to 'All panelists' and type 'I would like to make a public comment'.

Attendee lines will be unmuted in the order the requests were received, and you will be allowed to present public comment.

NOTE: Your line will be muted at the end of the allotted public comment duration. You will be notified when you have 10 seconds remaining.

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

BOARD MEETING

MINUTES OF MARCH 9, 2020

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

BOARD MEMBERS PRESENT

Lisa Thong, President
Andrew Drabkin, Vice President
Jacquelyn Crabtree
Derick Matos
Calimay Pham
Christie Tran
Steve Weeks
Dr. Kari Williams

STAFF MEMBERS PRESENT

Kristy Underwood, Executive Officer
Sabina Knight, Board Legal Representative
Marcene Melliza, Board Analyst

[Note: Agenda Item 14 was taken out of order. These minutes reflect this Agenda Item as listed on the agenda and not as taken in chronological order.]

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

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

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

Ms. Thong welcomed new Board members Derick Matos and Christie Tran, both appointed by Governor Newsom, and Sabina Knight, the new Board Legal Counsel.

3. Agenda Item #3, ANNUAL ELECTION OF OFFICERS

Ms. Thong asked for nominations for Board President for 2020.

MOTION: Ms. Crabtree made a motion, seconded by Mr. Drabkin, to elect Lisa Thong for a second term as Board President. Motion carried 8 yes, 0 no, and 0 abstain, per roll call vote as follows:

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

Ms. Thong asked for nominations for Board Vice President for 2020.

MOTION: Ms. Crabtree made a motion, seconded by Mr. Drabkin, to elect Dr. Kari Williams as Board Vice President. Motion carried 8 yes, 0 no, and 0 abstain, per roll call vote as follows:

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

4. Agenda Item #4, BOARD MEMBER REMARKS

No Board member comments were offered.

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

Five members of the public provided the following comments:

1. Tiarra Logan, Founder, TC Hair Suite/TC Braid Camp, located in San Leandro, stated there are discrepancies in national hair care and the way that it is and is not taught in the books. The books should be updated. It is important to address how to properly teach to inform students how to maintain and manage natural hair. Ms. Logan requested a designation for natural hair care stylists.

Ms. Thong stated natural hair care is not under the Board’s purview but, as a licensee, Ms. Logan’s comments are welcome.

2. Fred Jones, Legal Counsel, Professional Beauty Federation of California (PBFC), stated this year is PBFC’s 20th anniversary and the 20th annual Welcome to Our World (WOW) event is scheduled for Monday, April 27th, from 3:00 p.m. to 6:30 p.m. at the State Capitol.
3. Wendy Cochran, Founder, California Estheticians - Esthetician Advocacy; Founder, California Aesthetic Alliance, reiterated her public comment provided at the December 2nd meeting. She stated there is confusion among licensees who are dual licensed or dual certified. She stated she had the opportunity to sit in on a Disciplinary Review Committee (DRC) action last October, specifically a case involving a licensee who also holds multiple certifications. She stated the Board assessed the penalty of practice of medicine without a license for a microcurrent device that has an FDA clearance and is affirmed as a non-medical device.

Ms. Cochran asked for a clear directive from the Board for licensees who incorporate services outside of the Board’s purview. This is an unnecessary cost, barrier, and burden on small business. Ms. Cochran asked that the Board develop guidelines for licensees to responsibly follow.
4. Susan Colard, Marketing Director, National-Interstate Council of State Boards of Cosmetology (NIC), introduced herself and Vicky McNally, President, NIC, was also in attendance. She stated the focus of the national exam has always been around the exam itself. In the past year, many states are facing discussions of deregulation.

Ms. Colard stated her role is to listen to Board Executive Officers nationwide about issues and concerns. She stated she recently met with Ms. Underwood, who identified several areas of concern. She stated one of the issues brought up

by Ms. Underwood is the Spanish pass rates. Ms. Colard stated her research confirms that this is a national issue. She brought it to Ms. McNally's attention, who will follow through with that and will get back to Ms. Underwood and other Executive Officers nationwide with a plan of action.

Ms. Colard stated another issue shared by Ms. Underwood is the issue of tripods. She stated there is data that there could be an inconsistency in the evaluation process.

Ms. Colard stated she will meet with Ms. Underwood to go over the NIC research findings. She stated Ms. McNally's new vision is that the NIC is here to partner with states and to be available to assist where possible to better understand the issues on a national level.

5. Man Lam, retired education specialist, stated he is in attendance to raise awareness that there is no Chinese written examination for barbering and cosmetology. On May 29, 2019, the California Department of Consumer Affairs (DCA) released in article titled "Board of Barbering and Cosmetology Breaks Language Barriers." The article did not include anything related to the Chinese written examination. He asked why. He asked the Board to update the examination to include the Chinese language or at least provide the reason why there is an absence of Chinese.

6. Agenda Item #6, DISCUSSION AND POSSIBLE APPROVAL OF DECEMBER 2, 2019, BOARD MEETING MINUTES

MOTION: Mr. Drabkin moved to approve the December 2, 2019, California State Board of Barbering and Cosmetology Meeting Minutes as presented. Ms. Crabtree seconded. Motion carried 8 yes, 0 no, and 0 abstain, per roll call vote as follows:

The following Board members voted "Yes": Crabtree, Drabkin, Matos, Pham, Thong, Tran, Weeks, and Williams.

7. Agenda Item #7, APPOINTMENT OF COMMITTEE MEMBERS TO STANDING COMMITTEES FOR 2020-21

The 2020-2021 Committees are as follows:

- **Disciplinary Review Committee**

All Board members are part of this Committee.

- **Education and Outreach Committee**

Jacquelyn Crabtree, alternate

Derick Matos

Dr. Kari Williams

- **Enforcement and Inspection Committee**

Jacquelyn Crabtree

Lisa Thong

Steve Weeks

- **Health and Safety Advisory Committee**

Jacquelyn Crabtree

Andrew Drabkin

Lisa Thong

- **Legislative and Budget Committee**

Jacquelyn Crabtree

Andrew Drabkin

Lisa Thong, alternate

- **Licensing and Examination Committee**

Calimay Pham

Steve Weeks

Dr. Kari Williams

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

- Licensing Statistics**
- Examination Statistics**
- Disciplinary Review Committee Statistics**
- Enforcement Statistics**
- Budget Updates**
- Outreach Updates**
- Practice Status Survey Results**

Ms. Underwood presented her report:

- Heather Berg, Deputy Executive Officer, retired last month. She will be greatly missed.
- Carrie Harris, Enforcement Manager, has been promoted to fill the Deputy Executive Officer position, Breanne Munar has been hired as the new Enforcement Manager, and Alex Torkelson has been hired as the new Licensing Manager.
- The DCA Office of Professional Examination Services has agreed to conduct a review of the grading of the practical examination and to help with the review of the national examination.

Ms. Underwood reviewed the statistics and update reports, which were included in the meeting packet.

Questions and Discussion

Mr. Weeks asked about the issues affecting the grading of the practical examination. Ms. Underwood stated changes in the grading have caused concerns about the results of the practical examination. The grading processes will soon be under review by the DCA. A status report will be presented at the next Board meeting.

Mr. Drabkin referred to the Written Exam Results statistics and asked how many of the individuals came from schools versus the apprenticeship program. Ms. Underwood stated she will include that information at the next Board meeting.

Mr. Weeks referred to the Licenses Issued Last 5 Years statistics and asked for an estimated total for fiscal year (FY) 2019-20. Ms. Underwood stated it is anticipated that the total number would be similar to the FY 2018-19 total.

Mr. Weeks noted that the licenses issued have been in a downward trend. Ms. Underwood stated the number of licenses issued has been impacted by the 2016 Marinello Schools of Beauty closures. Marinello students continue to slowly trickle back in.

Mr. Weeks stated his concern about the downward trend of licenses issued and the upward trend of individuals declaring nonuse of their licenses. He asked if individuals declare nonuse of their licenses at the time of license renewal. Ms. Underwood stated licensees declare their intent in a Practice Status Survey. The question is asked at renewal but it is not put in the database so it is difficult to track.

Ms. Crabtree stated not everyone in the industry is truthful about being an employee versus booth renter or license use versus nonuse.

9. Agenda Item #9, DISCUSSION AND POSSIBLE ACTION REGARDING THE 2020 BOARD MEMBER GUIDELINES AND PROCEDURE MANUAL

Ms. Underwood stated no changes are recommended to be made to the Board Member Guidelines and Procedure Manual. She noted that the manual is smaller because the travel information was removed, since the DCA provides that separately.

MOTION: Ms. Crabtree made a motion, seconded by Mr. Weeks, that the Board approves the 2020 Guidelines and Procedure Manual as recommended. Motion carried 8 yes, 0 no, and 0 abstain, per roll call vote as follows:

The following Board members voted "Yes": Crabtree, Drabkin, Matos, Pham, Thong, Tran, Weeks, and Williams.

10. Agenda Item #10, DISCUSSION AND POSSIBLE ACTION REGARDING THE 2020 SUNSET REVIEW

Ms. Underwood stated the Board's Sunset Hearing has been scheduled for March 24, 2020. The hearing will be livestreamed on the Senate's website. Staff has not yet received the background paper from the Committee of the issues to be addressed. It is expected shortly. The Board will have 30 days to provide a written response to the issues raised. The next Board meeting is tentatively set for April 13th to formally approve the responses to the Sunset background paper.

Ms. Underwood stated there is an informational hearing on March 16th for the joint committees on education. She stated she will be presenting the educational background and current requirements. This hearing will also be livestreamed.

11. Agenda Item #11, HEALTH AND SAFETY ADVISORY COMMITTEE UPDATE

Ms. Underwood stated the Health and Safety Advisory Committee last met in December and is updating the Health and Safety Regulations. Staff has been working with Leslie Roste, R.N., B.S.N., National Director of Education and Market Development at King Research, on the Advisory Committee's recommendations. The next Advisory Committee meeting will soon be scheduled to present the revised regulations. Upon the Committee's approval, the revised regulations will then be presented to the Board for approval.

12. Agenda Item #12, LEGISLATIVE UPDATE

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

- **AB 1928 (Kiley and Melendez) – Employment Standards**

Board members agreed with the staff recommendation to continue to watch this bill.

- **AB 2465 (Gonzalez) – Booth Renter Permit**

Ms. Underwood stated this bill requires a booth rental permit for licensees who are independent contractors/booth renters.

Ms. Crabtree stated this seems redundant since booth renters are already required to obtain a business license. She asked about the reasoning behind this. Ms. Underwood stated she has not contacted the author's office prior to the bill being in print.

Ms. Knight added that a bill analysis has yet to be posted on the Legislature's website. Staff will continue to watch this bill.

Ms. Pham asked if the issue of redundancy has been communicated to the author. Ms. Underwood stated it is a sunset review year and it is normal for boards and bureaus to do things through the sunset review process. She stated her concern to the author's office that the Sunset Review Committees are looking at barriers and less regulation and that AB 2465 may be more successful in a different year, since it adds regulation.

Board members agreed with the staff recommendation to continue to watch this bill.

Public Comment

Mr. Jones stated the PBFC engaged the author of AB 5. He stated the original thinking was that they were not going to provide any exemption for this industry but, given the fact that well over three quarters of salons are booth-rental based, licenses contacted the author to express their concerns. AB 5 was an attempt to codify the Dynamex Decision by the California Supreme Court, which removes the legal standing of booth rental businesses. After the overwhelming stakeholder response, the author engaged the PBFC in a discussion on how to move forward with some limited exemption to that Dynamex ruling. During the

discussions, Mr. Jones suggested a booth rental licensure and the author agreed. As AB 5 passed out of the Assembly, it included the language for the Board to establish a booth rental license.

Mr. Jones stated the Senate Labor Committee focused on the Labor Code and the idea of requiring municipal permits as a means of doing business as an independent contractor in the industry. While the Senate Labor Committee did not want to touch the Business and Professions Code, they at least acknowledged the need for a business permit to be acquired and posted.

Mr. Jones stated the reason this Board took a position of support in booth rental licensure and the reason the PBFC supports it is because everyone looks to the Board for outreach, communication, and education to the industry. The PBFC thought it appropriate to cut through the confusion that exists in the booth rental sector of the industry by having the Board require licensees who are sole proprietors working in a licensed establishment to also get a booth rental permit from the Board and to post that booth rental permit in workstations as a way to inform clientele of the separate business status. That level of clarity is appropriate.

Mr. Jones stated the author has committed to carry cleanup legislation this year to reinsert the booth rental language and to address it in the Business and Professions Code and, specifically, this Board. He agreed with Ms. Underwood that timing could be a concern because it is part of the sunset review process. He stated the appreciation for the Board's direction to continue to watch AB 2465.

Ms. Cochran agreed that, if the Board takes a watch position and does not actively participate, Assembly Member Gonzalez will get AB 2465 approved as she is determined to get these bills passed.

Ms. Cochran stated the clarity of definitions that are being used in the bills being proposed, the way industry members speak, and the way things are put down in writing are confusing. Freelancers are individuals who should have a personal service permit (PSP) in place and who work in someone's office or home. That is their definition of freelancer, but AB 5's definition of freelancer is someone who works independently as an independent contractor. Terminology is getting confused during meetings and when these things are discussed.

Ms. Cochran stated there is also confusion about Form 1099. The industry has always thought of a 1099 as being synonymous with booth renter or independent contractor. There does not seem to be a list of definitions for everyone to follow. She stated individuals who renew their establishment licenses are sent a survey asking if they are a booth renter or an independent contractor. She agreed with Ms. Crabtree that sometimes incenses are not honest when filing out surveys, but she questioned the times when neither choice is correct. Better definitions are needed that are consistent.

Ms. Crabtree asked if the booth rental permit is meant to take the responsibility off the establishment owner and put it on the permit holder. Ms. Underwood it is unknown although the new fine schedule has been established that looks at who caused the

violation so establishment owners are not held accountable for all violations that a licensee made. She stated the assumption that this bill would require common areas to be defined.

13. Agenda Item #13, DISCUSSION AND POSSIBLE ACTION REGARDING RULEMAKING PROPOSALS

- **Amend Title 16, California Code of Regulations (CCR), section 950.10 (Transfer of Credit or Training)**
- **Amend Title 16, CCR section 961 (Instructional Materials-NIC Guides)**
- **Amend Title 16, CCR sections 962, 962.1, and 962.2 (Externs)**
- **Add Title 16, CCR section 965.2 (Personal Service Permit)**
- **Amend Title 16, CCR sections 970 and 971 (Substantial Relationship Criteria, Criteria for Rehabilitation)**
- **Amend Title 16, CCR section 972 (Disciplinary Guidelines)**
- **Amend Title 16, CCR section 974.1 (Disciplinary Review Committee)**

Ms. Underwood announced that the PSP Regulations have been formally filed with the Office of Administrative Law. A public hearing on those regulations will be held on April 29, 2020.

Ms. Underwood noted that recommended changes to the regulations have been made to Title 16, CCR sections 970 and 971 (Substantial Relationship Criteria, Criteria for Rehabilitation). If these changes are approved today, the Board will also need to approve a 15-day public comment period on those changes.

Staff recommendations:

- The Board approves the proposed text for a 15-day public comment period.
- The Board delegates to the Executive Officer the authority to adopt the proposed regulatory changes, if there are no adverse comments received during the public comment period, and all established procedures and processes in doing so.
- The Board delegates to the Executive Officer the authority to make any technical or non-substantive changes that may be required in completing the rulemaking file.

MOTION: Ms. Crabtree moved approval of the staff recommendations as presented. Ms. Thong seconded. Motion carried 8 yes, 0 no, and 0 abstain, per roll call vote as follows:

The following Board members voted "Yes": Crabtree, Drabkin, Matos, Pham, Thong, Tran, Weeks, and Williams.

Ms. Underwood reviewed the recommended changes to the regulations that have been made to Title 16, CCR section 974.1 (Disciplinary Review Committee).

Questions and Discussion

Mr. Weeks stated Board members have historically sat on the Disciplinary Review Committee. It is an excellent idea to keep that concept going rather than have just one Board member on a three-person Committee. It helps keep the Board members informed with what is happening in the industry, the effectiveness of the regulations, and how the regulations can be improved. He suggested keeping it the same as it is now.

Mr. Drabkin disagreed. He stated he likes the Committee being made up of a Board member, a public member, and an industry member to get both points of view and expertise.

Ms. Crabtree asked about options. Ms. Knight stated the language could be changed to include the option of two Board members.

Ms. Crabtree stated the need to ensure that the public and industry members understand the Board's process. Ms. Knight stated the new Committee Members will be eligible to go through the Board member orientation training.

Mr. Weeks asked about the logic of the Committee Member "who is not associated professionally or financially with that industry." Ms. Knight stated it is similar to the idea behind having public members on all DCA boards.

Mr. Drabkin stated a person with experience or expertise can be chosen, such as a former Board member. Ms. Knight agreed that there will be application and vetting process involved.

Mr. Weeks suggested deferring this item to the next meeting to give staff time to work with legal counsel and to look at alternative language and models.

Ms. Thong suggested also looking at other states' appeal processes and whether the Board's process meets the objective.

[Note: Agenda Item 14 was taken out of order and was heard after Agenda Item 2.]

14. Agenda Item #14, DEPARTMENT OF CONSUMER AFFAIRS (DCA) UPDATE WHICH MAY INCLUDE UPDATES ON DCA'S ADMINISTRATIVE SERVICES, HUMAN RESOURCES, ENFORCEMENT, INFORMATION TECHNOLOGY, COMMUNICATIONS AND OUTREACH, AND LEGISLATIVE, REGULATORY, OR POLICY MATTERS

Ms. Thong invited Kimberly Kirchmeyer, Director, DCA, to come to the podium.

Ms. Kirchmeyer presented a 25-year award to Kristy Underwood, Executive Officer, in appreciation for her years of service.

Ms. Kirchmeyer summarized her background and experience at DCA. She shared her priorities, as the newly-appointed director of the DCA:

- Improving client services and satisfaction
- Working smarter together to increase creativity and collaboration between boards and bureaus

- Using data and technology to better inform decision-making so action plans are developed to reduce licensing and enforcement timelines and provide measurable achievements
- Reducing the timeframe for processing regulations
- Obtaining Financial Information System for California (FI\$Cal) reports
- Decreasing timeframe to perform investigations
- Improving Americans with Disabilities Act (ADA) compliance
- Ensuring all legislation is implemented by boards and bureaus within the DCA

Ms. Kirchmeyer stated the DCA has created a Regulations Unit to directly assist in the processing of departmental rulemaking proposals. It has been fully staffed since November and all DCA programs have been assigned a Regulations Attorney, who will act as an assigned reviewer of proposed rulemaking packages.

Ms. Kirchmeyer stated a step the DCA will take to improve transparency and efficiency is moving to the Cherwell database, which will track submissions and progress so boards and bureaus will see and monitor the status of regulations. It will be a tracking tool along with an electronic submission.

Ms. Kirchmeyer stated the Budget Office and the Office of Information Services are in the testing phase of a project that will allow program access to budget expenditure reports.

Ms. Kirchmeyer thanked Ms. Underwood and her staff for the great work that they do.

15. Agenda Item #15, SUGGESTIONS FOR FUTURE AGENDA ITEMS

Mr. Weeks suggested a discussion on presenting certificates of longevity or other recognition to long-standing licensees.

Ms. Thong suggested a discussion on better processes for licensees who admit to the citation they receive but who are looking for financial remediation to help simplify the DRC process.

16. Agenda Item #16, ADJOURNMENT

There being no further business, the meeting was adjourned at 11:54 a.m.

Quarterly Applications Received Fiscal Year 19/20

License Type	Jul-Sept	Oct-Dec	Jan-Mar	Apr-June*	YTD
Establishment	1,999	1,989	2,045	680	6,713
Mobile Unit	2	6	3	2	13
Barber					
Pre-App	250	240	250	32	772
Initial Application	431	401	441	55	1,328
Re-Exam	740	692	699	55	2,186
Sub-Total	1,421	1,333	1,290	142	4,286
Reciprocity	46	32	37	16	131
Apprentice	262	264	294	91	911
Cosmetology					
Pre-App	801	816	678	91	2,386
Initial Application	742	915	812	71	2,540
Re-Exam	1,285	1,227	1,352	162	4,026
Sub-Total	2,828	2,958	2,842	324	8,952
Reciprocity	334	296	276	114	1,020
Apprentice	200	240	211	55	706
Electrology					
Pre-App	6	10	8	-	24
Initial Application	2	-	1	1	4
Re-Exam	11	7	3	1	22
Sub-Total	19	17	12	2	50
Reciprocity	--	1	1	--	2
Apprentice	--	--	--	--	
Esthetician					
Pre-App	883	1,112	1,094	91	3,180
Initial Application	529	687	547	98	1,861
Re-Exam	506	515	605	57	1,683
Sub-Total	1,918	2,314	2,246	246	6,724
Reciprocity	103	86	104	35	328
Manicurist					
Pre-App	790	933	790	49	2,562
Initial Application	567	563	517	70	1,717
Re-Exam	790	938	905	51	2,684
Sub-Total	2,147	2,434	2,212	170	6,963
Reciprocity	123	98	108	24	353
Total	11,402	12,068	11,781	1,901	37,152

*Data updated through May 31st

Monthly Applications Received Fiscal Years 18-19 and 19-20

	July	Aug.	Sept.	Oct.	Nov.	Dec.	Jan.	Feb.	March	April	May	June	Total
FY 18-19	2,854	3,474	3,027	3,652	3,462	3,323	3,815	3,557	4,545	3,915	4,460	3,660	43,744
FY 19-20	4,353	4,281	4,218	5,334	3,602	4,300	4,581	4,209	4,189	1,191	1,290		

Monthly Complaints Received Fiscal Years 18-19 and 19-20

FY 18-19	425	748	328	420	392	269	341	351	396	445	387	400	4,902
FY 19-20	445	463	449	423	324	375	360	387	437	475	1,274		5,412

Practical Exam Results January 1, 2020 - March 31, 2020

Administered	Passed	Failed	Total	Pass Rate
Barber	493	203	696	71%
Cosmetologist	1,166	486	1,652	71%
Electrologist	7	1	8	88%
Esthetician	1,394	154	1,548	90%
Manicurist	1,101	505	1,606	69%
Total	4,161	1,349	5,510	76%

Written Exam Results January 1, 2020 - March 31, 2020

Barber	Passed	Failed	Total	Pass Rate
English	422	298	720	59%
Korean	3	2	5	60%
Spanish	32	93	125	26%
Vietnamese	12	10	22	55%
Total	469	403	872	54%

Cosmo	Passed	Failed	Total	Pass Rate
English	948	525	1,473	64%
Korean	13	3	16	81%
Spanish	112	235	347	32%
Vietnamese	70	24	94	74%
Total	1,143	787	1,930	59%

Esthetician	Passed	Failed	Total	Pass Rate
English	1,152	363	1,515	76%
Korean	24	1	25	96%
Spanish	6	14	20	30%
Vietnamese	146	21	167	87%
Total	1,328	399	1,727	77%

Manicurist	Passed	Failed	Total	Pass Rate
English	417	132	549	76%
Korean	8	5	13	62%
Spanish	16	21	37	43%
Vietnamese	739	243	982	75%
Total	1,180	401	1,581	75%

Electrologist	Passed	Failed	Total	Pass Rate
English	4	2	6	67%
Korean	N/A	N/A	N/A	N/A
Spanish	N/A	N/A	N/A	N/A
Vietnamese	N/A	N/A	N/A	N/A
Total	4	2	6	67%

**Practical Exam Results January 1, 2020 - March 31, 2020
Comparison of Schools vs. Apprentice Programs**

Practical Exam Results - Apprentice Program

License Type	Passed	Failed	Total	Pass Rate
Barber	68	46	114	60%
Cosmetologist	70	51	121	58%
Electrologist	1	0	1	100%
Total	304	208	512	59%

Practical Exam Results - School Program

License Type	Passed	Failed	Total	Pass Rate
Barber	425	157	582	73%
Cosmetologist	1,096	435	1,531	72%
Electrologist	6	1	7	86%
Esthetician	1,394	154	1,548	90%
Manicurist	1,101	505	1,606	69%
Total	4,022	1,252	5,274	76%

Written Exam Results - Apprentice Program

License Type	Passed	Failed	Total	Pass Rate
Barber	59	116	175	34%
Cosmetologist	69	105	174	40%
Electrologist	1	0	1	100%
Total	274	468	742	37%

Written Exam Results - School Program

License Type	Passed	Failed	Total	Pass Rate
Barber	410	287	697	59%
Cosmetologist	1,074	682	1,756	61%
Electrologist	3	2	5	60%
Esthetician	1,328	399	1,727	77%
Manicurist	1,155	401	1,556	74%
Total	3,970	1,771	5,741	69%

**Written Exam Results by Language January 1, 2020 - March 31, 2020
Comparison of Apprentice Programs vs. School Programs**

Apprentice Programs

Barber	Passed	Failed	Total	Pass Rate
English	50	77	127	39%
Spanish	9	38	47	19%
Vietnamese	0	1	1	0%
Total	59	116	175	34%

Cosmo	Passed	Failed	Total	Pass Rate
English	26	22	48	54%
Spanish	42	81	123	34%
Vietnamese	1	2	3	33%
Total	69	105	174	40%

Electrologist	Passed	Failed	Total	Pass Rate
English	1	0	1	100%
Total	1	0	1	100%

School Programs

Barber	Passed	Failed	Total	Pass Rate
English	372	221	593	63%
Spanish	23	55	78	29%
Vietnamese	12	9	21	57%
Korean	3	2	5	60%
Total	410	287	697	59%

Cosmo	Passed	Failed	Total	Pass Rate
English	922	503	1,425	65%
Spanish	70	154	224	31%
Vietnamese	69	22	91	76%
Korean	13	3	16	81%
Total	1,074	682	1,756	61%

Electrologist	Passed	Failed	Total	Pass Rate
English	3	2	5	60%
Korean	N/A	N/A	N/A	N/A
Spanish	N/A	N/A	N/A	N/A
Vietnamese	N/A	N/A	N/A	N/A
Total	3	2	5	60%

Esthetician	Passed	Failed	Total	Pass Rate
English	1,152	363	1,515	76%
Korean	24	1	25	96%
Spanish	6	14	20	30%
Vietnamese	146	21	167	87%
Total	1,328	399	1,727	77%

Manicurist	Passed	Failed	Total	Pass Rate
English	417	132	549	76%
Korean	8	5	13	62%
Spanish	16	21	37	43%
Vietnamese	739	243	982	75%
Total	1,180	401	1,581	75%

Licenses Issued Fiscal Year 19/20

License Type	Jul-Sept	Oct-Dec	Jan-Mar	Apr-June*	YTD
Barber	592	561	497	2	1,652
Barber Apprentice	203	227	254	103	787
Cosmetology	1,724	1,611	1,286	43	4,664
Cosmetology Apprentice	179	186	181	73	619
Electrology	7	18	5	-	30
Electrology Apprentice	0	0	0	0	0
Esthetician	937	1,305	1,370	12	3,624
Manicurist	901	1,342	1,126	17	3,386
Establishment	1,934	1,964	1,634	896	6,428
Mobile Unit	0	0	0	0	0
Totals	6,477	7,214	6,353	1,146	21,190

*Data updated through May 31st

Licenses Issued Last 5 Years*

License Type	FY 15/16	FY 16/17	FY 17/18	FY 18/19	FY 19/20*
Barber	1,950	2,189	2,259	1,966	1,665
Barber Apprentice	511	665	885	854	798
Cosmetology	10,813	8,389	7,085	6,468	4,698
Cosmetology Apprentice	650	793	727	842	625
Electrology	35	26	22	31	31
Electrology Apprentice	0	0	1	0	0
Esthetician	4,747	4,818	4,007	4,890	4,145
Manicurist	6,298	6,550	3,787	4,414	3,624
Establishment	6,996	6,875	7,609	7,706	6,475
Mobile Unit	7	7	2	0	0
Totals	32,007	30,312	26,384	27,171	22,061

*Data updated through May 31st

License Population*

Barber	32,558
Barber Apprentice	1,678
Cosmetology	310,798
Cosmetology Apprentice	1,409
Electrology	1,656
Electrology Apprentice	-
Esthetician	90,974
Manicurist	129,568
Establishment	53,644
Mobile Unit	48
Total	622,333

*Data updated through May 31st

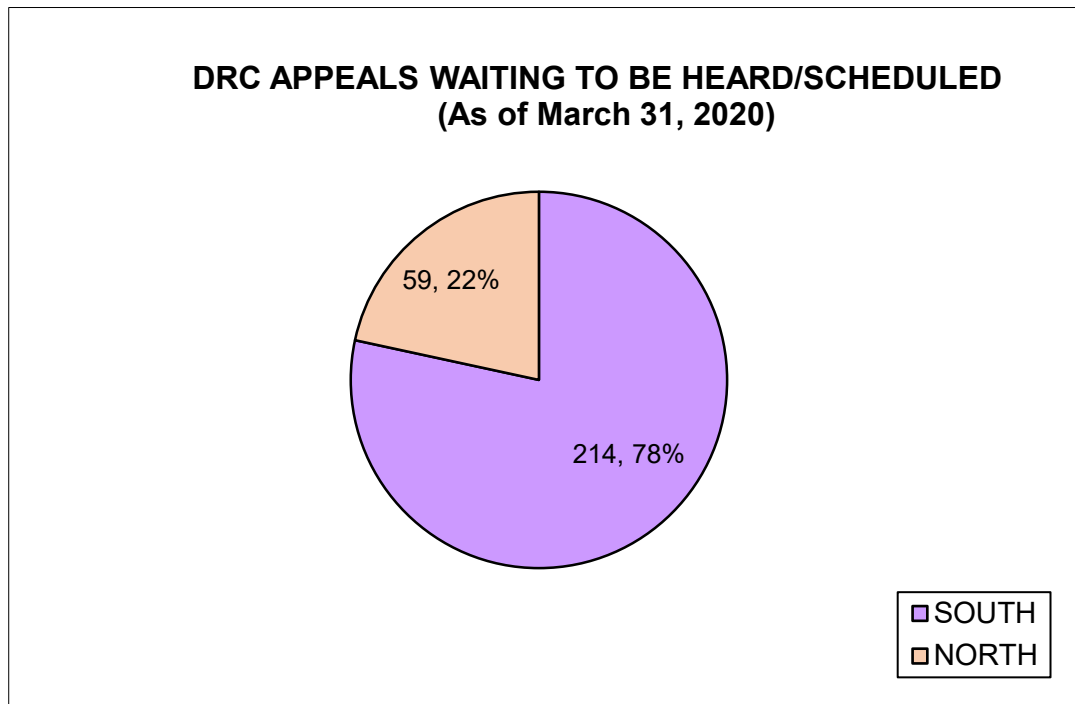
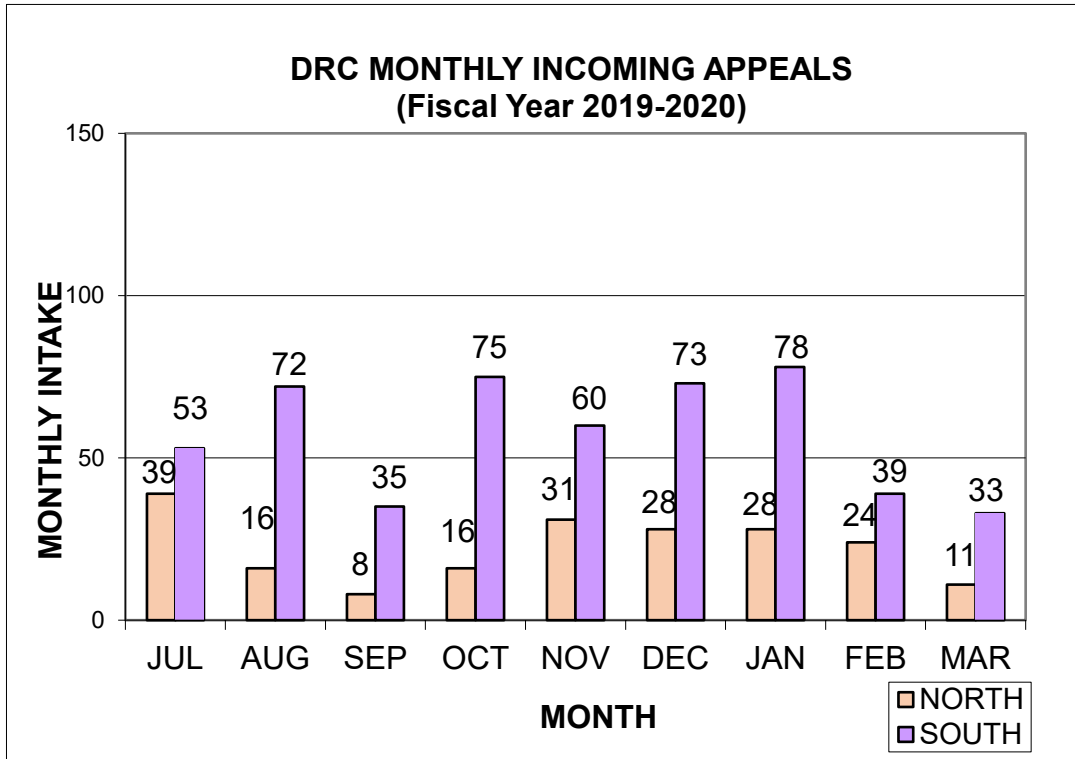
Disciplinary Review Committee Appeals Fiscal Year 19/20

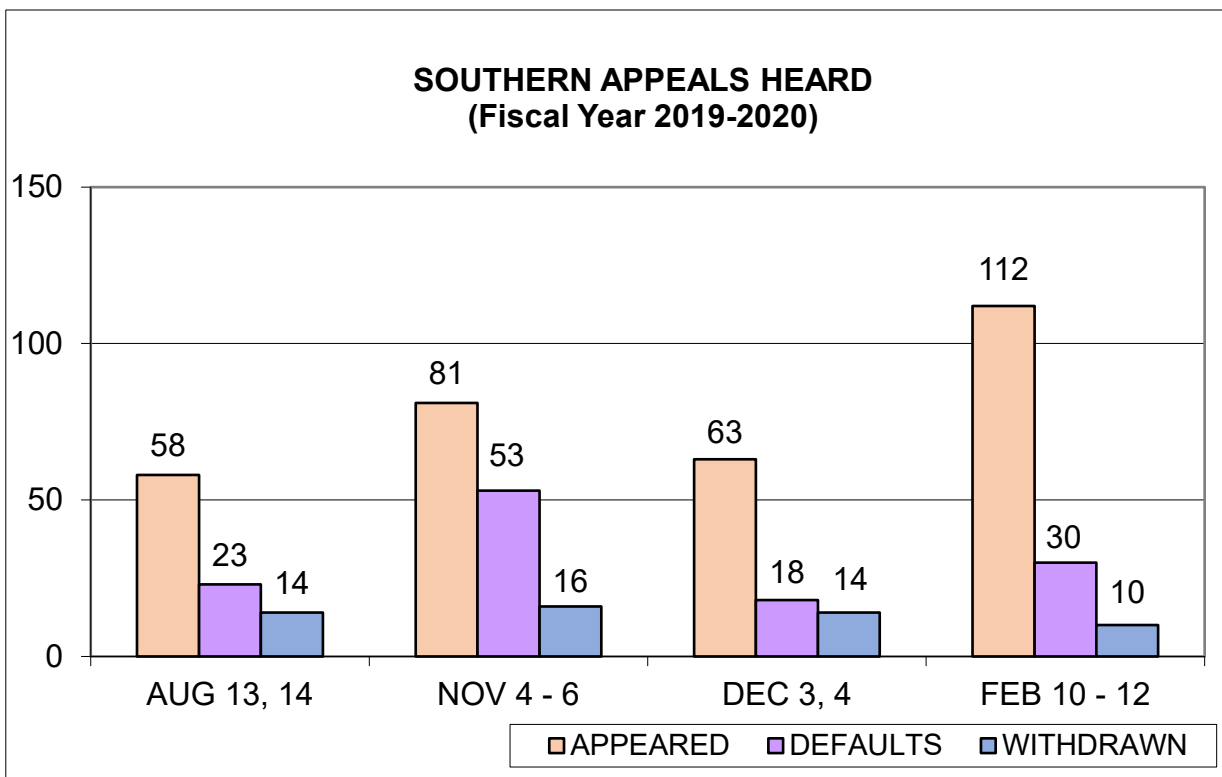
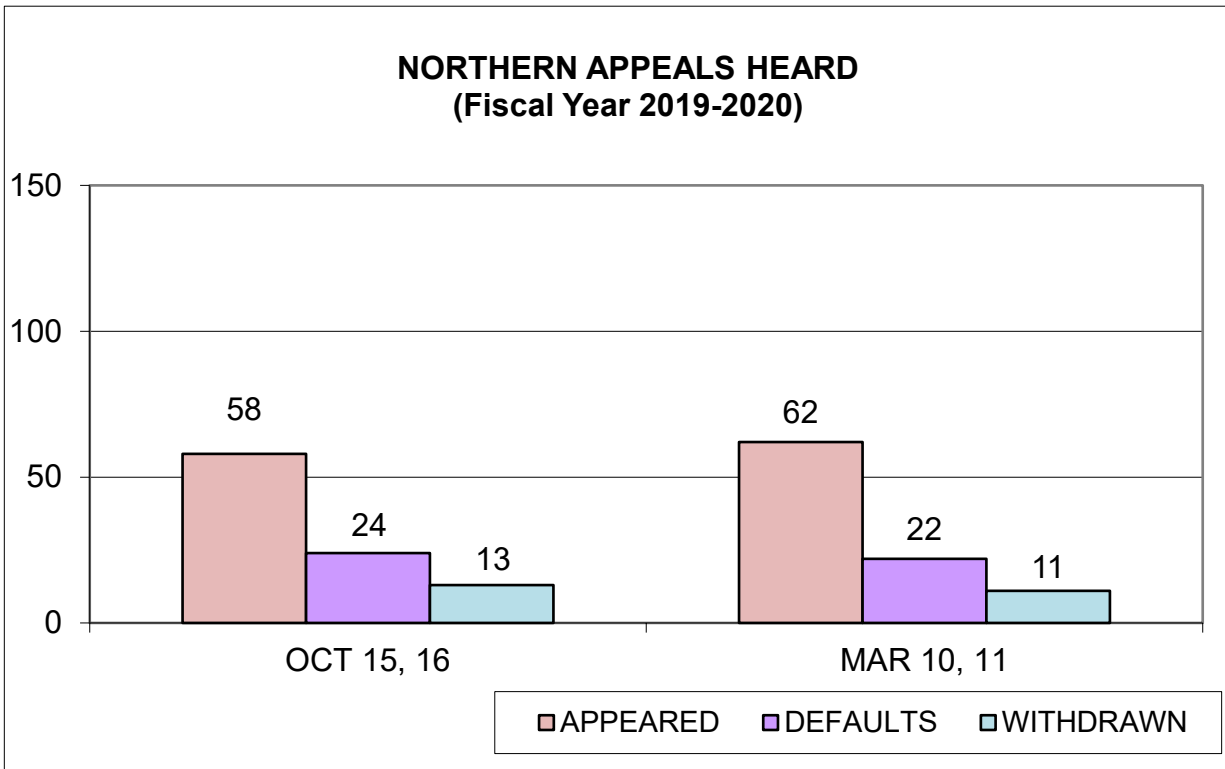
Northern	Jul - Sept	Oct - Dec	Jan - Mar	YTD
Heard	0	95	95	190
Received	63	75	63	201
Pending ¹	111	93	59	59 ²

Southern	Jul - Sept	Oct - Dec	Jan - Mar	YTD
Heard	95	245	152	492
Received	160	208	150	518
Pending ¹	263	218	214	214 ²

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

²Figure represents number of pending requests as of report date 03/31/2020.





