

**CALIFORNIA
BOARD OF BARBERING AND COSMETOLOGY**



**APRIL 26, 2021
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:
Dr. Kari Williams,
Vice President
Jacquelyn Crabtree
Andrew Drabkin
Derick Matos
Calimay Pham
Christie Tran
Steve Weeks

**PUBLIC TELECONFERENCE
MEETING**

**April 26, 2021
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-meetings.webex.com/dca-meetings/onstage/g.php?MTID=e34666994eaf160ae2a5fe5961278609b>

Event number: 187 978 7903
Event password: BBC04262021

Instructions to connect to the meeting can be found at:
https://www.barbercosmo.ca.gov/about_us/meetings/how_to_join_webex_event.pdf

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/>.

AGENDA

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.

OPEN SESSION:

1. Call to Order/ Roll Call/ Establishment of Quorum (**Dr. Kari Williams**)
2. Board Vice President's Opening Remarks (**Dr. Kari Williams**)
3. Annual Election of Officers
4. Board Member Remarks – Informational only
5. Discussion and Possible Approval of January 25, 2021 Board Meeting Minutes
6. Executive Officer's Report (**Kristy Underwood**)
 - Licensing Statistics
 - Examination Statistics
 - Disciplinary Review Committee Statistics
 - Enforcement Statistics
 - Budget Updates
 - Outreach Updates
 - Practice Status Survey Results
 - COVID 19 Update on Impact of Board Operations
7. Discussion, Review, and Possible Approval of the Board's Final Responses to the Sunset Review Background Paper Issues
8. Update on the February 18, 2021 Apprenticeship Task Force Meeting
 - a. Discussion and Possible Action Regarding Recommended Amendments to Title 16, California Code of Regulations (CCR), Article 3, Apprenticeships, sections 913-926.
9. Update on the April 19, 2021 Health and Safety Advisory Committee Meeting
 - a. Discussion and Possible Action Regarding Recommended Amendments to Title 16, CCR, Article 12, Health and Safety, sections 977-995.

10. Legislative Update, Discussion and Possible Action on Proposed Bills:

- a. AB 29 (Cooper) – State bodies: meetings
- b. AB 54 (Kiley) - COVID-19 emergency order violation: license revocation
- c. AB 107 (Salas) – Licensure: veterans and military spouses
- d. AB 225 (Gray, Gallagher, and Patterson) – DCA boards: veterans and military spouses licenses
- e. AB 231 (Nguyen) – Worker classification: licensed manicurists
- f. AB 339 (Lee and Garcia) – State and local government: open meetings
- g. AB 492 (Patterson) – Cosmetology students: externships
- h. SB 49 (Umberg) – Income taxes: credits: California Fair Fees Tax Credit
- i. SB 102 (Melendez) – COVID-19 emergency order violation: license revocation
- j. SB 772 (Ochoa Bogh) – Professions and vocations: citations: minor violations
- k. SB 803 (Roth) – Barbering and Cosmetology

11. Discussion and Possible Action Regarding Comments Received During the 15 Day Public Comment Period Regarding Rulemaking Proposal to Add Title 16, CCR section 965.2 (Personal Service Permit)

12. Regulations Status Update:

- a. Rulemaking Proposal to Amend Title 16, CCR sections 970 and 971 (Substantial Relationship Criteria, Criteria for Rehabilitation)
- b. Rulemaking Proposal to Amend Title 16, CCR section 972 (Disciplinary Guidelines)
- c. Rulemaking Proposal to Amend Title 16, CCR section 974.1 (Disciplinary Review Committee)
- d. Rulemaking Proposal to Amend Title 16, CCR, section 950.10 (Transfer of Credit or Training)
- e. Rulemaking Proposal to Amend Title 16, CCR section 961 (Instructional Materials)
- f. Rulemaking Proposal to Amend Title 16, CCR sections 962, 962.1 and 962.2 (Externs)
- g. Rulemaking Proposal to Amend Title 16, CCR sections 965.2 (Personal Service Permit)

13. 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))

14. Suggestions for Future Agenda Items

15. Adjournment

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.

**CALIFORNIA STATE BOARD
OF
BARBERING AND COSMETOLOGY**

BOARD TELECONFERENCE MEETING

MINUTES OF JANUARY 25, 2021

BOARD MEMBERS PRESENT

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

STAFF MEMBERS PRESENT

Kristy Underwood, Executive Officer
Carrie Harris, Deputy Executive Officer
Sabina Knight, Board Legal Representative
Allison Lee, Board Project Manager
Marcene Melliza, Board Analyst

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

Lisa Thong, Board President, called the meeting to order at 9:14 a.m. and confirmed the presence of a quorum.

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

Ms. Thong reminded everyone that the Board's mission and purview is consumer safety. This is the lens through which all Board matters are discussed.

3. Agenda Item #3, BOARD MEMBER REMARKS – Informational only

Board Members wished everyone well and stated they looked forward to returning to work in this New Year.

4. Agenda Item #4, DISCUSSION AND POSSIBLE APPROVAL OF DECEMBER 7, 2020, BOARD MEETING MINUTES

Ms. Thong referred to Agenda Item 14, Closed Session, and asked to strike the sentence "Ms. Thong stated no action was taken" and stated the meeting adjourned immediately after the closed session.

MOTION: Ms. Crabtree moved to approve the December 7, 2020, California State Board of Barbering and Cosmetology Meeting Minutes as presented. Mr. Weeks seconded. Motion carried 7 yes, 0 no, and 0 abstain, per roll call vote as follows:

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

5. **Agenda Item #5, EXECUTIVE OFFICER'S REPORT**

Licensing Statistics
Examination Statistics
Disciplinary Review Committee Statistics
Enforcement Statistics
Budget Updates
Outreach Updates
Practice Status Survey Results
Sunset Review Update
COVID-19 Update on Impact of Board Operations

Kristy Underwood, Executive Officer, congratulated Mr. Weeks on his reappointment to the Board by the Senate. She reviewed the statistics and update reports, which were included in the meeting packet, as follows:

- The rate of applications received has gone down.
- The Governor's stay-at-home orders have increased the number of complaints received.
- The Governor proposed a fee waiver in the Governor's Budget for licensees for the next two years as part of COVID-19 economic relief. The Governor's Budget is not yet finalized. Until then, licensees should continue to pay their fees.
 - Ms. Underwood suggested inviting a representative from the California Department of Consumer Affairs (DCA) to review how the fee waiver will work.
 - A Q&A section on the fee waiver has been added to the website.

Questions and Discussion

Mr. Drabkin referred to page 4 of 14 in the meeting packet, Written Exam Results by Language, and stated the cosmetology Spanish pass rate for apprentice programs is similar to school programs but the English pass rate is tremendously lower. He asked if there was a reason for the drop in the English pass rate for apprentice programs.

Ms. Underwood stated, because the examinations are delayed due to the Governor's stay-at-home orders, individuals are being examined who have been either out of the apprentice program or out of school for quite some time. Also, the number of students taking the exam is low.

Mr. Drabkin asked for an update on the upcoming Sunset Review Hearing.

Ms. Underwood stated the hearing is anticipated in late February or March. She stated a quick Board meeting may be required to approve the Board's responses to anything received from the Sunset Committee.

6. **Agenda Item #6, DISCUSSION AND POSSIBLE RECOMMENDATIONS ON OPTIONS TO ADDRESS CURRENT PRACTICAL EXAMINATION BACKLOG**

Ms. Underwood stated approximately 7,000 applicants are waiting to take the examination. Electrologists will have priority since they have been waiting the longest

and then individuals whose examinations were canceled due to the COVID-19 pandemic. Exam sites will continue at half-capacity to maintain social distancing for the safety of candidates and examiners. She welcomed Tami Stokes, President, National Interstate Council of State Boards of Cosmetology (NIC), who was invited to this meeting to help suggest solutions to this issue.

Ms. Stokes stated the NIC will implement remote training for new Board staff in mid-February. In addition, the NIC has created a remote practical exam to help with the backlog. Approximately 200 certified NIC examiners across the nation are willing to help California respond to this backlog by administering remote practical exams for six to eight weeks. She stated she will work with staff on implementation details.

Questions and Discussion

Mr. Weeks stated he would rather that candidates be California-certified rather than certified for the state the NIC examiner is from. He asked if temporary locations can be located for practical exams such as salons that have unfortunately had to close due to the COVID-19 pandemic.

Ms. Underwood stated staff is looking at alternative possibilities such as using community college facilities, but the Board does not have the necessary staffing. Also, the national exam security protocols must be ensured at alternative locations.

Mr. Weeks asked if schools are continuing to turn out graduates.

Ms. Underwood stated schools are operating remotely.

Mr. Weeks stated a more fundamental concern on the examination process is that the 7,000 individuals in the queue only include individuals who have applied for testing. He stated there may be more applicants who have not yet applied since the testing had stopped due to the COVID-19 pandemic. He stated concern that there may be higher failure rates on the exam since applicants have been out of school for so long.

Ms. Underwood stated schools are offering refresher courses for their graduates.

Mr. Weeks stated other California state boards have licensing requirements such as medical, dental, contractors, real estate, insurance, etc. He asked if other state boards have adjusted their pass/fail criteria based on the late testing.

Ms. Underwood stated the Board is one of the few boards remaining that have a practical exam. Most of the other boards have continued testing throughout the shut-downs. The NIC has control over adjusting the pass/fail criteria.

Sabina Knight, Board Legal Representative, stated other boards have not adjusted their pass/fail rates. Some boards are working with testing vendors to extend their hours for test-takers.

Ms. Stokes agreed that no other states have lowered their pass rates. There is no basis to lower standards due to the consumer safety component. It is appropriate to offer refresher courses.

Mr. Weeks asked if the Board could sponsor refresher courses for individuals getting ready to take the exam.

Ms. Underwood stated the NIC webcast is posted on the website, which is the best refresher course available. She stated the Board could send information out to ensure that students review the webcast.

Public Comment

Wendy Cochran, Founder, California Aesthetic Alliance, and Founder, California Estheticians – Esthetician Advocacy, agreed with Mr. Weeks that the 7,000 figure does not include individuals who have not yet applied for the exam. The speaker stated some students have been waiting to take the exam for over a year and a half. Thousands of dollars of their education are being wasted. The speaker stated it is the job of the schools to graduate individuals who are competent, able, and ready to be licensed and enter into the workplace. The speaker asked why the California Bureau for Private Postsecondary Education (BPPE) and the schools are not standing up for students by asking for a temporary lifting of the practical examination to get these people into the job market and helping the economy. The speaker asked for an emergency order lifting the practical examination.

Dana Elise, Owner, Dana Elise Solutions, stated they are currently working in collaboration with the electrolysis schools and the American Institute of Education to help electrologists kickstart their careers. The schools provide qualified, competent individuals and the collaborative commits to hire the students upon graduation. They are placed under strict supervision and receive rigorous training. The speaker agreed that a written exam should be mandatory but stated the practical exam should be eliminated since schools should not allow students to graduate without the skills needed to perform professionally and it is not appropriate at this time of the COVID-19 pandemic. The speaker spoke in opposition to lowering the standards.

Fred Jones, Legal Counsel, Professional Beauty Federation of California (PBFC), stated the practical exam is in statute and it would take a legislative change to eliminate that requirement. Aggregate scoring, which is embedded in statute, may require a waiver of regulation, but it allows students who do well on the practical portion to make up for a poor score on the written portion. Schools are invested in their students passing the exam – their licensing depends upon it. Most responsible schools are offering refresher courses for students who have been waiting for months to take the exam.

Fred Jones stated the PBFC is resistant to eliminating the practical portion of the exam. Practical skills are most important to determine if services can safely be provided to consumers. The amount of theoretical knowledge does not matter if students cannot put that knowledge into practice while providing services. The speaker suggested moving back to aggregate scoring of the exam, which will emphasize those practical skills.