Quarterly Enforcement Statistics Fiscal Year 19/20

COMPLAINTS	Jul-Sept	Oct-Dec	Jan- Mar	Apr-Jun	YTD
Complaints Received	1348	1098	1163		3609
Referred to DOI	2	0	0		2
Complaints Closed	1059	1077	1448		3584
Total Complaints Pending	1353	1363	1107		1107
Average Days to Close	69	80	105		70

APPLICATION INVESTIGATIONS*	Jul-Sept	Oct-Dec	Jan- Mar	Apr-Jun	YTD
Received	4	1	0		5
Pending	0	2	3		3
Closed	6	0	1		7

ATTORNEY GENERAL	Jul-Sept	Oct-Dec	Jan- Mar	Apr-Jun	YTD
Referred	13	17	33		63
Accusations Filed	21	15	13		49
Statement of Issues Filed	0	1	2		3
Total Pending	73	70	82		84

DISCIPLINARY PROCESS	Jul-Sept	Oct-Dec	Jan- Mar	Apr-Jun	YTD
Proposed Decisions	1	1	0		2
Default Decision	7	4	6		17
Stipulation	18	6	10		34

DISCIPLINARY OUTCOMES	Jul-Sept	Oct-Dec	Jan- Mar	Apr-Jun	YTD
Revocation	9	5	7		21
Revoke, Stay, Probation	1	0	0		1
Revoke, Stay, Suspend/Prob	18	10	8		36
Revocation, Stay w/ Suspend	0	0	0		0
Probation Only	0	0	0		0
Suspension Only	0	0	0		0
Suspension & Probation	0	0	0		0
Suspension, Stay, Probation	1	3	0		4
Surrender of License	5	0	6		11
Public Reprimands	0	0	0		0
License Denied	0	0	0		0
Other	0	0	0		0
Total	34	18	21		73

PROBATION	Jul-Sept	Oct-Dec	Jan- Mar	Apr-Jun	YTD
Active	134	127	134		134

CITATIONS	Jul-Sept	Oct-Dec	Jan-Mar	Apr-Jun	YTD
Establishments	1623	1663	1246		4532
Barber	173	186	168		527
Barber Apprentice	33	31	28		92
Cosmetologist	595	633	397		1625
Cosmetologist Apprentice	13	15	9		37
Electrologist	0	1	0		1
Electrologist Apprentice	0	0	0		0
Manicurist	480	683	488		1651
Esthetician	133	222	143		498
Unlicensed Est.	89	94	77		260
Unlicensed Individual	122	107	111		340
Total	3261	3635	2667		9563

INSPECTIONS	Jul-Sept	Oct-Dec	Jan-Mar	Apr-Jun	YTD
Establishments w/ violations	1903	1563	1341		4807
Establishments w/o violations	624	485	1793		2902
Total	2527	2048	1467		6042

Complaints Received January - March 2020

Complaint Type	Anonymous	Internal	Public	Totals
Fraud	2	4	3	9
Health & Safety	319	17	117	453
Non-Jurisdictional	104	0	54	158
Incompetence/Negligence	0	0	46	46
Other	15	3	4	22
Personal Conduct	0	0	0	0
Unlicensed Activity	267	156	48	471
App Investigation	0	2	0	2
Total	707	182	272	1161

Complaints Received Last 5 Fiscal Years

Category	FY 15-16	FY 16-17	FY 17-18	FY 18-19	FY 19-20*
Fraud	82	61	84	86	43
Health & Safety	1310	1616	1604	1637	1462
Non-Jurisdictional	294	284	319	354	586
Incompetence/Negligence	333	270	438	407	257
Other	42	35	19	39	33
Personal Conduct	19	20	6	2	2
Unlicensed Activity	1651	1817	1555	1841	1681
App Investigation	0	0	1061	194	8
Total	3731	4103	5086	4560	4072

*Data includes April, 2020

Board of Barbering and Cosmetology
Fiscal Year 2019/2020
Projected Expenditures 04/30/2020

Personnel Services	ALLOTMENT	BBC Projected Expenditures	Projected Year
Permanent	5,079,000	3,965,084	1,113,916
Statutory-Exempt	104,000	128,652	(24,652)
Temporary	587,000	719,159	(132,159)
Board Member Commission	0	12,900	(12,900)
Overtime	0	11,282	(11,282)
Total Salary & Wages	5,770,000	4,837,077	932,923
Net Salary & Wages	5,770,000	4,837,077	932,923
Staff Benefits	3,145,000	2,758,353	386,647
Total of Personnel Services	8,915,000	7,595,430	1,319,570
Operating Expenses & Equipment (OE&E)	Allotment	BBC Projected Expenditures	Projected Year End Balance
General Expense	191,000	107,090	83,910
Printing	275,000	387,959	(112,959)
Communication	41,000	46,467	(5,467)
Postage	283,000	85,805	197,195
Insurance	4,000	11,844	(7,844)
Travel In State	83,000	63,155	19,845
Travel, Out-of-State	0	2,266	(2,266)
Training	11,000	7,020	3,980
Facilities Operations	1,022,000	1,025,654	(3,654)
Consultant & Professional Svs. - Interdept.	82,000	2,000	80,000
Attorney General	1,371,000	739,532	631,468
Office of Administrative Hearings	219,000	123,104	95,896
Consultant & Professional Svs. - External	1,790,000	1,720,673	69,327
DCA Pro Rata	7,303,000	7,303,000	0
Interagency Services	1,000	54,692	(53,692)
IA w/OPES	0	85,116	(85,116)
Consolidated Data Center	68,000	36,457	31,543
Information Technology	38,000	59,179	(21,179)
Equipment	16,000	39,000	(23,000)
Other Items of Expense & Vehicles	43,000	42,636	364
Total Operating Expenses & Equipment	12,841,000	11,942,649	898,351
Total Expenses	21,756,000	19,538,079	2,217,921
Schedule Reim. Other	(57,000)	(57,000)	0
Net Appropriation	21,699,000	19,481,079	2,217,921
		SURPLUS/(DEFICIT)	10.2%

0069 - Barbering and Cosmetology Contingency Fund

Prepared 5.14.2020

Analysis of Fund Condition

(Dollars in Thousands)

2020-21 Governor's Budget

May Revise w_GF loan of \$25M

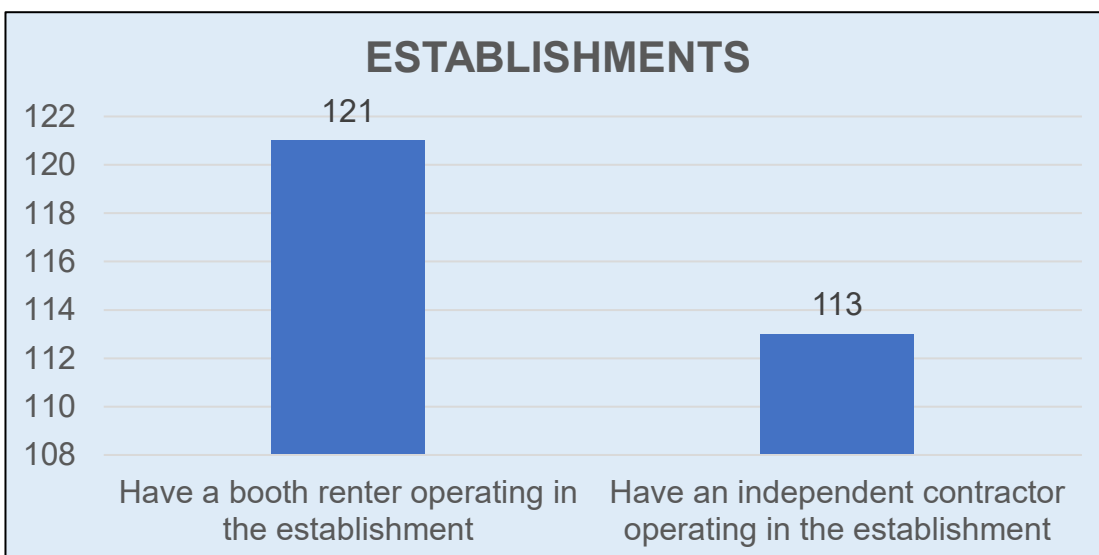
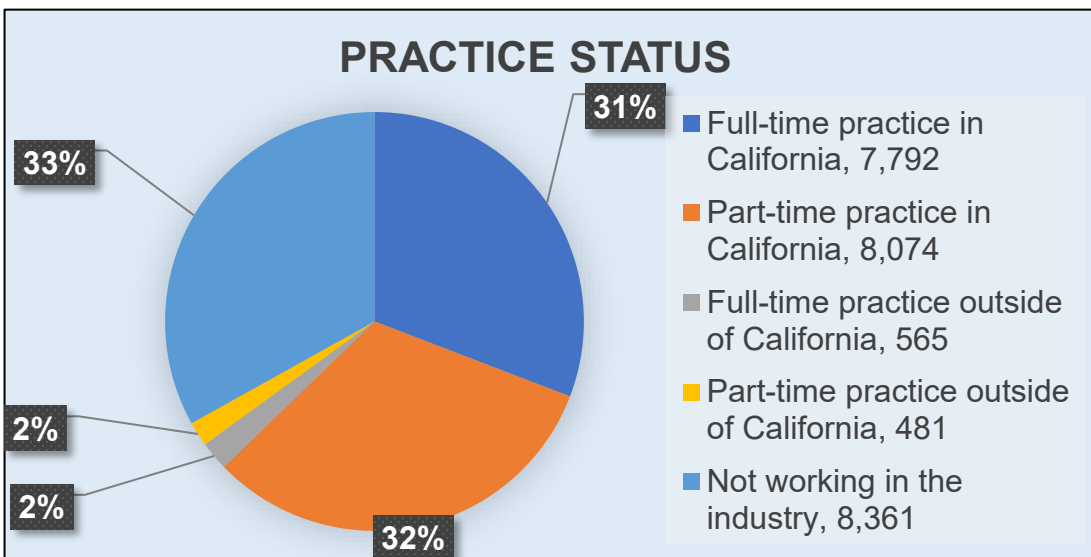
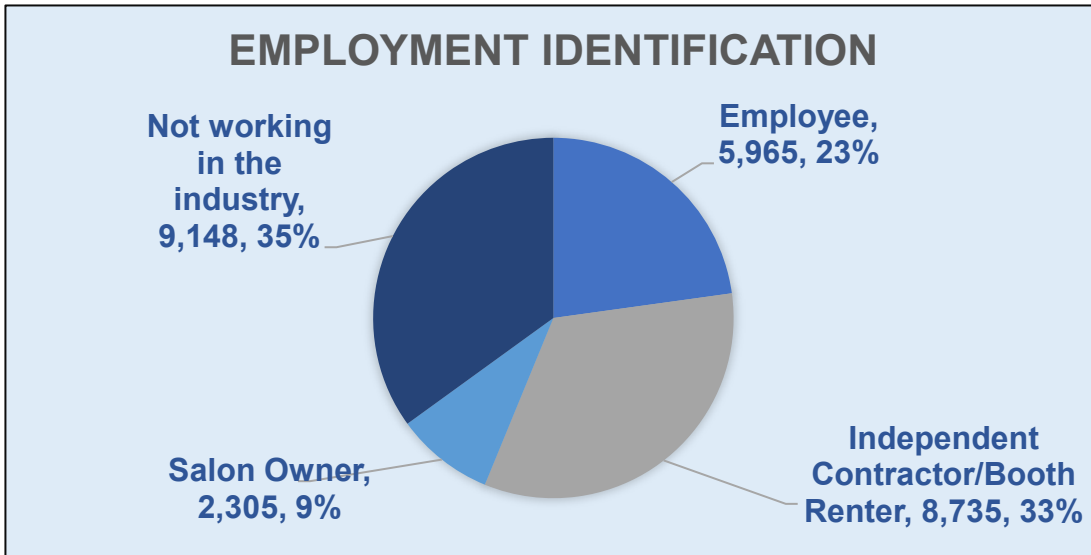
Governor's
Budget
BY
2020-21

	PY 2018-19	CY 2019-20	Governor's Budget BY 2020-21
BEGINNING BALANCE	\$ 20,692	\$ 21,596	\$ 42,511
Prior Year Adjustment	\$ 201	\$ -	\$ -
Adjusted Beginning Balance	\$ 20,893	\$ 21,596	\$ 42,511
REVENUES AND TRANSFERS			
Revenues:			
4121200 Delinquent Fees	\$ 1,173	\$ 1,209	\$ 1,245
4127400 Renewal Fees	\$ 12,161	\$ 12,476	\$ 12,833
4129200 Other Regulatory Fees	\$ 4,839	\$ 4,985	\$ 5,134
4129400 Other Regulatory Licenses and Permits	\$ 4,041	\$ 4,147	\$ 4,272
4143500 Miscellaneous Services to the Public	\$ 40	\$ -	\$ -
4163000 Investment Income - Surplus Money Investments	\$ 521	\$ 278	\$ 602
4171400 Escheat - Unclaimed Checks, Warrants, Bonds, and Coupons	\$ 75	\$ 12	\$ 12
4171500 Escheat - Unclaimed Property	\$ -	\$ -	\$ -
4172500 Miscellaneous Revenue	\$ 10	\$ 9	\$ 9
Total Revenues	\$ 22,860	\$ 23,116	\$ 24,107
Transfers and Other Adjustments			
Proposed GF Loan Repayment (Budget Act of 2008)	\$ -	\$ 10,000	\$ -
Proposed GF Loan Repayment (Budget Act of 2011)	\$ -	\$ 11,000	\$ -
Transfers to Other Funds			
GF loan per item 1111-011-0069, BA of 2020	\$ -	\$ -	\$ -25,000
Total Revenues, Transfers, and Other Adjustments	\$ 22,860	\$ 44,116	\$ -893
Total Resources	\$ 43,753	\$ 65,712	\$ 41,618
EXPENDITURES			
1111 Department of Consumer Affairs Regulatory Boards, Bureaus, Divisions (State Operations)	\$ 20,555	\$ 21,699	\$ 20,758
8880 Financial Information System for California (State Operations)	\$ 2	\$ -3	\$ -
9892 Supplemental Pension Payments (State Operations)	\$ 134	\$ 316	\$ 316
9900 Statewide General Administrative Expenditures (Pro Rata) (State Operations)	\$ 1,466	\$ 1,189	\$ 1,115
Total Disbursements	\$ 22,157	\$ 23,201	\$ 22,189
FUND BALANCE			
Reserve for economic uncertainties	\$ 21,596	\$ 42,511	\$ 19,429
Months in Reserve	11.2	23.0	10.2

NOTES:

- A. ASSUMES WORKLOAD AND REVENUE PROJECTIONS ARE REALIZED IN BY+1 AND ON-GOING.
- B. ASSUMES APPROPRIATION GROWTH OF 3% PER YEAR BEGINNING IN BY+1.
- C. ASSUMES INTEREST RATE AT 1.5%.

Practice Status Survey Results January 1 - March 31, 2020





BOARD OF BARBERING & COSMETOLOGY

BILL ANALYSIS

Author: Assembly Member Gonzalez

Subject: Worker Status:
Independent Contractors: Barbering
and Cosmetology

Bill Number: AB 2465

Version: February 19, 2020

Existing Law:

Dynamex Operations W. Inc.v. Superior Court (2018) established a presumption that a worker who performs services for a hirer is an employee for purposes of claims for wages and benefits arising under wage orders issued by the Industrial Welfare Commission. Existing law requires a 3-part test, commonly known as the “ABC” test, to determine if workers are employees or independent contractors for purposes of specified wage orders.

Existing statutory law establishes that, for purposes of the Labor Code, the Unemployment Insurance Code, and the wage orders of the Industrial Welfare Commission, a person providing labor or services for remuneration is considered an employee rather than an independent contractor unless the hiring entity demonstrates that the “ABC” test is met.

Existing law exempts specified occupations and business relationships from the application of Dynamex and these provisions, including a person licensed as an esthetician, electrologist, manicurist, barber, or cosmetologist who meets specified requirements. Existing law instead provides that these exempt relationships are governed by the multifactor test adopted in S. G. Borello & Sons, Inc. v. Department of Industrial Relations (1989) 48 Cal.3d 341.

This Bill:

Recasts and reorganizes the exemptions for a person licensed as an esthetician, electrologist, manicurist, barber, or cosmetologist. The licensees above are governed by Borello provided that the individual meets all of the following:

- i. Is free from direction or control both under the contract for the performance of the work.
- ii. Sets their own rates, processes their own payments, and is paid directly by clients.
- iii. Sets their own hours of work and has sole discretion to decide the number of clients and which clients for whom they will provide services.
- iv. Has their own book of business and schedules their own appointments.
- v. Maintains their own business license for the services offered to clients.
- vi. If the individual is performing services at the location of the hiring entity, then the individual issues a Form 1099 to the salon or business owner from which they rent their business space.
- vii. Maintains a booth renter permit.

This bill requires the Board to, by July 1, 2022, adopt regulations for the development of a booth renter permit and a biennial fee not to exceed \$50.

Analysis:

This bill would impact operations as the Board would be required to adopt regulations for the development of the booth renter permit and fee. The Board would then be required to develop procedures regarding how licensees would apply for such permit, who would review and approve the applications, and design a notice of booth renter permit for consumers to view. The Board would have to ensure the licensing system BreEZe is equipped to maintain a list of booth renters. In addition, the Board would need to distribute the information to licensees.

The establishment of a booth rental permit would require an individual licensee to post at their station: their personal board license, their city business license, and the new booth rental permit. Requiring several licenses/permits could be burdensome for individuals, especially during the board's sunset review process where less oversight is a topic.

Assembly Bill 5 already required an independent contractor to have a business license, so requiring an additional booth rental permit may be redundant. An alternative recommendation is requiring an individual's business license to be posted alongside the individual personal license. This would indicate to a consumer that the individual is operating their own business.

Fiscal Impact:

The fiscal impact is assumed to be substantial, however it is not known at this time. The Board will not be able to absorb the additional workload and will be required to request additional staff. In addition, the Breeze system will need to be programmed to allow for the new license type.

ASSEMBLY BILL

No. 2465

Introduced by Assembly Member Gonzalez

February 19, 2020

An act to add Section 7314.6 to the Business and Professions Code, and to amend Section 2750.3 of the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 2465, as introduced, Gonzalez. Worker status: independent contractors: barbering and cosmetology.

Existing law, as established in the case of *Dynamex Operations W. Inc. v. Superior Court* (2018) 4 Cal.5th 903 (*Dynamex*), creates a presumption that a worker who performs services for a hirer is an employee for purposes of claims for wages and benefits arising under wage orders issued by the Industrial Welfare Commission. Existing law requires a 3-part test, commonly known as the “ABC” test, to determine if workers are employees or independent contractors for purposes of specified wage orders.

Existing law establishes that, for purposes of the Labor Code, the Unemployment Insurance Code, and the wage orders of the Industrial Welfare Commission, a person providing labor or services for remuneration is considered an employee rather than an independent contractor unless the hiring entity demonstrates that the person is free from the control and direction of the hiring entity in connection with the performance of the work, the person performs work that is outside the usual course of the hiring entity’s business, and the person is customarily engaged in an independently established trade, occupation, or business. This test is commonly known as the “ABC” test. Existing

law charges the Labor Commissioner with the enforcement of labor laws, including worker classification.

Existing law exempts specified occupations and business relationships from the application of Dynamex and these provisions, including a person licensed as an esthetician, electrologist, manicurist, barber, or cosmetologist who meets specified requirement. Existing law instead provides that these exempt relationships are governed by the test adopted in *S. G. Borello & Sons, Inc. v. Department of Industrial Relations* (1989) 48 Cal.3d 341.

Existing law, the Barbering and Cosmetology Act, provides for the licensure and regulation of the practice of barbering and cosmetology by the State Board of Barbering and Cosmetology in the Department of Consumer Affairs. Existing law authorizes the board to make rules and regulations in furtherance of the act.

This bill would recast and reorganize the exemptions for a person licensed as an esthetician, electrologist, manicurist, barber, or cosmetologist. This bill would also require the Board of Barbering and Cosmetology, by July 1, 2022, to adopt regulations for the development of a booth renter permit and a biennial fee, as specified, for a person licensed as an esthetician, licensed electrologist, licensed manicurist, licensed barber, or licensed cosmetologist, for purposes of compliance with Labor Code requirements for exemption from the presumption employee status for those individuals.

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

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

- 1 SECTION 1. Section 7314.6 is added to the Business and
- 2 Professions Code, to read:
- 3 7314.6. The board shall, by July 1, 2022, adopt regulations in
- 4 accordance with the rulemaking provisions of the Administrative
- 5 Procedure Act (Chapter 3.5 (commencing with Section 11340) of
- 6 Part 1 of Division 3 of Title 2 of the Government Code), for the
- 7 development of a booth renter permit and a reasonable biennial
- 8 fee not to exceed fifty dollars (\$50), for a person licensed as an
- 9 esthetician, licensed electrologist, licensed manicurist, licensed
- 10 barber, or licensed cosmetologist, which may be included as an
- 11 addendum to the initial and biennial license renewal application.
- 12 The total fees collected shall not exceed the cost of administering

1 this section. Booth renters shall post a notice of their booth renter
2 permit for consumers to view. The board shall share the list and
3 contact information of all booth renters with any state agency that
4 requests the list, for purposes of assuring compliance with
5 paragraph (8) of subdivision (b) of Section 2750.3 of the Labor
6 Code.

7 SEC. 2. Section 2750.3 of the Labor Code is amended to read:

8 2750.3. (a) (1) For purposes of ~~the provisions of~~ this code
9 and the Unemployment Insurance Code, and for the *purposes of*
10 wage orders of the Industrial Welfare Commission, a person
11 providing labor or services for remuneration shall be considered
12 an employee rather than an independent contractor unless the hiring
13 entity demonstrates that all of the following conditions are satisfied:

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

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

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

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

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

38 (b) Subdivision (a) and the holding in *Dynamex Operations*
39 ~~*West, W. Inc. v. Superior Court of Los Angeles*~~ (2018) 4 Cal.5th
40 903 (~~*Dynamex*~~); (*Dynamex*) do not apply to the following

1 occupations as defined in the paragraphs below, and instead, the
2 determination of employee or independent contractor status for
3 individuals in those occupations shall be governed by Borello.

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

9 (2) A physician and surgeon, dentist, podiatrist, psychologist,
10 or veterinarian licensed by the State of California pursuant to
11 Division 2 (commencing with Section 500) of the Business and
12 Professions Code, performing professional or medical services
13 provided to or by a health care entity, including an entity organized
14 as a sole proprietorship, partnership, or professional corporation
15 as defined in Section 13401 of the Corporations Code. Nothing in
16 this subdivision shall apply to the employment settings currently
17 or potentially governed by collective bargaining agreements for
18 the licensees identified in this paragraph.

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

23 (4) A securities broker-dealer or investment adviser or their
24 agents and representatives that ~~are registered with~~ *are either of the*
25 *following:*

26 (A) *Registered with* the Securities and Exchange Commission
27 or the Financial Industry Regulatory ~~Authority~~ or licensed by
28 *Authority.*

29 (B) *Licensed by* the State of California under Chapter 2
30 (commencing with Section 25210) or Chapter 3 (commencing with
31 Section 25230) of Division 1 of Part 3 of Title 4 of the
32 Corporations Code.

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

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

38 (A) For the purposes of this paragraph:

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

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

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

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

20 (C) (i) On or before March 1, 2021, and each March 1
21 thereafter, the Employment Development Department shall issue
22 an annual report to the Legislature on the use of unemployment
23 insurance in the commercial fishing industry. This report shall
24 include, but not be limited to, ~~reporting~~ *all of the following*:

25 (I) *Reporting* the number of commercial fishermen who apply
26 for unemployment insurance ~~benefits, the~~ *benefits*.

27 (II) *The* number of commercial fishermen who have their claims
28 ~~disputed, the number~~ *disputed*.

29 (III) *The* number of commercial fishermen who have their
30 claims ~~denied, and the~~ *denied*.

31 (IV) *The* number of commercial fishermen who receive
32 unemployment insurance benefits. ~~The~~

33 (ii) *The* report required by this subparagraph shall be submitted
34 in compliance with Section 9795 of the Government Code.

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

37 (7) A newspaper distributor working under contract with a
38 newspaper publisher, as defined in subparagraph (A), and a
39 newspaper carrier working under contract either with a newspaper
40 publisher or a newspaper distributor.

1 (A) For purposes of this paragraph:

2 (i) “Newspaper” means a newspaper of general circulation, as
3 defined in Section 6000 of the Government Code, and any other
4 publication circulated to the community in general as an extension
5 of or substitute for that newspaper’s own publication, whether that
6 publication be designated a “shoppers’ guide,” as a zoned edition,
7 or otherwise.

8 (ii) “Publisher” means the natural or corporate person that
9 manages the newspaper’s business operations, including
10 circulation.

11 (iii) “Newspaper distributor” means a person or entity that
12 contracts with a publisher to distribute newspapers to the
13 community.

14 (iv) “Carrier” means a person who effects physical delivery of
15 the newspaper to the customer or reader.

16 (B) This paragraph shall become inoperative on January 1, 2021,
17 unless extended by the Legislature.

18 (8) (A) *A licensed esthetician, licensed electrologist, licensed*
19 *manicurist, licensed barber, or licensed cosmetologist, if the*
20 *individual meets all of the following:*

21 (i) *Is free from direction or control both under the contract for*
22 *the performance of the work.*

23 (ii) *Sets their own rates, processes their own payments, and is*
24 *paid directly by clients.*

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

28 (iv) *Has their own book of business and schedules their own*
29 *appointments.*

30 (v) *Maintains their own business license for the services offered*
31 *to clients.*

32 (vi) *If the individual is performing services at the location of*
33 *the hiring entity, then the individual issues a Form 1099 to the*
34 *salon or establishment owner from which they rent their business*
35 *space.*

36 (vii) *Maintains a booth renter permit. This clause shall become*
37 *operative six months after the effective date of regulations adopted*
38 *by the State Board of Barbering and Cosmetology pursuant to*
39 *Section 7314.6 of the Business and Professions Code.*

1 (B) *Until clause (vii) of subparagraph (A) becomes operative,*
2 *the employment relationship between a hiring entity and a worker*
3 *who meets all the criteria in this paragraph except for the permit*
4 *requirement of clause (vii) of subparagraph (A) shall be governed*
5 *by the test adopted by the California Supreme Court in the case*
6 *of S. G. Borello & Sons, Inc. v. Department of Industrial Relations*
7 *(1989) 48 Cal.3d 341. Commencing on the operative date of clause*
8 *(vii) of subparagraph (A), that test shall apply to working*
9 *relationships that meet all the criteria of subparagraph (A).*

10 (c) (1) Subdivision (a) and the holding in *Dynamex* do not
11 apply to a contract for “professional services” as defined below,
12 and instead the determination of whether the individual is an
13 employee or independent contractor shall be governed by *Borello*
14 if the hiring entity demonstrates that all of the following factors
15 are satisfied:

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

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

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

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

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

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

35 (2) For purposes of this subdivision:

36 (A) An “individual” includes an individual providing services
37 through a sole proprietorship or other business entity.

38 (B) “Professional services” means services that meet any of the
39 following:

- 1 (i) Marketing, provided that the contracted work is original and
- 2 creative in character and the result of which depends primarily on
- 3 the invention, imagination, or talent of the employee or work that
- 4 is an essential part of or necessarily incident to any of the
- 5 contracted work.
- 6 (ii) Administrator of human resources, provided that the
- 7 contracted work is predominantly intellectual and varied in
- 8 character and is of such character that the output produced or the
- 9 result accomplished cannot be standardized in relation to a given
- 10 period of time.
- 11 (iii) Travel agent services provided by either of the following:
- 12 ~~(I)~~ a
- 13 (I) A person regulated by the Attorney General under Article
- 14 2.6 (commencing with Section 17550) of Chapter 1 of Part 3 of
- 15 Division 7 of the Business and Professions Code, or ~~(II) an~~ Code.
- 16 (II) An individual who is a seller of travel within the meaning
- 17 of subdivision (a) of Section 17550.1 of the Business and
- 18 Professions Code and who is exempt from the registration under
- 19 subdivision (g) of Section 17550.20 of the Business and Professions
- 20 Code.
- 21 (iv) Graphic design.
- 22 (v) Grant writer.
- 23 (vi) Fine artist.
- 24 (vii) Services provided by an enrolled agent who is licensed by
- 25 the United States Department of the Treasury to practice before
- 26 the Internal Revenue Service pursuant to Part 10 of Subtitle A of
- 27 Title 31 of the Code of Federal Regulations.
- 28 (viii) Payment processing agent through an independent sales
- 29 organization.
- 30 (ix) (I) Services provided by a still photographer or
- 31 photojournalist who ~~do~~ does not license content submissions to
- 32 the putative employer more than 35 times per year. This clause is
- 33 not applicable to an individual who works on motion pictures,
- 34 which includes, but is not limited to, projects produced for
- 35 theatrical, television, internet streaming for any device, commercial
- 36 productions, broadcast news, music videos, and live shows, whether
- 37 distributed live or recorded for later broadcast, regardless of the
- 38 distribution platform. ~~For~~

1 ~~(II) For purposes of this clause clause, a “submission” is one~~
2 ~~or more items or forms of content produced by a still photographer~~
3 ~~or photojournalist that: (I) pertains that meets all of the following:~~
4 ~~(ia) Pertains to a specific event or specific subject; (II) is~~
5 ~~subject.~~
6 ~~(ib) Is provided for in a contract that defines the scope of the~~
7 ~~work; and (III) is work.~~
8 ~~(ic) Is accepted by and licensed to the publication or stock~~
9 ~~photography company and published or posted. Nothing~~
10 ~~(III) Nothing in this section shall prevent a photographer or~~
11 ~~artist from displaying their work product for sale.~~
12 ~~(x) (I) Services provided by a freelance writer, editor, or~~
13 ~~newspaper cartoonist who does not provide content submissions~~
14 ~~to the putative employer more than 35 times per year. Items of~~
15 ~~content produced on a recurring basis related to a general topic~~
16 ~~shall be considered separate submissions for purposes of calculating~~
17 ~~the 35 times per year. For~~
18 ~~(II) For purposes of this clause, a “submission” is one or more~~
19 ~~items or forms of content by a freelance journalist that: (I) pertains~~
20 ~~that meets all of the following:~~
21 ~~(ia) Pertains to a specific event or topic; (II) is topic.~~
22 ~~(ib) Is provided for in a contract that defines the scope of the~~
23 ~~work; (III) is work.~~
24 ~~(ic) Is accepted by the publication or company and published~~
25 ~~or posted for sale.~~
26 ~~(xi) Services provided by a licensed esthetician, licensed~~
27 ~~electrologist, licensed manicurist, licensed barber, or licensed~~
28 ~~eosmetologist provided that the individual:~~
29 ~~(I) Sets their own rates, processes their own payments, and is~~
30 ~~paid directly by clients.~~
31 ~~(II) Sets their own hours of work and has sole discretion to~~
32 ~~decide the number of clients and which clients for whom they will~~
33 ~~provide services.~~
34 ~~(III) Has their own book of business and schedules their own~~
35 ~~appointments.~~
36 ~~(IV) Maintains their own business license for the services~~
37 ~~offered to clients.~~
38 ~~(V) If the individual is performing services at the location of~~
39 ~~the hiring entity, then the individual issues a Form 1099 to the~~
40 ~~salon or business owner from which they rent their business space.~~

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

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

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

13 (A) *For* purposes of unemployment insurance by Section 650
14 of the Unemployment Insurance Code; ~~(B) for Code.~~

15 (B) *For* purposes of ~~workers~~ workers' compensation by Section
16 3200 et seq.; and ~~(C) for seq.~~

17 (C) *For* all other purposes in the Labor Code by Borello. The
18 statutorily imposed duties of a responsible broker under Section
19 10015.1 of the Business and Professions Code are not factors to
20 be considered under the Borello test.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

38 (3) The determination of whether an individual working for a
39 business service provider is an employee or independent contractor

1 of the business service provider is governed by paragraph (1) of
2 subdivision (a).

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

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

12 (1) The subcontract is in writing.

13 (2) The subcontractor is licensed by the ~~Contractors~~ *Contractors'*
14 State License Board and the work is within the scope of that
15 license.

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

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

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

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

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

31 (8) (A) Paragraph (2) shall not apply to a subcontractor
32 providing construction trucking services for which a contractor's
33 license is not required by Chapter 9 (commencing with Section
34 7000) of Division 3 of the Business and Professions Code, provided
35 that all of the following criteria are satisfied:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

38 (C) “Referral agency” is a business that connects clients with
 39 service providers that provide graphic design, photography,
 40 tutoring, event planning, minor home repair, moving, home

1 cleaning, errands, furniture assembly, animal services, dog walking,
2 dog grooming, web design, picture hanging, pool cleaning, or yard
3 cleanup.

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

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

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

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

20 (h) Subdivision (a) and the holding in *Dynamex* do not apply
21 to the relationship between a motor club holding a certificate of
22 authority issued pursuant to Chapter 2 (commencing with Section
23 12160) of Part 5 of Division 2 of the Insurance Code and an
24 individual performing services pursuant to a contract between the
25 motor club and a third party to provide motor club services utilizing
26 the employees and vehicles of the third party and, instead, the
27 determination *of* whether such an individual is an employee of the
28 motor club shall be governed by *Borello*, if the motor club
29 demonstrates that the third party is a separate and independent
30 business from the motor club.

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

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

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

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

14 SEC. 3. The amendments to Section 2750.3 of the Labor Code,
15 enacted by this measure, shall be effective retroactively to January
16 1, 2020.



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BOARD OF BARBERING & COSMETOLOGY

BILL ANALYSIS

Author: Senator Grove
Coauthors: Senators Bates, Borgeas, Chang, Dahle, Jones, Moorlach, Morrell, Nielsen, and Wilk

Subject: Independent Contractors

Bill Number: SB 806

Version: April 29, 2020

Existing Law:

Dynamex Operations W. Inc.v. Superior Court (2018) established a presumption that a worker who performs services for a hirer is an employee for purposes of claims for wages and benefits arising under wage orders issued by the Industrial Welfare Commission. Existing law requires a 3-part test, commonly known as the “ABC” test, to determine if workers are employees or independent contractors for purposes of specified wage orders.

Existing law establishes that, for purposes of the Labor Code, the Unemployment Insurance Code, and the wage orders of the Industrial Welfare Commission, a person providing labor or services for remuneration is considered an employee rather than an independent contractor unless the hiring entity demonstrates that the person is free from the control and direction of the hiring entity in connection with the performance of the work, the person performs work that is outside the usual course of the hiring entity’s business, and the person is customarily engaged in an independently established trade, occupation, or business. This test is commonly known as the “ABC” test.

Existing law exempts specified occupations and business relationships from the application of Dynamex and these provisions. Existing law instead provides that these exempt relationships are governed by the test adopted in S. G. Borello & Sons, Inc. v. Department of Industrial Relations (1989) 48 Cal.3d 341.

This Bill:

Repeals the above statutory provisions and establishes a new test to govern the relationship of employer and employees. A person providing labor or services for payment is considered an employee rather than an independent contractor unless the hiring entity demonstrates that

- 1) The person is free from control and direction of the hiring entity

AND either that

2) The person performs work outside the usual course of the hiring entity's business, or the work performed is outside the place of business of the hiring entity, or the worker is responsible for the costs of the place of business where the work is performed,

OR

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

The bill would apply the new test to all pending claims, whether in civil court or as an administrative action, filed on or after January 1, 2018, that relate to the classification of workers in this state. This bill would declare that it is to take effect immediately as an urgency statute.

Analysis:

SB-806 does not impact any operations of the Board, however, because of the significant amount of booth renters/independent contractors within the barbering and cosmetology industry, the Board's licensees are impacted.

This new test is more flexible and easier to understand than the Dynamex decision codified in AB-5. Board licensees are not specifically mentioned in this bill and the three criteria are shorter than AB-5's six requirements. Board licensees are not required to maintain their own business license and it would apply to all licensees (AB-5 would become inoperative for manicurists on January 1, 2022).

This bill would take into effect immediately, which may help some licensees that may not have qualified for unemployment assistance during the COVID-19 pandemic.

AMENDED IN SENATE APRIL 29, 2020

AMENDED IN SENATE FEBRUARY 26, 2020

SENATE BILL

No. 806

**Introduced by Senator Grove
(Coauthors: Senators Bates, Borgeas, Chang, Dahle, Jones,
Moorlach, Morrell, Nielsen, and Wilk)**

January 9, 2020

An act to repeal and add Section 2750.3 of the Labor Code, relating to ~~employment~~ *employment, and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

SB 806, as amended, Grove. Worker status: employees: independent contractors.

Existing law, as established in the case of *Dynamex Operations W. Inc. v. Superior Court* (2018) 4 Cal.5th 903 (*Dynamex*), creates a presumption that a worker who performs services for a hirer is an employee for purposes of claims for wages and benefits arising under wage orders issued by the Industrial Welfare Commission. Existing law requires a 3-part test, commonly known as the "ABC" test, to determine if workers are employees or independent contractors for purposes of specified wage orders.

Existing law establishes that, for purposes of the Labor Code, the Unemployment Insurance Code, and the wage orders of the Industrial Welfare Commission, a person providing labor or services for remuneration is considered an employee rather than an independent contractor unless the hiring entity demonstrates that the person is free from the control and direction of the hiring entity in connection with the performance of the work, the person performs work that is outside

the usual course of the hiring entity’s business, and the person is customarily engaged in an independently established trade, occupation, or business. This test is commonly known as the “ABC” test. Existing law charges the Labor Commissioner with the enforcement of labor laws, including worker classification.

Existing law exempts specified occupations and business relationships from the application of Dynamex and these provisions. Existing law instead provides that these exempt relationships are governed by the test adopted in *S. G. Borello & Sons, Inc. v. Department of Industrial Relations* (1989) 48 Cal.3d 341.

This bill would repeal these statutory provisions. The bill would, instead, establish a new test that, for purposes of specific provisions of the Labor Code governing the relationship of employer and employees, a person providing labor or services for remuneration is considered an employee rather than an independent contractor, unless the hiring entity demonstrates that the person is (1) free from the control and direction of the hiring entity in connection with the performance of the work, both under the contract for the performance of the work and in fact, determined by a preponderance of factors, with no single factor of control being determinative, and either that (2) the person performs work that is outside the usual course of the hiring entity’s business, or the work performed is outside the place of business of the hiring entity, or the worker is responsible for the costs of the place of the business where the work is performed, or that (3) the person is customarily engaged in an independently established trade, occupation, or business of the same nature as that involved in the work performed. The bill would apply the new test to all pending claims, whether in civil court or as an administrative action, filed on or after January 1, 2018, that relate to the classification of workers in this state.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: ~~majority~~^{2/3}. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

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

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) On April 30, 2018, the California Supreme Court issued a
- 4 landmark decision in *Dynamex Operations W. v. Superior Court*,

1 (2018) 4 Cal.5th 903 (Dynamex) by overturning 29 years of
2 precedent established in *S. G. Borello & Sons, Inc. v. Department*
3 *of Industrial Relations* (1989) 48 Cal.3d 341.

4 (b) The decision created a new, one-size-fits-all and far more
5 restrictive ABC test consisting of just three factors, of which all
6 must be met in order for an individual to be classified as an
7 independent contractor.

8 (c) Prior to this decision, the ABC test never existed in
9 California statute or regulation.

10 (d) Such a momentous policy change should not be made by
11 judicial fiat; instead, it should be made by the Legislature.

12 (e) Accordingly, the Legislature acted by passing Assembly
13 Bill 5 (Chapter 296 of the Statutes of 2019), thereby codifying the
14 Dynamex decision, as well as 57 carveouts for various industries,
15 professions, and businesses.

16 (f) With the exception of independent contractor relationships
17 within the various industries, professions, and businesses that
18 received a carveout in Assembly Bill 5, most freelancers no longer
19 have the freedom to work as independent contractors.

20 (g) Codifying the Dynamex decision with carveouts for some
21 industries, professions, and businesses was not the only option
22 available to the Legislature. The Legislature could have acted to
23 protect the livelihood of the millions of Californians who choose
24 to work as independent contractors and whose livelihoods were
25 put at risk by the Dynamex decision.

26 (h) Assembly Bill 5 represents a lost opportunity for independent
27 contractors and other freelancers by eliminating the choice that
28 more and more Californians are making for their work and quality
29 of life.

30 (i) The Dynamex decision and Assembly Bill 5 do not accurately
31 reflect today's economic and worklife balance realities, including
32 the changing demands of the modern workplace.

33 (j) Of the 22 states that utilize an ABC test, only California and
34 Massachusetts apply the ABC factors in such a narrow and
35 inflexible way, and only 7 apply these factors for wage and hour
36 purposes, while all others apply an ABC test for unemployment
37 insurance purposes only.

38 (k) Economic freedom is foundational to the American way of
39 life, and the Dynamex decision and Assembly Bill 5 delivered a
40 destructive blow to this foundation.

1 (l) The right to earn a living is a natural right reserved to the
2 people, and the Dynamex decision and Assembly Bill 5 undermine
3 this natural right.

4 (m) According to numbers provided by the Legislative Analyst's
5 Office, Assembly Bill 5 threatens the livelihoods of roughly one
6 million independent contractors who will no longer be able to work
7 as freelancers.

8 (n) It is intent of the Legislature that Senate Bill 806 overturn
9 the Dynamex decision and repeal and replace Assembly Bill 5
10 with a broad, flexible and workable test for determining
11 independent contractor status.

12 (o) It is also the intent of the Legislature that the new ABC test
13 in Senate Bill 806 provide maximum flexibility in allowing for
14 independent contractor relationships in order to ensure that all
15 those industries, businesses, and professions that legally and
16 appropriately enjoyed independent contracting relationships prior
17 to the Dynamex decision and Assembly Bill 5 can continue to do
18 so now and in the future.

19 (p) It is also the intent of the Legislature that, for any industry,
20 profession, or business that had legally and appropriately enjoyed
21 independent contractor relationships prior to the Dynamex decision
22 and Assembly Bill 5, but that may struggle to meet the new ABC
23 test in Senate Bill 806, subsequent legislation to amend Senate
24 Bill 806 shall be enacted to ensure that others can continue to enjoy
25 independent contracting relationships.

26 SEC. 2. Section 2750.3 of the Labor Code is repealed.

27 SEC. 3. Section 2750.3 is added to the Labor Code, to read:

28 2750.3. (a) For purposes of this division, a person providing
29 labor or services for remuneration shall be considered an employee
30 rather than an independent contractor, unless the hiring entity
31 demonstrates that the person meets both the requirement of
32 paragraph (1) and the requirement of either paragraph (2) or (3):

33 (1) The person is free from the control and direction of the hiring
34 entity in connection with the performance of the work, both under
35 the contract for the performance of the work and in fact. For
36 purposes of this paragraph, a preponderance of factors, with no
37 single factor of control being determinative, shall determine
38 whether a worker is free from the direct control of the hiring entity.

39 (2) The person performs work that is either outside the usual
40 course of the hiring entity's business, or that the work performed

1 is outside the place of business of the hiring entity, or the worker
2 is responsible for the costs of the place of the business where the
3 work is performed.

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

7 (b) Subdivision (a) shall apply to all pending claims, whether
8 in civil court or as an administrative action, filed on or after January
9 1, 2018, that relate to the classification of workers in this state.

10 *SEC. 4. This act is an urgency statute necessary for the*
11 *immediate preservation of the public peace, health, or safety within*
12 *the meaning of Article IV of the California Constitution and shall*
13 *go into immediate effect. The facts constituting the necessity are:*

14 *Due to the unprecedented disruption of the economy because of*
15 *the COVID-19 virus outbreak, it is necessary that this measure*
16 *take effect immediately.*



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P.O. Box 944226, Sacramento, CA 94244-2260
Phone: (800) 952-5210 Email: barbercosmo@dca.ca.gov
Website: www.barbercosmo.ca.gov



BOARD OF BARBERING & COSMETOLOGY

BILL ANALYSIS

Author: Committee on Business, Professions and Economic Development

Subject: Sunset Review

Bill Number: SB 1474

Version: May 14, 2020

Existing Law:

Existing law provides for the January 1, 2021 repeal of provisions creating the Board of Barbering and Cosmetology.

This Bill:

This bill would extend the operation of the Board of Barbering and Cosmetology to January 1, 2022.

Analysis:

SB 1474 is the Board's sunset bill. This bill would extend the sunset date of the Board for one year.

AMENDED IN SENATE MAY 14, 2020

SENATE BILL

No. 1474

**Introduced by Committee on Business, Professions and Economic
Development (Senators Glazer (Chair), Archuleta, Chang, Dodd,
Galgiani, Hill, Leyva, Pan, and Wilk)**
(Principal coauthor: Assembly Member Low)

March 16, 2020

An act to amend Sections 27, 101, 125.9, 130, 144, 200.1, 205, 494.5, 1913, 1917, 1917.1, 1922, 2065, 2113, 2135.5, 2460, 2841, 2920, 2933, 3504, 3512, 4001, 4003, 4501, 4503, 4621, 4800, 4804.5, 4990, 4990.04, 5600.4, 7000, 7000.5, 7000.6, 7011.4, 7011.5, 7011.8, 7015, 7017.3, 7028.7, 7030, 7031, 7058.7, 7071.4, 7080.5, 7085.5, 7099.2, 7123.5, 7135, 7136, 7137, 7137.5, 7138, 7139.1, 7139.2, 7145.5, 7159, 7170, 7303, 8516, 10050, 11301, 16100, and 19164 of, and to add Sections 5650.5 and 7099.9 to, the Business and Professions Code, *and to amend Section 94950 of the Education Code*, relating to ~~professions and vocations~~, *business and professions*, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 1474, as amended, Committee on Business, Professions and Economic Development. ~~Professions and vocations.~~ *Business and professions.*

(1) Existing law, the Contractors' State License Law, provides for the licensure and regulation of contractors by the Contractors' State License Board in the Department of Consumer Affairs. Existing law requires fees and penalties received pursuant to the law to be deposited in the Contractors' License Fund, a continuously appropriated fund,

except that certain service fees for the deposit of money in lieu of paying a bond are required to be deposited in the Contractors' Deposit Fund.

This bill would rename the Contractors' State license Law as the Contractors State License Law, would rename the Contractors' State License Board as the Contractors State License Board, and would rename the Contractors' License Fund as the Contractors License Fund. The bill would delete the provision establishing the Contractors' Deposit Fund, and would therefore require those service fees to be deposited in the Contractors License Fund. By authorizing a new source of revenue to be deposited into a continuously appropriated fund, the bill would make an appropriation.

Existing law authorizes a licensee who is subject to a bonding provision under the law, in lieu of giving a bond, to deposit money or a cashier's check with the registrar of contractors.

This bill would prohibit the deposit from being released if the board is notified of a civil action against the deposit and, if the amount of the deposit is insufficient to pay all claims, would require the deposit to be distributed to claimants in proportion to the amount of the claims.

(2) Existing law authorizes the State Board of Chiropractic Examiners and the Osteopathic Medical Board of California and any board within the Department of Consumer Affairs to issue a citation that may contain an order of abatement or an order to pay an administrative fine, and provides that a failure to pay a fine within 30 days of the date of assessment may result in disciplinary action.

This bill would also make a failure to comply with the order of abatement within 30 days of the date of the order subject to disciplinary action.

(3) Existing law provides for the licensure and regulation of registered dental hygienists by the Dental Hygiene Board of California. Existing law authorizes a registered dental hygienist to perform a procedure or provide a service within the scope of their practice under the appropriate level of supervision, as specified.

This bill would also require a registered dental hygienist to have completed the appropriate education and training required to perform the procedure or provide the service.

Existing law requires a person to have satisfactorily completed a specified examination within the preceding 2 years as a condition of licensure as a registered dental hygienist.

This bill would instead require completion of the dental hygiene examination within the preceding 3 years.

Existing law requires a person, as a condition for licensure as a registered dental hygienist in alternative practice, to successfully complete a bachelor's degree or its equivalent from an accredited college or institution of higher education, among other requirements.

This bill would specify that the equivalent of a bachelor's degree is recognized as a minimum of 120 semester credit hours or 180 quarter credit hours in postsecondary education.

(4) Existing law, the Medical Practice Act, provides for the licensure and regulation of physicians and surgeons by the Medical Board of California, and requires an applicant for a physician's and surgeon's license who has completed 36 months of approved postgraduate training in another state or Canada and who is accepted into an approved postgraduate training in another state or Canada and who is accepted into an approved postgraduate training program in California to obtain their physician's and surgeon's license within 90 days after beginning the postgraduate training program.

This bill would delete the requirement that the person be accepted into an approved postgraduate training in another state or Canada.

Existing law authorizes the Medical Board of California, in its discretion, to waive certain examination and certification requirements for licensure for a graduate of a foreign medical school who holds a certificate of registration issued by the board to practice medicine as a full-time faculty member at a medical school.

This bill would also authorize the board to accept clinical practice in an appointment as qualifying time to meet specified postgraduate training requirements for licensure for those registrants.

Existing law authorizes the Medical Board of California, upon and review and recommendation, to determine that an applicant for a physician and surgeon's certificate has satisfied the medical education and examination requirements for an applicant who holds an unlimited and unrestricted license as a physician and surgeon in another state and has held the license continuously for a minimum of 4 years, subject to satisfaction of specified requirements.

This bill would also require the applicant to meet specified postgraduate training requirements.

(5) Existing law, the Architects Practice Act, provides for the licensure and regulation of architects by the California Architects Board. Existing law requires the board to issue a retired license to an architect who meets specified requirements, and also provides for the restoration of a retired license to active status upon satisfaction of specified

requirements applicable to licenses that are not renewed within 5 years of its expiration.

This bill would also authorize the restoration of a retired license to active status upon satisfaction of specified requirements applicable to licenses that are renewed within 5 years of its expiration.

(6) Existing law provides for the licensure and regulation of landscape architects by the California Architects Board and the Landscape Architects Technical Committee of the California Architects Board.

This bill would authorize the board to obtain and review criminal offender record information and would require an applicant, as a condition of licensure, to furnish to the Department of Justice a full set of fingerprints for the purpose of conducting a criminal history record check and criminal offender record information search. The bill would require the applicant to pay the reasonable regulatory costs for furnishing the fingerprints and conducting the searches, and would require the applicant to certify, under penalty of perjury, whether the applicant's fingerprints have been furnished to the Department of Justice. By expanding the crime of perjury, the bill would impose a state-mandated local program.

(7) Existing law provides for the January 1, 2021, repeal of provisions creating the Podiatric Medical Board of California, the Board of Vocational Nursing and Psychiatric Technicians of the State of California, the Board of Psychology, the Physician Assistant Board, the California State Board of Pharmacy, the Veterinary Medical Board, the Board of Behavioral Sciences, and the State Board of Barbering and Cosmetology.

This bill would extend the operation of those provisions to January 1, 2022, and make conforming changes relating to the appointment of an executive officer, as applicable.

(8) Existing law, the Massage Therapy Act, until January 1, 2021, provides for the certification and regulation of massage therapists by the California Massage Therapy Council.

This bill would extend the operation of the Massage Therapy Act to January 1, 2022.

(9) Existing law, the Real Estate Law, provides for the licensure and regulation of real estate brokers by the Real Estate Commissioner, the chief officer of the Department of Real Estate within the Business, Consumer Services, and Housing Agency. The Real Estate Law subjects the powers and duties of the department, under specified provisions of law, to review by the appropriate policy committees of the Legislature,

performed as if those provisions were scheduled to be repealed as of January 1, 2021.

This bill would extend that date to January 1, 2022.

(10) Existing law, the Real Estate Appraisers’ Licensing and Certification Law, creates a Bureau of Real Estate Appraisers within the Department of Consumer Affairs to administer and enforce that law. The Real Estate Appraisers’ Licensing and Certification Law subjects the powers and duties of the bureau to review by the appropriate policy committees of the Legislature, performed as if that law were scheduled to be repealed as of January 1, 2021.

This bill would extend that date to January 1, 2022.

(11) Existing law, the California Private Postsecondary Education Act of 2009, until January 1, 2021, provides, among other things, for student protections and regulatory oversight of private postsecondary institutions in the state, enforced by the Bureau for Private Postsecondary Education within the Department of Consumer Affairs.

This bill would extend the operation of the California Private Postsecondary Education Act of 2009 to January 1, 2022.

~~(7)~~

(12) This bill would make other conforming, technical, and nonsubstantive changes.

~~(8)~~

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

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

Vote: majority. Appropriation: yes. Fiscal committee: yes. State-mandated local program: yes.

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

- 1 SECTION 1. Section 27 of the Business and Professions Code
- 2 is amended to read:
- 3 27. (a) Each entity specified in subdivisions (c), (d), and (e)
- 4 shall provide on the internet information regarding the status of
- 5 every license issued by that entity in accordance with the California
- 6 Public Records Act (Chapter 3.5 (commencing with Section 6250)
- 7 of Division 7 of Title 1 of the Government Code) and the
- 8 Information Practices Act of 1977 (Chapter 1 (commencing with

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

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

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

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

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

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

39 (4) The Cemetery and Funeral Bureau shall disclose information
40 on its licensees, including cemetery brokers, cemetery salespersons,

1 cemetery managers, crematory managers, cemetery authorities,
2 crematories, cremated remains disposers, embalmers, funeral
3 establishments, and funeral directors.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 SEC. 2. Section 101 of the Business and Professions Code is
11 amended to read:

12 101. The department is comprised of the following:

- 13 (a) The Dental Board of California.
- 14 (b) The Medical Board of California.
- 15 (c) The State Board of Optometry.
- 16 (d) The California State Board of Pharmacy.
- 17 (e) The Veterinary Medical Board.
- 18 (f) The California Board of Accountancy.
- 19 (g) The California Architects Board.
- 20 (h) The State Board of Barbering and Cosmetology.
- 21 (i) The Board for Professional Engineers, Land Surveyors, and
22 Geologists.
- 23 (j) The Contractors State License Board.
- 24 (k) The Bureau for Private Postsecondary Education.
- 25 (l) The Bureau of Household Goods and Services.
- 26 (m) The Board of Registered Nursing.
- 27 (n) The Board of Behavioral Sciences.
- 28 (o) The State Athletic Commission.
- 29 (p) The Cemetery and Funeral Bureau.
- 30 (q) The Bureau of Security and Investigative Services.
- 31 (r) The Court Reporters Board of California.
- 32 (s) The Board of Vocational Nursing and Psychiatric
33 Technicians.
- 34 (t) The Landscape Architects Technical Committee.
- 35 (u) The Division of Investigation.
- 36 (v) The Bureau of Automotive Repair.
- 37 (w) The Respiratory Care Board of California.
- 38 (x) The Acupuncture Board.
- 39 (y) The Board of Psychology.
- 40 (z) The Podiatric Medical Board of California.

- 1 (aa) The Physical Therapy Board of California.
- 2 (ab) The Arbitration Review Program.
- 3 (ac) The Physician Assistant Board.
- 4 (ad) The Speech-Language Pathology and Audiology and
- 5 Hearing Aid Dispensers Board.
- 6 (ae) The California Board of Occupational Therapy.
- 7 (af) The Osteopathic Medical Board of California.
- 8 (ag) The Naturopathic Medicine Committee.
- 9 (ah) The Dental Hygiene Board of California.
- 10 (ai) The Professional Fiduciaries Bureau.
- 11 (aj) The State Board of Chiropractic Examiners.
- 12 (ak) The Bureau of Real Estate Appraisers.
- 13 (al) The Structural Pest Control Board.
- 14 (am) The Bureau of Cannabis Control.
- 15 (an) Any other boards, offices, or officers subject to its
- 16 jurisdiction by law.
- 17 (ao) This section shall become operative on July 1, 2018.

18 SEC. 3. Section 125.9 of the Business and Professions Code
19 is amended to read:

20 125.9. (a) Except with respect to persons regulated under
21 Chapter 11 (commencing with Section 7500), any board, bureau,
22 or commission within the department, the State Board of
23 Chiropractic Examiners, and the Osteopathic Medical Board of
24 California, may establish, by regulation, a system for the issuance
25 to a licensee of a citation which may contain an order of abatement
26 or an order to pay an administrative fine assessed by the board,
27 bureau, or commission where the licensee is in violation of the
28 applicable licensing act or any regulation adopted pursuant thereto.

29 (b) The system shall contain the following provisions:

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

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

35 (3) In no event shall the administrative fine assessed by the
36 board, bureau, or commission exceed five thousand dollars (\$5,000)
37 for each inspection or each investigation made with respect to the
38 violation, or five thousand dollars (\$5,000) for each violation or
39 count if the violation involves fraudulent billing submitted to an
40 insurance company, the Medi-Cal program, or Medicare. In

1 assessing a fine, the board, bureau, or commission shall give due
2 consideration to the appropriateness of the amount of the fine with
3 respect to factors such as the gravity of the violation, the good
4 faith of the licensee, and the history of previous violations.

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

15 (5) Failure of a licensee to pay a fine or comply with an order
16 of abatement, or both, within 30 days of the date of assessment or
17 order, unless the citation is being appealed, may result in
18 disciplinary action being taken by the board, bureau, or
19 commission. Where a citation is not contested and a fine is not
20 paid, the full amount of the assessed fine shall be added to the fee
21 for renewal of the license. A license shall not be renewed without
22 payment of the renewal fee and fine.

23 (c) The system may contain the following provisions:

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

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

28 (d) Notwithstanding any other provision of law, if a fine is paid
29 to satisfy an assessment based on the finding of a violation,
30 payment of the fine and compliance with the order of abatement,
31 if applicable, shall be represented as satisfactory resolution of the
32 matter for purposes of public disclosure.

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

36 SEC. 4. Section 130 of the Business and Professions Code is
37 amended to read:

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

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

- 3 (1) The Medical Board of California.
- 4 (2) The Podiatric Medical Board of California.
- 5 (3) The Physical Therapy Board of California.
- 6 (4) The Board of Registered Nursing, except as provided in
7 subdivision (c) of Section 2703.
- 8 (5) The Board of Vocational Nursing and Psychiatric
9 Technicians.
- 10 (6) The State Board of Optometry.
- 11 (7) The California State Board of Pharmacy.
- 12 (8) The Veterinary Medical Board.
- 13 (9) The California Architects Board.
- 14 (10) The Landscape Architect Technical Committee.
- 15 (11) The Board for Professional Engineers and Land Surveyors.
- 16 (12) The Contractors State License Board.
- 17 (13) The Board of Behavioral Sciences.
- 18 (14) The Court Reporters Board of California.
- 19 (15) The State Athletic Commission.
- 20 (16) The Osteopathic Medical Board of California.
- 21 (17) The Respiratory Care Board of California.
- 22 (18) The Acupuncture Board.
- 23 (19) The Board of Psychology.
- 24 (20) The Structural Pest Control Board.

25 SEC. 5. Section 144 of the Business and Professions Code is
26 amended to read:

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

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

- 35 (1) California Board of Accountancy.
- 36 (2) State Athletic Commission.
- 37 (3) Board of Behavioral Sciences.
- 38 (4) Court Reporters Board of California.
- 39 (5) Dental Board of California.
- 40 (6) California State Board of Pharmacy.

- 1 (7) Board of Registered Nursing.
- 2 (8) Veterinary Medical Board.
- 3 (9) Board of Vocational Nursing and Psychiatric Technicians.
- 4 (10) Respiratory Care Board of California.
- 5 (11) Physical Therapy Board of California.
- 6 (12) Physician Assistant Committee.
- 7 (13) Speech-Language Pathology and Audiology and Hearing
- 8 Aid Dispensers Board.
- 9 (14) Medical Board of California.
- 10 (15) State Board of Optometry.
- 11 (16) Acupuncture Board.
- 12 (17) Cemetery and Funeral Bureau.
- 13 (18) Bureau of Security and Investigative Services.
- 14 (19) Division of Investigation.
- 15 (20) Board of Psychology.
- 16 (21) California Board of Occupational Therapy.
- 17 (22) Structural Pest Control Board.
- 18 (23) Contractors State License Board.
- 19 (24) Naturopathic Medicine Committee.
- 20 (25) Professional Fiduciaries Bureau.
- 21 (26) Board for Professional Engineers, Land Surveyors, and
- 22 Geologists.
- 23 (27) Bureau of Cannabis Control.
- 24 (28) Podiatric Medical Board of California.
- 25 (29) Osteopathic Medical Board of California.
- 26 (30) California Architects Board, beginning January 1, 2021.
- 27 (31) Landscape Architects Technical Committee, beginning
- 28 January 1, 2021.
- 29 (c) For purposes of paragraph (26) of subdivision (b), the term
- 30 “applicant” shall be limited to an initial applicant who has never
- 31 been registered or licensed by the board or to an applicant for a
- 32 new licensure or registration category.
- 33 SEC. 6. Section 200.1 of the Business and Professions Code
- 34 is amended to read:
- 35 200.1. (a) Any accruals that occur on or after September 11,
- 36 1993, to any funds or accounts within the Professions and
- 37 Vocations Fund that realize increased revenues to that fund or
- 38 account as a result of legislation enacted on or after September 11,
- 39 1993, and that have not been transferred pursuant to Sections 13.50,
- 40 13.60, and 13.70 of the Budget Act of 1993 on the effective date

1 of the act that enacted this section, shall be exempt from the
2 transfers contained in Sections 13.50, 13.60, and 13.70 of the
3 Budget Act of 1993. These funds shall include, but not be limited
4 to, all of the following:

- 5 (1) Athletic Commission Fund.
- 6 (2) Bureau of Home Furnishings and Thermal Insulation Fund.
- 7 (3) Contractors License Fund.
- 8 (4) Private Investigator Fund.
- 9 (5) Respiratory Care Fund.
- 10 (6) Vocational Nursing and Psychiatric Technicians Fund.

11 (b) Subdivision (a) shall not apply to the Contingent Fund of
12 the Medical Board of California.

13 SEC. 7. Section 205 of the Business and Professions Code, as
14 amended by Section 2 of Chapter 865 of the Statutes of 2019, is
15 amended to read:

16 205. (a) There is in the State Treasury the Professions and
17 Vocations Fund. The fund shall consist of the following special
18 funds:

- 19 (1) Accountancy Fund.
- 20 (2) California Architects Board Fund.
- 21 (3) Athletic Commission Fund.
- 22 (4) Barbering and Cosmetology Contingent Fund.
- 23 (5) Cemetery and Funeral Fund.
- 24 (6) Contractors License Fund.
- 25 (7) State Dentistry Fund.
- 26 (8) Home Furnishings and Thermal Insulation Fund.
- 27 (9) California Architects Board-Landscape Architects Fund.
- 28 (10) Contingent Fund of the Medical Board of California.
- 29 (11) Optometry Fund.
- 30 (12) Pharmacy Board Contingent Fund.
- 31 (13) Physical Therapy Fund.
- 32 (14) Private Investigator Fund.
- 33 (15) Private Security Services Fund.
- 34 (16) Professional Engineer's, Land Surveyor's, and Geologist's
35 Fund.
- 36 (17) Consumer Affairs Fund.
- 37 (18) Behavioral Sciences Fund.
- 38 (19) Licensed Midwifery Fund.
- 39 (20) Court Reporters' Fund.
- 40 (21) Veterinary Medical Board Contingent Fund.

- 1 (22) Vocational Nursing and Psychiatric Technicians Fund.
- 2 (23) Electronic and Appliance Repair Fund.
- 3 (24) Dispensing Opticians Fund.
- 4 (25) Acupuncture Fund.
- 5 (26) Physician Assistant Fund.
- 6 (27) Board of Podiatric Medicine Fund.
- 7 (28) Psychology Fund.
- 8 (29) Respiratory Care Fund.
- 9 (30) Speech-Language Pathology and Audiology and Hearing
- 10 Aid Dispensers Fund.
- 11 (31) Board of Registered Nursing Fund.
- 12 (32) Animal Health Technician Examining Committee Fund.
- 13 (33) State Dental Hygiene Fund.
- 14 (34) State Dental Assistant Fund.
- 15 (35) Structural Pest Control Fund.
- 16 (36) Structural Pest Control Eradication and Enforcement Fund.
- 17 (37) Structural Pest Control Research Fund.
- 18 (38) Household Movers Fund.
- 19 (b) For accounting and recordkeeping purposes, the Professions
- 20 and Vocations Fund shall be deemed to be a single special fund,
- 21 and each of the several special funds therein shall constitute and
- 22 be deemed to be a separate account in the Professions and
- 23 Vocations Fund. Each account or fund shall be available for
- 24 expenditure only for the purposes as are now or may hereafter be
- 25 provided by law.
- 26 (c) This section shall be repealed on July 1, 2022.
- 27 SEC. 8. Section 205 of the Business and Professions Code, as
- 28 added by Section 3 of Chapter 865 of the Statutes of 2019, is
- 29 amended to read:
- 30 205. (a) There is in the State Treasury the Professions and
- 31 Vocations Fund. The fund shall consist of the following special
- 32 funds:
- 33 (1) Accountancy Fund.
- 34 (2) California Architects Board Fund.
- 35 (3) Athletic Commission Fund.
- 36 (4) Barbering and Cosmetology Contingent Fund.
- 37 (5) Cemetery and Funeral Fund.
- 38 (6) Contractors License Fund.
- 39 (7) State Dentistry Fund.
- 40 (8) Home Furnishings and Thermal Insulation Fund.

- 1 (9) California Architects Board-Landscape Architects Fund.
- 2 (10) Contingent Fund of the Medical Board of California.
- 3 (11) Optometry Fund.
- 4 (12) Pharmacy Board Contingent Fund.
- 5 (13) Physical Therapy Fund.
- 6 (14) Private Investigator Fund.
- 7 (15) Private Security Services Fund.
- 8 (16) Professional Engineer's, Land Surveyor's, and Geologist's
- 9 Fund.
- 10 (17) Consumer Affairs Fund.
- 11 (18) Behavioral Sciences Fund.
- 12 (19) Licensed Midwifery Fund.
- 13 (20) Court Reporters' Fund.
- 14 (21) Veterinary Medical Board Contingent Fund.
- 15 (22) Vocational Nursing and Psychiatric Technicians Fund.
- 16 (23) Electronic and Appliance Repair Fund.
- 17 (24) Dispensing Opticians Fund.
- 18 (25) Acupuncture Fund.
- 19 (26) Physician Assistant Fund.
- 20 (27) Board of Podiatric Medicine Fund.
- 21 (28) Psychology Fund.
- 22 (29) Respiratory Care Fund.
- 23 (30) Speech-Language Pathology and Audiology and Hearing
- 24 Aid Dispensers Fund.
- 25 (31) Board of Registered Nursing Fund.
- 26 (32) Animal Health Technician Examining Committee Fund.
- 27 (33) State Dental Hygiene Fund.
- 28 (34) Structural Pest Control Fund.
- 29 (35) Structural Pest Control Eradication and Enforcement Fund.
- 30 (36) Structural Pest Control Research Fund.
- 31 (37) Household Movers Fund.
- 32 (b) For accounting and recordkeeping purposes, the Professions
- 33 and Vocations Fund shall be deemed to be a single special fund,
- 34 and each of the several special funds therein shall constitute and
- 35 be deemed to be a separate account in the Professions and
- 36 Vocations Fund. Each account or fund shall be available for
- 37 expenditure only for the purposes as are now or may hereafter be
- 38 provided by law.
- 39 (c) This section shall become operative on July 1, 2022.

1 SEC. 9. Section 494.5 of the Business and Professions Code
2 is amended to read:

3 494.5. (a) (1) Except as provided in paragraphs (2), (3), and
4 (4), a state governmental licensing entity shall refuse to issue,
5 reactivate, reinstate, or renew a license and shall suspend a license
6 if a licensee's name is included on a certified list.

7 (2) The Department of Motor Vehicles shall suspend a license
8 if a licensee's name is included on a certified list. Any reference
9 in this section to the issuance, reactivation, reinstatement, renewal,
10 or denial of a license shall not apply to the Department of Motor
11 Vehicles.

12 (3) The State Bar of California may recommend to refuse to
13 issue, reactivate, reinstate, or renew a license and may recommend
14 to suspend a license if a licensee's name is included on a certified
15 list. The word "may" shall be substituted for the word "shall"
16 relating to the issuance of a temporary license, refusal to issue,
17 reactivate, reinstate, renew, or suspend a license in this section for
18 licenses under the jurisdiction of the California Supreme Court.

19 (4) The Department of Alcoholic Beverage Control may refuse
20 to issue, reactivate, reinstate, or renew a license, and may suspend
21 a license, if a licensee's name is included on a certified list.

22 (b) For purposes of this section:

23 (1) "Certified list" means either the list provided by the State
24 Board of Equalization or the list provided by the Franchise Tax
25 Board of persons whose names appear on the lists of the 500 largest
26 tax delinquencies pursuant to Section 7063 or 19195 of the
27 Revenue and Taxation Code, as applicable.

28 (2) "License" includes a certificate, registration, or any other
29 authorization to engage in a profession or occupation issued by a
30 state governmental licensing entity. "License" includes a driver's
31 license issued pursuant to Chapter 1 (commencing with Section
32 12500) of Division 6 of the Vehicle Code. "License" excludes a
33 vehicle registration issued pursuant to Division 3 (commencing
34 with Section 4000) of the Vehicle Code.

35 (3) "Licensee" means an individual authorized by a license to
36 drive a motor vehicle or authorized by a license, certificate,
37 registration, or other authorization to engage in a profession or
38 occupation issued by a state governmental licensing entity.

39 (4) "State governmental licensing entity" means any entity listed
40 in Section 101, 1000, or 19420, the office of the Attorney General,

1 the Department of Insurance, the Department of Motor Vehicles,
2 the State Bar of California, the Department of Real Estate, and
3 any other state agency, board, or commission that issues a license,
4 certificate, or registration authorizing an individual to engage in
5 a profession or occupation, including any certificate, business or
6 occupational license, or permit or license issued by the Department
7 of Motor Vehicles or the Department of the California Highway
8 Patrol. “State governmental licensing entity” shall not include the
9 Contractors State License Board.