Caycee, a manicurist graduate who graduated in November of 2020, asked about the options for the practical exam.

Wendy Cochran reminded everyone that, under the emergency order, somehow the state was able to suspend the fact that individuals can only work under the roof of a licensed establishment so they could now work outside. The speaker asked why it would be out of the question for the state to provide an emergency order requesting to suspend the practical exam if the Board is one of the only agencies in the DCA that offers a practical. The speaker asked the Board to request suspension of the practical exam under an emergency order.

7. Agenda Item #7, UPDATE FROM THE DECEMBER 18, 2020, HEALTH AND SAFETY ADVISORY COMMITTEE MEETING

Ms. Underwood stated the Health and Safety Advisory Committee met on December 18th to discuss updating the Health and Safety Rules and Regulations. The Advisory Committee focused on revising the regulations so they are practical and easier to understand while still protecting consumers. The Advisory Committee will further discuss the regulation revisions at future meetings and recommendations will then be brought before the Board for approval.

8. Agenda Item #8, UPDATE FROM THE JANUARY 12, 2021, LEGISLATIVE AND BUDGET COMMITTEE

Ms. Underwood stated the Legislative and Budget Committee met on January 12th to discuss the possible recommendations regarding future legislative changes and instructor requirements for board-approved private schools.

9. Agenda Item #9, LEGISLATIVE AND BUDGET COMMITTEE RECOMMENDATION: SUPPORT: DELEGATE AUTHORITY TO THE EXECUTIVE OFFICER TO PURSUE CONVERSATIONS WITH THE LEGISLATURE REGARDING AUTHORITY OVER SCHOOLS AND INCREASED REQUIREMENTS FOR INSTRUCTORS

Ms. Underwood stated the Legislative and Budget Committee recommended that the Board authorize the Executive Officer to pursue conversations with the Legislature regarding authority over schools and increased requirements for instructors.

Mr. Drabkin moved the Committee recommendation. Ms. Crabtree seconded.

Public Comment

Fred Jones stated the PBFC encourages the Board to ask policy-makers to expand the externship program as a means of addressing the barriers-to-entry concerns expressed by some legislators.

Fred Jones stated an issue that needs to be addressed this year by the Legislature is a provision within Assembly Bill 5, dealing with the right of salons to utilize independent contractors. The original bill was written with a two-year sunset on the ability of nail salons to be treated equally to allow them to utilize independent contractors within their salons. That expires at the end of this year. The speaker asked the Board to support the PBFC's efforts to request either as part of the Sunset Review process or a standalone bill to at least extend if not remove the nail salon sunset so all licensed professionals are treated equally.

MOTION: Mr. Drabkin moved to authorize the Executive Officer to pursue conversations with the Legislature regarding authority over schools and increased requirements for instructors. 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.

10. Agenda Item #10, UPDATE FROM THE JANUARY 21, 2021, APPRENTICESHIP TASK FORCE MEETING

Ms. Underwood stated the Apprenticeship Task Force, established at the last Board meeting, met on January 21st to discuss possible regulatory changes to the Apprenticeship Program. The Task Force included program sponsors. Recommendations were made to include additional individuals on the Task Force at future meetings. The Task Force will further discuss the regulation revisions at future meetings and recommendations will then be brought before the Board for approval. The next meeting is scheduled for February 18th.

11. Agenda Item #11, DISCUSSION AND POSSIBLE ACTION REGARDING RULEMAKING PROPOSALS

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

Ms. Underwood stated the Personal Service Permit and the Substantial Relationship Criteria Regulation Packages are officially with the Office of Administrative Law. The Transfer of Credit, Externs, Disciplinary Guidelines, and Disciplinary Review Committee Regulation Packages are currently under internal review.

Ms. Underwood asked for approval on changes made to Title 16, CCR Section 961, Instructional Materials.

MOTION: Ms. Crabtree moved to approve the proposed text for a 45-day public comment period and delegate to the Executive Officer the authority to adopt the proposed regulatory changes if there are no adverse comments received during the public comment period, to follow established procedures and processes in doing so, and delegate to the Executive Officer the authority to make any technical or non-substantive changes that may be required in completing the rulemaking file. Mr. Drabkin 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.

Public Comment

Rod Hatefi stated they were surprised that the Board is passing the new rule to allow personal services to be conducted outside the salon while licensees are currently abiding by the rules and not working while freelancers are doing hair out of garages and homes. It is hard to believe that tax-paying salons are being put to the side while freelancers are given the advantage during this time of restriction. Members of the public should know that licensed professionals cannot come to a consumer's home to do their hair. The proper place to do hair where it is inspected and monitored is at a licensed hair salon.

Michelle Saunders, licensed cosmetologist, owner of a nail salon, and mobile celebrity manicurist, stated it is safe to perform beauty services in homes.

Fred Jones stated Hollywood has an exemption as do shut-ins. Other than those exemptions, it is illegal to work outside of a licensed establishment for monetary gain. The Board has put out notices to that effect in recent months. The speaker stated the Legislature has mandated that the Board adopt a Personal Service Permit to allow for limited freelancing work outside of safe, well-regulated, and inspected establishments. The speaker encouraged salon owners who are concerned to look at the regulatory language being adopted. The Board has done their best to be responsible in protecting the consumer of these services but the decision for a Personal Service Permit was made by the Governor and the Legislature.

12. Agenda Item #12, PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA

Fred Jones stated the PBFC has worked to develop an effort to get money into the pockets of licensees by partnering with an SBA-approved lender and created an online portal with a 1-800 phone number assistance to help individuals through the Paycheck Protection Program (PPP) process. Nearly 11,000 licensed professionals have started the process to take advantage of this online portal. \$100 million is projected to be put into the pockets of desperate licensed professionals. The vast majority of that will be fully forgivable.

Fred Jones stated the PBFC filed a lawsuit against the Governor to reopen safe salons and has put together a coalition of restaurants and salons to refile a federal lawsuit. The PBFC has done its best to defend, promote, and assist this industry.

13. Agenda Item #13, SUGGESTION FOR FUTURE AGENDA ITEMS

Mr. Matos suggested a discussion on booking apps used in the state and how to regulate the usage of those apps to licensed professionals.

Ms. Pham suggested learning more about NIC's online version of the practical exam and how it compared to an in-person practical exam.

Ms. Thong suggested a data analysis on the practical exam scores to match up the pass/fail rates with citations and whether or not there is a bearing on health and safety violations for citations based on how high an individual scored on their practical.

14. Agenda Item #14, ADJOURNMENT

Ms. Underwood stated Board Members Andrew Drabkin, Lisa Thong, and Dr. Kari Williams have termed out. She thanked them for their service and wished them well.

There being no further business, the meeting was adjourned at 10:53 a.m.

Quarterly Applications Received Fiscal Year 20/21

License Type	Jul-Sept	Oct-Dec	Jan-Mar	Apr-June	YTD
Establishment	1,654	1,714	1,412		
Mobile Unit	7	5	3		
Barber					
Pre-App	137	185	195		
Initial Application	251	340	264		
Re-Exam	327	366	229		
<u>Sub-Total</u>	<u>715</u>	<u>891</u>	<u>688</u>		
Reciprocity	32	26	18		
Apprentice	201	253	260		
Cosmetology					
Pre-App	455	475	409		
Initial Application	542	703	640		
Re-Exam	869	821	468		
<u>Sub-Total</u>	<u>1,866</u>	<u>1,999</u>	<u>1,517</u>		
Reciprocity	224	189	239		
Apprentice	137	160	120		
Electrology					
Pre-App	5	5	5		
Initial Application	4	3	--		
Re-Exam	--	1	7		
<u>Sub-Total</u>	<u>9</u>	<u>9</u>	<u>12</u>		
Reciprocity	1	2	--		
Apprentice	--	--	--		
Esthetician					
Pre-App	445	676	774		
Initial Application	564	607	607		
Re-Exam	341	429	309		
<u>Sub-Total</u>	<u>1,350</u>	<u>1,712</u>	<u>1,690</u>		
Reciprocity	71	71	63		
Manicurist					
Pre-App	273	420	331		
Initial Application	389	575	495		
Re-Exam	484	525	243		
<u>Sub-Total</u>	<u>1,146</u>	<u>1,520</u>	<u>1,069</u>		
Reciprocity	73	75	74		
Total	7,486	8,621	7,162	-	-

Practical Exam Results January 1, 2021 - March 31, 2021

Administered	Passed	Failed	Total	Pass Rate
Barber	113	63	176	64%
Cosmetologist	339	182	521	65%
Electrologist	22	1	23	96%
Esthetician	536	91	627	85%
Manicurist	316	146	462	68%
Total	1,326	483	1,809	73%

Written Exam Results January 1, 2021 - March 31, 2021

Barber	Passed	Failed	Total	Pass Rate
English	140	104	244	57%
Korean	0	0	0	
Spanish	12	60	72	17%
Vietnamese	5	1	6	83%
Total	157	165	322	49%

Cosmo	Passed	Failed	Total	Pass Rate
English	367	222	589	62%
Korean	2	0	2	100%
Spanish	36	114	150	24%
Vietnamese	24	7	31	77%
Total	429	343	772	56%

Electrologist	Passed	Failed	Total	Pass Rate
English	17	6	23	74%

Esthetician	Passed	Failed	Total	Pass Rate
English	474	178	652	73%
Korean	2	3	5	40%
Spanish	5	5	10	
Vietnamese	51	5	56	91%
Total	532	191	723	74%

Manicurist	Passed	Failed	Total	Pass Rate
English	121	26	147	82%
Korean	1	2	3	33%
Spanish	7	4	11	64%
Vietnamese	242	89	330	73%
Total	370	121	491	75%

**Practical Exam Results January 1, 2021 - March 31, 2021
Comparison of Schools vs. Apprentice Programs**

Practical Exam Results - Apprentice Program

License Type	Passed	Failed	Total	Pass Rate
Barber	15	16	31	48%
Cosmetologist	10	15	25	40%
Total	25	31	56	45%

Practical Exam Results - School Program

License Type	Passed	Failed	Total	Pass Rate
Barber	98	47	145	68%
Cosmetologist	329	167	496	66%
Electrologist	22	1	23	96%
Esthetician	536	91	627	85%
Manicurist	316	146	462	68%
Total	1,301	452	1,753	74%

Written Exam Results - Apprentice Program

License Type	Passed	Failed	Total	Pass Rate
Barber	27	55	82	33%
Cosmetologist	14	59	73	19%
Total	41	114	155	26%

Written Exam Results - School Program

License Type	Passed	Failed	Total	Pass Rate
Barber	130	113	243	53%
Cosmetologist	417	284	701	59%
Electrologist	17	6	23	74%
Esthetician	532	191	723	74%
Manicurist	370	121	491	75%
Total	1,466	715	2,181	67%

**Written Exam Results by Language January 1, 2021 - March 31, 2021
Comparison of Apprentice Programs vs. School Programs**

Apprentice Programs

Barber	Passed	Failed	Total	Pass Rate
English	23	28	51	45%
Spanish	4	27	31	13%
Total	27	55	82	33%

Cosmo	Passed	Failed	Total	Pass Rate
English	4	13	17	24%
Spanish	10	46	56	18%
Total	14	59	73	19%

School Programs

Barber	Passed	Failed	Total	Pass Rate
English	117	76	193	61%
Korean	0	0	0	N/A
Spanish	8	33	41	20%
Vietnamese	5	1	6	83%
Total	130	110	240	54%

Cosmo	Passed	Failed	Total	Pass Rate
English	363	209	572	63%
Korean	2	0	2	100%
Spanish	26	68	94	28%
Vietnamese	24	7	31	77%
Total	415	284	699	59%

Esthetician	Passed	Failed	Total	Pass Rate
English	474	178	652	73%
Korean	2	3	5	40%
Spanish	5	5	10	50%
Vietnamese	51	5	56	91%
Total	532	191	723	74%