10 (c) The State Board of Equalization and the Franchise Tax Board
11 shall each submit its respective certified list to every state
12 governmental licensing entity. The certified lists shall include the
13 name, social security number or taxpayer identification number,
14 and the last known address of the persons identified on the certified
15 lists.

16 (d) Notwithstanding any other law, each state governmental
17 licensing entity shall collect the social security number or the
18 federal taxpayer identification number from all applicants for the
19 purposes of matching the names of the certified lists provided by
20 the State Board of Equalization and the Franchise Tax Board to
21 applicants and licensees.

22 (e) (1) Each state governmental licensing entity shall determine
23 whether an applicant or licensee is on the most recent certified list
24 provided by the State Board of Equalization and the Franchise Tax
25 Board.

26 (2) If an applicant or licensee is on either of the certified lists,
27 the state governmental licensing entity shall immediately provide
28 a preliminary notice to the applicant or licensee of the entity’s
29 intent to suspend or withhold issuance or renewal of the license.
30 The preliminary notice shall be delivered personally or by mail to
31 the applicant’s or licensee’s last known mailing address on file
32 with the state governmental licensing entity within 30 days of
33 receipt of the certified list. Service by mail shall be completed in
34 accordance with Section 1013 of the Code of Civil Procedure.

35 (A) The state governmental licensing entity shall issue a
36 temporary license valid for a period of 90 days to any applicant
37 whose name is on a certified list if the applicant is otherwise
38 eligible for a license.

39 (B) The 90-day time period for a temporary license shall not be
40 extended. Only one temporary license shall be issued during a

1 regular license term and the term of the temporary license shall
2 coincide with the first 90 days of the regular license term. A license
3 for the full term or the remainder of the license term may be issued
4 or renewed only upon compliance with this section.

5 (C) In the event that a license is suspended or an application for
6 a license or the renewal of a license is denied pursuant to this
7 section, any funds paid by the applicant or licensee shall not be
8 refunded by the state governmental licensing entity.

9 (f) (1) A state governmental licensing entity shall refuse to
10 issue or shall suspend a license pursuant to this section no sooner
11 than 90 days and no later than 120 days of the mailing of the
12 preliminary notice described in paragraph (2) of subdivision (e),
13 unless the state governmental licensing entity has received a release
14 pursuant to subdivision (h). The procedures in the administrative
15 adjudication provisions of the Administrative Procedure Act
16 (Chapter 4.5 (commencing with Section 11400) and Chapter 5
17 (commencing with Section 11500) of Part 1 of Division 3 of Title
18 2 of the Government Code) shall not apply to the denial or
19 suspension of, or refusal to renew, a license or the issuance of a
20 temporary license pursuant to this section.

21 (2) Notwithstanding any other law, if a board, bureau, or
22 commission listed in Section 101, other than the Contractors State
23 License Board, fails to take action in accordance with this section,
24 the Department of Consumer Affairs shall issue a temporary license
25 or suspend or refuse to issue, reactivate, reinstate, or renew a
26 license, as appropriate.

27 (g) Notices shall be developed by each state governmental
28 licensing entity. For an applicant or licensee on the State Board
29 of Equalization's certified list, the notice shall include the address
30 and telephone number of the State Board of Equalization, and shall
31 emphasize the necessity of obtaining a release from the State Board
32 of Equalization as a condition for the issuance, renewal, or
33 continued valid status of a license or licenses. For an applicant or
34 licensee on the Franchise Tax Board's certified list, the notice shall
35 include the address and telephone number of the Franchise Tax
36 Board, and shall emphasize the necessity of obtaining a release
37 from the Franchise Tax Board as a condition for the issuance,
38 renewal, or continued valid status of a license or licenses.

39 (1) The notice shall inform the applicant that the state
40 governmental licensing entity shall issue a temporary license, as

1 provided in subparagraph (A) of paragraph (2) of subdivision (e),
2 for 90 calendar days if the applicant is otherwise eligible and that
3 upon expiration of that time period, the license will be denied
4 unless the state governmental licensing entity has received a release
5 from the State Board of Equalization or the Franchise Tax Board,
6 whichever is applicable.

7 (2) The notice shall inform the licensee that any license
8 suspended under this section will remain suspended until the state
9 governmental licensing entity receives a release along with
10 applications and fees, if applicable, to reinstate the license.

11 (3) The notice shall also inform the applicant or licensee that if
12 an application is denied or a license is suspended pursuant to this
13 section, any moneys paid by the applicant or licensee shall not be
14 refunded by the state governmental licensing entity. The state
15 governmental licensing entity shall also develop a form that the
16 applicant or licensee shall use to request a release by the State
17 Board of Equalization or the Franchise Tax Board. A copy of this
18 form shall be included with every notice sent pursuant to this
19 subdivision.

20 (h) If the applicant or licensee wishes to challenge the
21 submission of their name on a certified list, the applicant or licensee
22 shall make a timely written request for release to the State Board
23 of Equalization or the Franchise Tax Board, whichever is
24 applicable. The State Board of Equalization or the Franchise Tax
25 Board shall immediately send a release to the appropriate state
26 governmental licensing entity and the applicant or licensee, if any
27 of the following conditions are met:

28 (1) The applicant or licensee has complied with the tax
29 obligation, either by payment of the unpaid taxes or entry into an
30 installment payment agreement, as described in Section 6832 or
31 19008 of the Revenue and Taxation Code, to satisfy the unpaid
32 taxes.

33 (2) The applicant or licensee has submitted a request for release
34 not later than 45 days after the applicant's or licensee's receipt of
35 a preliminary notice described in paragraph (2) of subdivision (e),
36 but the State Board of Equalization or the Franchise Tax Board,
37 whichever is applicable, will be unable to complete the release
38 review and send notice of its findings to the applicant or licensee
39 and state governmental licensing entity within 45 days after the
40 State Board of Equalization's or the Franchise Tax Board's receipt

1 of the applicant's or licensee's request for release. Whenever a
2 release is granted under this paragraph, and, notwithstanding that
3 release, the applicable license or licenses have been suspended
4 erroneously, the state governmental licensing entity shall reinstate
5 the applicable licenses with retroactive effect back to the date of
6 the erroneous suspension and that suspension shall not be reflected
7 on any license record.

8 (3) The applicant or licensee is unable to pay the outstanding
9 tax obligation due to a current financial hardship. "Financial
10 hardship" means financial hardship as determined by the State
11 Board of Equalization or the Franchise Tax Board, whichever is
12 applicable, where the applicant or licensee is unable to pay any
13 part of the outstanding liability and the applicant or licensee is
14 unable to qualify for an installment payment arrangement as
15 provided for by Section 6832 or Section 19008 of the Revenue
16 and Taxation Code. In order to establish the existence of a financial
17 hardship, the applicant or licensee shall submit any information,
18 including information related to reasonable business and personal
19 expenses, requested by the State Board of Equalization or the
20 Franchise Tax Board, whichever is applicable, for purposes of
21 making that determination.

22 (i) An applicant or licensee is required to act with diligence in
23 responding to notices from the state governmental licensing entity
24 and the State Board of Equalization or the Franchise Tax Board
25 with the recognition that the temporary license will lapse or the
26 license suspension will go into effect after 90 days and that the
27 State Board of Equalization or the Franchise Tax Board must have
28 time to act within that period. An applicant's or licensee's delay
29 in acting, without good cause, which directly results in the inability
30 of the State Board of Equalization or the Franchise Tax Board,
31 whichever is applicable, to complete a review of the applicant's
32 or licensee's request for release shall not constitute the diligence
33 required under this section which would justify the issuance of a
34 release. An applicant or licensee shall have the burden of
35 establishing that they diligently responded to notices from the state
36 governmental licensing entity or the State Board of Equalization
37 or the Franchise Tax Board and that any delay was not without
38 good cause.

39 (j) The State Board of Equalization or the Franchise Tax Board
40 shall create release forms for use pursuant to this section. When

1 the applicant or licensee has complied with the tax obligation by
2 payment of the unpaid taxes, or entry into an installment payment
3 agreement, or establishing the existence of a current financial
4 hardship as defined in paragraph (3) of subdivision (h), the State
5 Board of Equalization or the Franchise Tax Board, whichever is
6 applicable, shall mail a release form to the applicant or licensee
7 and provide a release to the appropriate state governmental
8 licensing entity. Any state governmental licensing entity that has
9 received a release from the State Board of Equalization and the
10 Franchise Tax Board pursuant to this subdivision shall process the
11 release within five business days of its receipt. If the State Board
12 of Equalization or the Franchise Tax Board determines subsequent
13 to the issuance of a release that the licensee has not complied with
14 their installment payment agreement, the State Board of
15 Equalization or the Franchise Tax Board, whichever is applicable,
16 shall notify the state governmental licensing entity and the licensee
17 in a format prescribed by the State Board of Equalization or the
18 Franchise Tax Board, whichever is applicable, that the licensee is
19 not in compliance and the release shall be rescinded. The State
20 Board of Equalization and the Franchise Tax Board may, when it
21 is economically feasible for the state governmental licensing entity
22 to develop an automated process for complying with this
23 subdivision, notify the state governmental licensing entity in a
24 manner prescribed by the State Board of Equalization or the
25 Franchise Tax Board, whichever is applicable, that the licensee
26 has not complied with the installment payment agreement. Upon
27 receipt of this notice, the state governmental licensing entity shall
28 immediately notify the licensee on a form prescribed by the state
29 governmental licensing entity that the licensee's license will be
30 suspended on a specific date, and this date shall be no longer than
31 30 days from the date the form is mailed. The licensee shall be
32 further notified that the license will remain suspended until a new
33 release is issued in accordance with this subdivision.

34 (k) The State Board of Equalization and the Franchise Tax Board
35 may enter into interagency agreements with the state governmental
36 licensing entities necessary to implement this section.

37 (l) Notwithstanding any other law, a state governmental
38 licensing entity, with the approval of the appropriate department
39 director or governing body, may impose a fee on a licensee whose
40 license has been suspended pursuant to this section. The fee shall

1 not exceed the amount necessary for the state governmental
2 licensing entity to cover its costs in carrying out the provisions of
3 this section. Fees imposed pursuant to this section shall be
4 deposited in the fund in which other fees imposed by the state
5 governmental licensing entity are deposited and shall be available
6 to that entity upon appropriation in the annual Budget Act.

7 (m) The process described in subdivision (h) shall constitute
8 the sole administrative remedy for contesting the issuance of a
9 temporary license or the denial or suspension of a license under
10 this section.

11 (n) Any state governmental licensing entity receiving an inquiry
12 as to the licensed status of an applicant or licensee who has had a
13 license denied or suspended under this section or who has been
14 granted a temporary license under this section shall respond that
15 the license was denied or suspended or the temporary license was
16 issued only because the licensee appeared on a list of the 500
17 largest tax delinquencies pursuant to Section 7063 or 19195 of the
18 Revenue and Taxation Code. Information collected pursuant to
19 this section by any state agency, board, or department shall be
20 subject to the Information Practices Act of 1977 (Chapter 1
21 (commencing with Section 1798) of Title 1.8 of Part 4 of Division
22 3 of the Civil Code). Any state governmental licensing entity that
23 discloses on its internet website or other publication that the
24 licensee has had a license denied or suspended under this section
25 or has been granted a temporary license under this section shall
26 prominently disclose, in bold and adjacent to the information
27 regarding the status of the license, that the only reason the license
28 was denied, suspended, or temporarily issued is because the
29 licensee failed to pay taxes.

30 (o) Any rules and regulations issued pursuant to this section by
31 any state agency, board, or department may be adopted as
32 emergency regulations in accordance with the rulemaking
33 provisions of the Administrative Procedure Act (Chapter 3.5
34 (commencing with Section 11340) of Part 1 of Division 3 of Title
35 2 of the Government Code). The adoption of these regulations
36 shall be deemed an emergency and necessary for the immediate
37 preservation of the public peace, health, and safety, or general
38 welfare. The regulations shall become effective immediately upon
39 filing with the Secretary of State.

1 (p) The State Board of Equalization, the Franchise Tax Board,
2 and state governmental licensing entities, as appropriate, shall
3 adopt regulations as necessary to implement this section.

4 (q) (1) Neither the state governmental licensing entity, nor any
5 officer, employee, or agent, or former officer, employee, or agent
6 of a state governmental licensing entity, may disclose or use any
7 information obtained from the State Board of Equalization or the
8 Franchise Tax Board, pursuant to this section, except to inform
9 the public of the denial, refusal to renew, or suspension of a license
10 or the issuance of a temporary license pursuant to this section. The
11 release or other use of information received by a state governmental
12 licensing entity pursuant to this section, except as authorized by
13 this section, is punishable as a misdemeanor. This subdivision may
14 not be interpreted to prevent the State Bar of California from filing
15 a request with the Supreme Court of California to suspend a
16 member of the bar pursuant to this section.

17 (2) A suspension of, or refusal to renew, a license or issuance
18 of a temporary license pursuant to this section does not constitute
19 denial or discipline of a licensee for purposes of any reporting
20 requirements to the National Practitioner Data Bank and shall not
21 be reported to the National Practitioner Data Bank or the Healthcare
22 Integrity and Protection Data Bank.

23 (3) Upon release from the certified list, the suspension or
24 revocation of the applicant's or licensee's license shall be purged
25 from the state governmental licensing entity's internet website or
26 other publication within three business days. This paragraph shall
27 not apply to the State Bar of California.

28 (r) If any provision of this section or the application thereof to
29 any person or circumstance is held invalid, that invalidity shall not
30 affect other provisions or applications of this section that can be
31 given effect without the invalid provision or application, and to
32 this end the provisions of this section are severable.

33 (s) All rights to review afforded by this section to an applicant
34 shall also be afforded to a licensee.

35 (t) Unless otherwise provided in this section, the policies,
36 practices, and procedures of a state governmental licensing entity
37 with respect to license suspensions under this section shall be the
38 same as those applicable with respect to suspensions pursuant to
39 Section 17520 of the Family Code.

1 (u) No provision of this section shall be interpreted to allow a
2 court to review and prevent the collection of taxes prior to the
3 payment of those taxes in violation of the California Constitution.

4 (v) This section shall apply to any licensee whose name appears
5 on a list of the 500 largest tax delinquencies pursuant to Section
6 7063 or 19195 of the Revenue and Taxation Code on or after July
7 1, 2012.

8 SEC. 10. Section 1913 of the Business and Professions Code
9 is amended to read:

10 1913. Unless otherwise specified in this chapter, a registered
11 dental hygienist may perform any procedure or provide any service
12 within the scope of their practice in any setting under the
13 appropriate level of supervision required by this article, if the
14 registered dental hygienist has completed the appropriate education
15 and training required to perform the procedure or provide the
16 service.

17 SEC. 11. Section 1917 of the Business and Professions Code
18 is amended to read:

19 1917. The dental hygiene board shall grant initial licensure as
20 a registered dental hygienist to a person who satisfies all of the
21 following requirements:

22 (a) Completion of an educational program for registered dental
23 hygienists, approved by the dental hygiene board, accredited by
24 the Commission on Dental Accreditation, and conducted by a
25 degree-granting, postsecondary institution.

26 (b) Within the preceding three years, satisfactory completion
27 of the dental hygiene examination given by the Western Regional
28 Examining Board or any other clinical or dental hygiene
29 examination approved by the dental hygiene board.

30 (c) Satisfactory completion of the National Board Dental
31 Hygiene Examination.

32 (d) Satisfactory completion of the examination in California
33 law and ethics as prescribed by the dental hygiene board.

34 (e) Submission of a completed application form and all fees
35 required by the dental hygiene board.

36 (f) Satisfactory completion of dental hygiene board-approved
37 instruction in gingival soft-tissue curettage, nitrous oxide-oxygen
38 analgesia, and local anesthesia.

39 SEC. 12. Section 1917.1 of the Business and Professions Code
40 is amended to read:

- 1 1917.1. (a) The dental hygiene board may grant a license as
2 a registered dental hygienist to an applicant who has not taken a
3 clinical examination before the dental hygiene board, if the
4 applicant submits all of the following to the dental hygiene board:
- 5 (1) A completed application form and all fees required by the
6 dental hygiene board.
 - 7 (2) Proof of a current license as a registered dental hygienist
8 issued by another state that is not revoked, suspended, or otherwise
9 restricted.
 - 10 (3) Proof that the applicant has been in clinical practice as a
11 registered dental hygienist or has been a full-time faculty member
12 in an accredited dental hygiene education program for a minimum
13 of 750 hours per year for at least five years immediately preceding
14 the date of application under this section. The clinical practice
15 requirement shall be deemed met if the applicant provides proof
16 of at least three years of clinical practice and commits to
17 completing the remaining two years of clinical practice by filing
18 with the dental hygiene board a copy of a pending contract to
19 practice dental hygiene in any of the following facilities:
 - 20 (A) A primary care clinic licensed under subdivision (a) of
21 Section 1204 of the Health and Safety Code.
 - 22 (B) A primary care clinic exempt from licensure pursuant to
23 subdivision (c) of Section 1206 of the Health and Safety Code.
 - 24 (C) A clinic owned or operated by a public hospital or health
25 system.
 - 26 (D) A clinic owned and operated by a hospital that maintains
27 the primary contract with a county government to fill the county's
28 role under Section 17000 of the Welfare and Institutions Code.
 - 29 (4) Satisfactory performance on a California law and ethics
30 examination and any examination that may be required by the
31 dental hygiene board.
 - 32 (5) Proof that the applicant has not been subject to disciplinary
33 action by any state in which the applicant is or has been previously
34 issued any professional or vocational license. If the applicant has
35 been subject to disciplinary action, the dental hygiene board shall
36 review that action to determine if it warrants refusal to issue a
37 license to the applicant.
 - 38 (6) Proof of graduation from a school of dental hygiene
39 accredited by the Commission on Dental Accreditation.

1 (7) Proof of satisfactory completion of the National Board
2 Dental Hygiene Examination and of a state clinical examination,
3 regional clinical licensure examination, or any other clinical dental
4 hygiene examination approved by the dental hygiene board.

5 (8) Proof that the applicant has not failed the state clinical
6 examination, the examination given by the Western Regional
7 Examining Board, or any other clinical dental hygiene examination
8 approved by the dental hygiene board for licensure to practice
9 dental hygiene under this chapter more than once or once within
10 five years prior to the date of application for a license under this
11 section.

12 (9) Documentation of completion of a minimum of 25 units of
13 continuing education earned in the two years preceding application,
14 including completion of any continuing education requirements
15 imposed by the dental hygiene board on registered dental hygienists
16 licensed in this state at the time of application.

17 (10) Any other information as specified by the dental hygiene
18 board to the extent that it is required of applicants for licensure by
19 examination under this article.

20 (b) The dental hygiene board may periodically request
21 verification of compliance with the requirements of paragraph (3)
22 of subdivision (a) and may revoke the license upon a finding that
23 the employment requirement or any other requirement of paragraph
24 (3) of subdivision (a) has not been met.

25 (c) The dental hygiene board shall provide in the application
26 packet to each out-of-state dental hygienist pursuant to this section
27 the following information:

28 (1) The location of dental manpower shortage areas in the state.

29 (2) Any nonprofit clinics, public hospitals, and accredited dental
30 hygiene education programs seeking to contract with licensees for
31 dental hygiene service delivery or training purposes.

32 SEC. 13. Section 1922 of the Business and Professions Code
33 is amended to read:

34 1922. The dental hygiene board shall license as a registered
35 dental hygienist in alternative practice a person who demonstrates
36 satisfactory performance on an examination in California law and
37 ethics required by the dental hygiene board and who completes an
38 application form and pays all application fees required by the dental
39 hygiene board and meets either of the following requirements:

1 (a) Holds a current California license as a registered dental
2 hygienist and meets the following requirements:

3 (1) Has been engaged in the practice of dental hygiene, as
4 defined in Section 1908, as a registered dental hygienist in any
5 setting, including, but not limited to, educational settings and public
6 health settings, for a minimum of 2,000 hours during the
7 immediately preceding 36 months.

8 (2) Has successfully completed a bachelor's degree or its
9 equivalent, recognized as a minimum of 120 semester credit hours
10 or 180 quarter credit hours in postsecondary education, from a
11 college or institution of higher education that is accredited by a
12 national or regional accrediting agency recognized by the United
13 States Department of Education, and a minimum of 150 hours of
14 additional educational requirements, as prescribed by the dental
15 hygiene board by regulation, that are consistent with good dental
16 and dental hygiene practice, including, but not necessarily limited
17 to, dental hygiene technique and theory including gerontology and
18 medical emergencies, and business administration and practice
19 management.

20 (b) Has received a letter of acceptance into the employment
21 utilization phase of the Health Workforce Pilot Project No. 155
22 established by the Office of Statewide Health Planning and
23 Development pursuant to Article 1 (commencing with Section
24 128125) of Chapter 3 of Part 3 of Division 107 of the Health and
25 Safety Code.

26 SEC. 14. Section 2065 of the Business and Professions Code
27 is amended to read:

28 2065. (a) Unless otherwise provided by law, no postgraduate
29 trainee, intern, resident, postdoctoral fellow, or instructor may
30 engage in the practice of medicine, or receive compensation
31 therefor, or offer to engage in the practice of medicine unless they
32 hold a valid, unrevoked, and unsuspended physician's and
33 surgeon's certificate issued by the board. However, a graduate of
34 an approved medical school may engage in the practice of medicine
35 whenever and wherever required as a part of a postgraduate training
36 program under the following conditions:

37 (1) The medical school graduate has taken and passed the
38 board-approved medical licensing examinations required to qualify
39 the applicant to participate in an approved postgraduate training
40 program.

1 (2) If the medical school graduate graduated from a foreign
2 medical school approved by the board pursuant to Section 2084,
3 the Educational Commission for Foreign Medical Graduates
4 (ECFMG) has submitted an official ECFMG Certification Status
5 Report directly to the board confirming the graduate is ECFMG
6 certified.

7 (3) The medical school graduate is enrolled in a postgraduate
8 training program approved by the board.

9 (4) The board-approved postgraduate training program has
10 submitted the required board-approved form to the board
11 documenting the medical school graduate is enrolled in an
12 approved postgraduate training program.

13 (5) The medical school graduate obtains a physician's and
14 surgeon's postgraduate training license in accordance with Section
15 2064.5.

16 (b) A medical school graduate enrolled in an approved first-year
17 postgraduate training program in accordance with this section may
18 engage in the practice of medicine whenever and wherever required
19 as a part of the training program, and may receive compensation
20 for that practice.

21 (c) A graduate who has completed the first year of postgraduate
22 training may, in an approved residency or fellowship, engage in
23 the practice of medicine whenever and wherever required as part
24 of that residency or fellowship, and may receive compensation for
25 that practice. The resident or fellow shall qualify for, take, and
26 pass the next succeeding written examination for licensure. If the
27 resident or fellow fails to receive a license to practice medicine
28 under this chapter within 27 months from the commencement of
29 the residency or fellowship, except as otherwise allowed under
30 subdivision (g) or (h), or if the board denies their application for
31 licensure, all privileges and exemptions under this section shall
32 automatically cease.

33 (d) All approved postgraduate training the medical school
34 graduate has successfully completed in the United States or Canada
35 shall count toward the 39-month license exemption, except as
36 otherwise allowed under subdivision (h).

37 (e) A medical school graduate from a medical school approved
38 by the board shall have successfully completed a minimum of 36
39 months of approved postgraduate training, which includes

1 successful progression through 24 months in the same program,
2 to be eligible for a California physician’s and surgeon’s certificate.

3 (f) The program director for an approved postgraduate training
4 program in California shall report to the board, on a form approved
5 by the board, and provide any supporting documents as required
6 by the board, the following actions within 30 days of the action:

7 (1) A postgraduate trainee is notified that they have received
8 partial or no credit for a period of postgraduate training, and their
9 postgraduate training period is extended.

10 (2) A postgraduate trainee takes a leave of absence or any break
11 from their postgraduate training, and they are notified that their
12 postgraduate training period is extended.

13 (3) A postgraduate trainee is terminated from the postgraduate
14 training program.

15 (4) A postgraduate trainee resigns, dies, or otherwise leaves the
16 postgraduate training program.

17 (5) A postgraduate trainee has completed a one-year contract
18 approved by the postgraduate training program.

19 (g) Upon review of supporting documentation, the board, in its
20 discretion, may grant an extension beyond 39 months to a
21 postgraduate training licensee to successfully complete the 36
22 months of required approved postgraduate training.

23 (h) An applicant for a physician’s and surgeon’s license who
24 has successfully completed 36 months of approved postgraduate
25 training in another state or in Canada and who is accepted into an
26 approved postgraduate training program in California shall obtain
27 their physician’s and surgeon’s license within 90 days after
28 beginning that postgraduate training program or all privileges and
29 exemptions under this section shall automatically cease.

30 (i) This section shall become operative on January 1, 2020.

31 SEC. 15. Section 2113 of the Business and Professions Code
32 is amended to read:

33 2113. (a) Any person who does not immediately qualify for
34 a physician’s and surgeon’s certificate under this chapter and who
35 is offered by the dean of an approved medical school in this state
36 a full-time faculty position may, after application to and approval
37 by the board, be granted a certificate of registration to engage in
38 the practice of medicine only to the extent that the practice is
39 incident to and a necessary part of their duties as approved by the
40 board in connection with the faculty position. A certificate of

1 registration does not authorize a registrant to admit patients to a
2 nursing or a skilled or assisted living facility unless that facility is
3 formally affiliated with the sponsoring medical school. A clinical
4 fellowship shall not be submitted as a faculty service appointment.

5 (b) Application for a certificate of registration shall be made on
6 a form prescribed by the board and shall be accompanied by a
7 registration fee fixed by the board in an amount necessary to
8 recover the actual application processing costs of the program. To
9 qualify for the certificate, an applicant shall submit all of the
10 following:

11 (1) If the applicant is a graduate of a medical school other than
12 in the United States or Canada, documentary evidence satisfactory
13 to the board that they have been licensed to practice medicine and
14 surgery for not less than four years in another state or country
15 whose requirements for licensure are satisfactory to the board, or
16 has been engaged in the practice of medicine in the United States
17 for at least four years in approved facilities, or has completed a
18 combination of that licensure and training.

19 (2) If the applicant is a graduate of a medical school in the
20 United States or Canada, documentary evidence that the medical
21 school is approved by the board.

22 (3) Written certification by the head of the department in which
23 the applicant is to be appointed of all of the following:

24 (A) The applicant will be under their direction.

25 (B) The applicant will not be permitted to practice medicine
26 unless incident to and a necessary part of their duties as approved
27 by the board in subdivision (a).

28 (C) The applicant will be accountable to the medical school's
29 department chair or division chief for the specialty in which the
30 applicant will practice.

31 (D) The applicant will be proctored in the same manner as other
32 new faculty members, including, as appropriate, review by the
33 medical staff of the school's medical center.

34 (E) The applicant will not be appointed to a supervisory position
35 at the level of a medical school department chair or division chief.

36 (4) Demonstration by the dean of the medical school that the
37 applicant has the requisite qualifications to assume the position to
38 which they are to be appointed and that shall include a written
39 statement of the recruitment procedures followed by the medical
40 school before offering the faculty position to the applicant.

1 (c) A certificate of registration shall be issued only for a faculty
2 position at one approved medical school, and no person shall be
3 issued more than one certificate of registration for the same period
4 of time.

5 (d) (1) A certificate of registration is valid for one year from
6 its date of issuance and may be renewed twice.

7 A request for renewal shall be submitted on a form prescribed
8 by the board and shall be accompanied by a renewal fee fixed by
9 the board in an amount necessary to recover the actual application
10 processing costs of the program.

11 (2) The dean of the medical school may request renewal of the
12 registration by submitting a plan at the beginning of the third year
13 of the registrant's appointment demonstrating the registrant's
14 continued progress toward licensure and, if the registrant is a
15 graduate of a medical school other than in the United States or
16 Canada, that the registrant has been issued a certificate by the
17 Educational Commission for Foreign Medical Graduates. The
18 board may, in its discretion, extend the registration for a two-year
19 period to facilitate the registrant's completion of the licensure
20 process.

21 (e) If the registrant is a graduate of a medical school other than
22 in the United States or Canada, they shall meet the requirements
23 of Section 2065 or 2135, as appropriate, in order to obtain a
24 physician's and surgeon's certificate. Notwithstanding any other
25 provision of law, the board may accept clinical practice in an
26 appointment pursuant to this section as qualifying time to meet
27 the postgraduate training requirements in Section 2065, and, in its
28 discretion, waive the examination and the Educational Commission
29 for Foreign Medical Graduates certification requirements specified
30 in paragraph (3) of subdivision (a) of Section 2065 in the event
31 the registrant applies for a physician's and surgeon's certificate.
32 As a condition to waiving any examination or the Educational
33 Commission for Foreign Medical Graduates certification
34 requirement, the board in its discretion, may require an applicant
35 to pass a clinical competency examination approved by the board.
36 The board shall not waive any examination for an applicant who
37 has not completed at least one year in the faculty position.

38 (f) Except to the extent authorized by this section, the registrant
39 shall not engage in the practice of medicine, bill individually for
40 medical services provided by the registrant, or receive

1 compensation therefor, unless they are issued a physician's and
2 surgeon's certificate.

3 (g) When providing clinical services, the registrant shall wear
4 a visible name tag containing the title "visiting professor" or
5 "visiting faculty member," as appropriate, and the institution at
6 which the services are provided shall obtain a signed statement
7 from each patient to whom the registrant provides services
8 acknowledging that the patient understands that the services are
9 provided by a person who does not hold a physician's and
10 surgeon's certificate but who is qualified to participate in a special
11 program as a visiting professor or faculty member.

12 (h) The board shall notify both the registrant and the dean of
13 the medical school of a complaint made about the registrant. The
14 board may terminate a registration for any act that would be
15 grounds for discipline if done by a licensee. The board shall provide
16 both the registrant and the dean of the medical school with written
17 notice of the termination and the basis for that termination. The
18 registrant may, within 30 days after the date of the notice of
19 termination, file a written appeal to the board. The appeal shall
20 include any documentation the registrant wishes to present to the
21 board.

22 (i) This section shall become operative on January 1, 2020.

23 SEC. 16. Section 2135.5 of the Business and Professions Code
24 is amended to read:

25 2135.5. Upon review and recommendation, the board may
26 determine that an applicant for a physician's and surgeon's
27 certificate has satisfied the medical education requirements of
28 Sections 2084 and 2135 and the examination requirements of
29 Section 2170 if the applicant meets all of the following criteria:

30 (a) They hold an unlimited and unrestricted license as a
31 physician and surgeon in another state and has held that license
32 continuously for a minimum of four years prior to the date of
33 application.

34 (b) They meet the postgraduate training requirements in Section
35 2096 and are certified by a specialty board that is a member board
36 of the American Board of Medical Specialties.

37 (c) They are not subject to denial of licensure under Division
38 1.5 (commencing with Section 475) or Article 12 (commencing
39 with Section 2220).

1 (d) They have not been the subject of a disciplinary action by
2 a medical licensing authority or of an adverse judgment or
3 settlement resulting from the practice of medicine that, as
4 determined by the board, constitutes a pattern of negligence or
5 incompetence.

6 (e) This section shall become operative on January 1, 2020.

7 *SEC. 17. Section 2460 of the Business and Professions Code*
8 *is amended to read:*

9 2460. (a) There is created in the Department of Consumer
10 Affairs the California Board of Podiatric Medicine. Commencing
11 July 1, 2019, the California Board of Podiatric Medicine is renamed
12 the Podiatric Medical Board of California. Any reference in any
13 provision of law to the California Board of Podiatric Medicine
14 shall, commencing July 1, 2019, be deemed to refer to the Podiatric
15 Medical Board of California.

16 (b) This section shall remain in effect only until January 1, ~~2021,~~
17 ~~2022~~, and as of that date is repealed. Notwithstanding any other
18 law, the repeal of this section renders the California Board of
19 Podiatric Medicine subject to review by the appropriate policy
20 committees of the Legislature.

21 (c) The amendments made by Chapter 775 of the Statutes of
22 2017 relating to podiatrists shall not be construed to change any
23 rights or privileges held by podiatrists prior to the enactment of
24 that act.

25 *SEC. 18. Section 2841 of the Business and Professions Code*
26 *is amended to read:*

27 2841. (a) There is in the Department of Consumer Affairs a
28 Board of Vocational Nursing and Psychiatric Technicians of the
29 State of California, which consists of 11 members.

30 (b) Within the meaning of this chapter, “board,” or “the board,”
31 refers to the Board of Vocational Nursing and Psychiatric
32 Technicians of the State of California.

33 (c) This section shall remain in effect only until January 1, ~~2021,~~
34 ~~2022~~, and as of that date is repealed.

35 *SEC. 19. Section 2920 of the Business and Professions Code*
36 *is amended to read:*

37 2920. (a) The Board of Psychology shall enforce and
38 administer this chapter. The board shall consist of nine members,
39 four of whom shall be public members.

1 (b) This section shall remain in effect only until January 1, ~~2021~~,
2 2022, and as of that date is repealed.

3 (c) Notwithstanding any other law, the repeal of this section
4 renders the board subject to review by the appropriate policy
5 committees of the Legislature.

6 *SEC. 20. Section 2933 of the Business and Professions Code*
7 *is amended to read:*

8 2933. (a) Except as provided by Section 159.5, the board shall
9 employ and shall make available to the board within the limits of
10 the funds received by the board all personnel necessary to carry
11 out this chapter. The board may employ, exempt from the State
12 Civil Service Act, an executive officer to the Board of Psychology.
13 The board shall make all expenditures to carry out this chapter.
14 The board may accept contributions to effectuate the purposes of
15 this chapter.

16 (b) This section shall remain in effect only until January 1, ~~2021~~,
17 2022, and as of that date is repealed.

18 *SEC. 21. Section 3504 of the Business and Professions Code*
19 *is amended to read:*

20 3504. There is established a Physician Assistant Board within
21 the jurisdiction of the Medical Board of California. The board
22 consists of nine members. This section shall remain in effect only
23 until January 1, ~~2021~~, 2022, and as of that date is repealed.
24 Notwithstanding any other law, the repeal of this section renders
25 the board subject to review by the appropriate policy committees
26 of the Legislature.

27 *SEC. 22. Section 3512 of the Business and Professions Code*
28 *is amended to read:*

29 3512. (a) Except as provided in Sections 159.5 and 2020, the
30 board shall employ within the limits of the Physician Assistant
31 Fund all personnel necessary to carry out this chapter including
32 an executive officer who shall be exempt from civil service. The
33 Medical Board of California and board shall make all necessary
34 expenditures to carry out this chapter from the funds established
35 by Section 3520. The board may accept contributions to effect the
36 purposes of this chapter.

37 (b) This section shall remain in effect only until January 1, ~~2021~~,
38 2022, and as of that date is repealed.

39 *SEC. 23. Section 4001 of the Business and Professions Code*
40 *is amended to read:*

1 4001. (a) There is in the Department of Consumer Affairs a
2 California State Board of Pharmacy in which the administration
3 and enforcement of this chapter is vested. The board consists of
4 13 members.

5 (b) The Governor shall appoint seven competent pharmacists
6 who reside in different parts of the state to serve as members of
7 the board. The Governor shall appoint four public members, and
8 the Senate Committee on Rules and the Speaker of the Assembly
9 shall each appoint a public member who shall not be a licensee of
10 the board, any other board under this division, or any board referred
11 to in Section 1000 or 3600.

12 (c) At least five of the seven pharmacist appointees to the board
13 shall be pharmacists who are actively engaged in the practice of
14 pharmacy. Additionally, the membership of the board shall include
15 at least one pharmacist representative from each of the following
16 practice settings: an acute care hospital, an independent community
17 pharmacy, a chain community pharmacy, and a long-term health
18 care or skilled nursing facility. The pharmacist appointees shall
19 also include a pharmacist who is a member of a labor union that
20 represents pharmacists. For the purposes of this subdivision, a
21 “chain community pharmacy” means a chain of 75 or more stores
22 in California under the same ownership, and an “independent
23 community pharmacy” means a pharmacy owned by a person or
24 entity who owns no more than four pharmacies in California.

25 (d) Members of the board shall be appointed for a term of four
26 years. No person shall serve as a member of the board for more
27 than two consecutive terms. Each member shall hold office until
28 the appointment and qualification of ~~his or her~~ *their* successor or
29 until one year shall have elapsed since the expiration of the term
30 for which the member was appointed, whichever first occurs.
31 Vacancies occurring shall be filled by appointment for the
32 unexpired term.

33 (e) Each member of the board shall receive a per diem and
34 expenses as provided in Section 103.

35 (f) This section shall remain in effect only until January 1, ~~2021~~,
36 2022, and as of that date is repealed. Notwithstanding any other
37 law, the repeal of this section renders the board subject to review
38 by the appropriate policy committees of the Legislature.

39 *SEC. 24. Section 4003 of the Business and Professions Code*
40 *is amended to read:*

1 4003. (a) The board, with the approval of the director, may
2 appoint a person exempt from civil service who shall be designated
3 as an executive officer and who shall exercise the powers and
4 perform the duties delegated by the board and vested in ~~him or her~~
5 *them* by this chapter. The executive officer may or may not be a
6 member of the board as the board may determine.

7 (b) The executive officer shall receive the compensation as
8 established by the board with the approval of the Director of
9 Finance. The executive officer shall also be entitled to travel and
10 other expenses necessary in the performance of ~~his or her~~ *their*
11 duties.

12 (c) The executive officer shall maintain and update in a timely
13 fashion records containing the names, titles, qualifications, and
14 places of business of all persons subject to this chapter.

15 (d) The executive officer shall give receipts for all money
16 received by ~~him or her~~ *them* and pay it to the department, taking
17 its receipt therefor. Besides the duties required by this chapter, the
18 executive officer shall perform other duties pertaining to the office
19 as may be required of ~~him or her~~ *them* by the board.

20 (e) This section shall remain in effect only until January 1, ~~2021,~~
21 ~~2022,~~ and as of that date is repealed.

22 *SEC. 25. Section 4501 of the Business and Professions Code*
23 *is amended to read:*

24 4501. (a) “Board,” as used in this chapter, means the Board
25 of Vocational Nursing and Psychiatric Technicians of the State of
26 California.

27 (b) This section shall remain in effect only until January 1, ~~2021,~~
28 ~~2022,~~ and as of that date is repealed.

29 *SEC. 26. Section 4503 of the Business and Professions Code*
30 *is amended to read:*

31 4503. (a) The board shall administer and enforce this chapter.

32 (b) This section shall remain in effect only until January 1, ~~2021,~~
33 ~~2022,~~ and as of that date is repealed.

34 *SEC. 27. Section 4621 of the Business and Professions Code*
35 *is amended to read:*

36 ~~4621. (a) This chapter shall remain in effect only until January~~
37 ~~1, 2021, and as of that date is repealed, unless a later enacted~~
38 ~~statute, that is enacted before January 1, 2021, deletes or extends~~
39 ~~that date.~~

1 4621. (a) *This chapter shall remain in effect only until January*
2 *1, 2022, and as of that date is repealed.*

3 (b) Notwithstanding any other law, the powers and duties of the
4 council shall be subject to review by the appropriate policy
5 committees of the Legislature.

6 *SEC. 28. Section 4800 of the Business and Professions Code*
7 *is amended to read:*

8 4800. (a) There is in the Department of Consumer Affairs a
9 Veterinary Medical Board in which the administration of this
10 chapter is vested. The board consists of the following members:

- 11 (1) Four licensed veterinarians.
- 12 (2) One registered veterinary technician.
- 13 (3) Three public members.

14 (b) This section shall remain in effect only until January 1, ~~2021,~~
15 ~~2022,~~ and as of that date is repealed.

16 (c) Notwithstanding any other law, the repeal of this section
17 renders the board subject to review by the appropriate policy
18 committees of the Legislature. However, the review of the board
19 shall be limited to those issues identified by the appropriate policy
20 committees of the Legislature and shall not involve the preparation
21 or submission of a sunset review document or evaluative
22 questionnaire.

23 *SEC. 29. Section 4804.5 of the Business and Professions Code*
24 *is amended to read:*

25 4804.5. The board may appoint a person exempt from civil
26 service who shall be designated as an executive officer and who
27 shall exercise the powers and perform the duties delegated by the
28 board and vested in ~~him or her~~ *them* by this chapter.

29 This section shall remain in effect only until January 1, ~~2021,~~
30 ~~2022,~~ and as of that date is repealed.

31 *SEC. 30. Section 4990 of the Business and Professions Code*
32 *is amended to read:*

33 4990. (a) There is in the Department of Consumer Affairs, a
34 Board of Behavioral Sciences that consists of the following
35 members:

- 36 (1) Two state licensed clinical social workers.
- 37 (2) One state licensed educational psychologist.
- 38 (3) Two state licensed marriage and family therapists.
- 39 (4) One state licensed professional clinical counselor.
- 40 (5) Seven public members.

1 (b) Each member, except the seven public members, shall have
2 at least two years of experience in ~~her or his~~ *their* profession.

3 (c) Each member shall reside in the State of California.

4 (d) The Governor shall appoint five of the public members and
5 the six licensed members with the advice and consent of the Senate.
6 The Senate Committee on Rules and the Speaker of the Assembly
7 shall each appoint a public member.

8 (e) Each member of the board shall be appointed for a term of
9 four years. A member appointed by the Senate Committee on Rules
10 or the Speaker of the Assembly shall hold office until the
11 appointment and qualification of ~~his or her~~ *their* successor or until
12 one year from the expiration date of the term for which ~~she or he~~
13 ~~was they were~~ appointed, whichever first occurs. Pursuant to
14 Section 1774 of the Government Code, a member appointed by
15 the Governor shall hold office until the appointment and
16 qualification of ~~her or his~~ *their* successor or until 60 days from the
17 expiration date of the term for which ~~he or she~~ ~~was they were~~
18 appointed, whichever first occurs.

19 (f) A vacancy on the board shall be filled by appointment for
20 the unexpired term by the authority who appointed the member
21 whose membership was vacated.

22 (g) Not later than the first of June of each calendar year, the
23 board shall elect a chairperson and a vice chairperson from its
24 membership.

25 (h) Each member of the board shall receive a per diem and
26 reimbursement of expenses as provided in Section 103.

27 (i) This section shall remain in effect only until January 1, ~~2021,~~
28 ~~2022~~, and as of that date is repealed.

29 (j) Notwithstanding any other provision of law, the repeal of
30 this section renders the board subject to review by the appropriate
31 policy committees of the Legislature.

32 *SEC. 31. Section 4990.04 of the Business and Professions Code*
33 *is amended to read:*

34 4990.04. (a) The board shall appoint an executive officer. This
35 position is designated as a confidential position and is exempt from
36 civil service under subdivision (e) of Section 4 of Article VII of
37 the California Constitution.

38 (b) The executive officer serves at the pleasure of the board.

1 (c) The executive officer shall exercise the powers and perform
2 the duties delegated by the board and vested in ~~her or him~~ *them*
3 by this chapter.

4 (d) With the approval of the director, the board shall fix the
5 salary of the executive officer.

6 (e) The chairperson and executive officer may call meetings of
7 the board and any duly appointed committee at a specified time
8 and place. For purposes of this section, “call meetings” means
9 setting the agenda, time, date, or place for any meeting of the board
10 or any committee.

11 (f) This section shall remain in effect only until January 1, ~~2021~~,
12 ~~2022~~, and as of that date is repealed.

13 ~~SEC. 17.~~

14 *SEC. 32.* Section 5600.4 of the Business and Professions Code
15 is amended to read:

16 5600.4. (a) The board shall issue, upon application and
17 payment of the fee fixed by this chapter, a retired license to an
18 architect who holds a license that is current and active or capable
19 of being renewed pursuant to Section 5600.2 and whose license
20 is not suspended, revoked, or otherwise punitively restricted by
21 the board or subject to disciplinary action under this chapter.

22 (b) The holder of a retired license issued pursuant to this section
23 shall not engage in any activity for which an active architect’s
24 license is required. An architect holding a retired license shall be
25 permitted to use the title “architect retired” or “retired architect.”

26 (c) The holder of a retired license shall not be required to renew
27 that license.

28 (d) In order for the holder of a retired license issued pursuant
29 to this section to restore their license to active status, the holder
30 of a retired license shall comply with Section 5600.2 or 5600.3,
31 as applicable.

32 ~~SEC. 18.~~

33 *SEC. 33.* Section 5650.5 is added to the Business and
34 Professions Code, to read:

35 5650.5. (a) Pursuant to Section 144, the board has the authority
36 to obtain and review criminal offender record information. The
37 information obtained as a result of the fingerprinting shall be used
38 in accordance with Section 11105 of the Penal Code to determine
39 whether the applicant is subject to denial of license pursuant to

1 Division 1.5 (commencing with Section 475) or Section 5660,
2 5675, or 5676.

3 (b) As a condition of application for a license, each applicant
4 shall furnish to the Department of Justice a full set of fingerprints
5 for the purpose of conducting a criminal history record check and
6 to undergo a state- and federal- level criminal offender record
7 information search conducted through the Department of Justice.

8 (c) The board shall request from the Department of Justice
9 subsequent arrest notification service, pursuant to subdivision (p)
10 of Section 11105 of the Penal Code.

11 (d) The applicant shall pay the reasonable regulatory costs for
12 furnishing the fingerprints and conducting the searches.

13 (e) The applicant shall certify, under penalty of perjury, when
14 applying for a license whether the applicant's fingerprints have
15 been furnished to the Department of Justice in compliance with
16 this section.

17 (f) Failure to comply with the requirements of this section
18 renders the application for a license incomplete, and the application
19 shall not be considered until the applicant demonstrates compliance
20 with all requirements of this section.

21 (g) Notwithstanding any other law, the results of any criminal
22 offender record information request by either state or federal law
23 enforcement authorities shall not be released by the board except
24 in accordance with state and federal requirements.

25 (h) As used in this section, the term "applicant" shall be limited
26 to an initial applicant who has never been registered or licensed
27 by the board or to an applicant for a new licensure or registration
28 category.

29 (i) As a condition of petitioning the board for reinstatement of
30 a revoked or surrendered license, an applicant shall comply with
31 subdivision (a).

32 ~~SEC. 19:~~

33 *SEC. 34.* Section 7000 of the Business and Professions Code
34 is amended to read:

35 7000. This chapter constitutes, and may be cited as, the
36 Contractors State License Law.

37 ~~SEC. 20:~~

38 *SEC. 35.* Section 7000.5 of the Business and Professions Code
39 is amended to read:

1 7000.5. (a) There is in the Department of Consumer Affairs
2 a Contractors State License Board, which consists of 15 members.

3 (b) Notwithstanding any other provision of law, the repeal of
4 this section renders the board subject to review by the appropriate
5 policy committees of the Legislature.

6 (c) This section shall remain in effect only until January 1, 2024,
7 and as of that date is repealed.

8 ~~SEC. 21.~~

9 *SEC. 36.* Section 7000.6 of the Business and Professions Code
10 is amended to read:

11 7000.6. Protection of the public shall be the highest priority
12 for the Contractors State License Board in exercising its licensing,
13 regulatory, and disciplinary functions. Whenever the protection
14 of the public is inconsistent with other interests sought to be
15 promoted, the protection of the public shall be paramount.

16 ~~SEC. 22.~~

17 *SEC. 37.* Section 7011.4 of the Business and Professions Code
18 is amended to read:

19 7011.4. (a) Notwithstanding Section 7011, there is in the
20 Contractors State License Board, a separate enforcement division
21 that shall rigorously enforce this chapter prohibiting all forms of
22 unlicensed activity and shall enforce the obligation to secure the
23 payment of valid and current workers' compensation insurance in
24 accordance with Section 3700.5 of the Labor Code.

25 (b) Persons employed as enforcement representatives of the
26 Contractors State License Board and designated by the Director
27 of Consumer Affairs shall have the authority to issue a written
28 notice to appear in court pursuant to Chapter 5C (commencing
29 with Section 853.5) of Title 3 of Part 2 of the Penal Code. An
30 employee so designated is not a peace officer and is not entitled
31 to safety member retirement benefits as a result of that designation.
32 They do not have the power of arrest.

33 (c) When participating in the activities of the Joint Enforcement
34 Strike Force on the Underground Economy pursuant to Section
35 329 of the Unemployment Insurance Code, the enforcement
36 division shall have free access to all places of labor.

37 ~~SEC. 23.~~

38 *SEC. 38.* Section 7011.5 of the Business and Professions Code
39 is amended to read:

1 7011.5. Persons employed as investigators of the Special
 2 Investigations Unit of the Contractors State License Board and
 3 designated by the Director of Consumer Affairs have the authority
 4 of peace officers while engaged in exercising the powers granted
 5 or performing the duties imposed upon them in investigating the
 6 laws administered by the Contractors State License Board or
 7 commencing directly or indirectly any criminal prosecution arising
 8 from any investigation conducted under these laws. All persons
 9 herein referred to shall be deemed to be acting within the scope
 10 of employment with respect to all acts and matters in this section
 11 set forth.

12 ~~SEC. 24.~~

13 *SEC. 39.* Section 7011.8 of the Business and Professions Code
 14 is amended to read:

15 7011.8. (a) Any person subject to licensure under this chapter
 16 who reports to, or causes a complaint to be filed with, the
 17 Contractors State License Board that a person licensed by that
 18 entity has engaged in professional misconduct, knowing the report
 19 or complaint to be false, may be issued a citation by the registrar.

20 (b) The board may notify the appropriate district attorney or
 21 city attorney that a person subject to licensure under this chapter
 22 has made or filed what the entity believes to be a false report or
 23 complaint against a licensee.

24 ~~SEC. 25.~~

25 *SEC. 40.* Section 7015 of the Business and Professions Code
 26 is amended to read:

27 7015. The board shall adopt a seal for its own use. The seal
 28 shall have the words “Contractors State License Board, State of
 29 California, Department of Consumer Affairs,” and the care and
 30 custody thereof shall be in the hands of the registrar.

31 ~~SEC. 26.~~

32 *SEC. 41.* Section 7017.3 of the Business and Professions Code
 33 is amended to read:

34 7017.3. The Contractors State License Board shall report
 35 annually to the Legislature, not later than October 1 of each year,
 36 the following statistical information for the prior fiscal year. The
 37 following data shall be reported on complaints filed with the board
 38 against licensed contractors, registered home improvement
 39 salespersons, and unlicensed persons acting as licensees or
 40 registrants:

1 (a) The number of complaints received by the board categorized
2 by source, such as public, trade, profession, government agency,
3 or board-initiated, and by type of complaint, such as licensee or
4 nonlicensee.

5 (b) The number of complaints closed prior to referral for field
6 investigation, categorized by the reason for the closure, such as
7 settled, referred for mandatory arbitration, or referred for voluntary
8 arbitration.

9 (c) The number of complaints referred for field investigation
10 categorized by the type of complaint, such as licensee or
11 nonlicensee.

12 (d) The number of complaints closed after referral for field
13 investigation categorized by the reason for the closure, such as
14 settled, referred for mandatory arbitration, or referred for voluntary
15 arbitration.

16 (e) For the board's Intake/Mediation Center and the board's
17 Investigation Center closures, respectively, the total number of
18 complaints closed prior to a field investigation per consumer
19 services representative, and the total number of complaints closed
20 after referral for a field investigation per enforcement
21 representative. Additionally, the board shall report the total number
22 of complaints closed by other board staff during the year.

23 (f) The number of complaints pending at the end of the fiscal
24 year grouped in 90-day increments, and the percentage of total
25 complaints pending, represented by the number of complaints in
26 each grouping.

27 (g) The number of citations issued to licensees categorized by
28 the type of citation such as order of correction only or order of
29 correction and fine, and the number of citations issued to licensees
30 that were vacated or withdrawn.

31 (h) The number of citations issued to nonlicensees and the
32 number of these citations that were vacated or withdrawn.

33 (i) The number of complaints referred to a local prosecutor for
34 criminal investigation or prosecution, the number of complaints
35 referred to the Attorney General for the filing of an accusation,
36 and the number of complaints referred to both a local prosecutor
37 and the Attorney General, categorized by type of complaint, such
38 as licensee and nonlicensee.

39 (j) Actions taken by the board, including, but not limited to, the
40 following:

1 (1) The number of disciplinary actions categorized by type, such
2 as revocations or suspensions, categorized by whether the
3 disciplinary action resulted from an accusation, failure to comply
4 with a citation, or failure to comply with an arbitration award.

5 (2) The number of accusations dismissed or withdrawn.

6 (k) For subdivisions (g) and (j), the number of cases containing
7 violations of Sections 7121 and 7121.5, and paragraph (5) of
8 subdivision (a) of Section 7159.5, categorized by section.

9 (l) The number of interim suspension orders sought, the number
10 of interim suspension orders granted, the number of temporary
11 restraining orders sought, and the number of temporary restraining
12 orders granted.

13 (m) The amount of cost recovery ordered and the amount
14 collected.

15 (n) Case aging data, including data for each major stage of the
16 enforcement process, including the following:

17 (1) The average number of days from the filing of a complaint
18 to its closure by the board's Intake/Mediation Center prior to the
19 referral for an investigation categorized by the type of complaint,
20 such as licensee or nonlicensee.

21 (2) The average number of days from the referral of a complaint
22 for an investigation to its closure by the Investigation Center
23 categorized by the type of complaint, such as licensee or
24 nonlicensee.

25 (3) The average number of days from the filing of a complaint
26 to the referral of the completed investigation to the Attorney
27 General.

28 (4) The average number of days from the referral of a completed
29 investigation to the Attorney General to the filing of an accusation
30 by the Attorney General.

31 (5) The average number of days from the filing of an accusation
32 to the first hearing date or date of a stipulated settlement.

33 (6) The average number of days from the receipt of the
34 Administrative Law Judge's proposed decision to the registrar's
35 final decision.

36 ~~SEC. 27.~~

37 *SEC. 42.* Section 7028.7 of the Business and Professions Code
38 is amended to read:

39 7028.7. (a) If upon inspection or investigation, either upon
40 complaint or otherwise, the registrar has probable cause to believe

1 that a person is acting in the capacity of or engaging in the business
2 of a contractor or salesperson within this state without having a
3 license or registration in good standing to so act or engage, and
4 the person is not otherwise exempted from this chapter, the registrar
5 shall issue a citation to that person.

6 (b) Within 72 hours of receiving notice that a public entity is
7 intending to award, or has awarded, a contract to an unlicensed
8 contractor, the registrar shall give written notice to the public entity
9 that a citation may be issued if a contract is awarded to an
10 unlicensed contractor. If after receiving the written notice from
11 the registrar that the public entity has awarded or awards the
12 contract to an unlicensed contractor, the registrar may issue a
13 citation to the responsible officer or employee of the public entity
14 as specified in Section 7028.15.

15 (c) Each citation shall be in writing and shall describe with
16 particularity the basis of the citation. Notwithstanding Sections
17 125.9 and 148, each citation shall contain an order of abatement
18 and an assessment of a civil penalty in an amount not less than
19 two hundred dollars (\$200) nor more than fifteen thousand dollars
20 (\$15,000).

21 (d) With the approval of the Contractors State License Board,
22 the registrar shall prescribe procedures for the issuance of a citation
23 under this section. The board shall adopt regulations covering the
24 assessment of a civil penalty that shall give due consideration to
25 the gravity of the violation, and any history of previous violations.

26 (e) The sanctions authorized under this section shall be separate
27 from, and in addition to, all other remedies either civil or criminal.

28 ~~SEC. 28.~~

29 *SEC. 43.* Section 7030 of the Business and Professions Code
30 is amended to read:

31 7030. (a) Except for contractors writing home improvement
32 contracts pursuant to Section 7151.2 and contractors writing service
33 and repair contracts pursuant to Section 7159.10, every person
34 licensed pursuant to this chapter shall include the following
35 statement in at least 10-point type on all written contracts with
36 respect to which the person is a prime contractor:

37

38 “Contractors are required by law to be licensed and regulated
39 by the Contractors State License Board which has jurisdiction to
40 investigate complaints against contractors if a complaint regarding

1 a patent act or omission is filed within four years of the date of the
2 alleged violation. A complaint regarding a latent act or omission
3 pertaining to structural defects must be filed within 10 years of
4 the date of the alleged violation. Any questions concerning a
5 contractor may be referred to the Registrar, Contractors State
6 License Board, P.O. Box 26000, Sacramento, CA 95826.”

7

8 (b) Every person licensed pursuant to this chapter shall include
9 the following statement in at least 12-point type in all home
10 improvement contracts written pursuant to Section 7151.2 and
11 service and repair contracts written pursuant to Section 7159.10:

12

13 “Information about the Contractors State License Board (CSLB):
14 CSLB is the state consumer protection agency that licenses and
15 regulates construction contractors.

16 Contact CSLB for information about the licensed contractor you
17 are considering, including information about disclosable
18 complaints, disciplinary actions and civil judgments that are
19 reported to CSLB.

20 Use only licensed contractors. If you file a complaint against a
21 licensed contractor within the legal deadline (usually four years),
22 CSLB has authority to investigate the complaint. If you use an
23 unlicensed contractor, CSLB may not be able to help you resolve
24 your complaint. Your only remedy may be in civil court, and you
25 may be liable for damages arising out of any injuries to the
26 unlicensed contractor or the unlicensed contractor’s employees.

27 For more information:

28 Visit CSLB’s internet website at www.cslb.ca.gov

29 Call CSLB at 800-321-CSLB (2752)

30 Write CSLB at P.O. Box 26000, Sacramento, CA 95826.”

31

32 (c) Failure to comply with the notice requirements set forth in
33 subdivision (a) or (b) of this section is cause for disciplinary action.

34 ~~SEC. 29.~~

35 *SEC. 44.* Section 7031 of the Business and Professions Code
36 is amended to read:

37 7031. (a) Except as provided in subdivision (e), no person
38 engaged in the business or acting in the capacity of a contractor,
39 may bring or maintain any action, or recover in law or equity in
40 any action, in any court of this state for the collection of

1 compensation for the performance of any act or contract where a
2 license is required by this chapter without alleging that they were
3 a duly licensed contractor at all times during the performance of
4 that act or contract regardless of the merits of the cause of action
5 brought by the person, except that this prohibition shall not apply
6 to contractors who are each individually licensed under this chapter
7 but who fail to comply with Section 7029.

8 (b) Except as provided in subdivision (e), a person who utilizes
9 the services of an unlicensed contractor may bring an action in
10 any court of competent jurisdiction in this state to recover all
11 compensation paid to the unlicensed contractor for performance
12 of any act or contract.

13 (c) A security interest taken to secure any payment for the
14 performance of any act or contract for which a license is required
15 by this chapter is unenforceable if the person performing the act
16 or contract was not a duly licensed contractor at all times during
17 the performance of the act or contract.

18 (d) If licensure or proper licensure is controverted, then proof
19 of licensure pursuant to this section shall be made by production
20 of a verified certificate of licensure from the Contractors State
21 License Board which establishes that the individual or entity
22 bringing the action was duly licensed in the proper classification
23 of contractors at all times during the performance of any act or
24 contract covered by the action. Nothing in this subdivision shall
25 require any person or entity controverting licensure or proper
26 licensure to produce a verified certificate. When licensure or proper
27 licensure is controverted, the burden of proof to establish licensure
28 or proper licensure shall be on the licensee.

29 (e) The judicial doctrine of substantial compliance shall not
30 apply under this section where the person who engaged in the
31 business or acted in the capacity of a contractor has never been a
32 duly licensed contractor in this state. However, notwithstanding
33 subdivision (b) of Section 143, the court may determine that there
34 has been substantial compliance with licensure requirements under
35 this section if it is shown at an evidentiary hearing that the person
36 who engaged in the business or acted in the capacity of a contractor
37 (1) had been duly licensed as a contractor in this state prior to the
38 performance of the act or contract, (2) acted reasonably and in
39 good faith to maintain proper licensure, and (3) acted promptly

1 and in good faith to remedy the failure to comply with the licensure
2 requirements upon learning of the failure.

3 (f) The exceptions to the prohibition against the application of
4 the judicial doctrine of substantial compliance found in subdivision
5 (e) shall apply to all contracts entered into on or after January 1,
6 1992, and to all actions or arbitrations arising therefrom, except
7 that the amendments to subdivisions (e) and (f) enacted during the
8 1994 portion of the 1993–94 Regular Session of the Legislature
9 shall not apply to either of the following:

10 (1) Any legal action or arbitration commenced prior to January
11 1, 1995, regardless of the date on which the parties entered into
12 the contract.

13 (2) Any legal action or arbitration commenced on or after
14 January 1, 1995, if the legal action or arbitration was commenced
15 prior to January 1, 1995, and was subsequently dismissed.

16 ~~SEC. 30.~~

17 *SEC. 45.* Section 7058.7 of the Business and Professions Code
18 is amended to read:

19 7058.7. (a) No contractor may engage in a removal or remedial
20 action, as defined in subdivision (d), unless the qualifier for the
21 license has passed an approved hazardous substance certification
22 examination.

23 (b) (1) The Contractors State License Board, the Division of
24 Occupational Safety and Health of the Department of Industrial
25 Relations, and the Department of Toxic Substances Control shall
26 jointly select an advisory committee, which shall be composed of
27 two representatives of hazardous substance removal workers in
28 California, two general engineering contractors in California, and
29 two representatives of insurance companies in California who shall
30 be selected by the Insurance Commissioner.

31 (2) The Contractors State License Board shall develop a written
32 test for the certification of contractors engaged in hazardous
33 substance removal or remedial action, in consultation with the
34 Division of Occupational Safety and Health, the State Water
35 Resources Control Board, the Department of Toxic Substances
36 Control, and the advisory committee.

37 (c) The Contractors State License Board may require additional
38 updated approved hazardous substance certification examinations
39 of licensees currently certified based on new public or occupational
40 health and safety information. The Contractors State License Board,

1 in consultation with the Department of Toxic Substances Control
2 and the State Water Resources Control Board, shall approve other
3 initial and updated hazardous substance certification examinations
4 and determine whether to require an updated certification
5 examination of all current certificate holders.

6 (d) For purposes of this section “removal or remedial action”
7 has the same meaning as found in Chapter 6.8 (commencing with
8 Section 25300) of Division 20 of the Health and Safety Code, if
9 the action requires the contractor to dig into the surface of the earth
10 and remove the dug material and the action is at a site listed
11 pursuant to Section 25356 of the Health and Safety Code or any
12 other site listed as a hazardous substance release site by the
13 Department of Toxic Substances Control or a site listed on the
14 National Priorities List compiled pursuant to the Comprehensive
15 Environmental Response, Compensation, and Liability Act of 1980
16 (42 U.S.C. Sec. 9601 et seq.). “Removal or remedial action” does
17 not include asbestos-related work, as defined in Section 6501.8 of
18 the Labor Code, or work related to a hazardous substance spill on
19 a highway.

20 (e) (1) A contractor may not install or remove an underground
21 storage tank, unless the contractor has passed the hazardous
22 substance certification examination developed pursuant to this
23 section.

24 (2) A contractor who is not certified may bid on or contract for
25 the installation or removal of an underground tank, if the work is
26 performed by a contractor who is certified pursuant to this section.

27 (3) For purposes of this subdivision, “underground storage tank”
28 has the same meaning as defined in subdivision (y) of Section
29 25281 of the Health and Safety Code.

30 ~~SEC. 31.~~

31 *SEC. 46.* Section 7071.4 of the Business and Professions Code
32 is amended to read:

33 7071.4. (a) Each person licensed under the provisions of this
34 chapter and subject to any of the bonding provisions of this article
35 shall maintain the requisite bond as executed by an admitted surety
36 insurer or as deposited with the registrar pursuant to paragraph (1)
37 of subdivision (a) of Section 995.710 of the Code of Civil
38 Procedure in the appropriate amount. Notwithstanding Article 7
39 (commencing with Section 995.710) of Chapter 2 of Title 14 of
40 Part 2 of the Code of Civil Procedure, no other method of deposit,

1 including, but not limited to, a certificate of deposit, shall satisfy
2 a bond requirement under this article.

3 (b) All existing alternatives in lieu of a bond currently filed with
4 the registrar shall be replaced for a surety bond or the deposit
5 prescribed by paragraph (1) of subdivision (a) of Section 995.710
6 of the Code of Civil Procedure by January 1, 2020.

7 (c) (1) If the board is notified, in writing, of a civil action
8 against the deposit authorized under this section, the deposit or
9 any portion thereof shall not be released for any purpose, except
10 as determined by the court.

11 (2) If any deposit authorized under this section is insufficient
12 to pay, in full, all claims that have been adjudicated under any
13 action filed in accordance with this section, the amount of the
14 deposit shall be distributed to all claimants in proportion to the
15 amount of their respective claims.

16 (d) Notwithstanding subdivision (a), this section shall not apply
17 to the bond equivalents described in Section 7159.5 of this chapter.

18 (e) (1) This section shall be operative on and after January 1,
19 2019, upon which date the registrar shall thereafter no longer accept
20 alternatives in lieu of a bond, other than as provided in this section.

21 (2) Notwithstanding any other law, in order to comply with the
22 bonding provisions of this article, a person shall only be required
23 to provide information consistent with the requirements for an
24 applicant under Section 30.

25 (f) All alternatives in lieu of a bond filed with the registrar before
26 January 1, 2019, and any lawful money or cashier’s check
27 deposited pursuant to paragraph (1) of subdivision (a) of Section
28 995.710 of the Code of Civil Procedure after January 1, 2019, shall
29 be subject to the following limitations periods:

30 (1) Any action, other than an action to recover wages or fringe
31 benefits, against a deposit given in lieu of a contractor’s bond or
32 bond of a qualifying individual filed by an active licensee shall be
33 brought within three years after the expiration of the license period
34 during which the act or omission occurred, or within three years
35 of the date the license of the active licensee was inactivated,
36 canceled, or revoked by the board, whichever occurs first.

37 (2) Any action, other than an action to recover wages or fringe
38 benefits, against a deposit given in lieu of a disciplinary bond filed
39 by an active licensee pursuant to Section 7071.8 shall be brought
40 within three years after the expiration of the license period during

1 which the act or omission occurred, or within three years of the
2 date the license of the active licensee was inactivated, canceled,
3 or revoked by the board, or within three years after the last date
4 for which a deposit given in lieu of a disciplinary bond filed
5 pursuant to Section 7071.8 was required, whichever date is first.

6 (3) A claim to recover wages or fringe benefits shall be brought
7 within six months from the date that the wage or fringe benefit
8 delinquencies were discovered, but in no event shall a civil action
9 thereon be brought later than two years from the date the wage or
10 fringe benefit contributions were due.

11 (g) In any case in which a claim is filed against an alternative
12 given in lieu of a bond filed with the registrar before January 1,
13 2019, or deposited with the registrar pursuant to subdivision (a),
14 by any employee or by an employee organization on behalf of an
15 employee, concerning wages or fringe benefits based upon the
16 employee's employment, claims for the nonpayment shall be filed
17 with the Labor Commissioner. The Labor Commissioner shall,
18 pursuant to the authority vested by Section 96.5 of the Labor Code,
19 conduct hearings to determine whether or not the wages or fringe
20 benefits should be paid to the complainant. Upon a finding by the
21 commissioner that the wages or fringe benefits should be paid to
22 the complainant, the commissioner shall notify the registrar of the
23 findings. The registrar shall not make payment from the deposit
24 on the basis of findings by the commissioner for a period of 10
25 days following determination of the findings. If, within the period,
26 the complainant or the contractor files written notice with the
27 registrar and the commissioner of an intention to seek judicial
28 review of the findings pursuant to Section 11523 of the
29 Government Code, the registrar shall not make payment if an action
30 is actually filed, except as determined by the court. If, thereafter,
31 no action is filed within 60 days following determination of
32 findings by the commissioner, the registrar shall make payment
33 from the deposit to the complainant.

34 (h) Legal fees may not be charged by the board against any
35 alternative given in lieu of a bond filed with the registrar before
36 January 1, 2019, or deposited with the registrar pursuant to
37 subdivision (a).

38 ~~SEC. 32.~~

39 *SEC. 47.* Section 7080.5 of the Business and Professions Code
40 is amended to read:

1 7080.5. When an application has been accepted by the registrar,
2 the name and address of the applicant, every classification for
3 which the applicant has applied, and the names and titles of all
4 personnel who have signed the application shall be publicly posted
5 by the registrar, on the day following acceptance, in the office of
6 the Contractors State License Board in Sacramento.

7 ~~SEC. 33.~~

8 *SEC. 48.* Section 7085.5 of the Business and Professions Code
9 is amended to read:

10 7085.5. Arbitrations of disputes arising out of cases filed with
11 or by the board shall be conducted in accordance with the following
12 rules:

13 (a) All “agreements to arbitrate” shall include the names,
14 addresses, and telephone numbers of the parties to the dispute, the
15 issue in dispute, and the amount in dollars or any other remedy
16 sought. The appropriate fee shall be paid by the board from the
17 Contractors License Fund.

18 (b) (1) The board or appointed arbitration association shall
19 appoint an arbitrator in the following manner: immediately after
20 the filing of the agreement to arbitrate, the board or appointed
21 arbitration association shall submit simultaneously to each party
22 to the dispute, an identical list of names of persons chosen from
23 the panel. Each party to the dispute shall have seven days from
24 the mailing date in which to cross off any names to which it objects,
25 number the remaining names to indicate the order of preference,
26 and return the list to the board or appointed arbitration association.
27 If a party does not return the list within the time specified, all
28 persons named in the list are acceptable. From among the persons
29 who have been approved on both lists, and in accordance with the
30 designated order of mutual preference, the board or appointed
31 arbitration association shall appoint an arbitrator to serve. If the
32 parties fail to agree on any of the parties named, if acceptable
33 arbitrators are unable to act, or if, for any other reason, the
34 appointment cannot be made from the submitted lists, the board
35 or appointed arbitration association shall have the power to make
36 the appointment from among other members of the panel without
37 the submission of any additional lists. Each dispute shall be heard
38 and determined by one arbitrator unless the board or appointed
39 arbitration association, in its discretion, directs that a greater
40 number of arbitrators be appointed.

1 (2) In all cases in which a complaint has been referred to
2 arbitration pursuant to subdivision (b) of Section 7085, the board
3 or the appointed arbitration association shall have the power to
4 appoint an arbitrator to hear the matter.

5 (3) The board shall adopt regulations setting minimum
6 qualification standards for listed arbitrators based upon relevant
7 training, experience, and performance.

8 (c) No person shall serve as an arbitrator in any arbitration in
9 which that person has any financial or personal interest in the result
10 of the arbitration. Prior to accepting an appointment, the
11 prospective arbitrator shall disclose any circumstances likely to
12 prevent a prompt hearing or to create a presumption of bias. Upon
13 receipt of that information, the board or appointed arbitration
14 association shall immediately replace the arbitrator or communicate
15 the information to the parties for their comments. Thereafter, the
16 board or appointed arbitration association shall determine whether
17 the arbitrator should be disqualified and shall inform the parties
18 of its decision, which shall be conclusive.

19 (d) The board or appointed arbitration association may appoint
20 another arbitrator if a vacancy occurs, or if an appointed arbitrator
21 is unable to serve in a timely manner.

22 (e) (1) The board or appointed arbitration association shall
23 provide the parties with a list of the times and dates, and locations
24 of the hearing to be held. The parties shall notify the arbitrator,
25 within seven calendar days of the mailing of the list, of the times
26 and dates convenient to each party. If the parties fail to respond
27 to the arbitrator within the seven-day period, the arbitrator shall
28 fix the time, place, and location of the hearing. An arbitrator may,
29 at the arbitrator's sole discretion, make an inspection of the
30 construction site which is the subject of the arbitration. The
31 arbitrator shall notify the parties of the time and date set for the
32 inspection. Any party who so desires may be present at the
33 inspection.

34 (2) The board or appointed arbitration association shall fix the
35 time, place, and location of the hearing for all cases referred to
36 arbitration pursuant to subdivision (b) of Section 7085. An
37 arbitrator may, at the arbitrator's sole discretion, make an
38 inspection of the construction site which is the subject of the
39 arbitration. The arbitrator shall notify the parties of the time and

1 date set for the inspection. Any party who desires may be present
2 at the inspection.

3 (f) Any person having a direct interest in the arbitration is
4 entitled to attend the hearing. The arbitrator shall otherwise have
5 the power to require the exclusion of any witness, other than a
6 party or other essential person, during the testimony of any other
7 witness. It shall be discretionary with the arbitrator to determine
8 the propriety of the attendance of any other person.

9 (g) Hearings shall be adjourned by the arbitrator only for good
10 cause.

11 (h) A record is not required to be taken of the proceedings.
12 However, any party to the proceeding may have a record made at
13 its own expense. The parties may make appropriate notes of the
14 proceedings.