Manicurist	Passed	Failed	Total	Pass Rate
English	121	26	147	82%
Korean	1	2	3	33%
Spanish	7	4	11	64%
Vietnamese	241	89	330	73%
Total	370	121	491	75%

Electrologist	Passed	Failed	Total	Pass Rate
English	17	6	23	74%
Korean	0	0	0	N/A
Spanish	0	0	0	N/A
Vietnamese	0	0	0	N/A
Total	17	6	23	74%

Licenses Issued Fiscal Year 20/21

License Type	Jul-Sept	Oct-Dec	Jan-Mar	Apr-June	YTD
Barber	328	240	127		695
Barber Apprentice	168	216	205		589
Cosmetology	982	736	434		2,152
Cosmetology Apprentice	110	143	119		372
Electrology	1	0	16		17
Electrology Apprentice	0	0	--		0
Esthetician	607	691	524		1,822
Manicurist	496	620	324		1,440
Establishment	1,658	1,731	1,200		4,589
Mobile Unit	0	0	0		0
Totals	4,350	4,377	2,949		11,676

Licenses Issued Last 5 Years

License Type	FY 16/17	FY 17/18	FY 18/19	FY 19/20	FY 20/21*
Barber	2,189	2,259	1,966	1,691	695
Barber Apprentice	665	885	854	810	589
Cosmetology	8,389	7,085	6,468	4,810	2,152
Cosmetology Apprentice	793	727	842	642	372
Electrology	26	22	31	30	17
Electrology Apprentice	0	1	0	0	-
Esthetician	4,818	4,007	4,890	3,699	1,822
Manicurist	6,550	3,787	4,414	3,437	1,440
Establishment	6,875	7,609	7,706	6,937	4,589
Mobile Unit	7	2	0	0	-
Totals	30,312	26,384	27,171	22,056	11,676

*Data updated through 3-31-2021

License Population

Barber	32,573
Barber Apprentice	1,562
Cosmetology	305,094
Cosmetology Apprentice	1,192
Electrology	1,588
Electrology Apprentice	-
Esthetician	90,898
Manicurist	126,856
Establishment	54,503
Mobile Unit	52
Total	614,318

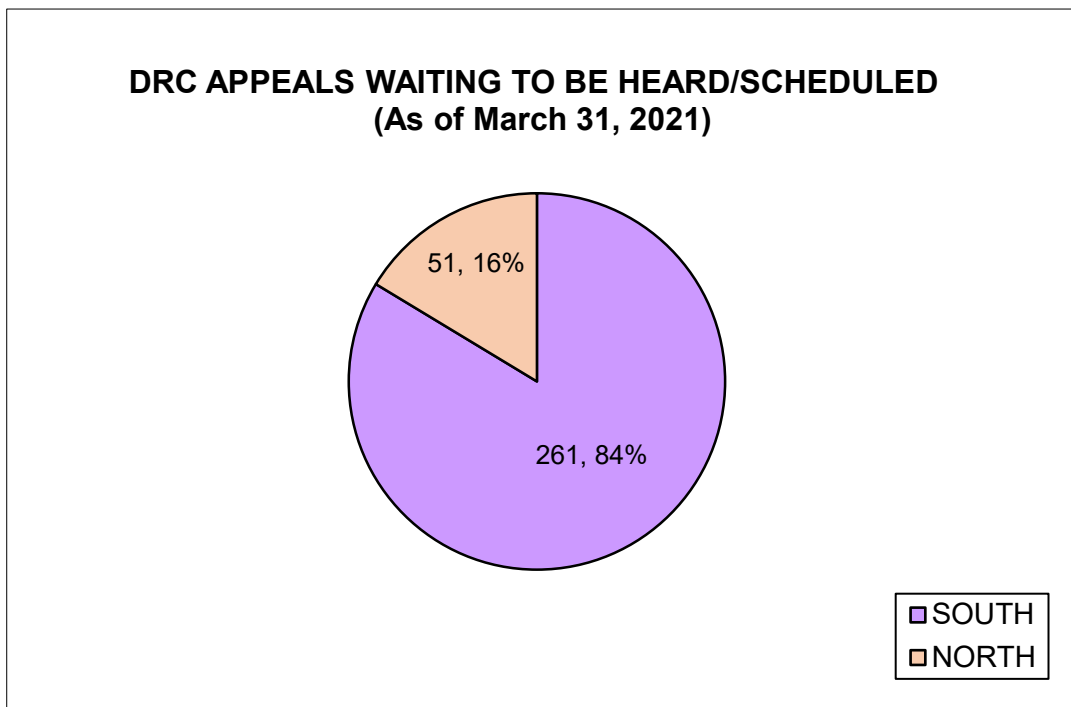
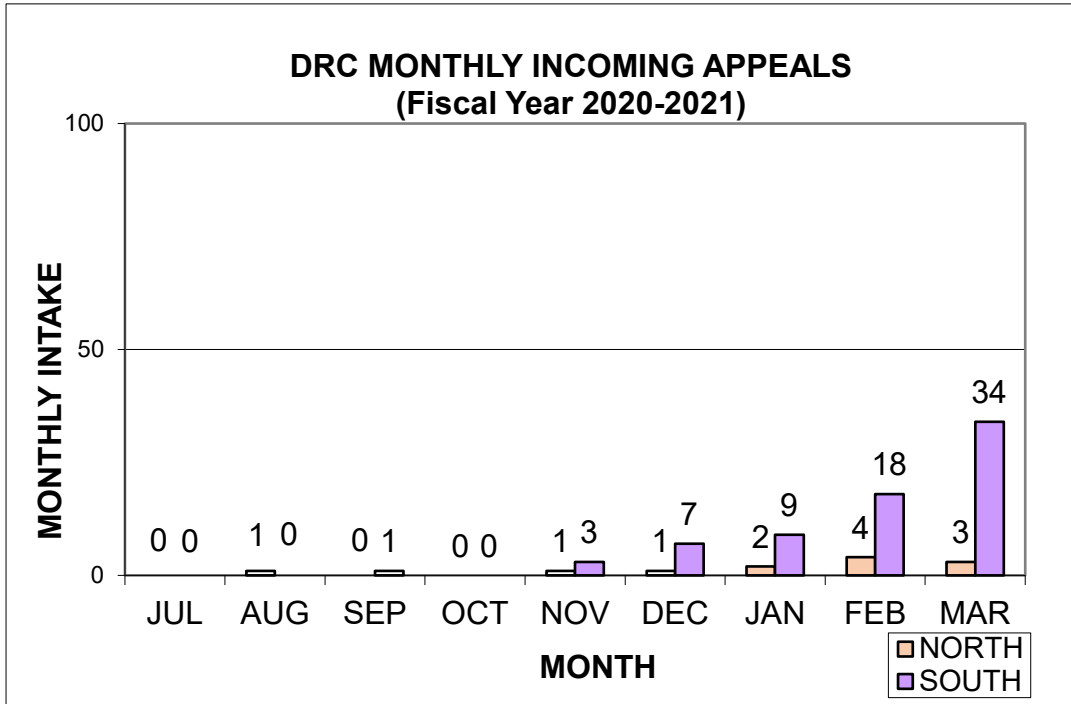
Disciplinary Review Committee Appeals Fiscal Year 20/21

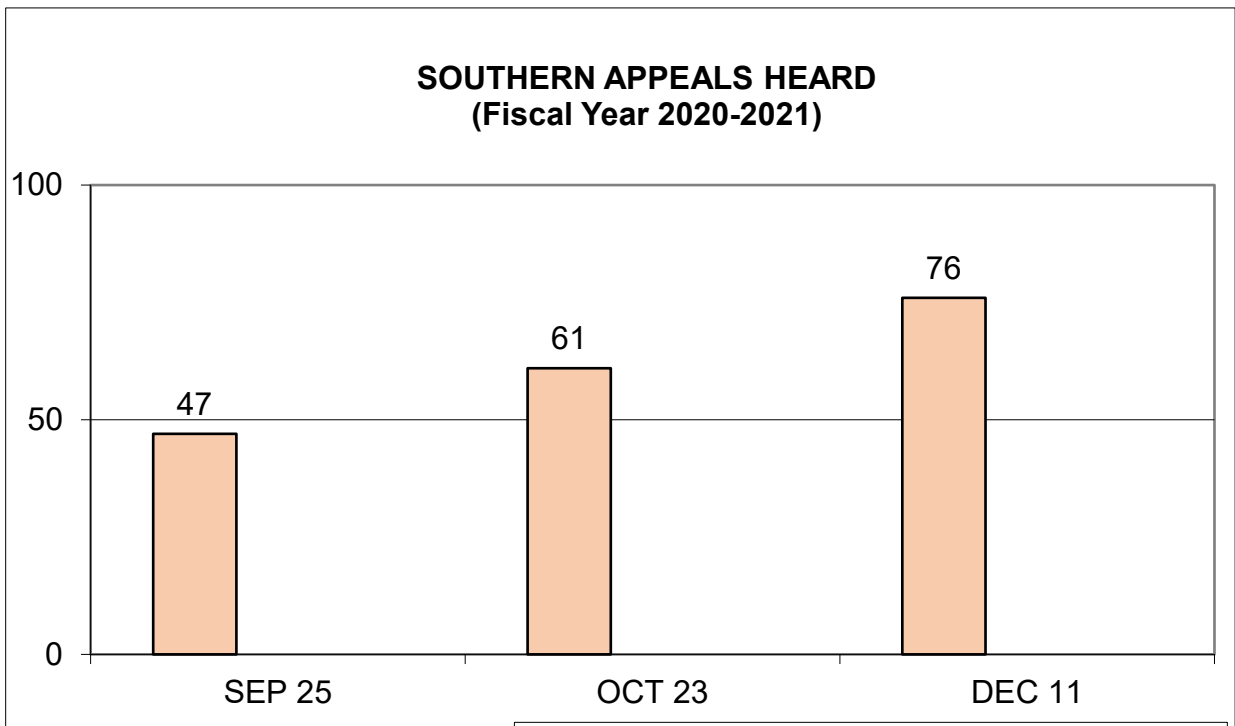
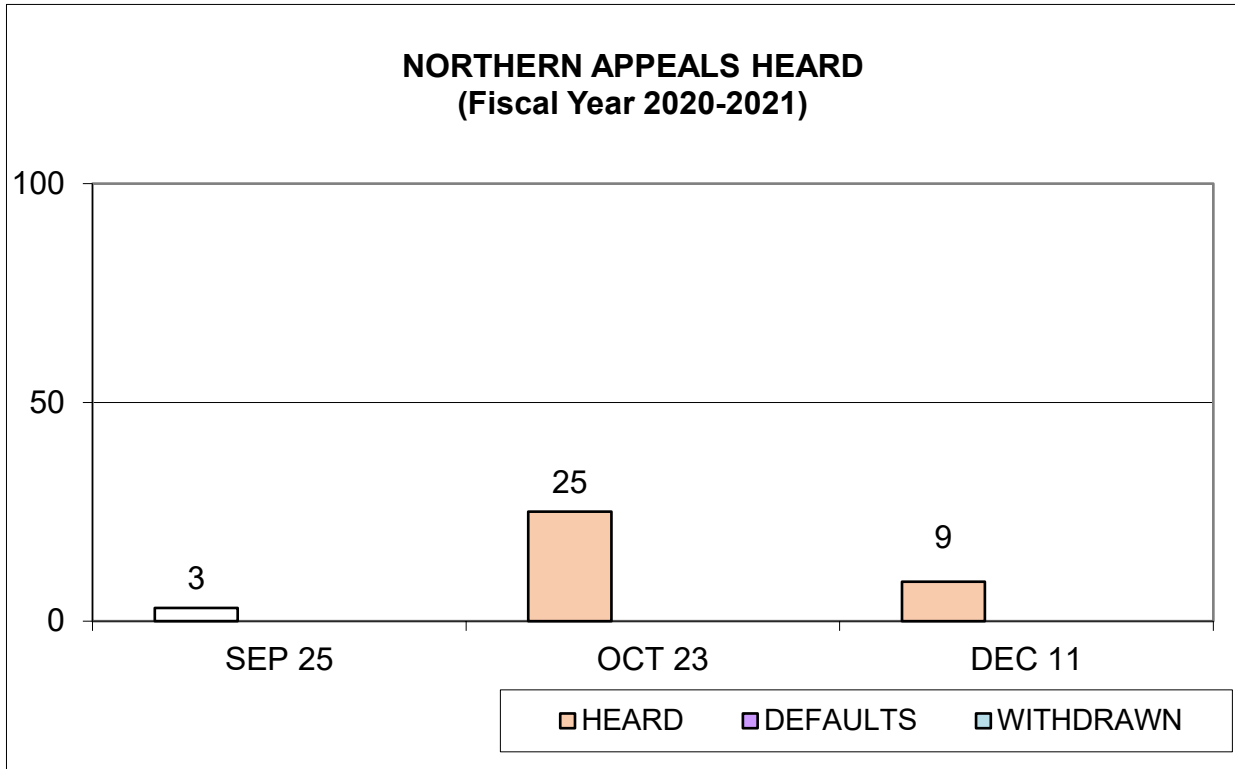
Northern	Jul - Sept	Oct - Dec	Jan - Mar	YTD
Heard	3	34	0	37
Received	1	2	9	12
Pending ¹	74	42	51	51 ²

Southern	Jul - Sept	Oct - Dec	Jan - Mar	YTD
Heard	47	137	0	184
Received	1	10	61	72
Pending ¹	328	202	261	261 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 03/31/2021.