15 (i) The hearing shall be conducted by the arbitrator in any
16 manner which will permit full and expeditious presentation of the
17 case by both parties. Consistent with the expedited nature of
18 arbitration, the arbitrator shall establish the extent of, and schedule
19 for, the production of relevant documents and other information,
20 the identification of any witnesses to be called, and a schedule for
21 any hearings to elicit facts solely within the knowledge of one
22 party. The complaining party shall present its claims, proofs, and
23 witnesses, who shall submit to questions or other examination.
24 The defending party shall then present its defenses, proofs, and
25 witnesses, who shall submit to questions or other examination.
26 The arbitrator has discretion to vary this procedure but shall afford
27 full and equal opportunity to the parties for the presentation of any
28 material or relevant proofs.

29 (j) The arbitration may proceed in the absence of any party who,
30 after due notice, fails to be present. The arbitrator shall require the
31 attending party to submit supporting evidence in order to make an
32 award. An award for the attending party shall not be based solely
33 on the fact that the other party has failed to appear at the arbitration
34 hearing.

35 (k) The arbitrator shall be the sole judge of the relevancy and
36 materiality of the evidence offered and conformity to legal rules
37 of evidence shall not be required.

38 (l) The arbitrator may receive and consider documentary
39 evidence. Documents to be considered by the arbitrator may be
40 submitted prior to the hearing. However, a copy shall be

1 simultaneously transmitted to all other parties and to the board or
2 appointed arbitration association for transmittal to the arbitrator
3 or board appointed arbitrator.

4 (m) The arbitrator shall specifically inquire of the parties
5 whether they have any further proofs to offer or witnesses to be
6 heard. Upon receiving negative replies, the arbitrator shall declare
7 the hearing closed and minutes thereof shall be recorded. If briefs
8 are to be filed, the hearing shall be declared closed as of the final
9 date set by the arbitrator for the receipt of briefs. If documents are
10 to be filed as requested by the arbitrator and the date set for their
11 receipt is later than that set for the receipt of briefs, the later date
12 shall be the date of closing the hearings. The time limit within
13 which the arbitrator is required to make the award shall commence
14 to run, in the absence of other agreements by the parties, upon the
15 closing of the hearings.

16 (n) The hearing may be reopened on the arbitrator's own motion.

17 (o) Any party who proceeds with the arbitration after knowledge
18 that any provision or requirement of these rules has not been
19 complied with, and who fails to state their objections to the
20 arbitrator in writing, within 10 calendar days of close of hearing,
21 shall be deemed to have waived their right to object.

22 (p) (1) Except as provided in paragraph (2), any papers or
23 process necessary or proper for the initiation or continuation of an
24 arbitration under these rules and for any court action in connection
25 therewith, or for the entry of judgment on an award made
26 thereunder, may be served upon any party (A) by regular mail
27 addressed to that party or their attorney at the party's last known
28 address, or (B) by personal service.

29 (2) Notwithstanding paragraph (1), in all cases referred to
30 arbitration pursuant to subdivision (b) of Section 7085 in which
31 the contractor fails or refuses to return an executed copy of the
32 notice to arbitrate within the time specified, any papers or process
33 specified in paragraph (1) to be sent to the contractor, including
34 the notice of hearing, shall be mailed by certified mail to the
35 contractor's address of record.

36 (q) The award shall be made promptly by the arbitrator, and
37 unless otherwise agreed by the parties, no later than 30 calendar
38 days from the date of closing the hearing, closing a reopened
39 hearing, or if oral hearing has been waived, from the date of
40 transmitting the final statements and proofs to the arbitrator.

1 The arbitrator may for good cause extend any period of time
2 established by these rules, except the time for making the award.
3 The arbitrator shall notify the parties of any extension and the
4 reason therefor.

5 (r) (1) The arbitrator may grant any remedy or relief that the
6 arbitrator deems just and equitable and within the scope of the
7 board’s referral and the requirements of the board. The arbitrator,
8 in their sole discretion, may award costs or expenses.

9 (2) The amendments made in paragraph (1) during the 2003–04
10 Regular Session shall not be interpreted to prevent an arbitrator
11 from awarding a complainant all direct costs and expenses for the
12 completion or repair of the project.

13 (s) The award shall become final 30 calendar days from the date
14 the arbitration award is issued. The arbitrator, upon written
15 application of a party to the arbitration, may correct the award
16 upon the following grounds:

17 (1) There was an evident miscalculation of figures or an evident
18 mistake in the description of any person, things, or property
19 referred to in the award.

20 (2) There is any other clerical error in the award, not affecting
21 the merits of the controversy.

22 An application for correction of the award shall be made within
23 10 calendar days of the date of service of the award by serving a
24 copy of the application on the arbitrator, and all other parties to
25 the arbitration. Any party to the arbitration may make a written
26 objection to the application for correction by serving a copy of the
27 written objection on the arbitrator, the board, and all other parties
28 to the arbitration, within 10 calendar days of the date of service of
29 the application for correction.

30 The arbitrator shall either deny the application or correct the
31 award within 30 calendar days of the date of service of the original
32 award by mailing a copy of the denial or correction to all parties
33 to the arbitration. Any appeal from the denial or correction shall
34 be filed with a court of competent jurisdiction and a true copy
35 thereof shall be filed with the arbitrator or appointed arbitration
36 association within 30 calendar days after the award has become
37 final. The award shall be in writing, and shall be signed by the
38 arbitrator or a majority of them. If no appeal is filed within the
39 30-calendar day period, it shall become a final order of the registrar.

1 (t) Service of the award by certified mail shall be effective if a
2 certified letter containing the award, or a true copy thereof, is
3 mailed by the arbitrator or arbitration association to each party or
4 to a party's attorney of record at their last known address, address
5 of record, or by personally serving any party. Service may be
6 proved in the manner authorized in civil actions.

7 (u) The board shall pay the expenses of one expert witness
8 appointed by the board when the services of an expert witness are
9 requested by either party involved in arbitration pursuant to this
10 article and the case involves workmanship issues that are itemized
11 in the complaint and have not been repaired or replaced. Parties
12 who choose to present the findings of another expert witness as
13 evidence shall pay for those services. Payment for expert witnesses
14 appointed by the board shall be limited to the expert witness costs
15 for inspection of the problem at the construction site, preparation
16 of the expert witness' report, and expert witness fees for appearing
17 or testifying at a hearing. All requests for payment to an expert
18 witness shall be submitted on a form that has been approved by
19 the registrar. All requests for payment to an expert witness shall
20 be reviewed and approved by the board prior to payment. The
21 registrar shall advise the parties that names of industry experts
22 may be obtained by requesting this information from the registrar.

23 (v) The arbitrator shall interpret and apply these rules insofar
24 as they relate to their powers and duties.

25 (w) The following shall apply as to court procedure and
26 exclusion of liability:

27 (1) The board, the appointed arbitration association, or any
28 arbitrator in a proceeding under these rules is not a necessary party
29 in judicial proceedings relating to the arbitration.

30 (2) Parties to these rules shall be deemed to have consented that
31 judgment upon the arbitration award may be entered in any federal
32 or state court having jurisdiction thereof.

33 (3) The board, the appointed arbitration association, or any
34 arbitrator is not liable to any party for any act or omission in
35 connection with any arbitration conducted under these rules.

36 ~~SEC. 34.~~

37 *SEC. 49.* Section 7099.2 of the Business and Professions Code
38 is amended to read:

39 7099.2. (a) The board shall promulgate regulations covering
40 the assessment of civil penalties under this article that give due

1 consideration to the appropriateness of the penalty with respect to
2 the following factors:

- 3 (1) The gravity of the violation.
- 4 (2) The good faith of the licensee or applicant for licensure
5 being charged.
- 6 (3) The history of previous violations.

7 (b) Except as otherwise provided by this chapter, no civil penalty
8 shall be assessed in an amount greater than five thousand dollars
9 (\$5,000). Notwithstanding Section 125.9, a civil penalty not to
10 exceed fifteen thousand dollars (\$15,000) may be assessed for a
11 violation of Section 7114 or 7118.

12 ~~SEC. 35.~~

13 *SEC. 50.* Section 7099.9 is added to the Business and
14 Professions Code, to read:

15 7099.9. (a) If, upon investigation, the registrar has probable
16 cause to believe that a licensee, registrant, or applicant has
17 committed acts or omissions that are grounds for denial,
18 suspension, or revocation of a license or registration, the registrar,
19 or their designee, may issue a letter of admonishment to an
20 applicant, licensee, or registrant in lieu of issuing a citation.
21 Nothing in this article shall in any way limit the registrar's
22 discretionary authority or ability to issue a letter of admonishment
23 as prescribed by this subdivision.

24 (b) The letter of admonishment shall be in writing and shall
25 describe in detail the nature and facts of the violation, including a
26 reference to the statutes or regulations violated. The letter of
27 admonishment shall inform the licensee, registrant, or applicant
28 that within 30 days of service of the letter of admonishment the
29 licensee, registrant, or applicant may do either of the following:

30 (1) Submit a written request for an office conference to the
31 registrar to contest the letter of admonishment. Upon a timely
32 request, the registrar, or their designee, shall hold an office
33 conference with the licensee, registrant, or applicant and, if
34 applicable, their legal counsel or authorized representative.

35 (A) No individual other than the legal counsel or authorized
36 representative of the licensee, registrant, or applicant may
37 accompany the licensee, registrant, or applicant to the office
38 conference.

1 (B) Prior to or at the office conference, the licensee, registrant,
2 or applicant may submit to the registrar declarations and documents
3 pertinent to the subject matter of the letter of admonishment.

4 (C) The office conference is intended to be informal and shall
5 not be subject to the Administrative Procedure Act (Chapter 4.5
6 commencing with Section 11400) or Chapter 5 (commencing with
7 Section 11500) of Part 1 of Division 3 of Title 2 of the Government
8 Code).

9 (D) After the office conference, the registrar, or their designee,
10 may affirm, modify, or withdraw the letter of admonishment.
11 Within 14 calendar days from the date of the office conference,
12 the registrar, or their designee, shall personally serve or send the
13 written decision by certified mail to the licensee's, registrant's, or
14 applicant's address of record. This decision shall be deemed the
15 final administrative decision concerning the letter of
16 admonishment.

17 (E) Judicial review of the decision may be had by filing a
18 petition for a writ of mandate in accordance with the provisions
19 of Section 1094.5 of the Code of Civil Procedure within 30 days
20 after the date the decision was personally served or sent by certified
21 mail. The judicial review shall extend to the question of whether
22 or not there was a prejudicial abuse of discretion in the issuance
23 of the letter of admonishment or in the decision after the office
24 conference.

25 (2) Comply with the letter of admonishment and, if required,
26 submit a written corrective action plan to the registrar documenting
27 compliance. If an office conference is not requested pursuant to
28 this section, compliance with the letter of admonishment shall not
29 constitute an admission of the violation noted in the letter of
30 admonishment.

31 (c) The letter of admonishment shall be served upon the licensee,
32 registrant, or applicant personally or by certified mail at their
33 address of record with the board. If the licensee, registrant, or
34 applicant is served by certified mail, service shall be effective upon
35 deposit in the United States mail.

36 (d) The licensee, registrant, or applicant shall maintain and have
37 readily available a copy of the letter of admonishment and
38 corrective action plan, if any, for at least one year from the date
39 of issuance of the letter of admonishment.

1 (e) Nothing in this subdivision shall in any way limit the board’s
2 authority or ability to do either of the following:

- 3 (1) Issue a citation pursuant to Section 125.9, 148, or 7099.
- 4 (2) Institute disciplinary proceedings pursuant to this article.

5 (f) The issuance of a letter of admonishment shall not be
6 construed as a disciplinary action or discipline for purposes of
7 licensure or the reporting of discipline for licensure.

8 (g) The board shall not issue a letter of admonishment when
9 any one of the following factors is present:

- 10 (1) The licensee, registrant, or applicant was unlicensed at the
11 time of the violation.
- 12 (2) Multiple violations have been established.
- 13 (3) The licensee, registrant, or applicant has a history of the
14 same or similar violations.
- 15 (4) The violation resulted in financial harm to another.
- 16 (5) The victim is an elder or dependent adult as defined in
17 Section 368 of the Penal Code.

18 (6) The violation is related to the repair of damage caused by a
19 natural disaster.

20 (h) The board may adopt regulations to further define the
21 circumstances under which a letter of admonishment may be issued.

22 ~~SEC. 36.~~

23 *SEC. 51.* Section 7123.5 of the Business and Professions Code
24 is amended to read:

25 7123.5. If a contractor is convicted of violating Section 396 of
26 the Penal Code or any substantially similar local ordinance in
27 connection with the sale, or offer for sale, of repair or
28 reconstruction services, as defined in Section 396 of the Penal
29 Code, the Contractors State License Board shall take disciplinary
30 action against the contractor, which shall include a suspension of
31 at least six months or the permanent revocation of the contractor’s
32 license.

33 ~~SEC. 37.~~

34 *SEC. 52.* Section 7135 of the Business and Professions Code
35 is amended to read:

36 7135. (a) The fees and civil penalties received under this
37 chapter shall be deposited in the Contractors License Fund. All
38 moneys in the fund are hereby appropriated for the purposes of
39 this chapter.

1 (b) It is the intent of the Legislature that the board shall use
2 moneys appropriated from the fund to improve its administrative
3 and investigative oversight activities and capacity.

4 ~~SEC. 38.~~

5 *SEC. 53.* Section 7136 of the Business and Professions Code
6 is amended to read:

7 7136. The director shall designate a sum not to exceed 10
8 percent of the total income of the Contractors State License Board
9 for each fiscal year to be transferred to the Consumer Affairs Fund
10 as the board's share of the cost of administration of the department.

11 ~~SEC. 39.~~

12 *SEC. 54.* Section 7137 of the Business and Professions Code
13 is amended to read:

14 7137. The board may set fees by regulation. These fees shall
15 be set according to the following schedule:

16 (a) (1) The application fee for an original license in a single
17 classification shall be three hundred thirty dollars (\$330) and may
18 be increased to not more than three hundred seventy-five dollars
19 (\$375).

20 (2) The application fee for each additional classification applied
21 for in connection with an original license shall not be more than
22 eighty-five dollars (\$85).

23 (3) The application fee for each additional classification pursuant
24 to Section 7059 shall be one hundred fifty dollars (\$150) and may
25 be increased to not more than one hundred seventy-five dollars
26 (\$175).

27 (4) The application fee to replace a responsible managing officer,
28 responsible managing manager, responsible managing member,
29 or responsible managing employee pursuant to Section 7068.2
30 shall be one hundred fifty dollars (\$150) and may be increased to
31 not more than one hundred seventy-five dollars (\$175).

32 (5) The application fee to add personnel, other than a qualifying
33 individual, to an existing license shall be one hundred dollars
34 (\$100) and may be increased to not more than one hundred fifteen
35 dollars (\$115).

36 (b) The fee for rescheduling an examination for an applicant
37 who has applied for an original license, additional classification,
38 a change of responsible managing officer, responsible managing
39 manager, responsible managing member, or responsible managing

1 employee, or for an asbestos certification or hazardous substance
2 removal certification, shall not be more than seventy dollars (\$70).

3 (c) The fee for scheduling or rescheduling an examination for
4 a licensee who is required to take the examination as a condition
5 of probation shall not be more than seventy dollars (\$70).

6 (d) The initial license fee for an active or inactive license shall
7 be two hundred dollars (\$200) and may be increased to not more
8 than two hundred twenty-five dollars (\$225).

9 (e) (1) The renewal fee for an active license shall be four
10 hundred dollars (\$400) and may be increased to not more than four
11 hundred fifty dollars (\$450).

12 (2) The renewal fee for an inactive license shall be two hundred
13 dollars (\$200) and may be increased to not more than two hundred
14 twenty-five dollars (\$225).

15 (f) The delinquency fee is an amount equal to 50 percent of the
16 renewal fee, if the license is renewed after its expiration.

17 (g) The registration fee for a home improvement salesperson
18 shall be eighty-three dollars (\$83) and may be increased to not
19 more than ninety-five dollars (\$95).

20 (h) The renewal fee for a home improvement salesperson
21 registration shall be eighty-three dollars (\$83) and may be increased
22 to not more than ninety-five dollars (\$95).

23 (i) The application fee for an asbestos certification examination
24 shall be eighty-three dollars (\$83) and may be increased to not
25 more than ninety-five dollars (\$95).

26 (j) The application fee for a hazardous substance removal or
27 remedial action certification examination shall be eighty-three
28 dollars (\$83) and may be increased to not more than ninety-five
29 dollars (\$95).

30 (k) In addition to any other fees charged to C-10 contractors,
31 the board shall charge a fee of twenty dollars (\$20), to be assessed
32 with the renewal fee for an active license, which shall be used by
33 the board to enforce provisions of the Labor Code related to
34 electrician certification.

35 (l) The service fee to deposit with the registrar lawful money
36 or cashier's check pursuant to paragraph (1) of subdivision (a) of
37 Section 995.710 of the Code of Civil Procedure for purposes of
38 compliance with any provision of Article 5 (commencing with
39 Section 7065) shall be one hundred dollars (\$100), which shall be
40 used by the board only to process each deposit filed with the

1 registrar, to cover the reasonable costs to the registrar for holding
2 money or cashier's checks in trust in interest bearing deposit or
3 share accounts, and to offset the costs of processing payment of
4 lawful claims against a deposit in a civil action.

5 (m) The board shall, by regulation, establish criteria for the
6 approval of expedited processing of applications. Approved
7 expedited processing of applications for licensure or registration,
8 as required by other provisions of law, shall not be subject to this
9 subdivision.

10 ~~SEC. 40.~~

11 *SEC. 55.* Section 7137.5 of the Business and Professions Code
12 is amended to read:

13 7137.5. The sum of ten thousand dollars (\$10,000) shall be
14 transferred from the Contractors License Fund to the Controller
15 for the exclusive use of the California Uniform Construction Cost
16 Accounting Commission.

17 The commission shall prepare a recommendation to the
18 Legislature for a local public agency source to fund the commission
19 beginning July 1, 1991, which will provide revenue supported by
20 the contract activities represented by the commission's authority.

21 Upon adoption of this funding program, the commission shall
22 reimburse the Contractors License Fund in the amount of ten
23 thousand dollars (\$10,000).

24 ~~SEC. 41.~~

25 *SEC. 56.* Section 7138 of the Business and Professions Code
26 is amended to read:

27 7138. Notwithstanding any other provision of law, a fee paid
28 in connection with a service or application covered by Section
29 7137 shall accrue to the Contractors License Fund as an earned
30 fee and shall not be refunded.

31 ~~SEC. 42.~~

32 *SEC. 57.* Section 7139.1 of the Business and Professions Code
33 is amended to read:

34 7139.1. The Legislature hereby finds and declares all of the
35 following:

36 (a) There is a demand and increasing need for construction
37 management education programs and resources within the
38 postsecondary education system that prepare graduates for the
39 management of construction operations and companies regulated

1 by the Contractors State License Law and enforced by the
2 Contractors State License Board.

3 (b) Although construction management programs do exist within
4 the state university system, these programs are woefully
5 underfunded and insufficiently funded to provide training on
6 state-of-the-art management information systems for either
7 graduates or extension programs for continuing education of
8 licensed contractors. Construction industry associations have
9 provided some assistance through direct grants and scholarships,
10 but the industrywide service of these programs and the need for
11 additional assistance mandates broad based industrywide support.

12 (c) It is the intent of the Legislature that by enabling contractors
13 to designate a portion of their licensure fee and providing a format
14 for contractors to contribute funds to construction management
15 education, this article will receive broad based industry support.
16 In addition, this article allows the contractor to demonstrate the
17 importance of construction management education. This assistance
18 will enable greater development of construction management
19 curricula and will improve the overall quality of construction by
20 providing construction management training to California licensed
21 contractors and their current and future management personnel.

22 ~~SEC. 43.~~

23 *SEC. 58.* Section 7139.2 of the Business and Professions Code
24 is amended to read:

25 7139.2. (a) There is hereby created the Construction
26 Management Education Account (CMEA) as a separate account
27 in the Contractors License Fund for the purposes of construction
28 management education. Funds in the account shall be available
29 for the purposes of this article upon appropriation by the
30 Legislature.

31 (b) The Contractors State License Board shall allow a contractor
32 to make a contribution to the Construction Management Education
33 Account at the time of the contractor license fee payment. The
34 license fee form shall clearly display this alternative on its face
35 and shall clearly inform the licensee that this provision is a
36 contribution to the Construction Management Education Account
37 and is in addition to the fees.

38 (c) The board may accept grants from federal, state, or local
39 public agencies, or from private foundations or individuals, in
40 order to assist it in carrying out its duties, functions, and powers

1 under this article. Grant moneys shall be deposited into the
2 Construction Management Education Account.

3 ~~SEC. 44.~~

4 *SEC. 59.* Section 7145.5 of the Business and Professions Code
5 is amended to read:

6 7145.5. (a) The registrar may refuse to issue, reinstate,
7 reactivate, or renew a license or may suspend a license for the
8 failure of a licensee to resolve all outstanding final liabilities, which
9 include taxes, additions to tax, penalties, interest, and any fees that
10 may be assessed by the board, the Department of Industrial
11 Relations, the Employment Development Department, the
12 Franchise Tax Board, or the State Board of Equalization.

13 (1) Until the debts covered by this section are satisfied, the
14 qualifying person and any other personnel of record named on a
15 license that has been suspended under this section shall be
16 prohibited from serving in any capacity that is subject to licensure
17 under this chapter, but shall be permitted to act in the capacity of
18 a nonsupervising bona fide employee.

19 (2) The license of any other renewable licensed entity with any
20 of the same personnel of record that have been assessed an
21 outstanding liability covered by this section shall be suspended
22 until the debt has been satisfied or until the same personnel of
23 record disassociate themselves from the renewable licensed entity.

24 (b) The refusal to issue a license or the suspension of a license
25 as provided by this section shall be applicable only if the registrar
26 has mailed a notice preliminary to the refusal or suspension that
27 indicates that the license will be refused or suspended by a date
28 certain. This preliminary notice shall be mailed to the licensee at
29 least 60 days before the date certain.

30 (c) In the case of outstanding final liabilities assessed by the
31 Franchise Tax Board, this section shall be operative within 60 days
32 after the Contractors State License Board has provided the
33 Franchise Tax Board with the information required under Section
34 30, relating to licensing information that includes the federal
35 employer identification number, individual taxpayer identification
36 number, or social security number.

37 (d) All versions of the application for a contractor's license shall
38 include, as part of the application, an authorization by the applicant,
39 in the form and manner mutually agreeable to the Franchise Tax
40 Board and the board, for the Franchise Tax Board to disclose the

1 tax information that is required for the registrar to administer this
2 section. The Franchise Tax Board may from time to time audit
3 these authorizations.

4 (e) In the case of outstanding final liabilities assessed by the
5 State Board of Equalization, this section shall not apply to any
6 outstanding final liability if the licensee has entered into an
7 installment payment agreement for that liability with the State
8 Board of Equalization and is in compliance with the terms of that
9 agreement.

10 ~~SEC. 45.~~

11 *SEC. 60.* Section 7159 of the Business and Professions Code
12 is amended to read:

13 7159. (a) (1) This section identifies the projects for which a
14 home improvement contract is required, outlines the contract
15 requirements, and lists the items that shall be included in the
16 contract, or may be provided as an attachment.

17 (2) This section does not apply to service and repair contracts
18 that are subject to Section 7159.10, if the contract for the applicable
19 services complies with Sections 7159.10 to 7159.14, inclusive.

20 (3) This section does not apply to the sale, installation, and
21 servicing of a fire alarm sold in conjunction with an alarm system,
22 as defined in Section 7590.1, if all costs attributable to making the
23 fire alarm system operable, including sale and installation costs,
24 do not exceed five hundred dollars (\$500), and the licensee
25 complies with the requirements set forth in Section 7159.9.

26 (4) This section does not apply to any costs associated with
27 monitoring a burglar or fire alarm system.

28 (5) Failure by the licensee, their agent or salesperson, or by a
29 person subject to be licensed under this chapter, to provide the
30 specified information, notices, and disclosures in the contract, or
31 to otherwise fail to comply with any provision of this section, is
32 cause for discipline.

33 (b) For purposes of this section, “home improvement contract”
34 means an agreement, whether oral or written, or contained in one
35 or more documents, between a contractor and an owner or between
36 a contractor and a tenant, regardless of the number of residence
37 or dwelling units contained in the building in which the tenant
38 resides, if the work is to be performed in, to, or upon the residence
39 or dwelling unit of the tenant, for the performance of a home
40 improvement, as defined in Section 7151, and includes all labor,

1 services, and materials to be furnished and performed thereunder,
2 if the aggregate contract price specified in one or more
3 improvement contracts, including all labor, services, and materials
4 to be furnished by the contractor, exceeds five hundred dollars
5 (\$500). “Home improvement contract” also means an agreement,
6 whether oral or written, or contained in one or more documents,
7 between a salesperson, whether or not they are a home
8 improvement salesperson, and an owner or a tenant, regardless of
9 the number of residence or dwelling units contained in the building
10 in which the tenant resides, which provides for the sale, installation,
11 or furnishing of home improvement goods or services.

12 (c) In addition to the specific requirements listed under this
13 section, every home improvement contract and any person subject
14 to licensure under this chapter or their agent or salesperson shall
15 comply with all of the following:

16 (1) The writing shall be legible.

17 (2) Any printed form shall be readable. Unless a larger typeface
18 is specified in this article, text in any printed form shall be in at
19 least 10-point typeface and the headings shall be in at least 10-point
20 boldface type.

21 (3) (A) Before any work is started, the contractor shall give the
22 buyer a copy of the contract signed and dated by both the contractor
23 and the buyer. The buyer’s receipt of the copy of the contract
24 initiates the buyer’s rights to cancel the contract pursuant to
25 Sections 1689.5 to 1689.14, inclusive, of the Civil Code.

26 (B) The contract shall contain on the first page, in a typeface
27 no smaller than that generally used in the body of the document,
28 both of the following:

29 (i) The date the buyer signed the contract.

30 (ii) The name and address of the contractor to which the
31 applicable “Notice of Cancellation” is to be mailed, immediately
32 preceded by a statement advising the buyer that the “Notice of
33 Cancellation” may be sent to the contractor at the address noted
34 on the contract.

35 (4) The contract shall include a statement that, upon satisfactory
36 payment being made for any portion of the work performed, the
37 contractor, prior to any further payment being made, shall furnish
38 to the person contracting for the home improvement or swimming
39 pool work a full and unconditional release from any potential lien
40 claimant claim or mechanics lien authorized pursuant to Sections

1 8400 and 8404 of the Civil Code for that portion of the work for
2 which payment has been made.

3 (5) A change-order form for changes or extra work shall be
4 incorporated into the contract and shall become part of the contract
5 only if it is in writing and signed by the parties prior to the
6 commencement of any work covered by a change order.

7 (6) The contract shall contain, in close proximity to the
8 signatures of the owner and contractor, a notice stating that the
9 owner or tenant has the right to require the contractor to have a
10 performance and payment bond.

11 (7) If the contract provides for a contractor to furnish joint
12 control, the contractor shall not have any financial or other interest
13 in the joint control.

14 (8) The provisions of this section are not exclusive and do not
15 relieve the contractor from compliance with any other applicable
16 provision of law.

17 (d) A home improvement contract and any changes to the
18 contract shall be in writing and signed by the parties to the contract
19 prior to the commencement of work covered by the contract or an
20 applicable change order and, except as provided in paragraph (8)
21 of subdivision (a) of Section 7159.5, shall include or comply with
22 all of the following:

23 (1) The name, business address, and license number of the
24 contractor.

25 (2) If applicable, the name and registration number of the home
26 improvement salesperson that solicited or negotiated the contract.

27 (3) The following heading on the contract form that identifies
28 the type of contract in at least 10-point boldface type: “Home
29 Improvement.”

30 (4) The following statement in at least 12-point boldface type:
31 “You are entitled to a completely filled in copy of this agreement,
32 signed by both you and the contractor, before any work may be
33 started.”

34 (5) The heading: “Contract Price,” followed by the amount of
35 the contract in dollars and cents.

36 (6) If a finance charge will be charged, the heading: “Finance
37 Charge,” followed by the amount in dollars and cents. The finance
38 charge is to be set out separately from the contract amount.

39 (7) The heading: “Description of the Project and Description
40 of the Significant Materials to be Used and Equipment to be

1 Installed,” followed by a description of the project and a description
2 of the significant materials to be used and equipment to be installed.
3 For swimming pools, the project description required under this
4 paragraph also shall include a plan and scale drawing showing the
5 shape, size, dimensions, and the construction and equipment
6 specifications.

7 (8) If a downpayment will be charged, the details of the
8 downpayment shall be expressed in substantially the following
9 form, and shall include the text of the notice as specified in
10 subparagraph (C):

11 (A) The heading: “Downpayment.”

12 (B) A space where the actual downpayment appears.

13 (C) The following statement in at least 12-point boldface type:

14
15 “THE DOWNPAYMENT MAY NOT EXCEED \$1,000 OR 10
16 PERCENT OF THE CONTRACT PRICE, WHICHEVER IS
17 LESS.”

18
19 (9) If payments, other than the downpayment, are to be made
20 before the project is completed, the details of these payments,
21 known as progress payments, shall be expressed in substantially
22 the following form, and shall include the text of the statement as
23 specified in subparagraph (C):

24 (A) A schedule of progress payments shall be preceded by the
25 heading: “Schedule of Progress Payments.”

26 (B) Each progress payment shall be stated in dollars and cents
27 and specifically reference the amount of work or services to be
28 performed and materials and equipment to be supplied.

29 (C) The section of the contract reserved for the progress
30 payments shall include the following statement in at least 12-point
31 boldface type:

32
33 “The schedule of progress payments must specifically describe
34 each phase of work, including the type and amount of work or
35 services scheduled to be supplied in each phase, along with the
36 amount of each proposed progress payment. IT IS AGAINST THE
37 LAW FOR A CONTRACTOR TO COLLECT PAYMENT FOR
38 WORK NOT YET COMPLETED, OR FOR MATERIALS NOT
39 YET DELIVERED. HOWEVER, A CONTRACTOR MAY
40 REQUIRE A DOWNPAYMENT.”

1

2 (10) The contract shall address the commencement of work to
3 be performed in substantially the following form:

4 (A) A statement that describes what constitutes substantial
5 commencement of work under the contract.

6 (B) The heading: “Approximate Start Date.”

7 (C) The approximate date on which work will be commenced.

8 (11) The estimated completion date of the work shall be
9 referenced in the contract in substantially the following form:

10 (A) The heading: “Approximate Completion Date.”

11 (B) The approximate date of completion.

12 (12) If applicable, the heading: “List of Documents to be
13 Incorporated into the Contract,” followed by the list of documents
14 incorporated into the contract.

15 (13) The heading: “Note About Extra Work and Change Orders,”
16 followed by the following statement:

17

18 “Extra Work and Change Orders become part of the contract
19 once the order is prepared in writing and signed by the parties prior
20 to the commencement of work covered by the new change order.
21 The order must describe the scope of the extra work or change,
22 the cost to be added or subtracted from the contract, and the effect
23 the order will have on the schedule of progress payments.”

24

25 (e) Except as provided in paragraph (8) of subdivision (a) of
26 Section 7159.5, all of the following notices shall be provided to
27 the owner as part of the contract form as specified or, if otherwise
28 authorized under this subdivision, may be provided as an
29 attachment to the contract:

30 (1) A notice concerning commercial general liability insurance.
31 This notice may be provided as an attachment to the contract if
32 the contract includes the following statement: “A notice concerning
33 commercial general liability insurance is attached to this contract.”
34 The notice shall include the heading “Commercial General Liability
35 Insurance (CGL),” followed by whichever of the following
36 statements is both relevant and correct:

37 (A) “(The name on the license or ‘This contractor’) does not
38 carry commercial general liability insurance.”

39 (B) “(The name on the license or ‘This contractor’) carries
40 commercial general liability insurance written by (the insurance

1 company). You may call (the insurance company) at _____
2 to check the contractor’s insurance coverage.”

3 (C) “(The name on the license or ‘This contractor’) is
4 self-insured.”

5 (D) “(The name on the license or ‘This contractor’) is a limited
6 liability company that carries liability insurance or maintains other
7 security as required by law. You may call (the insurance company
8 or trust company or bank) at ____ to check on the contractor’s
9 insurance coverage or security.”

10 (2) A notice concerning workers’ compensation insurance. This
11 notice may be provided as an attachment to the contract if the
12 contract includes the statement: “A notice concerning workers’
13 compensation insurance is attached to this contract.” The notice
14 shall include the heading “Workers’ Compensation Insurance”
15 followed by whichever of the following statements is correct:

16 (A) “(The name on the license or ‘This contractor’) has no
17 employees and is exempt from workers’ compensation
18 requirements.”

19 (B) “(The name on the license or ‘This contractor’) carries
20 workers’ compensation insurance for all employees.”

21 (3) A notice that provides the buyer with the following
22 information about the performance of extra or change-order work:

23 (A) A statement that the buyer may not require a contractor to
24 perform extra or change-order work without providing written
25 authorization prior to the commencement of work covered by the
26 new change order.

27 (B) A statement informing the buyer that extra work or a change
28 order is not enforceable against a buyer unless the change order
29 also identifies all of the following in writing prior to the
30 commencement of work covered by the new change order:

31 (i) The scope of work encompassed by the order.

32 (ii) The amount to be added or subtracted from the contract.

33 (iii) The effect the order will make in the progress payments or
34 the completion date.

35 (C) A statement informing the buyer that the contractor’s failure
36 to comply with the requirements of this paragraph does not
37 preclude the recovery of compensation for work performed based
38 upon legal or equitable remedies designed to prevent unjust
39 enrichment.

1 (4) A notice with the heading “Mechanics Lien Warning” written
2 as follows:

3

4 “MECHANICS LIEN WARNING:

5

6 Anyone who helps improve your property, but who is not paid,
7 may record what is called a mechanics lien on your property. A
8 mechanics lien is a claim, like a mortgage or home equity loan,
9 made against your property and recorded with the county recorder.

10 Even if you pay your contractor in full, unpaid subcontractors,
11 suppliers, and laborers who helped to improve your property may
12 record mechanics liens and sue you in court to foreclose the lien.
13 If a court finds the lien is valid, you could be forced to pay twice
14 or have a court officer sell your home to pay the lien. Liens can
15 also affect your credit.

16 To preserve their right to record a lien, each subcontractor and
17 material supplier must provide you with a document called a
18 ‘Preliminary Notice.’ This notice is not a lien. The purpose of the
19 notice is to let you know that the person who sends you the notice
20 has the right to record a lien on your property if they are not paid.

21 BE CAREFUL. The Preliminary Notice can be sent up to 20
22 days after the subcontractor starts work or the supplier provides
23 material. This can be a big problem if you pay your contractor
24 before you have received the Preliminary Notices.

25 You will not get Preliminary Notices from your prime contractor
26 or from laborers who work on your project. The law assumes that
27 you already know they are improving your property.

28 PROTECT YOURSELF FROM LIENS. You can protect
29 yourself from liens by getting a list from your contractor of all the
30 subcontractors and material suppliers that work on your project.
31 Find out from your contractor when these subcontractors started
32 work and when these suppliers delivered goods or materials. Then
33 wait 20 days, paying attention to the Preliminary Notices you
34 receive.

35 PAY WITH JOINT CHECKS. One way to protect yourself is
36 to pay with a joint check. When your contractor tells you it is time
37 to pay for the work of a subcontractor or supplier who has provided
38 you with a Preliminary Notice, write a joint check payable to both
39 the contractor and the subcontractor or material supplier.

1 For other ways to prevent liens, visit CSLB’s internet website
2 at www.cslb.ca.gov or call CSLB at 800-321-CSLB (2752).

3 REMEMBER, IF YOU DO NOTHING, YOU RISK HAVING
4 A LIEN PLACED ON YOUR HOME. This can mean that you
5 may have to pay twice, or face the forced sale of your home to pay
6 what you owe.”

7
8 (5) The following notice shall be provided in at least 12-point
9 typeface:

10
11 “Information about the Contractors State License Board (CSLB):
12 CSLB is the state consumer protection agency that licenses and
13 regulates construction contractors.

14 Contact CSLB for information about the licensed contractor you
15 are considering, including information about disclosable
16 complaints, disciplinary actions, and civil judgments that are
17 reported to CSLB.