Quarterly Enforcement Statistics Fiscal Year 20/21

COMPLAINTS	Jul-Sept	Oct-Dec	Jan- Mar	Apr-Jun	YTD
Complaints Received	2924	1453	1248		5625
Referred to DOI	0	0	4		4
Complaints Closed	2427	1560	2069		6056
Total Complaints Pending	2328	2171	1493		1493
Average Days to Close	37	77	118		77

APPLICATION INVESTIGATIONS*	Jul-Sept	Oct-Dec	Jan- Mar	Apr-Jun	YTD
Received	0	2	3		5
Pending	2	4	14		14
Closed	1	0	3		4

ATTORNEY GENERAL	Jul-Sept	Oct-Dec	Jan- Mar	Apr-Jun	YTD
Referred	6	9	4		19
Accusations Filed	13	4	3		20
Statement of Issues Filed	0	0	2		2
Total Pending	47	48	29		29

DISCIPLINARY PROCESS	Jul-Sept	Oct-Dec	Jan- Mar	Apr-Jun	YTD
Proposed Decisions	1	0	4		5
Default Decision	7	1	7		15
Stipulation	3	6	6		15

DISCIPLINARY OUTCOMES	Jul-Sept	Oct-Dec	Jan- Mar	Apr-Jun	YTD
Revocation	10	2	9		21
Revoke, Stay, Probation	0	3	3		6
Revoke, Stay, Suspend/Prob	5	3	4		12
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	0	0	1		1
Surrender of License	1	3	5		9
Public Reprimands	0	0	0		0
License Denied	0	0	0		0
Other	0	0	2		2
Total	16	11	24	0	51

PROBATION	Jul-Sept	Oct-Dec	Jan- Mar	Apr-Jun	YTD
Active	123	113	111		113

CITATIONS	Jul-Sept	Oct-Dec	Jan-Mar	Apr-Jun	YTD
Establishments	18	148	130		296
Barber	0	8	0		8
Barber Apprentice	0	3	7		10
Cosmetologist	0	8	4		12
Cosmetologist Apprentice	0	1	2		3
Electrologist	0	0	0		0
Electrologist Apprentice	0	0	0		0
Manicurist	0	1	6		7
Esthetician	0	0	4		4
Unlicensed Est.	0	65	42		107
Unlicensed Individual	10	14	14		38
Total	28	248	209	0	485

INSPECTIONS	Jul-Sept	Oct-Dec	Jan-Mar*	Apr-Jun	YTD
Establishments w/ violations	50	91	10		151
Establishments w/o violations	1	0	0		1
Total	51	91	10	0	152

*Inspections conducted through February 4, 2021

Complaints Received January - March 2021

Complaint Type	Anonymous	Internal	Public	Totals
Fraud	7	2	3	12
Health & Safety	711	27	163	901
Non-Jurisdictional	26	0	17	43
Incompetence/Negligence	7	0	24	31
Other	2	0	9	11
Personal Conduct	0	0	0	0
Unlicensed Activity	94	73	23	190
App Investigation	1	2	0	3
Total	848	104	239	1191

Complaints Received Last 5 Fiscal Years

Category	FY 16-17	FY 17-18	FY 18-19	FY 19-20	FY 20-21*
Fraud	61	84	86	50	16
Health & Safety	1616	1604	1637	3462	4479
Non-Jurisdictional	284	319	354	643	272
Incompetence/Negligence	270	438	407	258	59
Other	35	19	39	80	64
Personal Conduct	20	6	2	2	0
Unlicensed Activity	1817	1555	1841	1791	617
App Investigation	0	1061	194	12	6
Total	4103	5086	4560	6298	5513

*Data updated through March, 2021

Board of Barbering and Cosmetology
Fiscal Year 2020/21
Projected Expenditures 01/30/2021

Personnel Services	ALLOTMENT	BBC Projected Expenditures	Projected Year
Permanent	4,917,000	4,054,324	862,676
Temporary	587,000	472,226	114,774
Per Diem, Overtime & Lump Sum	0	27,866	(27,866)
Salary Savings	0	0	0
Total Salary & Wages	5,504,000	4,554,416	949,584
Net Salary & Wages	5,504,000	4,554,416	949,584
Staff Benefits	2,953,000	2,685,867	267,133
Total of Personnel Services	8,457,000	7,240,283	1,216,717
Operating Expenses & Equipment (OE&E)	Allotment	BBC Projected Expenditures	Projected Year End Balance
General Expense	191,000	65,504	125,496
Printing	275,000	679,641	(404,641)
Communication	41,000	44,325	(3,325)
Postage	283,000	3,000	280,000
Insurance	4,000	9,000	(5,000)
Travel In State	83,000	20,810	62,190
Travel, Out-of-State	0	0	0
Training	11,000	5,000	6,000
Facilities Operations	1,022,000	1,007,200	14,800
Attorney General, OAH, C&P Services Interdepar	1,672,000	843,708	828,292
Consultant & Professional Svs. - External	1,696,000	2,397,062	(701,062)
DCA Pro Rata	6,150,000	6,150,000	0
Interagency Services	1,000	142,032	(141,032)
Consolidated Data Center	68,000	31,000	37,000
Information Technology	38,000	38,742	(742)
Equipment	144,000	82,000	62,000
Other Items of Expense & Vehicles	43,000	57,890	(14,890)
Special Items and Expenses	0	0	0
Total Operating Expenses & Equipment	11,722,000	11,576,914	145,086
Total Expenses	20,179,000	18,817,197	1,361,803
Schedule Reim. Other			
Net Appropriation	20,179,000	18,817,197	1,361,803

0069 - Barbering and Cosmetology Contingency Fund Analysis of Fund Condition
(Dollars in Thousands) 2021-22 Governor's Budget

	PY	CY	BY	BY+1	BY+2
	2019-20	2020-21	2021-22	2022-23	2023-24
BEGINNING BALANCE	\$21,596	\$46,274	\$46,905	\$46,548	\$45,959
Prior Year Adjustment	\$778	\$0	\$0	\$0	\$0
Adjusted Beginning Balance	\$22,374	\$46,274	\$46,905	\$46,548	\$45,959
REVENUES, TRANSFERS AND OTHER ADJUSTMENTS					
Revenues					
4121200 - Delinquent fees	\$1,270	\$1,294	\$1,332	\$1,332	\$1,332
4127400 - Renewal fees	\$11,907	\$12,233	\$12,600	\$12,600	\$12,600
4129200 - Other regulatory fees	\$3,792	\$3,889	\$4,006	\$4,006	\$4,006
4129400 - Other regulatory licenses and permits	\$3,363	\$3,465	\$3,569	\$3,569	\$3,569
4143500 - Miscellaneous Services to the Public	\$14	\$0	\$0	\$0	\$0
4150500 - Interest from interfund loans	\$3,213	\$0	\$0	\$0	\$0
4163000 - Income from surplus money investments	\$869	\$675	\$291	\$679	\$661
4171400 - Escheat of unclaimed checks and warrants	\$13	\$12	\$12	\$12	\$12
4172500 - Miscellaneous revenues	\$8	\$8	\$8	\$8	\$8
4173500 - Settlements and Judgments - Other	\$0	\$8	\$0	\$0	\$0
Totals, Revenues	\$24,449	\$21,584	\$21,818	\$22,206	\$22,188
Transfers and Other Adjustments	\$21,000	-\$25,000	\$0	\$0	\$0
TOTALS, REVENUES, TRANSFERS AND OTHER ADJUSTMENTS	\$45,449	-\$3,416	\$21,818	\$22,206	\$22,188
TOTAL RESOURCES	\$67,823	\$42,858	\$68,723	\$68,754	\$68,147
EXPENDITURES AND EXPENDITURE ADJUSTMENTS	PY	CY	BY	BY+1	BY+2
	2019-20	2020-21	2021-22	2022-23	2023-24
Expenditures:					
1111 Program Expenditures (State Operations)	\$20,047	\$20,122	\$20,670	\$21,290	\$21,929
8880 Financial Information System for California (State Operations)	-\$3	\$0	\$0	\$0	\$0
9892 Supplemental Pension Payments (State Operations)	\$316	\$316	\$316	\$316	\$316
9900 Statewide Pro Rata	\$1,189	\$1,115	\$1,189	\$1,189	\$1,189
Less funding provided by the General Fund (State Operations)	\$0	-\$25,600	\$0	\$0	\$0
TOTALS, EXPENDITURES AND EXPENDITURE ADJUSTMENTS	\$21,549	-\$4,047	\$22,175	\$22,795	\$23,434
FUND BALANCE					
Reserve for economic uncertainties	\$46,274	\$46,905	\$46,548	\$45,959	\$44,713
Months in Reserve	25.8	25.4	24.5	23.5	22.3

NOTES:

Assumes workload and revenue projections are realized in BY +1 and ongoing.
Expenditure growth projected at 3% beginning BY +1.
Assumes interest rate at 1.5%.