18 Use only licensed contractors. If you file a complaint against a
19 licensed contractor within the legal deadline (usually four years),
20 CSLB has authority to investigate the complaint. If you use an
21 unlicensed contractor, CSLB may not be able to help you resolve
22 your complaint. Your only remedy may be in civil court, and you
23 may be liable for damages arising out of any injuries to the
24 unlicensed contractor or the unlicensed contractor’s employees.

25 For more information:

26 Visit CSLB’s internet website at www.cslb.ca.gov

27 Call CSLB at 800-321-CSLB (2752)

28 Write CSLB at P.O. Box 26000, Sacramento, CA 95826.”

29
30 (6) (A) The notice set forth in subparagraph (B) and entitled
31 “Three-Day Right to Cancel,” shall be provided to the buyer unless
32 the contract is:

33 (i) Negotiated at the contractor’s place of business.

34 (ii) Subject to the “Seven-Day Right to Cancel,” as set forth in
35 paragraph (7).

36 (iii) Subject to licensure under the Alarm Company Act (Chapter
37 11.6 (commencing with Section 7590)), provided the alarm
38 company licensee complies with Sections 1689.5, 1689.6, and
39 1689.7 of the Civil Code, as applicable.

40

1 (B) “Three-Day Right to Cancel

2 You, the buyer, have the right to cancel this contract within three
3 business days. You may cancel by emailing, mailing, faxing, or
4 delivering a written notice to the contractor at the contractor’s
5 place of business by midnight of the third business day after you
6 received a signed and dated copy of the contract that includes this
7 notice. Include your name, your address, and the date you received
8 the signed copy of the contract and this notice.

9 If you cancel, the contractor must return to you anything you
10 paid within 10 days of receiving the notice of cancellation. For
11 your part, you must make available to the contractor at your
12 residence, in substantially as good condition as you received them,
13 goods delivered to you under this contract or sale. Or, you may,
14 if you wish, comply with the contractor’s instructions on how to
15 return the goods at the contractor’s expense and risk. If you do
16 make the goods available to the contractor and the contractor does
17 not pick them up within 20 days of the date of your notice of
18 cancellation, you may keep them without any further obligation.
19 If you fail to make the goods available to the contractor, or if you
20 agree to return the goods to the contractor and fail to do so, then
21 you remain liable for performance of all obligations under the
22 contract.”

23

24 (C) The “Three-Day Right to Cancel” notice required by this
25 paragraph shall comply with all of the following:

26 (i) The text of the notice is at least 12-point boldface type.

27 (ii) The notice is in immediate proximity to a space reserved
28 for the owner’s signature.

29 (iii) The owner acknowledges receipt of the notice by signing
30 and dating the notice form in the signature space.

31 (iv) The notice is written in the same language, e.g., Spanish,
32 as that principally used in any oral sales presentation.

33 (v) The notice may be attached to the contract if the contract
34 includes, in at least 12-point boldface type, a checkbox with the
35 following statement: “The law requires that the contractor give
36 you a notice explaining your right to cancel. Initial the checkbox
37 if the contractor has given you a ‘Notice of the Three-Day Right
38 to Cancel.’ ”

39 (vi) The notice shall be accompanied by a completed form in
40 duplicate, captioned “Notice of Cancellation,” which also shall be

1 attached to the agreement or offer to purchase and be easily
2 detachable, and which shall contain the following statement written
3 in the same language, e.g., Spanish, as used in the contract:

4
5
6
7
8
9

“Notice of Cancellation”

/enter date of transaction/

(Date)

10 “You may cancel this transaction, without any penalty or
11 obligation, within three business days from the above date.

12 If you cancel, any property traded in, any payments made by
13 you under the contract or sale, and any negotiable instrument
14 executed by you will be returned within 10 days following receipt
15 by the seller of your cancellation notice, and any security interest
16 arising out of the transaction will be canceled.

17 If you cancel, you must make available to the seller at your
18 residence, in substantially as good condition as when received,
19 any goods delivered to you under this contract or sale, or you may,
20 if you wish, comply with the instructions of the seller regarding
21 the return shipment of the goods at the seller’s expense and risk.

22 If you do make the goods available to the seller and the seller
23 does not pick them up within 20 days of the date of your notice of
24 cancellation, you may retain or dispose of the goods without any
25 further obligation. If you fail to make the goods available to the
26 seller, or if you agree to return the goods to the seller and fail to
27 do so, then you remain liable for performance of all obligations
28 under the contract.”

29

30 To cancel this transaction, mail or deliver a signed and dated copy of this
31 cancellation notice, or any other written notice, or send a telegram

32 to _____,
33 /name of seller/

34 at _____
35 /address of seller’s place of business/

36 not later than midnight of _____
37 (Date)

38 I hereby cancel this transaction. _____
39 (Date)

40 _____

(Buyer’s signature)

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(7) (A) The following notice entitled “Seven-Day Right to Cancel” shall be provided to the buyer for any contract that is written for the repair or restoration of residential premises damaged by any sudden or catastrophic event for which a state of emergency has been declared by the President of the United States or the Governor, or for which a local emergency has been declared by the executive officer or governing body of any city, county, or city and county:

“Seven-Day Right to Cancel

You, the buyer, have the right to cancel this contract within seven business days. You may cancel by emailing, mailing, faxing, or delivering a written notice to the contractor at the contractor’s place of business by midnight of the seventh business day after you received a signed and dated copy of the contract that includes this notice. Include your name, your address, and the date you received the signed copy of the contract and this notice.

If you cancel, the contractor must return to you anything you paid within 10 days of receiving the notice of cancellation. For your part, you must make available to the contractor at your residence, in substantially as good condition as you received them, goods delivered to you under this contract or sale. Or, you may, if you wish, comply with the contractor’s instructions on how to return the goods at the contractor’s expense and risk. If you do make the goods available to the contractor and the contractor does not pick them up within 20 days of the date of your notice of cancellation, you may keep them without any further obligation. If you fail to make the goods available to the contractor, or if you agree to return the goods to the contractor and fail to do so, then you remain liable for performance of all obligations under the contract.”

(B) The “Seven-Day Right to Cancel” notice required by this subdivision shall comply with all of the following:

- (i) The text of the notice is at least 12-point boldface type.
- (ii) The notice is in immediate proximity to a space reserved for the owner’s signature.

1 (iii) The owner acknowledges receipt of the notice by signing
2 and dating the notice form in the signature space.

3 (iv) The notice is written in the same language, e.g., Spanish,
4 as that principally used in any oral sales presentation.

5 (v) The notice may be attached to the contract if the contract
6 includes, in at least 12-point boldface type, a checkbox with the
7 following statement: “The law requires that the contractor give
8 you a notice explaining your right to cancel. Initial the checkbox
9 if the contractor has given you a ‘Notice of the Seven-Day Right
10 to Cancel.’”

11 (vi) The notice shall be accompanied by a completed form in
12 duplicate, captioned “Notice of Cancellation,” which shall also be
13 attached to the agreement or offer to purchase and be easily
14 detachable, and which shall contain the following statement written
15 in the same language, e.g., Spanish, as used in the contract:

16
17 “Notice of Cancellation”

18 /enter date of transaction/
19

20 _____
(Date)
21

22 “You may cancel this transaction, without any penalty or
23 obligation, within seven business days from the above date.

24 If you cancel, any property traded in, any payments made by
25 you under the contract or sale, and any negotiable instrument
26 executed by you will be returned within 10 days following receipt
27 by the seller of your cancellation notice, and any security interest
28 arising out of the transaction will be canceled.

29 If you cancel, you must make available to the seller at your
30 residence, in substantially as good condition as when received,
31 any goods delivered to you under this contract or sale, or you may,
32 if you wish, comply with the instructions of the seller regarding
33 the return shipment of the goods at the seller’s expense and risk.

34 If you do make the goods available to the seller and the seller
35 does not pick them up within 20 days of the date of your notice of
36 cancellation, you may retain or dispose of the goods without any
37 further obligation. If you fail to make the goods available to the
38 seller, or if you agree to return the goods to the seller and fail to
39 do so, then you remain liable for performance of all obligations
40 under the contract.”

1 To cancel this transaction, mail or deliver a signed and dated copy of this
 2 cancellation notice, or any other written notice, or send a telegram
 3 to _____,
 4 /name of seller/
 5 at _____
 6 /address of seller’s place of business/
 7 not later than midnight of _____.
 8 (Date)
 9 I hereby cancel this transaction. _____
 10 (Date)
 11 _____
 12 (Buyer’s signature)

13 ~~SEC. 46.~~

14 *SEC. 61.* Section 7170 of the Business and Professions Code
 15 is amended to read:

16 7170. (a) The Contractors State License Board shall receive
 17 and review complaints and consumer questions regarding solar
 18 energy systems companies and solar contractors. The board shall
 19 also receive complaints received from state agencies regarding
 20 solar energy systems companies and solar contractors.

21 (b) Beginning on July 1, 2019, the board annually shall compile
 22 a report documenting consumer complaints relating to solar
 23 contractors. The report shall be made available publicly on the
 24 board’s and the Public Utilities Commission’s internet websites.
 25 The report shall contain all of the following:

- 26 (1) The number and types of complaints.
- 27 (2) The ZIP Code where the consumer complaint originated.
- 28 (3) The disposition of all complaints received against a solar
 29 contractor.

30 (c) For purposes of this section, “solar energy system” means
 31 a solar energy device to be installed on a residential building that
 32 has the primary purpose of providing for the collection and
 33 distribution of solar energy for the generation of electricity, that
 34 produces at least one kW, and not more than five MW, alternating
 35 current rated peak electricity, and that meets or exceeds the
 36 eligibility criteria established pursuant to Section 25782 of the
 37 Public Resources Code.

38 *SEC. 62.* Section 7303 of the Business and Professions Code
 39 is amended to read:
 40

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

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

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

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

29 (e) This section shall remain in effect only until January 1, ~~2021,~~
30 ~~2022~~, and as of that date is ~~repealed, unless a later enacted statute,~~
31 ~~that is enacted before January 1, 2021, deletes or extends that date.~~
32 *repealed*. Notwithstanding any other law, the repeal of this section
33 renders the board subject to review by the appropriate policy
34 committees of the Legislature.

35 ~~SEC. 47.~~

36 *SEC. 63.* Section 8516 of the Business and Professions Code
37 is amended to read:

38 8516. (a) This section, and Section 8519, apply only to wood
39 destroying pests or organisms.

1 (b) A registered company or licensee shall not commence work
2 on a contract, or sign, issue, or deliver any documents expressing
3 an opinion or statement relating to the absence or presence of wood
4 destroying pests or organisms until an inspection has been made
5 by a licensed Branch 3 field representative or operator employed
6 by a registered company, except as provided in Section 8519.5.
7 The address of each property inspected or upon which work is
8 completed shall be reported on a form prescribed by the board and
9 shall be filed with the board no later than 10 business days after
10 the commencement of an inspection or upon completed work.

11 Every property inspected pursuant to this subdivision or Section
12 8518 shall be assessed a filing fee pursuant to Section 8674.

13 Failure of a registered company to report and file with the board
14 the address of any property inspected or work completed pursuant
15 to Section 8518 or this section is grounds for disciplinary action
16 and shall subject the registered company to a fine of not more than
17 two thousand five hundred dollars (\$2,500). The address of an
18 inspection report prepared for use by an attorney for litigation
19 purposes shall not be required to be reported to the board and shall
20 not be assessed a filing fee.

21 A written inspection report conforming to this section and a form
22 approved by the board shall be prepared and delivered to the person
23 requesting the inspection and the property owner, or to the property
24 owner's designated agent, within 10 business days from the start
25 of the inspection, except that an inspection report prepared for use
26 by an attorney for litigation purposes is not required to be reported
27 to the board or the property owner. An inspection report may be
28 a complete, limited, supplemental, or reinspection report, as defined
29 by Section 1993 of Title 16 of the California Code of Regulations.
30 The report shall be delivered before work is commenced on any
31 property. The registered company shall retain for three years all
32 inspection reports, field notes, and activity forms.

33 Reports shall be made available for inspection and reproduction
34 to the executive officer of the board or their duly authorized
35 representative during business hours. All inspection reports or
36 copies thereof shall be submitted to the board upon demand within
37 two business days. The following shall be set forth in the report:

38 (1) The start date of the inspection and the name of the licensed
39 field representative or operator making the inspection.

1 (2) The name and address of the person or firm ordering the
2 report.

3 (3) The name and address of the property owner and any person
4 who is a party in interest.

5 (4) The address or location of the property.

6 (5) A general description of the building or premises inspected.

7 (6) A foundation diagram or sketch of the structure or structures
8 or portions of the structure or structures inspected, including the
9 approximate location of any infested or infected areas evident, and
10 the parts of the structure where conditions that would ordinarily
11 subject those parts to attack by wood destroying pests or organisms
12 exist. Reporting of the infested or infected wood members, or parts
13 of the structure identified, shall be listed in the inspection report
14 to clearly identify them, as is typical in standard construction
15 components, including, but not limited to, siding, studs, rafters,
16 floor joists, fascia, subfloor, sheathing, and trim boards.

17 (7) Information regarding the substructure, foundation walls
18 and footings, porches, patios and steps, air vents, abutments, attic
19 spaces, roof framing that includes the eaves, rafters, fascias,
20 exposed timbers, exposed sheathing, ceiling joists, and attic walls,
21 or other parts subject to attack by wood destroying pests or
22 organisms. Conditions usually deemed likely to lead to infestation
23 or infection, such as earth-wood contacts, excessive cellulose
24 debris, faulty grade levels, excessive moisture conditions, evidence
25 of roof leaks, and insufficient ventilation are to be reported.

26 (8) One of the following statements, as appropriate, printed in
27 bold type:

28 (A) The exterior surface of the roof was not inspected. If you
29 want the water tightness of the roof determined, you should contact
30 a roofing contractor who is licensed by the Contractors State
31 License Board.

32 (B) The exterior surface of the roof was inspected to determine
33 whether or not wood destroying pests or organisms are present.

34 (9) Indication or description of any areas that are inaccessible
35 or not inspected with recommendation for further inspection if
36 practicable. If, after the report has been made in compliance with
37 this section, authority is given later to open inaccessible areas, a
38 supplemental report on conditions in these areas shall be made.

39 (10) Recommendations for corrective measures.

1 (11) Information regarding the pesticide or pesticides to be used
2 for their control or prevention as set forth in subdivision (a) of
3 Section 8538.

4 (12) The inspection report shall clearly disclose that if requested
5 by the person ordering the original report, a reinspection of the
6 structure will be performed if an estimate or bid for making repairs
7 was given with the original inspection report, or thereafter.

8 An estimate or bid shall be given separately allocating the costs
9 to perform each and every recommendation for corrective measures
10 as specified in subdivision (c) with the original inspection report
11 if the person who ordered the original inspection report so requests,
12 and if the registered company is regularly in the business of
13 performing each corrective measure.

14 If no estimate or bid was given with the original inspection
15 report, or thereafter, then the registered company shall not be
16 required to perform a reinspection.

17 A reinspection shall be an inspection of those items previously
18 listed on an original report to determine if the recommendations
19 have been completed. Each reinspection shall be reported on an
20 original inspection report form and shall be labeled “Reinspection.”
21 Each reinspection shall also identify the original report by date.

22 After four months from an original inspection, all inspections
23 shall be original inspections and not reinspections.

24 Any reinspection shall be performed for not more than the price
25 of the registered company’s original inspection price and shall be
26 completed within 10 business days after a reinspection has been
27 ordered.

28 (13) The inspection report shall contain the following statement,
29 printed in boldface type:

30
31 “NOTICE: Reports on this structure prepared by various
32 registered companies should list the same findings (i.e. termite
33 infestations, termite damage, fungus damage, etc.). However,
34 recommendations to correct these findings may vary from company
35 to company. You have a right to seek a second opinion from
36 another company.”

37
38 (c) At the time a report is ordered, the registered company or
39 licensee shall inform the person or entity ordering the report, that
40 a separate report is available pursuant to this subdivision. If a

1 separate report is requested at the time the inspection report is
2 ordered, the registered company or licensee shall separately identify
3 on the report each recommendation for corrective measures as
4 follows:

- 5 (1) The infestation or infection that is evident.
- 6 (2) The conditions that are present that are deemed likely to
7 lead to infestation or infection.

8 If a registered company or licensee fails to inform as required
9 by this subdivision and a dispute arises, or if any other dispute
10 arises as to whether this subdivision has been complied with, a
11 separate report shall be provided within 24 hours of the request
12 but, in no event, later than the next business day, and at no
13 additional cost.

14 (d) When a corrective condition is identified, either as paragraph
15 (1) or (2) of subdivision (c), and the property owner or the property
16 owner's designated agent chooses not to correct those conditions,
17 the registered company or licensee shall not be liable for damages
18 resulting from a failure to correct those conditions or subject to
19 any disciplinary action by the board. Nothing in this subdivision,
20 however, shall relieve a registered company or a licensee of any
21 liability resulting from negligence, fraud, dishonest dealing, other
22 violations pursuant to this chapter, or contractual obligations
23 between the registered company or licensee and the responsible
24 parties.

25 (e) The inspection report form prescribed by the board shall
26 separately identify the infestation or infection that is evident and
27 the conditions that are present that are deemed likely to lead to
28 infestation or infection. If a separate form is requested, the form
29 shall explain the infestation or infection that is evident and the
30 conditions that are present that are deemed likely to lead to
31 infestation or infection and the difference between those conditions.
32 In no event, however, shall conditions deemed likely to lead to
33 infestation or infection be characterized as actual "defects" or as
34 actual "active" infestations or infections or in need of correction
35 as a precondition to issuing a certification pursuant to Section
36 8519.

37 (f) The report and any contract entered into shall also state
38 specifically when any guarantee for the work is made, and if so,
39 the specific terms of the guarantee and the period of time for which
40 the guarantee shall be in effect. If a guarantee extends beyond three

1 years, the registered company shall maintain all original inspection
2 reports, field notes, activity forms, and notices of completion for
3 the duration of the guarantee period and for one year after the
4 guarantee expires.

5 (g) For purposes of this section, “control service agreement”
6 means an agreement, including extended warranties, to have a
7 licensee conduct over a period of time regular inspections and
8 other activities related to the control or eradication of wood
9 destroying pests and organisms. Under a control service agreement
10 a registered company shall refer to the original report and contract
11 in a manner as to identify them clearly, and the report shall be
12 assumed to be a true report of conditions as originally issued,
13 except it may be modified after a control service inspection. A
14 registered company is not required to issue a report as outlined in
15 paragraphs (1) to (11), inclusive, of subdivision (b) after each
16 control service inspection. If after control service inspection, no
17 modification of the original report is made in writing, then it will
18 be assumed that conditions are as originally reported. A control
19 service contract shall state specifically the particular wood
20 destroying pests or organisms and the portions of the buildings or
21 structures covered by the contract.

22 (h) A registered company or licensee may enter into and
23 maintain a control service agreement provided the following
24 requirements are met:

25 (1) The control service agreement shall be in writing, signed by
26 both parties, and shall specifically include the following:

27 (A) The wood destroying pests and organisms covered by the
28 control service agreement.

29 (B) Any wood destroying pest or organism that is not covered
30 must be specifically listed.

31 (C) The type and manner of treatment to be used to correct the
32 infestations or infections.

33 (D) The structures or buildings, or portions thereof, covered by
34 the agreement, including a statement specifying whether the
35 coverage for purposes of periodic inspections is limited or full.
36 Any exclusions from those described in the original report must
37 be specifically listed.

38 (E) A reference to the original inspection report.

39 (F) The frequency of the inspections to be provided, the fee to
40 be charged for each renewal, and the duration of the agreement.

- 1 (G) Whether the fee includes structural repairs.
- 2 (H) If the services provided are guaranteed, and, if so, the terms
3 of the guarantee.
- 4 (I) A statement that all corrections of infestations or infections
5 covered by the control service agreement shall be completed within
6 six months of discovery, unless otherwise agreed to in writing by
7 both parties.
- 8 (2) The original inspection report, the control service agreement,
9 and completion report shall be maintained for three years after the
10 cancellation of the control service agreement.
- 11 (3) Inspections made pursuant to a control service agreement
12 shall be conducted by a Branch 3 licensee. Section 8506.1 does
13 not modify this provision.
- 14 (4) A full inspection of the property covered by the control
15 service agreement shall be conducted and a report filed pursuant
16 to subdivision (b) at least once every three years from the date that
17 the agreement was entered into, unless the consumer cancels the
18 contract within three years from the date the agreement was entered
19 into.
- 20 (5) Under a control service agreement, a written report shall be
21 required for the correction of any infestation or infection unless
22 all of the following conditions are met:
- 23 (A) The infestation or infection has been previously reported.
- 24 (B) The infestation or infection is covered by the control service
25 agreement.
- 26 (C) There is no additional charge for correcting the infestation
27 or infection.
- 28 (D) Correction of the infestation or infection takes place within
29 45 days of its discovery.
- 30 (E) Correction of the infestation or infection does not include
31 fumigation.
- 32 (6) All notice requirements pursuant to Section 8538 shall apply
33 to all pesticide treatments conducted under control service
34 agreements.
- 35 (i) All work recommended by a registered company, where an
36 estimate or bid for making repairs was given with the original
37 inspection report, or thereafter, shall be recorded on this report or
38 a separate work agreement and shall specify a price for each
39 recommendation. This information shall be provided to the person

1 requesting the inspection, and shall be retained by the registered
2 company with the inspection report copy for three years.

3 *SEC. 64. Section 10050 of the Business and Professions Code*
4 *is amended to read:*

5 10050. (a) (1) There is in the Business, Consumer Services,
6 and Housing Agency a Department of Real Estate, the chief officer
7 of which department is named the Real Estate Commissioner.

8 (2) Notwithstanding any other law, the powers and duties of the
9 department, as set forth in this part and Chapter 1 (commencing
10 with Section 11000) of Part 2, shall be subject to review by the
11 appropriate policy committees of the Legislature. The review shall
12 be performed as if this part and that chapter were scheduled to be
13 repealed as of January 1, ~~2021~~, 2022.

14 (b) It shall be the principal responsibility of the commissioner
15 to enforce all laws in this part and Chapter 1 (commencing with
16 Section 11000) of Part 2 in a manner that achieves the maximum
17 protection for the buyers of real property and those persons dealing
18 with real estate licensees.

19 (c) Wherever the term “commissioner” is used in this division,
20 it means the Real Estate Commissioner.

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

22 *SEC. 65. Section 11301 of the Business and Professions Code*
23 *is amended to read:*

24 11301. (a) (1) There is hereby created within the Department
25 of Consumer Affairs a Bureau of Real Estate Appraisers to
26 administer and enforce this part.

27 (2) Notwithstanding any other law, the powers and duties of the
28 bureau, as set forth in this part, shall be subject to review by the
29 appropriate policy committees of the Legislature. The review shall
30 be performed as if this part were scheduled to be repealed as of
31 January 1, ~~2021~~, 2022.

32 (b) Whenever the term “Office of Real Estate Appraisers”
33 appears in any other law, it means the “Bureau of Real Estate
34 Appraisers.”

35 ~~SEC. 48.~~

36 *SEC. 66. Section 16100 of the Business and Professions Code*
37 *is amended to read:*

38 16100. (a) The board of supervisors may in the exercise of its
39 police powers, and for the purpose of regulation, as herein
40 provided, and not otherwise, license any kind of business not

1 prohibited by law, transacted and carried on within the limits of
2 its jurisdiction, including all shows, exhibitions, and lawful games,
3 and may fix the rate of the license fee and provide for its collection
4 by suit or otherwise.

5 (b) No license fee levied pursuant to subdivision (a) that is
6 measured by the licensee's income or gross receipts, whether levied
7 by a charter or general law county, shall apply to any nonprofit
8 organization that is exempted from taxes by Chapter 4
9 (commencing with Section 23701) of Part 11 of Division 2 of the
10 Revenue and Taxation Code or Subchapter F (commencing with
11 Section 501) of Chapter 1 of Subtitle A of the Internal Revenue
12 Code of 1986, or the successor of either, or to any minister,
13 clergyman, Christian Science practitioner, rabbi, or priest of any
14 religious organization that has been granted an exemption from
15 federal income tax by the United States Commissioner of Internal
16 Revenue as an organization described in Section 501(c)(3) of the
17 Internal Revenue Code or a successor to that section.

18 (c) Before a county issues a business license to a person to
19 conduct business as a contractor, as defined by Section 7026, the
20 county shall verify that the person is licensed by the Contractors
21 State License Board.

22 ~~SEC. 49.~~

23 *SEC. 67.* Section 19164 of the Business and Professions Code
24 is amended to read:

25 19164. The bureau may, by regulation, establish insulation
26 material standards governing the quality of all insulation material
27 sold or installed within this state, including those properties that
28 affect the safety and thermal performance of insulation material
29 during application and in the use intended. The standards shall
30 specify the initial performance of the insulation material and the
31 performance expected during the design life of the insulation
32 material. Until the bureau has adopted these regulations, the
33 regulations of the State Energy Resources Conservation and
34 Development Commission in effect on the effective date of this
35 section relating to those standards shall remain in full force and
36 effect. However, wherever those regulations specify that the
37 commission shall perform an act, the bureau instead shall perform
38 the act.

39 Prior to establishing the standards and procedures required by
40 this chapter, the bureau shall conduct at least two public hearings,

1 and shall invite the State Energy Resources Conservation and
2 Development Commission, the State Fire Marshal, manufacturers,
3 distributors, and licensed installers of insulation materials, and
4 appropriate members of the public to participate in the hearings.
5 Immediately upon adoption of the standards and procedures, the
6 bureau shall provide a copy of the standards to the State Energy
7 Resources Conservation and Development Commission, and the
8 Contractors State License Board. Within 30 days after receipt of
9 the bureau's standards, the Contractors State License Board shall
10 notify all state licensed contractors who install insulation of the
11 standards.

12 Insulation standards adopted by the bureau, pursuant to this
13 section, and by the State Energy Resources Conservation and
14 Development Commission, pursuant to Section 25402 of the Public
15 Resources Code, which are building standards, as defined in
16 Section 25488.5 of the Public Resources Code, shall be submitted
17 to the California Building Standards Commission for approval
18 pursuant to, and are governed by, the California Building Standards
19 Law (Part 2.5 (commencing with Section 18901) of Division 13
20 of the Health and Safety Code). The building standards adopted
21 by the bureau and published in the California Building Standards
22 Code shall comply with, and be enforced as provided in, this
23 section.

24 *SEC. 68. Section 94950 of the Education Code is amended to*
25 *read:*

26 94950. This chapter shall remain in effect only until January
27 1, 2021, 2022, and as of that date is ~~repealed, unless a later enacted~~
28 ~~statute, that is enacted before January 1, 2021, deletes or extends~~
29 ~~that date.~~ *repealed.*

30 ~~SEC. 50.~~

31 *SEC. 69.* No reimbursement is required by this act pursuant to
32 Section 6 of Article XIII B of the California Constitution because
33 the only costs that may be incurred by a local agency or school
34 district will be incurred because this act creates a new crime or
35 infraction, eliminates a crime or infraction, or changes the penalty
36 for a crime or infraction, within the meaning of Section 17556 of
37 the Government Code, or changes the definition of a crime within

1 the meaning of Section 6 of Article XIII B of the California
2 Constitution.

O



MEMORANDUM

DATE June 8, 2020

TO: Members, Board of Barbering and Cosmetology

FROM: Kristy Underwood, Executive Officer

SUBJECT: Regulations Update

PERSONAL SERVICE PERMIT (action needed)

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

The hearing previously scheduled for April 29, 2020 was canceled due to the current state of emergency in California and official requests for all people to stay home unless necessary. The written comment period was extended to May 4, 2020. The Board received public comments from six companies/individuals. The comment responses and modified proposed language is being submitted to the Board for approval.

DISCIPLINARY REVIEW COMMITTEE (action needed)

(Title 16, CCR Section 974.1 (Disciplinary Review Committee))

A memo is attached with information regarding appeals for other DCA divisions and other states. The regulatory language is being submitted to the Board for approval.

SUBSTANTIAL RELATIONSHIP CRITERIA

(Title 16, CCR Section 970, 971 (Substantial Relationship Criteria, Criteria for Rehabilitation))

This regulation package required a 15-Day Comment Period. The comment period ended on May 12, 2020. No comments were received. The Final Statement of Reasons is being reviewed by DCA.

The following regulation packages are under internal review by DCA/Agency:

- Title 16, CCR Section 950.10 (Transfer of Credit or Training)
- Title 16, CCR Section 972 (Disciplinary Guidelines)
- Title 16, CCR Section 961 (National Interstate Council (NIC) Translation Guides)
- Title 16, CCR Sections 962, 962.1 and 962.2 (Externs)

BOARD OF BARBERING AND COSMETOLOGY
Division 9, Title 16, of the California Code of Regulations.

SPECIFIC LANGUAGE

LEGEND

<u>Underlined</u>	Indicates proposed amendments or additions to the existing regulation.
<u>Double Underline</u>	Indicates amendments or additions to the originally proposed amendments
Strikeout	Indicates proposed deletions to the existing regulation.
Double Strikeout	Indicates deletions to the originally proposed amendments

- **Adopt Section 900, Title 16, California Code of Regulations, as follows:**

§ 900. “Establishment.”

Except as otherwise expressly provided, for purposes of this division and the Barbering and Cosmetology Act (Chapter 10 (commencing with section 7301) of Division 3 of the Business and Professions Code), “establishment” does not include any offsite premises, building, or part of a building where a personal service permit (“PSP”) holder travels to meet a client, if the only services performed by the PSP holder at that location are authorized pursuant to section 965.2. A PSP holder’s place of residence or employment, or other space that is procured by or on behalf of the PSP holder, is not “offsite” for purposes of this section.

NOTE: Authority cited: Sections 7312 and 7402.5, Business and Professions Code. Reference: Sections 7312, 7346, 7350, and 7402.5, Business and Professions Code.

- **Adopt Section 965.2, Title 16, California Code of Regulations, as follows:**

§ 965.2. Personal Service Permit.

(a) The Board may issue a personal service permit (PSP) authorizing the holder of the permit to perform certain barbering and cosmetology services outside of a licensed establishment if the following conditions are met:

- (1) The applicant is licensed by the Board and has held a valid license for a minimum of two consecutive years, or has been licensed in another state and is eligible for licensure pursuant to section 7331 of the Business and Professions Code, as a barber, cosmetologist, esthetician, or manicurist, and is not subject to denial pursuant to section 480.
- (2) The applicant submits via Live Scan a full and complete set of his or her fingerprints for use in conducting a criminal background check through the California Department of Justice and the Federal Bureau of Investigation. Applicants may be denied a PSP pursuant to Chapter 10 of Division 3 of the Business and Professions Code, pursuant to Division 1.5 (commencing with Section 475) of that same code.
- (3) The applicant pays an application fee to the Board as provided in Section 998 of these regulations.
- (4) The applicant provides proof of current liability insurance in a minimum amount of \$1,000,000.

(b) A PSP holder shall maintain liability insurance in a minimum amount of \$1,000,000, and present proof of liability insurance to the board or its representatives upon demand with reasonable notice. Failure to present proof of liability insurance to the board or its representatives may be grounds for discipline and PSP revocation.

(c) The services that may be performed outside of a licensed establishment by a licensed barber who holds a PSP are as follows:

- (1) Shampooing;
- (2) Cutting, styling, dressing, arranging, curling and waving hair. These authorized services do not include singeing, relaxing, or dyeing the hair.
- (3) Applying hair tonics;
- (4) Applying powders, clays, antiseptics, and oils to the scalp, face or neck;
- (5) Trimming the beard.

(d) The services that may be performed outside of a licensed establishment by a licensed cosmetologist who holds a PSP are as follows:

- (1) Shampooing;

- (2) Cutting, styling, dressing, arranging, curling and waving hair. These authorized services do not include singeing, relaxing, or dyeing the hair.
 - (3) Applying hair tonics;
 - (4) Applying powders, clays and oils to the scalp, face or neck;
 - (5) Cleaning, massaging, or stimulating the face and neck by means of the hands with the use of cleansing agents, antiseptics, tonics, lotions, or creams. This does not include chemical exfoliation or exfoliation with the use of a tool, machine or device;
 - (6) Removing hair from the body of any person with tweezers;
 - (7) Applying make-up or strip lashes;
 - (8) Buffing and filing nails with non-electrical tools;
 - (9) Applying and removing nail polish.
- (e) The services that may be performed outside of a licensed establishment by a licensed esthetician who holds a PSP are as follows:
- (1) Cleaning, massaging, or stimulating the face and neck by means of the hands with the use of cleansing agents, antiseptics, tonics, lotions, or creams. This does not include chemical exfoliation or exfoliation with the use of a tool, machine or device;
 - (2) Applying make-up or strip lashes;
 - (3) Removing hair from the body of any person with tweezers.
- (f) The services that may be performed outside of a licensed establishment by a licensed manicurist who holds a PSP are as follows:
- (1) Filing and buffing of nails by non-electrical tools;
 - (2) Applying and removing nail polish.
- (g) A PSP holder should use disposable tools whenever possible.
- (h) A PSP holder shall follow all laws, rules and regulations applicable to the services rendered.
- (i) Upon completion of services outside of a licensed establishment, the holder of a PSP shall:
- (1) Provide the consumer with a Personal Service Permit Consumer Notice (BBC-PSP (~~2018~~ 2020)), which is hereby incorporated by reference.
 - (2) Obtain a signed and dated receipt from the consumer that contains the following information:
 - A. The consumer's acknowledgement of receipt of the Personal Service Permit Consumer Notice;
 - B. The consumer's name;
 - C. The consumer's phone number;
 - D. The consumer's email address, if available
 - E. A list of all services rendered to the consumer.

A copy of the receipt shall be provided to the consumer. The PSP holder's copy of the receipt shall be presented upon demand with reasonable notice to the board or its representatives by the PSP holder, and shall be kept on file by the PSP holder for a period of five (5) years from the date of the service. Failure to present the receipt of Consumer Notice to the board or its representatives may be grounds for discipline. The notice and receipt requirements in this section may be satisfied electronically.

NOTE: Authority cited: Sections 7312 and 7402.5, Business and Professions Code.
Reference: Sections 7312 and 7402.5, Business and Professions Code.

Amend Section 998, Title 16, California Code of Regulations, as follows:

998. Schedule of Fees.

The following fees shall be charged by the board:

(a) Barbers:

(1) Preapplication fee.....	9
(2) Application and examination fee.....	75
(3) Initial license fee.....	50
(4) License renewal fee.....	50 ¹
(5) License renewal delinquency fee.....	25 ¹

(b) Cosmetologists:

(1) Preapplication fee.....	9
(2) Application and examination fee.....	75
(3) Initial license fee.....	50
(4) License renewal fee.....	50 ¹
(5) License renewal delinquency fee.....	25 ¹

(c) Estheticians:

(1) Preapplication fee.....	9
(2) Application and examination fee.....	75
(3) Initial license fee.....	40

(4) License renewal fee.....	50 ¹
(5) License renewal delinquency fee.....	25 ¹

(d) Manicurists:

(1) Preapplication fee.....	9
(2) Application and examination fee.....	75
(3) Initial license fee.....	35
(4) License renewal fee.....	50 ¹
(5) License renewal delinquency fee.....	25 ¹

(e) Electrologists:

(1) Preapplication fee.....	9
(2) Application and examination fee.....	75
(3) Initial license fee.....	50
(4) License renewal fee.....	50 ¹
(5) License renewal delinquency fee.....	25 ¹

(f) Apprentice application and license fee².....25

(g) Establishments:

(1) Application and initial license fee.....	50
(2) License renewal fee.....	40 ¹
(3) License renewal delinquency fee.....	20 ¹

(h) Mobile Units:

(1) Application fee.....	50
(2) Initial inspection and license fee.....	100
(3) License renewal fee.....	40 ¹
(4) License renewal delinquency fee.....	20 ¹

(i) Personal Service Permit

<u>(1) Initial License fee</u>	<u>25</u>
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<u>(3) License renewal fee</u>	<u>10</u>
<u>(3) License renewal delinquency fee</u>	<u>5</u>

1 Fees effective for all licenses expiring on or after December 21, 2007.

2 Licenses of apprentices are not renewable.

NOTE: Authority cited: Sections 7312, 7337.5(b) and 7421, Business and Professions Code. Reference: Sections 7402.5, 7415, 7417, 7418, 7419, 7420, 7423, 7424, and 7425, Business and Professions Code.

Summary of, and Responses to, Comments Received During the 45-day Comment Period on the Original Language

The following 6 individuals/organizations submitted written comments to the Board on the proposed rulemaking during the comment period, which was extended until May 4, 2020:

- David Goldweitz, Co-Founder and Chief Strategy Officer, on behalf of Glamsquad
- Courtney Jensen, Executive Director, on behalf of TechNet
- Anne Fisher (Fisher), Director of Spa-Go's
- Jaime Schrabeck (Schrabeck), Precision Nails
- Wendy Jacobs Cochran, California Aesthetic Alliance
- Swati Sharmam, Research and Policy Consultant, on behalf of California Healthy Nail Salon Collaborative (Collaborative)

Comment from David Goldweitz: Glamsquad fully supports the Personal Service Permit. Glamsquad appreciates the rigorous regulatory process that the Board undertook in drafting these proposed regulations, with years of study, public hearings, and drafting, following by over a year of review by the Department of Consumer Affairs. The Personal Service Permit (PSP) shows how California's Board has adapted and updated to new customers' demands in today's economy. Glamsquad is thrilled that with the PSP California enables independent beauty professionals to perform off-site services that are convenient for beauty professionals and customers.

Response: The Board acknowledges the comment. No further response is required.

Comment from Courtney Jensen: TechNet fully supports the Personal Service Permit. TechNet feels that the Board took a thoughtful and deliberative approach to the proposed regulations which will enable licensed beauty professionals the flexibility to work at off-site locations that are convenient for them as well as customers.

Response: The Board acknowledges the comment. No further response is required.

Comments from Anne Fisher: Fisher submitted 9 statements. Her comments/questions are synthesized and enumerated below.

1. Fisher requested the regulation allow for services to be provided to seniors and individuals with compromised immune systems. She asked what is allowed and not allowed for those requesting services in their home due to the following: health reasons, mothers who can't leave their children, disabled individuals,

those who cannot drive, those under house arrest, or those with other reasons why they require services in their home instead of a public setting.

Response: The Board rejects this comment. This regulation would allow PSP holders to provide services (as listed in the language) in a consumer's home, regardless of the reason why they are requesting such services. In addition, Business and Professions Code (BPC) sections 7318 and 7404(i) already allow licensees to provide services outside of a licensed establishment when necessary due to the illness or other physical or mental incapacitation of the recipient of the service. Lastly, consumer may also obtain "personal hygiene and grooming services" from a home care aide as provided in the Home Care Services Consumer Protection Act of 2013 (AB 1217). The Board makes no substantive changes to the language.

2. Fisher requested this regulation be enacted immediately due to COVID-19.

Response: The Board rejects this comment. The timing of this regulation is substantially out of the Board's control, given unknown variables such as consideration at various levels of state government and by the Office of Administrative Law. However, the Board is making all efforts to adopt the regulation in a timely manner. The Board does not determine when barbering and cosmetology establishments may reopen following shelter in place orders and defers to the judgment of the appropriate public health departments of the State of California to determine best practices for those in the barbering, cosmetology, and other personal service industries. Additionally, the Board does not believe that the proposed regulation would presently qualify under the definition of an "emergency" required for the adoption of an emergency regulation. (Gov. Code, § 11342.545.)

3. Fisher stated licensees cannot afford all requirements or have knowledge of the requirements to perform their jobs.

Response: The Board rejects this comment. The insurance requirement is necessary to limit the PSP holder's financial exposure in case of an accident and to further protect or reimburse the consumer in the event a problem arises. To the extent that acquisition of a PSP permit will require an investment of time and resources, protection of the public is the Board's highest priority (Business and Professions Code § 7303.1), and those investments are necessary for a licensee to obtain the education and experience that will qualify them to safely perform outcall services. Before obtaining licensure, individuals certify under penalty of perjury that they have read and understand the laws and regulations pertaining to this profession in California. The Board expects licensees to use their knowledge and training to meet all requirements. Licensees are not required to obtain a PSP, so if a licensee believes they cannot afford all requirements or have knowledge of the requirements, they do not have to obtain a PSP.

4. Fisher requested answers to sanitizing and sterilization questions regarding re-opening after COVID-19.

Response: The Board rejects this comment. Questions related to reopening in general are outside the scope of this rulemaking.

5. Fisher asked if companies that operate as a mobile provider or business support services provider need a license or permit to operate.

Response: The Board does not license companies or businesses that provide services for licensees. The Board licenses and regulates the individuals who provide Board-regulated services and establishments. While these companies and businesses may offer beneficial support to licensees, it is not in the Board's purview to regulate companies which provide services to or for the Board's licensees or industry. A similar example is beauty associations. If licensees choose to join and pay fees for association member services, that is their choice. Licensees will not be required to seek support from such businesses in order to obtain a PSP permit. Licensees will already have experience and connections in their industry at the time they apply for a PSP permit, they will be less vulnerable to exploitation or misinformation by such businesses and are well-situated to determine what kinds of support will be desirable in their outcall practice. Therefore, the Board does not view separate licensure of these businesses as necessary at this time.

6. Fisher suggests a "yearly renewal safety test" or "virtual test" to stay up to date on the laws and sanitation requirements.

Response: The Board rejects this comment. When licensees renew their licenses, they certify under penalty of perjury that they have read and understand the laws and regulations pertaining to their profession in California. Licensees have already been trained and tested on the skills required for their profession. In addition, the Board's licenses operate on a two-year renewal cycle, so a yearly renewal test is illogical. Requiring any type of testing after licensure may also put an unfair burden on licensees that do not have access to a computer or internet. Licensees may choose, and many already do, receive additional training or certification at their option. Furthermore, the Board has resources available online for licensees who wish to strengthen their knowledge of the Board's regulations and receive safety reminders.

7. Fisher asked what is allowed and not allowed for "mobile out call" or party services by a "licensed provider of care". She states kid parties are mini services for entertainment and not "real services." She requests that companies which specialize in children's parties be licensed. She also asks if social distancing and masks at parties in home or in offices should be addressed.

Response: Licensees with a PSP will be able to provide the services listed in the

proposed regulation. Individuals, whether hired directly or through a booking organization/company, are not authorized to provide “mini” services for compensation without proper licensure. Anyone providing such services currently are engaging in unlicensed activity, which is not authorized by the Board. The Board disagrees that “mini services” are not “real” services. If the PSP holder is receiving compensation for providing a cosmetology service, regardless of the age of the consumer or how many minutes the service takes, they are engaging in the practice of cosmetology. If individuals are providing cosmetology services in brick and mortar salons, they are subject to the Board’s laws and regulations as well. The Board does not have regulations regarding social distancing or requiring masks at parties in home or offices as such requirements are established by state and county health officials.

8. Fisher asked what is allowed and not allowed for “mobile out call” adult parties with “mini” (20 or 30-minute services) or full-service requests.

Response: Licensees with a PSP will be able to provide the services listed in the proposed regulation. As stated previously, “mini” services are still services requiring a license. The Board expects licensees to comply with all requirements of the PSP regulation regardless of whether it is in a “party” setting.

9. Fisher asked what is allowed and not allowed for “mobile out call” corporate private services.

Response: Licensees with a PSP may only provide services listed in the proposed regulation. The Board expects licensees to comply with all requirements of the PSP regulation regardless of whether it is in a “corporate” setting.

10. Fisher asked what is allowed and not allowed for “mobile out call” entertainment events with fashion-related services.

Response: Licensees with a PSP will be able to provide the services listed in the proposed regulation. The Board expects licensees to comply with all requirements of the PSP regulation regardless of whether it is in a “entertainment event” setting. However, Business and Professions Code 7319(c) exempts persons employed to render barbering, cosmetology, or electrolysis services in the course of and incidental to the business of employers engaged in the theatrical, radio, television or motion picture production industry.

11. Fisher stated the regulation should not allow duvets and blankets that are not laundered to be reused.

Response: The Board rejects this comment. California Code of Regulations (CCR), Title 16, section 987(a) already requires any linens which have been used once to be deposited in a closed container and not used until properly

laundered and sanitized. If duvets or blankets have been contaminated, then licensees are expected to properly launder them, pursuant to 16 CCR 987(b). The Board makes no substantive changes to the language.

12. Fisher stated the regulation should not allow anything that cannot be sanitized between clients (such as pillows, bolsters, or eye covers) to be used.

Response: The Board rejects this comment. 16 CCR 987(a) requires any linens that have been used once to be deposited in a closed container and not used until properly laundered and sanitized. Pillows or bolsters in fabric cases or eye covers would fall under this section. If certain eye covers could not be sanitized, it is expected that they would be disposed of immediately after use, pursuant to 16 CCR 981(a). Additionally, 16 CCR 990(c) requires treatment tables to be covered with either clean treatment table paper, a clean towel, or a clean sheet after each use. After a towel or sheet has been used once, it shall immediately be removed from the treatment table and be deposited in a closed container and not used again until it has been properly laundered and sanitized. Treatment table paper shall be immediately disposed of after a single use. The Board makes no substantive changes to the language.

13. Fisher stated laws that only allow salons to operate as mobile providers will not work, as they are not able to handle both “out call” and in salon business models. She stated they are separate and require two different structures.

Response: The Board rejects this comment. This rulemaking proposal does not state that only salons may operate as mobile providers. The Board does not have jurisdiction over salons’ business models. If licensees desire to work in both brick and mortar establishments and provide mobile services with a PSP, that is their choice. The Board makes no substantive changes to the language.

14. Fisher stated mobile operators should have separate business supplies and home supplies and supplies used for personal use should not be co-mingled with supplies for clientele.

Response: The Board rejects this comment. The Board has health and safety regulations with specific disinfection and sanitation requirements. So long as PSP holders are properly disinfecting their tools, it is unnecessary to state that tools may only be used on clients. Regarding products, 16 CCR 988(c) requires cosmetic preparation to be removed from the bottle or container in such a way as not to contaminate the remaining portion. The Board makes no substantive changes to the language.

15. Fisher stated use of mobile basins should be required instead of a kitchen sink “due to the neck and the hygiene.”

Response: The Board rejects this comment. If a licensee wants to buy a mobile

basin, that is his or her choice, but it is not necessary to require it. Instead of a kitchen sink, the licensee may opt to use a sink or bathtub faucet in a consumer's restroom. A consumer may even choose to wash their own hair before receiving a service by a licensee. Additionally, it is expected that a licensee would ensure any sink is sanitary before use. The Board has no information that a consumer's home set-up would not be adequate, but it would be up the PSP holder to determine if the ergonomic or sanitary condition of the environment would not be acceptable. The Board makes no substantive changes to the language.

16. Fisher stated mobile operators must have an in-home sanitation system in place or partner with a salon or company that will sanitize supplies and equipment for them.

Response: The Board rejects this comment. The Board already has health and safety regulations with specific disinfection (16 CCR 979 and 980) and sanitation (16 CCR 986 and 987) requirements. It is the PSP holder's decision whether disinfection and/or sanitation procedures are completed in their home, in an establishment, or by a hired company. The Board makes no substantive changes to the language.

17. Fisher stated mobile operators providing pedicures and manicures should be reminded that they should never use a rasp, perform services such as "in grown" toe nail or other "medical" procedures or go outside of the rules. They must refuse to work on fungus or nails that are beyond the scope of safe servicing guidelines.

Response: The Board rejects this comment. The proposed language already states that manicurists may provide buffing and filing nails with non-electrical tools in addition to applying and removing nail polish, so any services beyond that are not allowed. Additionally, these services are beyond the scope of practice for any licensee, regardless of whether they have a PSP. Licensees are expected to understand their scope of practice. Also, Business and Professions Code 7320.1 prohibits rasps as they are not necessary for "cutting, trimming, manicuring, or pedicuring of nails or cuticles or for the smoothing and massaging of the hands and feet." Lastly, 16 CCR 984 prohibits licensees from performing services upon a surface of the skin or scalp where such skin is inflamed or broken (e.g., abraded, cut), or where a skin infection or eruption is present. The Board makes no substantive changes to the language.

18. Fisher requested requiring mobile operators to be licensed to run spa parties or private care companies to increase profits, jobs, and taxes for the state. She stated companies organizing mobile services are virtual and need to have licenses as well.

Response: The Board rejects this comment. Increasing profits, jobs, and taxes for the state is not the Board's priority – it is protection of the public (BPC, §

7303.1). This rulemaking proposal sets requirements of PSP holders, but where they choose to perform such services is their decision. It is not necessary to require additional licensure to provide services specifically at “spa parties.” Additionally, it is not necessary for the Board to license “private care companies” or companies which organize/book mobile services for licensees, for the reasons stated in comment 5 above. If licensees choose to utilize companies for support or to delegate their administrative duties, it is the licensee’s responsibility to understand exactly what that company is offering. The Board makes no substantive changes to the language.

19. Fisher stated franchised salons have a hard time finding staff because they pay so little, require staff to work 8 hour shifts or longer, and a licensee providing one “out call service” can make equivalent to a day’s wage at a salon.

Response: The Board rejects this comment. This comment is outside the scope of this rulemaking.

20. Fisher requested PSP holders without 2 years should be able to work under supervision by a licensed cosmetologist, at a children’s event, or at a children’s event with supervision.

Response: The Board rejects this comment. Two years’ experience as a licensee will be required as the structure, community, and oversight offered by practice in a brick and mortar establishment will enable licensees to develop work habits they will take with them in their careers as PSP holders. Additionally, this rulemaking was developed to allow PSP holders the freedom to work outside of establishments by themselves. Adding requirements for supervision would contradict an anticipated benefit of this rulemaking proposal. Licensees without 2 years’ experience should continue to work in an establishment setting to gain more experience. The Board makes no substantive changes to the language.

21. Fisher requested to eliminate the prohibition on chemical waving (perms) and hair coloring for individuals that are housebound. Fisher recommends allowing cosmetologists with 2 years of supervised experience with no “dings” or complaints on their license to perform chemical hair procedures or allowing experienced cosmetologists the option of determining what services to provide.

Response: The Board rejects this comment. As stated in response to comment 1, there are already provisions which would allow individuals that are housebound to receive services. The Board considers use of chemicals for permanent waving or hair coloring to be too dangerous for mobile providers for the reasons stated in the Initial Statement of Reasons (ISR). For that reason, it is also more of a liability for licensees, who would risk losing insurance or licensure if they provide those offsite services. The Board does not view the risk of harm from performance of chemical hair procedures in an establishment or offsite location as equivalent. A hair salon is a controlled environment that has

procedures and tools in place to swiftly mitigate harm in case of an accident, and often, other licensees who would be able to assist and provide knowledge in mitigating that harm. There is no guarantee that the procedures brick and mortar establishments generally have in place will apply at a client's location. A stylist will be less familiar with the facilities available at a client's location (phone, plumbing, etc.) than in a regular place of employment. Also, there is no guarantee that the consumer's home would have adequate ventilation to safely provide such service. Regardless of improvements in products used or years of experience, the Board still views the use of chemical products an unacceptable risk because consumers could receive chemical burns on their scalps or faces or damage to their hair. Although there may be demand for the provision of these services offsite, the protection of the public—and not convenience to the public—is the Board's highest priority, and the latter goal must be sacrificed when necessary to maintain the former (BPC, § 7303.1). The Board considers perming and hair coloring to be high risk and inappropriate for performance outside of a licensed establishment. Therefore, the Board deliberately excludes "chemical waving," which requires the use of chemicals and is distinguished from "waving" in BPC section 7316(a)(3), from the tasks it proposes to allow PSP holders to perform. In addition, in order to stress that "styling" and "dressing" should not be interpreted to include dyeing hair, which require the use of chemicals, the Board expressly excludes this activity from the tasks it proposes to allow PSP holders to perform. Allowing cosmetologists to determine what services to provide is inappropriate as licensees could interpret this to allow them to do whatever they want without considering all risks. The Board makes no substantive changes to the language.

22. Fisher requested that the regulation authorize estheticians with a PSP to perform services using electrical or mechanical equipment in dedicated rooms in private homes or corporate offices. Fisher recommends allowing "higher level experienced" estheticians to use these machines.

Response: The Board rejects this comment. The Board proposes prohibiting estheticians from the use of tools, machines or devices for exfoliation for the reasons stated in the ISR. Even if the Board established a new "establishment" license for dedicated rooms in private homes or offices, in which PSP holders would be able to provide services using electrical or mechanical equipment, the Board would view such a system as inadequate to safeguard clients and licensees from the hazards of using that equipment because the Board would be unable to evaluate the devices to determine if they can be operated safely. Some PSP holders may be tempted to use medical or invasive machines beyond the scope of their practice, so the safest option is to prohibit the use of machines altogether outside of licensed establishments by PSP holders. The Board has encountered estheticians believing they may provide medical services, so allowing some "high level experienced" estheticians to determine whether they can use machines is inappropriate as licensees could interpret this to allow them to do whatever they want without considering all risks. The Board makes no

substantive changes to the language.

23. Fisher requested to allow manicurists to provide waxing to limited areas of the body (brows, toes, fingers). Fisher requested to eliminate the prohibition on waxing and to instead set parameters around the service. She states the safety of the service is dependent on the service provider, not whether it is performed in a home.

Response: The Board rejects this comment. It is not within the scope of practice for a manicurist to provide waxing services. Manicurists are licensed to perform nail care, not skin care. The Board does not believe establishment of parameters for safe waxing practices offsite would adequately cover the full variety of settings and circumstances in which a PSP holder may be asked to provide waxing. Although waxing may be safe in certain mobile scenarios, authorizing PSP holders to perform waxing offsite would be an unacceptable risk given the unpredictable nature of an outcall practice and the likelihood that a licensee performing outcall services will often be performing those services in an unfamiliar setting, alone, and with no supervision. Lastly, as stated in the ISR, waxing is one of the most common consumer harm complaints that the Board receives. Allowing this service outside of an establishment could increase the risk of burns and infection and therefore is considered high risk by the Board. The wax must be heated and must be applied in a clean environment. Waxing opens the skin pores, which could allow for the entry of bacteria. Performing this service only in an establishment helps ensure that it is in a controlled, clean environment. Removal of hair using caustic chemical also poses risks for clients because the chemicals can cause burns if not applied properly or left on too long. The Board makes no substantive changes to the language.

24. Fisher suggested alerting licensees via text or email when regulations change.

Response: The Board rejects this comment. The Board already allows licensees (or the public) to sign up for email alerts. Interested parties are notified of important information regarding the Board, such as: rules and regulation updates, notice of proposed regulation changes affecting licensees, opportunities for public participation, important bulletins, advisory notices, and board meeting agendas. The Board makes no substantive changes to the language.

Comment from Jaime Schrabek: Schrabek submitted 7 comments/questions as enumerated below.

1. Mobile services are not legal in California, except under very specific conditions which likely do not apply. It's illegal for a reason, and that reason does not change with a Personal Service Permit (PSP). There's no feasible way for the Board to enforce health and safety regulations outside of licensed establishments.

Response: The Board rejects this comment. The Board acknowledges that there can be no inspection of a location where services are being performed by a PSP holder. For this reason, the Board limited services to allow only the low-risk services to be offered and has established stronger requirements for anyone wanting a PSP. These include a background check by the Department of Justice and providing a notice directly to the consumer to contact the Board to file a complaint. The Board would process complaints of consumer harm in the same manner as currently done for licensed establishments.

2. Understanding that the Board developed this regulatory proposal because of a legislative mandate does not resolve the inherent contradiction. How can the Board implement PSP and “not exempt a personal service permit holder from any of the board’s existing regulations or requirements on health and safety,” as required by BPC Section 7402.5? How will the Board be “better able to enforce the activities of licensees working outside of licensed establishments” when it currently lacks the capacity to enforce the activities inside licensed establishments?

Response: The Board rejects this comment. The Board places consumer complaints as its top priority when processing complaints. When a complaint is received, generally an inspection is conducted. This will not be a possibility for complaints against a PSP holder, but the Board will still investigate any consumer harm complaints. An investigation would be conducted in the same manner as any other consumer complaint.

3. Violators in our industry justify their unlicensed activity by citing “current trends” and consumer demand. Why should we allow these illegal activities to serve as justification for legislation and regulations making it legal? Why even make rules to protect consumers if, in doing so, we reject evidence and expertise, and just give in to what consumers want?

Response: The Board rejects this comment. The Board is not “giving in” but rather creating the PSP regulations to adapt with society’s everchanging environment. Providing a level of regulation by requiring the PSP and limiting services offers more consumer protection than continuing to turn a blind eye to the licensees who are already providing services illegally.

4. If the legislature wanted action, it should have empowered the Board to enforce existing laws to eliminate this unlicensed activity years ago. It’s not too late! The Attorney General should quash on-demand apps operating in California; the Labor and Workforce Development Agency should investigate reported violations of labor laws; district attorneys should pursue criminal prosecutions; and finally, the Board should suspend or revoke licenses from those advertising and/or performing any service deemed unlicensed activity.

Response: The Board rejects this comment. The Board does not have

jurisdiction over the Attorney General or Labor and Workforce Development Agency. The Board is following the Legislature's requirement to develop a PSP regulation. The Board takes disciplinary action against individuals engaging in unlicensed activity, but this requires a consumer complaint.

5. Manicurists would be able to do polish changes. Our travel kits would include only nail files, buffers, polish remover, wipes and nail polish, and maybe some towels, hand sanitizer and gloves. Note that the proposal does not define "nail polish," ignoring gel polish which requires a UV light cure. Does any reasonable person believe that these restrictions will stop licensed manicurists and cosmetologists with a PSP from: trimming nails, pushing back or nipping cuticles, smoothing calluses, using cuticle remover, scrub or lotion, massaging hands and feet, applying tips, maintaining enhancement products, repairing nails, and decorating nails? We'll always have some consumers asking for more than what's allowed, and a portion of our industry willing to compromise the health and safety of consumers to make a dollar.

Response: The Board rejects this comment. A PSP holder is expected to follow all laws, rules and regulations applicable to the services rendered. The Board cannot oversee every service performed. The Board relies on consumers to notify the Board if they believe their PSP holder has violated a law or regulation. Manicures and pedicures have been the top reported cause of consumer harm in the beauty industry and taking these services outside of an establishment that can be regularly inspected by the Board increases the risk of consumer harm. Limiting manicurists to provide the low-risk services of buffing and filing nails with non-electrical tools and applying and removing nail polish, along with recommending the use of disposable tools, will promote consumer protection. The Board does not define "nail polish" in this rulemaking proposal as nail polish is not defined in current regulation either. A gel polish is a type of nail polish. UV lights required to cure gel polish may be battery operated or plugged into an electrical outlet, similar to electric hair styling tools. The Board makes no substantive changes to the language.

6. In the interest of consumer safety and for the very reasons cited by the Board, some requirements for the PSP should be required of ALL individual and establishment licensees, specifically criminal background checks and liability insurance.

Response: The Board rejects this comment as outside the scope of this rulemaking. This rulemaking proposal concerns PSP regulations, not adding additional requirements to all other license types.

7. The renewed focus on infection control in the beauty industry during the COVID-19 crisis reinforces the inadequacy of the PSP to mitigate risk. Future efforts to improve safety, monitor licensees and enforce additional requirements for

cleaning, screening, physical distancing, using PPE (personal protective equipment) and contact tracing will fail.

Response: The Board rejects this comment. The Board does not provide regulatory oversight of licensees or students in reacting to the COVID-19 pandemic. The Board would recommend that a PSP holder follow the guidance of any executive orders or direction from the Center for Disease Control. PSP holders should handle the pandemic in the same manner a licensee in an establishment would.

8. While the economic impact of illegal activity on legitimate businesses deserves greater attention, it's offensive that this qualifies as an Anticipated Benefit: "This regulation would benefit licensees who currently offer offsite services illegally by legitimizing their offsite practice." On behalf of compliant salon owners and beauty pros, we're tired of the unlicensed activity, tax evasion, misclassification and health and safety violations. There's nothing innovative about exploitation, or any other illegal activities. Ethical salon owners and beauty professionals are constrained by the law, not by creativity or ambition. Sadly, the more compliant we are, the more we're disadvantaged by unfair competition.

Response: The Board rejects this comment. The beauty industry is evolving and while current establishments are brick and mortar, consumers and licensees want more freedom to perform services in private homes and other venues. This rulemaking proposal allows the Board to exert some oversight to protect the health and safety of consumers as PSP holders will undergo a criminal background check and be required to give consumers information on where to file a complaint.

Comment from Wendy Jacobs Cochran: Not one of the meetings held by the Board regarding the development and implementation of the PSP discussed pandemics. Issuance of the PSP to salon professionals will be license to "move Covid." Until we have a better handle of the public health consequences and the virus itself, we strongly oppose any further development of these regulations and opposition of AB 181 as a whole. There are more important issues to be focused on now.

Response: The Board rejects this comment. The Governor's executive orders limit the movement of individuals and spread of the virus. As we obtain more information on the virus and licensees return to work (when the Governor and public health officials deem it is safe), licensees would benefit from having the option of obtaining a PSP as they will have the freedom to set their own hours and work outside of establishments. It may also make consumers feel safer as they can stay home to receive services instead of visiting establishments with other consumers.

Comment from Swati Sharmam: The Collaborative submitted 14 comments/questions as enumerated below.

1. How often and what type of inspections will be conducted to ensure regulations are being met? How will the Board ensure that high risk services are not provided? Since services are performed at a variety of locations, how will the Board ensure regulations are met?

Response: The Board's inspection program is limited to inspecting licensed establishments under BPC section 7313. PSP holders are responsible for following all applicable laws, rules and regulations. The types of services are limited for the PSP holder and consumers will be provided information on how to file a complaint with the Board on the Consumer Notice. The Board is relying on consumers to notify the Board of possible violations of the rules and regulations, just as it does with brick and mortar establishments. Even though establishments are inspected, the Board receives complaints alleging use of illegal tools or machines that are hidden or removed during inspection. There are always going to be licensees who defy the law, but inspectors cannot watch licensees perform every service. The Board makes no substantive changes to the language.

2. Since many of these permit holders will be working out of their home, vulnerable populations, such as children and elderly, as well as other family members and potentially neighbors will now be exposed to salon chemicals. Put something in the Consumer Notice telling consumers that their PSP services should be provided in a well-ventilated area, a ventilation unit, or require PSP holders to only use safer products/chemicals.

Response: The Board rejects this comment. The Consumer Notice's purpose is to provide information to the consumer regarding how to find information on the Board's regulations and how to file a complaint. Licensees received hours of technical instruction in school (barbers and cosmetologists: 45 hours, estheticians: 40 hours, manicurists: 25 hours) specifically regarding Health and Safety Considerations. Subjects of this training included protection from hazardous chemicals, preventing chemical injuries, safety data sheets, and health and safety agencies. As such, proper ventilation is part of a licensee's knowledge and they are expected to ensure proper ventilation is available by whatever means necessary. When booking appointments, PSP holders may provide consumers with information about ventilation conditions necessary in order to allow the service to be completed. For instance, a PSP holder may inform the consumer that nail painting must be provided near a fan and by an open window or door. Additionally, PSP holders may choose to bring a ventilation unit with them. The Board also has resources on the website encouraging licensees to use safer products/chemicals. The Board makes no substantive changes to the language.

3. Will a person that provides services via a PSP need to obtain a business permit/license from the city or county? Is state business license not required? This should be clarified.

Response: This is outside the scope of this rulemaking proposal. Just as brick and mortar establishments in certain locations may have additional city, county, or city and county requirements, including local zoning restrictions, it is the PSP holder's responsibility to comply with any local government entity's requirements. The Board makes no substantive changes to the language.

4. PSP holders should have to obtain same/similar type of licenses/permits that a brick and mortar salon would need to obtain.

Response: The Board rejects this comment. This is outside the scope of this rulemaking proposal. The Board is requiring a PSP in lieu of an establishment license, but a licensee would be required to comply with any other type of license or permit as is required by the local city and/or county government entity. The Board makes no substantive changes to the language.

5. Since it is not clear if a business license is required by either the city or county or state, how will tax reporting work?

Response: This comment is outside the scope of this rulemaking proposal. The Board does not regulate taxes. It is the PSP holder's responsibility to contact the Employment Development Department, Franchise Tax Board, and/or their personal financial advisor with questions. The Board makes no substantive changes to the language.

6. If a nail technician is injured while performing services at a home (slip and fall, dog bite, etc.) does insurance cover this? Can the regulation address this issue at all?

Response: The Board rejects this comment. This is outside the scope of this rulemaking proposal. Many professionals visit consumer homes as part of their services (such as notaries public, contractors, real estate appraisers, piano tuners, etc.), and a homeowner's liability may not necessarily change because an invited guest was also performing a service. It is the PSP holder's responsibility to contact their insurance provider for clarification of their coverage. A PSP holder could inquire as to the insurance coverage of a client in advance if the holder so desired, as part of the determination of whether to visit the client – no regulatory text is required for this purpose. The Board makes no substantive changes to the language.

7. To help ensure good sanitation, the PSP Consumer Notice should include language regarding Board sanitation requirements.

Response: The Board rejects this comment. A PSP holder shall follow all laws, rules and regulations applicable to the services rendered. The Consumer Notice already provides information for consumers on where to find information on the

Board's laws and regulations. The Board makes no substantive changes to the language.

8. The regulation encourages PSP holders to use disposable tools for disinfection reasons, but this should be required.

Response: The Board rejects this comment. The Board refers to page 7 of the ISR where the Board explained that prescribing disposable tools was not necessary. The Board makes no substantive changes to the language.

9. If PSP holder is living in a rental unit, are they required to tell their landlord that they are operating a business out of their home?

Response: The Board rejects this comment. This is outside the scope of this rulemaking. It is the PSP holder's responsibility to comply with their rental agreement.

10. The interpretation of establishment is very broad, especially since it allows for offsite locations such as hotels/clients' homes. What safety precautions or guidelines will be recommended to PSP holders, especially when it comes to traveling to a client's location? For example, if PSP holder is injured at a client's home, insurance liability may or may not cover this, especially if client is at fault. Geographical boundary should be established, especially as it pertains to city/county business permits.

Response: The Board rejects this comment. This is outside the scope of this rulemaking proposal. See the response regarding insurance to comment 6, above. It is the PSP holder's responsibility to contact their insurance provider for clarification of their coverage and it is the PSP holder's responsibility to comply with the requirements of their local government entity. The Board makes no substantive changes to the language.

11. If the PSP holder is linked/associated with a salon, who holds the personal liability insurance, the salon or the PSP holder?

Response: The proposed regulatory language requires the PSP holder to maintain liability insurance in a minimum amount of \$1,000,000. The Board makes no substantive changes to the language.

12. How will the Board ensure consumer safety? What are the sanitation/disinfection requirements/regulations?

Response: The Board ensures consumer safety by promoting ethical standards and enforcing the laws of the barbering and beauty industry. Licensees complete 400 to 1600 hours of training (with 10 to 20 hours solely dedicated to disinfection and sanitation) and pass a written and practical examination that demonstrates

that they possess the knowledge and skills required to protect the public's health and safety. The Board would further ensure consumer safety by only allowing PSP holders to perform services that the Board has determined to be low-risk (see pages 3-7 of the ISR). PSP holders are also required to carry liability insurance to protect consumers from loss (see page 2 of the ISR). The Board encourages PSP holders to use disposable tools as a precaution against disease, which protects consumer safety (see page 7 of the ISR). Lastly, the Board requires the Consumer Notice so consumers know where and how to file a complaint with the Board for investigation. The Board makes no substantive changes to the language.

13. How will the Board ensure that disposal of harmful chemicals and disinfectants are being disposed of properly?

Response: Licensees are trained in school on hazardous substances and chemical safety. It is the licensee's responsibility to read the product's label or Safety Data Sheet or contact the manufacturer for information on how to properly dispose of chemicals. Concerns regarding chemical disposal should be directed to the California Environmental Protection Agency. The Board makes no substantive changes to the language.

14. Consider increasing the number of years that applicant is licensed by the Board from 2 years to 4-5 years, to be able to establish a safety record of applicants.

Response: The Board rejects this comment. Two years is enough time for licensees to acquire hands-on experience before working alone in people's homes and other venues. Pursuant to BPC section 7321(d)(2), the Board views three months of practice as a licensee equivalent to 100 hours of study and training in a school. Thus, two years of experience is comparable to obtaining an additional 800 hours of training. During those two years working as a licensee, licensees would become comfortable providing the low-risk services that can be provided by a PSP holder. Increasing the amount of required experience further would be an unfair barrier to entry. The Board makes no substantive changes to the language.



MEMORANDUM

DATE June 8, 2020

TO: Members, Board of Barbering and Cosmetology

FROM: Allison Lee, Project Manager

SUBJECT: Appeal Processes

This memo is to provide information regarding appeal processes for Department of Consumer Affairs (DCA) divisions as well as other states. This information is intended to promote discussion regarding the regulatory language of California Code of Regulations section 974.1 (Disciplinary Review Committee).

The Bureau of Security & Investigative Services (BSIS) is another DCA board/bureau that has a Disciplinary Review Committee (DRC). For other divisions, citations are appealed at an administrative hearing before an Administrative Law Judge (e.g. Board of Accountancy) or informal office conferences are conducted by the executive officer or designee (e.g. Acupuncture Board, Architects Board, Board of Chiropractic Examiners, Court Reporters Board, Board of Pharmacy, Veterinary Medical Board). BSIS has four categories of DRCs that consider appeals regarding denials, suspensions, revocations, and the assessment of administrative fines pertaining to different industries as described below. All members are governor-appointed.

The **Alarm Company Operator DRC** considers appeals from alarm company operator, qualified manager, and agent applicants and licensees. It consists of 5 members: 3 actively engaged in the business as alarm company operators and 2 from the general public. In 2019, they met 3 times in the north and once in the south.

The **Collateral Recovery DRC** considers appeals from repossession agency, repossession agency qualified manager, and repossession agency employee applicants and licensees. It consists of 5 members: 3 actively engaged in business as a licensed repossession agency and 2 from the general public. In 2019, they met once in the north and once in the south.

The **Private Investigator DRC** considers appeals from private investigator applicants and licensees. It consists of 5 members: 3 actively engaged in business as a licensed private investigator and 2 from the general public. In 2019, they did not meet.

The **Private Security Services DRC** considers appeals from private patrol operator, security guard registration, firearm training and baton training programs, and proprietary private security officer applicants and licensees. There is one committee for north and one for south. Each consists of 5 members: 1 actively engaged in the business as a licensed private patrol operator, 1 as a licensed firearm training facility, 1 as a registered security guard, and 2 from the general public. In 2019, north met 7 times and south met 11 times.

Similar to DCA, other states generally either have formal hearings in court (Alabama, Alaska, New York, Texas, Tennessee, Utah, Washington) or informal hearings before the board or director (Florida, Georgia, Hawaii, Louisiana, Nevada, Oregon).

For a handful of states in which information on citation appeals was not found, their regulations mention requirements for reinspection, signing agreements to comply, and/or posting the violation notice in public view (Arizona, Colorado, Idaho, New Mexico).

The California Board of Barbering and Cosmetology uniquely has the largest licensee population within the Department of Consumer Affairs and the United States. Board members must decide how to update the regulatory language regarding the composition of the Disciplinary Review Committee.

Worth mentioning, the number of DRC hearings has been decreasing.

- In 2020 so far, only 2 hearings have been held (1 in north and 1 in south). There are currently only enough appeals for 1 additional hearing in north and 2 in south.
- In 2019, 9 DRC hearings were held (3 in north and 6 in south).
- In 2018, 10 DRC hearings were held (4 in north and 6 in south).
- In 2017, 12 DRC hearings were held (3 in north and 9 in south).
- In 2016, 12 DRC hearings were held (5 in north and 7 in south).

The number of cases per hearing is also decreasing. In 2016, most DRC hearings were 3 days with 165 scheduled cases. In 2020, hearings have been 2 days with 95 scheduled cases.

BOARD OF BARBERING AND COSMETOLOGY

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

SPECIFIC LANGUAGE

LEGEND

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

- **Amend Section 974.1, Title 16, California Code of Regulations, as follows:**

§974.1 Disciplinary Review Committee

(a) ~~The~~ A disciplinary review committee of the board shall be composed of three (3) members appointed for a term of two years by of the Board.

~~(b) The board president, in his or her discretion,~~ may appoint multiple disciplinary review committees.

(b) Each committee may include at least one member of the barbering and cosmetology industry, one member who is not associated professionally or financially with that industry, and one board member.

~~(c) The board president shall annually appoint members of the disciplinary review committee; the appointment will be made concurrently with the annual election of the Board President. Each member of a disciplinary review committee may be removed before the end of his or her term by a majority vote of the board.~~

~~(d) The board president shall select the dates and locations of the informal citation review hearings held before the disciplinary review committee. Each committee shall meet as deemed necessary by the board. Each committee member shall be paid a per diem pursuant to Section 103 of the Business and Professions Code and shall be reimbursed for any travel expenses.~~

*NOTE: Authority cited: Sections 7312, 7410 and 103, Business and Professions Code.
Reference: Section 7410, Business and Professions Code.*