MEMORANDUM

DATE April 26, 2021
TO: Members, Board of Barbering and Cosmetology
FROM: Kristy Underwood, Executive Officer
SUBJECT: Outreach Update

FY 20-21 Outreach/Industry Events

Participated:

February 3, 2021	Los Angeles Department of Public Health (LADPH) Coronavirus Update for Industry Attendee: Kristy Underwood
February 11, 2021	LADPH Coronavirus Update Attendee: Kristy Underwood
March 8, 2021	Professional Beauty Association's California Compliance Educational Symposium Attendee: Kristy Underwood
March 22, 2021	Assembly Member Kevin McCarthy's COVID -19 Fee Relief Virtual Town Hall Attendee: Kristy Underwood
March 12, 2021	LADPH Coronavirus Update Attendee: Kristy Underwood
March 15, 2021	BBC's Virtual Barber Outreach Event Attendee: Kristy Underwood, Marcene Melliza, Carrie Harris and Allison Lee
April 5, 2021	BBC's Virtual Spanish Outreach Event Attendee: Kristy Underwood, Marcene Melliza, Carrie Harris and Allison Lee

April 6, 2021

BBC's Virtual Vietnamese Outreach
Event
Attendee: Kristy Underwood, Marcene
Melliza, Carrie Harris and Allison Lee

April 7, 2021

LADPH Coronavirus Update
Attendee: Kristy Underwood

Tentatively Scheduled:

May 4, 2021

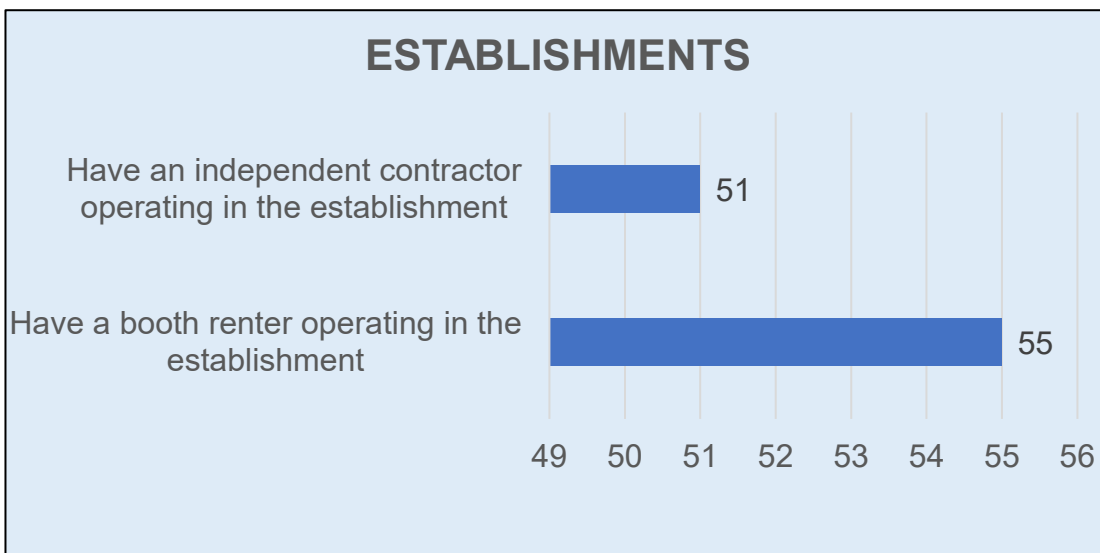
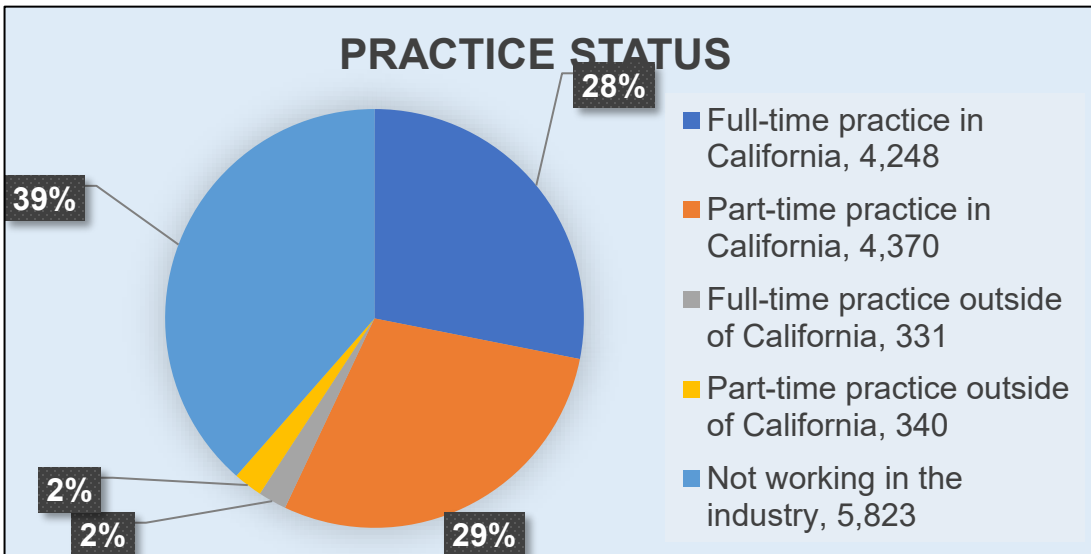
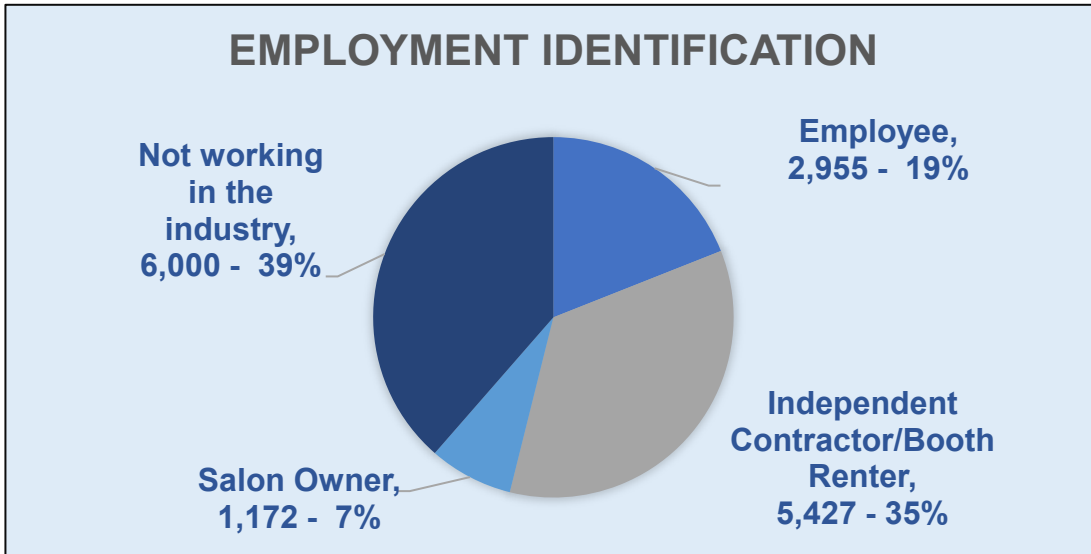
2021 Virtual Senior Rally Day
California Senior Legislature
Attendee: Marcene Melliza

May 24, 2021

BBC's Virtual Outreach for School
Instructors - Exam Changes
Attendee: Melanie Allen and Marcene
Melliza

Practice Status Survey Results

January 1 - March 31, 2021



CURRENT SUNSET REVIEW ISSUES

The following are unresolved issues pertaining to BBC or areas of concern that should be considered, along with background information for each issue. There are also recommendations Committee staff have made regarding particular issues or problem areas BBC needs to address. BBC and other interested parties have been provided with this Background Paper and BBC will respond to the issues presented and the recommendations of staff.

BBC ADMINISTRATION ISSUES

ISSUE #1: (BOARD COMPOSITION.) Does BBC's composition need to be updated?

Background: Boards within DCA are semiautonomous bodies whose members are appointed by the Governor and the Legislature. Although most of the non-healing arts boards like BBC have statutory authority for a public majority allotment in their makeup, most boards are comprised of a majority of members representing the profession, based on appointments, terms, and vacancies.

In 2010, the Federal Trade Commission (FTC) brought an administrative complaint against the North Carolina State Board of Dental Examiners (Board) for exclusion of non-dentists from the practice of teeth whitening. The FTC alleged that the Board's decision was an uncompetitive and unfair method of competition under the Federal Trade Commission Act. This opened the Board to lawsuits and substantial damages from affected parties. *North Carolina State Board of Dental Examiners v. FTC* placed limitations on the immunity of regulatory boards controlled by active market participants. This is because individuals who are directly affected by their own rulemaking may not be able to detect their biases, purposefully or inadvertently placing their benefit over those of the public. Or, as the Supreme Court stated, "Dual allegiances are not always apparent to an actor."

While BPC § 7303(b) requires four professional members be appointed, it does not specify what, if any, segments of the professional population must be represented. If the appointing authority makes a determination, all professional appointees could be an establishment owner, or all professional appointees could be a school owner. "Professions" is not defined and the law does not require the appointee to be a licensee, does not clarify that the specific practices of the professions regulated by BBC should be represented, and as such, the BBC itself may suffer from a lack diversity in perspective and experience depending on what "profession" means to a given appointing authority. As was discussed during the prior review of BBC, the law does not ensure that appointees represent practical experience in providing beautification services, and historic representation of a variety of professions on BBC has not been consistent.

BBC reports that it forms technical advisory committees in order to engage a variety of stakeholders and gain important insight but in its responses to the Committees during the prior sunset review, noted that there would be a significant benefit to allowing for each of the different license categories to always be represented in BBC proceedings and discussions.

The beautification services industry in general has evolved significantly since the current membership was outlined in statute. BBC can only remain effective, up to speed on current practice, able to reflect evolutions in professions, and relevant to upholding consumer protection if a variety of experiences and viewpoints is provided at the board member level.

Staff Recommendation: *The Committees should work with BBC and the appointing authorities to determine how best to ensure diversity in perspective and broad representation among professional members appropriately reflect the beautification services industry.*

Board Response:

The BBC looks forward to working with the committees and the appointing authority to address this issue. Currently, the board consists of nine members with the majority being public members. For the board membership to represent all license types, the number of members would need to increase to thirteen. This would allow for a representative of each license type to have a seat on the board (cosmetologist, barber, manicurist, esthetician, electrologist and establishment owner) and increase the number of public members from five to seven to ensure the public members have the majority.

The BBC believes that the composition should be updated to ensure that all aspects of the industry are represented.

ISSUE #2: (REGULATIONS.) **As an entity within the DCA organization, BBC is required to follow certain DCA-established processes to promulgate regulations. What is the current timeframe for BBC regulatory packages to be approved and finalized?**

Background: Promulgating regulations assists BBC in implementing the Act and changes to the Act stemming from legislation in order to establish a framework for consumer protection. The majority of BBC rules and guidance on standards necessary for licensure are outlined in regulations. According to the Office of Administrative Law (OAL), a “regulation” is any rule, regulation, order or standard of general application or the amendment, supplement, or revision of any rule, regulation, order, or standard adopted by any state agency to implement, interpret, or make specific the law enforced or administered by it. When adopting regulations, every department, division, office, officer, bureau, board or commission in the executive branch of the California state government must follow the rulemaking procedures in the Administrative Procedure Act (APA) (Government Code section 11340 et seq.) and regulations adopted by OAL, unless expressly exempted by statute from some or all of these requirements. The APA requirements are designed to provide the public with a meaningful opportunity to participate in the adoption of regulations or rules that have the force of law by California state agencies and to ensure the creation of an adequate record for the OAL and judicial review.

The rulemaking process does provide some discretion to agencies. While each agency must comply with timeframe requirements and must produce the same uniform documents supporting rulemaking efforts to submit to OAL, there are not the same standards for how regulation packages are determined, written, and produced.

Prior to 2016, boards and bureaus like BBC organized within DCA filed rulemaking packages directly with OAL. Boards and bureaus were not required to submit rulemaking packages to DCA or the overseeing agency for review and approval prior to submission for publication in the Notice Register. OAL reported that this process was unusual within state government: most programs must submit regulations packages to their respective agency for approval. As a result, in September 2016, the Secretary of the Business, Consumer Services and Housing Agency (BCSH) changed the procedures: boards and bureaus were now required to submit rulemaking packages to the department and BCSH

for review prior to filing with OAL. BCSH stated that the reason for the decision was an increase in the number of regulations disapproved by OAL for failing to meet their statutory requirements.

According to a 2019 DCA report to the Legislature, Internal Review of Regulation Procedures, “the resulting enhanced scrutiny from Agency and DCA’s Legal Affairs Division successfully reduced the number of disapproved regulation packages, with the number of disapprovals falling from nine in 2016 to only one in 2018.” The report also found that “while disapproval rates plummeted, a consequence was lengthened timelines to adopt regulations. Several boards and bureaus raised objections to the lengthened review time and reported difficulty obtaining timely updates about regulation packages under review.” The “pre-review” process required regulations to go through DCA’s entire review process prior to the package being submitted for public comment. DCA established a formal Regulations Unit to “minimize the length of time it currently takes to review regulatory packages; allow board and bureau attorneys to focus on the increased workload of non-regulatory work; respond to the demand of regulation packages under review and the increase of regulation packages from AB 2138 (Chiu and Low; Chapter 995, Statutes of 2018); avoid the habitual carry-over of regulation packages; and, enhance the level of regulation training provided to boards and bureaus to improve the quality of regulations and create efficiencies by having better quality packages submitted for review.”

It would be helpful for the Committees to have a better understanding of the status of necessary BBC regulations, the timeframe for regulations to be processed and complete, and what efficiencies BBC has realized since the creation of the Regulations Unit.

Staff Recommendation: BBC should provide the Committees with an update on pending regulations and the current timeframes for regulatory packages. In addition, the BBC should inform the Committees of any achieved efficiencies in promulgating regulations in recent years.

Board Response:

The BBC currently has six regulatory packages that are in process.

Topic	Start Date	Status
Personal Service Permit	2/12/2019	Filed with OAL 12/23/2020. Edits made and awaiting final approval from OAL. Anticipate implementation date of July 1, 2021 or October 1, 2021.
Substantial Relationship Criteria (AB 2138)	5/18/2019	Filed with OAL on 12/29/2020. Edits made and awaiting final approval from OAL.
Externship for Barbers	5/15/2020	Filed with OAL 4/6/2021. Anticipate implementation date of October 1, 2021.
Instructional Materials	2/11/2019	Edits received from DCA and approved by the BBC on 1/25/2021. Currently under review by DCA.
Disciplinary Review Committee Membership	6/8/2020	Pending DCA/Agency approval.
Disciplinary Guidelines	5/28/2019	Pending DCA/Agency approval.

It should be noted that from start time to the current status, many discussions and revisions have taken place (some requiring public notice and discussions at scheduled board meetings). The regulation process can be difficult and time consuming. The BBC works closely with the DCA Regulations Unit

and we believe the guidance we receive from the unit will improve the timelines of regulation packages moving forward. We are satisfied with the progress we have seen so far and are optimistic that timelines will continue to decrease as the Regulations Unit continues to become more established at the DCA.

ISSUE #3: (PERSONNEL FLEXIBILITY.) BBC is limited in its ability to make staffing changes in a budget year. Are updates necessary in order to ensure BBC can reorganize staff and respond to changes in its staffing structure?

Background: BPC Section 7313(2) specifically states that “The board shall not reduce the number of employees assigned to perform random inspections, targeted inspections, and investigations relating to field operations below the level funded by the annual Budget Act and described in supporting budget documents, and shall not redirect funds or personnel-years allocated to those inspection and investigation purposes to other purposes.”

Maintaining the integrity of the inspection program is critical but BBC may be unnecessarily hindered by this language, which renders BBC unable to account for vacancies due to retirement or various other factors that may require reorganization or redirecting staff in a given budget year in order to respond to workload needs and priorities.

Staff Recommendation: *The Act should be amended to provide BBC with flexibility to address staffing needs by striking this language.*

Board Response:

The BBC agrees with this recommendation that the Act should be amended to allow for more flexibility in staffing to ensure the board meets its consumer protection mandate. The BBC recommends the following amendments to BPC 7313(a)(2) and BPC 7353(d):

7313 (a) (2)

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

7353

(a) (1) Within 90 days after issuance of the establishment license, the board or its agents or assistants shall inspect the establishment for compliance with the applicable requirements of this chapter and the applicable rules and regulations of the board adopted pursuant to this chapter.

(2) The board may inspect the establishment for which a license application has been made prior to the issuance of the license.

(b) The board shall maintain a program of random and targeted inspections of establishments to ensure compliance with applicable laws relating to the public health and safety and the conduct and operation of establishments.

(c) The board or its authorized representatives shall inspect establishments to reasonably determine

compliance levels and to identify market conditions that require targeted enforcement.

~~(d) The board shall not reduce the number of employees assigned to perform random inspections, targeted inspections, and investigations relating to field operations below the level funded by the annual Budget Act and described in supporting budget documents, and shall not redirect funds or personnel-years allocated to those inspection and investigation purposes to other purposes.~~

ISSUE #4: (MEDICAL PRACTICE.) Are clarifications necessary to specify that BBC-regulated beautification services do not constitute the practice of medicine?

Background: Current law specifies that the Act does not confer authority to practice medicine or surgery. The rise of medical spas has long been a concern for the Medical Board of California and efforts there have been efforts to establish clear lines between beautification services and treatments that constitute the practice of medicine, particularly in light of the significant growth in the beauty and wellness industry, and the availability of approved products and devices. Lasers and medical-level skin treatments are only allowed to be provided by a physician and surgeon licensed by the MBC, registered nurse licensed by the Board of Registered Nursing, or physician assistants licensed by the Physician Assistant Board when those individuals are practicing according to the practice agreement with a supervising physician.

BBC reports that licensees are often providing services that are technically considered the practice of medicine. Inspectors routinely enter establishments to find products, devices, and treatment offerings that are beyond the authority of a BBC license. BBC is concerned that the Act limits its authority by referring to “practicing” which allows establishments to skirt the law by “offering” certain services. BBC requests to amend the Act to include language specifying that the practice of medicine shall not be performed or offered by a licensee without being authorized and licensed to perform the service pursuant to a certificate obtained in accordance with another provision of law.

Staff Recommendation: *The Committees may wish to amend the Act to provide clear direction on the prohibition of BBC licensees providing medical services.*

Board Response:

The BBC agrees that the Act should be amended to clearly identify that licensees of the BBC should not be offering services that are beyond their scope of practice. The BBC recommends the following amendment to the BPC:

7320.

This chapter confers no authority to practice medicine or surgery. The practice of medicine shall not be performed or offered by a licensee under this chapter.

ISSUE #5: (SCHOOL AND STUDENT OVERSIGHT.) BBC approves curriculum, facilities, equipment, and textbooks at schools offering training programs for eventual licensees. The issue of what appropriate role BBC should play in school and program approval has been raised in every recent prior sunset review and has been the subject of proposed legislation, legislative amendments, and legislative oversight hearings for over 10 years. What steps should be taken to ensure appropriate oversight of schools and student success?

Background: BPC Section 7362 specifies that a school approved by the BBC is one that is first approved by the BBC and subsequently approved by the BPPE, or is a public school providing BBC-approved instruction. The BBC and the BPPE may simultaneously review a school's application. However, a school is not approved until it has received approval from both entities.

BPPE and BBC regulate two separate aspects of an institution. In order to obtain BBC approval, a school must possess certain equipment, have a certain amount of floor space, use BBC-approved text books, receive BBC approval for the school curriculum, and provide BBC with a list of potential bona fide students. BBC does not receive revenue from schools for the work it conducts to provide approval. BPPE enforces the Private Postsecondary Education Act which establishes prohibitions on false advertising and inappropriate recruiting; requires disclosure of critical information to students such as program outlines, graduation and job placement rates, and license examination information, and ensures colleges justify those figures; guarantees students can complete their educational objectives if their institution closes its doors; and provides students tuition recovery recourse in the event of economic loss stemming from a school closure or fraud. However, the BPPE is the only entity authorized to collect a fee during the approval process.

Schools are not required to be accredited in order to operate in California but, in order for an institution to participate in federal financial aid programs under Title IV of the Higher Education Act (Pell Grant, federal student loans, etc.), the institution must be approved by an accrediting agency recognized by USED. Many of BBC's 246 approved schools are accredited and thus eligible to receive federal financial aid revenue.

The cost of education in this industry can range from \$2,500 to around \$20,000, with the average cost of a private college at around \$15,000 for the 1600-hour course in cosmetology. Concerns about student debt incurred by individuals who enroll in training programs at BPPE schools are longstanding, particularly as compared to the starting wages for a new licensees. Thousands of students have been left in the lurch by sudden school closures and are often left with few choices but to start again when they are defrauded by a bad school. In 2016, following investigations conducted by USED's Office of Federal Student Aid, that found that a school serving California students, Marinello Schools of Beauty, was knowingly requesting Federal aid for students based on invalid high school diplomas, underawarding Title IV aid to students, charging students for excessive overtime, and engaging in other acts of misrepresentation, USED withheld federal financial aid. Facing the loss of vast sums of revenue, the school shuttered, leaving thousands of Californians with limited options to continue their required training.

Prior to the establishment of BPPE in 2010, many boards, including BBC, took on a more direct role in institutional approval following the sunset of the former Bureau for Private Postsecondary and Vocational Education (BPPVE). Before the BPPVE sunset, BBC and BPPVE worked according to a formal Memorandum of Understanding (MOU) which provided for an active working relationship to ensure that schools met all requirements for licensure before being licensed or approved. BBC and BPPVE worked collaboratively on school inspections and shared information on a daily basis regarding school compliance.

Yet BBC's relationship with BPPE has been fraught from the outset. BBC often finds various health and safety violations during inspections and in recent years, has discovered outright fraud. BBC has been concerned about the impacts on problematic schools to future licensees and the public alike. Over the past three years, BBC and BPPE have attempted to work more collaboratively, despite having a MOU in place to outline joint oversight. Joint investigations were finally undertaken and combined

efforts of the two agencies have resulted in some of the first orders in many years for fraudulent schools selling hours and conducting diploma mill activity to stop enrolling students. It would be helpful for the Committees to know if progress is continuing and if the two agencies are continuing collaborative efforts to ensure swift action is taken against fraudulent schools.

BBC reports that it continues to see unprecedented numbers of fraudulent proof of training documents, including many from applicants who lives hundreds of miles away from a school they claimed to attend, and some applicants who do not even live in California. BBC denies applications but in some instances, individuals continue to apply to take their examination. In order to enhance oversight of schools and provide opportunities for students, BBC is again requesting to have authority to require schools to register their students at the time the individual enrolls. BBC believes implementation of a registration process will be a valuable deterrent to the selling of hours and issuing fraudulent proof of training documents that BBC is required to utilize in order to qualify a candidate for an examination. According to BBC, this step will ensure that, for example, if a student applies for licensing examination in cosmetology and their enrollment date does not match the information originally provided by the school, BBC will be able to investigate and determine if the training was recorded in a fraudulent manner.

BBC has also requested to clarify that BBC representatives can access a school to ensure that BBC-approved curriculum is actually being taught. BBC is authorized to inspect to ensure health and safety standards are being met but BBC visited several schools over the past four years and found many that are only teaching students how to pass the examination and are not the teaching the required curriculum. BBC staff spoke with students and instructors, many of whom had never seen BBC laws and regulations and had zero knowledge about BBC's required health and safety course.

Staff Recommendation: *BBC should again provide the Committees with an update on its current working relationship with BPPE. The Committees may wish to explore providing BBC with additional resources from fees BBC-approved schools pay BPPE in order to support BBC's subject matter expertise and school approval efforts. The Committees may wish to take steps to enhance the Act so that BBC has the tools that it needs to maintain oversight of schools and promote student success. BBC should update the Committees on the workload and impacts of additional authority. BBC should advise the Committees if certain student populations and applicants are disproportionately impacted by fraudulent schools.*

Board Response:

The BBC's working relationship with the BPPE has improved over the years. The BPPE regularly informs the BBC of planned compliance inspections and invites the BBC to attend. The COVID-19 pandemic has significantly impacted the oversight of schools as they were closed for the majority of 2020. The BBC would like to receive more enforcement information so any disciplinary action can be made concurrently. BBC has requested to update its MOU and hopes to have this discussion with the BPPE this year.

The BBC does not have any fees related to the approval of schools or to the enforcement of schools. BBC citation authority only covers health and safety violations and therefore the BBC cannot take any action when it observes activities that place students in jeopardy. During inspections, the BBC has observed students without text books, students without textbooks in their first language (even though they are available), and student time cards showing students that are clocked-in without being on the premises (indicating students are receiving credit for time not spent in school). In addition, because the BBC receives applications for licensure, it is apparent when a school is graduating more students

than is physically possible.

The BBC believes that certain student populations and applicants are disproportionately impacted by fraudulent schools. For example, the BBC provides examinations in English, Vietnamese, Spanish, and Korean. The textbook companies also provide their materials in these languages, however, we rarely see the Vietnamese textbook being used in schools. The BBC has observed first hand the lack of education that is being provided to students, however, additional authority is needed in order for the BBC to act on these observations since our purview is over the health and safety of clients.

The BBC believes that school oversight should be under one regulatory entity and has long believed that this entity should be the BBC. The BBC is available to work with the committees on addressing these issues of how to improve schools, which would ultimately result in increased consumer protection.

ISSUE #6: (AB 5.) What are the remaining implications for BBC licensees in light of the passage of AB 5 and clarify the bill provided as to how individuals providing beautification services should be classified for employment purposes?

Background: Many beautification services providers in California are independent contractors who rent or utilize space in a licensed establishment but do not have a traditional employee-employer relationship with the establishment. Some services, however, are likely being provided by individuals who have historically been misclassified from a wage and employment standpoint.

The Labor Code establishes a comprehensive set of protections for employees, including a time-sure minimum wage, meal and rest periods, workers' compensation coverage in the event of an industrial injury, sick leave, disability insurance in the event of a non-industrial disability, paid family leave, and unemployment insurance. Through the Industrial Welfare Commission (IWC), industry-specific wage orders set the wages, hours, and working conditions of employees. The IWC wage orders have the force of regulation and are enforced by the Division of Labor Standards Enforcement (DLSE).

BBC has long referred to independent contractor practitioners as "booth renters" and captured the independent contractor model as "booth rental". The terms are not defined and have a total of two references in the Act – BPC Section 7401 requires a licensee, at the time of renewal, to indicate if they are an employee, independent contractor or "booth renter", or salon owner (if the individual is a licensed practitioner); or if they have a "booth renter" or independent contractor operating in the establishment (if they are a licensed establishment owner). BBC has suggested in a number of prior sunset reviews that "booth renter's license" should be established in order to identify licensees who are independent contractors and differentiate from those who may be employees of an establishment.

Following these years-long discussions at BBC meetings, hearings focusing on BBC licensee employment status, and reports highlighting impacts on BBC licensees from misclassification as independent contractors, in the spring of 2018, the California Supreme Court issued a decision in *Dynamex Operations West, Inc. v. Superior Court* (4 Cal.5th 903) that significantly confounded prior assumptions about whether a worker is legally an employee or an independent contractor. In a case involving the classification of delivery drivers, the California Supreme Court adopted a new test for determining if a worker is an independent contractor, which is comprised of three necessary elements:

- A. That the worker is free from the control and direction of the hirer in connection with the

performance of the work, both under the contract for the performance of such work and in fact;

- B. That the worker performs work that is outside the usual course of the hiring entity's business; and
- C. That the worker is customarily engaged in an independently established trade, occupation, or business of the same nature as the work performed for the hiring entity.

In 2019, the enactment of Assembly Bill 5 (Gonzalez, Chapter 296, Statutes of 2019) effectively codified the *Dynamex* decision's ABC test for purposes of the provisions of the Labor Code, the Unemployment Insurance Code, and for IWC wage orders of the Industrial Welfare Commission. However, the author negotiated many exceptions with different business entities and professions, allowing those exempted from the bill to return to using the multi-factor balancing test in *Borello*. Licensed manicurists were exempt from the bill and are able to use the *Borello* multi-factor balancing test to determine employee status, but only until January 1, 2022. The bill authorized an individual contracting for professional services to do so as a sole proprietor or other business entity, and for a licensed esthetician, licensed electrologist, licensed manicurist, licensed barber, or licensed cosmetologist, specified that they are providing professional services if the licensee:

- Sets their own rates, processes their own payments, and is paid directly by clients.
- 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.
- Has their own book of business and schedules their own appointments.
- Maintains their own business license for the services offered to clients.
- 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.

AB 5 also specified that licensed manicurists will be considered based on the *Dynamex* standards beginning January 1, 2022. AB 231 (Nguyen) is currently pending in the Assembly and would delete the January 1, 2022 inoperative date from the exception granted in AB 5. Should this bill pass, the licensed manicuring profession will be able to continue to classify employees using the *Borello* multi-factor balancing test indefinitely, rather than eventually convert to the *Dynamex* ABC test.

In 2020, AB 2465 (Gonzalez), was introduced to require BBC to establish a "booth renter" permit which in turn would be added to the standards above that a BBC licensee would have to meet in order to be considered an independent contractor for Labor Code, Unemployment Code, and IWC wage order purposes. The role of BBC in enforcing labor laws, or issuing a separate license for purposes of easier identification of individuals who may not be complying with labor and wage laws, seems to have little positive benefit to the actual licensees, while potentially paving the way for establishment owners to skirt accountability and responsibility for the individuals operating in their establishment. The "booth renter" permit and license attempts have historically been perceived as ensuring that salon owners skirt certain responsibilities for individuals operating at their place of business. In justifying prior attempts, BBC advised, in its 2013 report to the Legislature on the regulation of "booth rentals"

that the pros include “establishment owners are protected against citations and fines caused by renters who chose not to comply with the BBC law; the roles of an owner and renter would be established; and both parties would clearly know what is required of them with regards to scheduling, establishment access, insurance provisions, and the use of supplies and equipment. It is not entirely clear if this change will enhance DLSE efforts, nor does it appear to benefit the broader licensee community for BBC to potentially encourage more independent contractors.

Staff Recommendation: *BBC should provide an update on discussions at the board level, including feedback from interested parties like nail professionals advocates, among others, received since the passage of AB 5. The Committees need to better understand the implications of a “booth renter” or “booth rental” permit on BBC and beautification services providers alike.*

Board Response:

The BBC has had minimal discussions and has received minimal feedback on the passage of AB 5. This is likely because the BBC does not have oversight or authority to review the business relationship between individuals and owners/employers. The BBC has participated in industry events where the Dynamex decision as well as AB 5 were discussed. In August 2019, the board took a position of Support if Amended on AB 5 and requested that that all references to barbering and cosmetology licenses be removed.

The BBC’s mandate is to protect consumers when receiving services from licensees as there are known health and safety risks for various services. The BBC is not charged with overseeing or regulating labor laws including employee/employer relationships. Should the BBC take on any aspect of labor issues, it will create similar dual-oversight issues for the BBC with other state agencies. The BBC is happy to continue to provide information for our licensees to raise awareness on these important topics that impact the industry but do not impact the BBC’s operations.

BBC LICENSING ISSUES

ISSUE #7: (SCOPE OF PRACTICE.) The Act provides narrow exemptions for certain services and captures a wide variety of beautification practices that may not require the education and training necessary for licensure. While BBC has explored narrowing licensure categories to allow an individual to only practice one aspect of what is today considered the practice of barbering or the practice of cosmetology, questions remain about whether those steps are necessary to prevent consumer harm and whether an evaluation of risk to public health is a more appropriate means by which to determine the practices that require licensure. Are changes necessary?

Background: The Act outlines many beautification services as the practice of barbering and the practice of cosmetology, including certain services that do not appear to pose a significant risk to the consumer.

The practice of barbering is defined as all or any combination of certain beautification practices (other than selling, fitting, or styling wigs or hairpieces; natural hair braiding or; threading) including: shaving or trimming beards or cutting hair; giving facial and scalp massages or treatments with oils, creams, lotions, or other preparations either by hand or mechanical appliances; singeing, shampooing, arranging, dressing, curling, waving, chemical waving, hair relaxing, or dyeing the hair or applying hair tonics; applying cosmetic preparations, antiseptics, powders, oils, clays, or lotions to the scalp,

face, or neck and; hairstyling.

The practice of cosmetology is defined as all or any combination of certain beautification practices (other than selling, fitting, or styling wigs or hairpieces; natural hair braiding or; threading) including: arranging, dressing, curling, waving, machine-less permanent waving, permanent waving, cleansing, cutting, shampooing, relaxing, singeing, bleaching, tinting, coloring, straightening, dyeing, applying hair tonics to, beautifying, or otherwise treating hair; massaging, cleaning, or stimulating the scalp, face, neck, arms, or upper part of the human body with hands, devices, apparatus or appliances, with or without the use of cosmetic preparations, antiseptics, tonics, lotions, or creams; beautifying the face, neck, arms, or upper part of the human body by use of cosmetic preparations, antiseptics, tonics, lotions, or creams; removing superfluous hair from a person by using depilatories or tweezers, chemicals, preparations, devices, or appliances; cutting, trimming, polishing, tinting, coloring, cleansing, or manicuring a person's nails; and massaging, cleansing, treating, or beautifying a person's hands or feet.

The Act also requires individuals performing barbering or cosmetology to only provide those services in a BBC-licensed establishment, or outside of an establishment in accordance with BBC regulations which specify requirements one must meet in order to obtain a personal services permit. In addition to the exemptions for selling, fitting, or styling wigs or hairpieces; natural hair braiding; or threading, the law authorizes a licensed individual to provide beautification services outside of a licensed establishment or mobile unit, when necessary, due to illness or other physical incapacitation, such as in convalescent homes. These services, however, must be obtained from an individual who is employed by a licensed-establishment.

Notably, the Act exempts a number of individuals from having to meet the same requirements as licensees, despite being authorized to provide many of the same beautification services that require licensure. BPC Section 7319 does not require individuals licensed to practice medicine, surgery, dentistry, pharmacy, osteopathic medicine, chiropractic, naturopathy, podiatry, or nursing, acting within the scope of practice for which they are licensed, to become licensed by BBC. Commissioned officers of the United States Army, Navy, Air Force, Marine Corps, members of the United States Public Health Service, and attendants attached to those services when engaged in the actual performance of their official duties are also exempt. Significantly, the Act 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." These individuals do not attend school and, despite having decades of experience, are not authorized for licensure if they provide beautification services outside the industry or after they leave the industry and wish to provide services elsewhere. Individuals are also exempt for licensure if they engage in beautification services within a particular practice but if they do so outside of a licensed establishment and without compensation. The Act also exempts individuals "engaged in the administration of hair, skin, or nail products for the exclusive purpose of recommending, demonstrating, or selling those products", which in essence provides a pathway for an individual to apply makeup at a retail store, after receiving industry or manufacturer training, but that same experienced person is deemed unsafe to provide the same services on their own unless they attend school for 1600-hours and become licensed.

Many of the current practices, including those that are outdated, those that do not pose a significant risk to consumers, and those that are rarely done, remain subjects of required school curriculum. It appears that the connection to school textbooks and maintaining the necessity of keeping certain practices as necessary for licensure could be directly related to the number of school hours required for licensure, which is further discussed in Issue #8 below.

During the past number of years, BBC has discussed what services should remain a part of licensed practice and continues to oppose efforts aimed at reflecting advancements in the way that services are delivered and providing potential flexibility to licensees providing those services. For example, the 2012 sunset review for BBC recommended maintaining the long-standing exemption for natural hair braiding services. Some stakeholders continue to believe that the incidental use of scissors in these services means that cosmetology is being practiced, and others were extremely concerned about the prevalence of the practice and scalp damage. After convening a task force, BBC advised that it

“recognizes that some forms of braiding are passed down by generations. The Board believes that individuals that perform this type of braiding, to family and friends, without charging a fee, should continue to be exempt...The Board does realize that natural hair care is a specialized practice under the scope of practice for a cosmetologist. The Board recommends that if an individual is offering natural hair care services, including braiding, for a fee, they must in fact be trained in infection control and proper braiding techniques to prevent further consumer harm; that the Legislature consider enacting a bill for the development of a natural hair care license, with a theory hour requirement of 400 hours and a curriculum to be determined by the Board; and a grandfathering clause be added to the bill to allow persons currently engaging in natural hair care to be able to be licensed by passing a State exam without the inclusion of school training. This clause would be in effect for a two-year period. New natural hair care stylists would be required to attend schooling and pass the State exam.”

Despite the fact that complaints made to BBC pertaining to natural hair braiding remain low and enforcement action for harm stemming from these services is low, BBC recommended ending the exemption and adding required hours of schooling. However, grandparenting current licensees appears to counter than in fact risk remains low if those individuals would be allowed to continue practicing without a license. It seems that the prudent step to ensure individuals continue to engage in this practice is to instead clarify the exemption, by striking language currently in the Act that leaves open the possibility that those providing natural hair braiding services would have to be licensed if they did any other practice of cosmetology as part of the hair braiding service. It would be helpful to understand why the Legislature would potentially require individuals who wash, blow dry, or incidentally trim hair as part of a braiding service to become licensed, adding a possible unnecessary barrier to practice, when there are not clear ways to teach and test for competency in the space, and when there are not clear issues arising from status quo.

In its current sunset report to the Legislature, BBC suggests creating a hairstylist and waxing license to allow practitioners to obtain fewer training hours and gain faster entry to the profession. Stemming from workshops held throughout 2018 during its statutorily mandated review of the current requirements to obtain licensure, BBC decided that a hairstylist-only license, like the cosmetology license but without including skin and nail care, should be pursued. The practice of hairstyling, though, would still, as proposed by BBC, include arranging, dressing, curling, cleansing, and shampooing, among other hair-specific beautification practices that utilize instruments or require chemical products to be applied. The waxing-only license was designed to respond to issues arising from the debate about SB 296 (Nguyen, 2016) which proposed authorizing manicurists to remove superfluous hair from the lip, eyebrows, elbow to the fingertips or knees to the toes of a person by expanding the practice of nail care. The Author was concerned about the impacts of current lengthy training requirements on Vietnamese-Americans, who comprise the majority of nail practitioners in the state. While BBC's proposal is similar to that bill, in that SB 296 also required an individual to complete waxing-only training to add this practice to what they are eligible to perform as a manicurist,

the BBC approach would require the individual to complete the required training necessary to become a manicurist, obtain licensure, but still have to obtain the separate waxing license. The proposed hours for these license categories is discussed in Issue #8 below.

The issue of appropriate licensing categories has been raised during every recent BBC review. Recognizing that although there may be health concerns related to certain practices, it may not be necessary for an individual performing narrow, specialized beautification services to be constrained by a broad definition of what constitutes cosmetology and requires a full license. Many entrepreneurial individuals throughout the state, including a large number of women and minorities, have become successful small business owners focused on providing one specialized service. BBC's approach has typically been to add to the existing practice frameworks for licensing categories, rather than look for pathways to evaluate to risk and create opportunities for individuals to safely provide only one or a few services considered within the larger practice definitions. For example, waxing, makeup artistry, and eyelash extension application are all considered cosmetology services but a growing segment of professionals offering these services do not ever intend to work as a hairstylist.

In its sunset report, BBC requests changes to the Act to "establish standard language across the barbering, cosmetology, manicuring, an esthetic scopes of practice". Among the proposed changes, the language would clarify that barbering includes shaving a face with a razor, rather than only shaving or trimming a beard as the law currently establishes. Additionally, BBC proposes to specifically state that applying hair extensions is the practice of cosmetology. The BBC's proposal would also add applying makeup or eyelashes to any person and tinting the eyelashes or eyebrows of any person to the practice of cosmetology and the practice of skin care. Cosmetology and skin care practice would also specifically reference the use of certain devices, and esthetics would be expanded to include services for the entire body. It would be helpful for the Committees to understand the evaluation of risk BBC has undertaken in specifying certain services, as well as the practical impacts of these changes, including whether BBC believes unlicensed activity complaints might arise if businesses use BBC to gain marketplace advantage by providing notice that one competitor is applying makeup, for example.

A number of states throughout the nation have taken steps to strike practices from those required for licensure that seemingly do not pose a risk of harm to the consumer, including shampooing or cleansing, combing, blow drying, curling, and dressing, to name a few. The Legislature was asked to decide whether certain hair beautification services that do not utilize instruments or chemicals should still require licensure. SB 999 (Morrell, 2018) would have deleted services from the definition of the practice of barbering and cosmetology, including shampooing, arranging, dressing, curling, and waving hair from barbering and arranging, dressing, curling, waving, cleansing, shampooing, and beautifying hair from cosmetology. The bill would have also specified that the practices of barbering and cosmetology do not include arranging, beautifying, cleansing, curling, dressing, shampooing, or waving the hair of any person. 2018 legislation in Minnesota created an exemption from licensure for individuals who only perform hairstyling and makeup services, if the person completes a four-hour course in health, safety, and infection-control matters. The legislation also exempted a facility in which individuals only provide hairstyling and makeup services from licensure. Just last month, the Utah Legislature passed a bill to create a licensure exemption for a stylist who "dries, styles, arranges, dresses, curls, hot irons, shampoos, or conditions hair." The bill would not apply to cosmetologists who cut the hair, apply dye or "apply reactive chemicals to straighten, curl, or alter the structure of the hair" and unlicensed stylists who only perform exempt services have to receive a "hair safety permit" by completing a two-hour "hair safety program". Tennessee considered legislation last year to strike licensing requirements for a number of professions, including cosmetologists if the individual receives a signature that the consumer acknowledges they know about the lack of license and if the consumer

releases the individual from liability that may arise from performance of the services. Legislation pending in Illinois last year would allow cosmetology, barbering, esthetics, hair braiding or nail technology services to be provided without a license as long as the individual posts a notice that the services are provided by someone unlicensed. Michigan legislation proposed to eliminate barber licensing requirements, including an 1800-hour school completion requirement, entirely.

A practice act is the highest and most restrictive form of professional regulation, and is intended to avert severe harm to the public health, safety or welfare that could be caused by unlicensed practitioners. Clearly some beautification services could result in a higher risk of infection, while some may result in a higher risk of customer dissatisfaction, some may result in significant and irreparable body damage, and others may not yield any true harm, even if performed inadequately. It would be helpful for the Committees to better understand what services result in complaints and negative consumer health impacts. It would be helpful for the Committees to know which services carry inherent risk and whether some services could safely be provided by an individual who did not complete 1600 hours of education.

Staff Recommendation: *The Committees may wish to consider removing certain practices from the definition of barbering and cosmetology based on an evaluation of risk and an analysis of BBC enforcement data.*

Board Response:

The BBC does not agree that certain practices should be removed from the scope of barbering and cosmetology. However, the BBC does welcome the discussion on changes to the Act that will bring the scopes of practice in line with services as they are performed today. The scopes of practices have existed in the Act for many years without being updated. Esthetician services twenty years ago were significantly different than the services that an esthetician provides today. The BBC is happy to work with the committee in bringing updated practices into the scope as well as determining which services may no longer be offered or expected.

ISSUE #8: (HOURS). **What is the continued justification for individuals to complete so many hours of training in order to safely provide beautification services? Do current requirements, and costs associated with training, benefit students and the public? Is an evaluation of risk ever part of the rationale for requiring so many hours?**

Background: Recent studies and reports have focused on the impacts of licensing requirements for employment and on individuals seeking to become employed. According to a July 2015 report on occupational licensing released by the White House, strict licensing creates barriers to mobility for licensed workers, citing several groups of people particularly vulnerable to occupational licensing laws, including former offenders, military spouses, veterans and immigrants.

In October 2016, the Little Hoover Commission released a report entitled *Jobs for Californians: Strategies to Ease Occupational Licensing Barriers*. The report noted that one out of every five Californians must receive permission from the government to work, and for millions of Californians that means contending with the hurdles of becoming licensed. The report noted that many of the goals to professionalize occupations, standardize services, guarantee quality and limit competition among practitioners, while well intended, have had a larger impact of preventing Californians from working, particularly harder-to-employ groups such as former offenders and those trained or educated outside of California, including veterans, military spouses and foreign-trained workers. The study found that

occupational licensing hurts those at the bottom of the economic ladder twice: first by imposing significant costs on them should they try to enter a licensed occupation and second by pricing the services provided by licensed professionals out of reach.

The report found that California compares poorly to the rest of the nation in the amount of licensing it requires for occupations traditionally entered into by people of modest means. According to the report, researchers from the Institute for Justice selected 102 lower-income occupations, defined by the Bureau of Labor Statistics as making less than the national average income, ranging from manicurist to pest control applicator. Of the 102 occupations selected, California required licensure for 62, or 61 percent of them. According to the report, California ranked third most restrictive among 50 states and the District of Columbia, following only Louisiana and Arizona. California ranked seventh of 51 when measuring the burden imposed on entrants into these lower- and moderate-income occupations: on average, Californians typically pay about \$300 in licensing fees, spend 549 days in education and/or training and pass one exam.

To become a licensed barber, an applicant must submit proof of completion to BBC of 1500 training hours covering all practices of a barber, according to the following:

- 1100 hours of technical instruction and practical training in hair dressing – 65 hours of hairstyling including hair analysis, shampooing, finger waving, pin curling, comb outs, straightening, waving, curling with hot combs and hot curling irons and blower styling; 40 hours of permanent waving and chemical straightening including hair analysis, acid and alkaline permanent waving, chemical straightening including the use of sodium hydroxide and other base solutions and; 60 hours of bleaching including the use of semi-permanent, demi-permanent and temporary colors, hair analysis, predisposition and strand tests, safety precautions, formula mixing, tinting, bleaching, high and low lights, and the use of dye removers; 20 hours of hair cutting including the use of scissors, razor (shaper), electrical clippers/trimmers, and thinning (tapering) shears for wet and dry cutting.
- 200 hours of technical instruction and practical training in shaving – The subject of Preparation and Performance shall include, but is not limited to the following techniques and procedures: Preparing the client's hair for shaving, assessing the condition of the client's skin, performing shaving techniques, applying after-shave antiseptic following facial services, massaging the client's face, rolling cream massages
- 200 hours of technical instruction in health and safety – 20 hours on the Act and BBC regulations; 45 hours on health and safety/hazardous substances including training in chemicals and health in establishments, material safety data sheets, protection from hazardous chemicals and preventing chemical injuries, health and safety laws and agencies, bacteriology and preventing communicable diseases including HIV/AIDS and Hepatitis B; **20 hours in disinfection and sanitation including proper procedures to protect the health and safety of the consumer as well as the technician and proper disinfection procedures for equipment used in establishments** and; 15 hours in the subjects of anatomy and physiology.

To become a licensed cosmetologist, an applicant must submit proof of completion to BBC of 1600 training hours covering all practices of a cosmetologist, according to the following:

- 1100 hours of technical instruction and practical training in hair dressing –

65 hours of hairstyling including hair analysis, shampooing, finger waving, pin curling, comb outs, straightening, waving, curling with hot combs and hot curling irons and blower styling; 40 hours of permanent waving and chemical straightening including hair analysis, acid and alkaline permanent waving, chemical straightening including the use of sodium hydroxide and other base solutions; 60 hours of hair coloring and bleaching including hair analysis, predisposition and strand tests, safety precautions, formula mixing, tinting, bleaching, high and low lights, and the use of dye removers and; 20 hours of hair cutting including the use of scissors, razor (shaper), electrical clippers/trimmers, and thinning (tapering) shears for wet and dry cutting.

- 200 hours of technical instruction in health and safety – 20 hours on the Act and BBC regulations; 45 hours on health and safety/hazardous substances including cosmetology chemistry like the chemical composition and purpose of cosmetic, nail, hair and skin care preparations, elementary chemical makeup, chemical skin peels and chemical and physical changes of matter, hazardous substances chemicals and health in establishments, protection from hazardous chemicals and preventing chemical injuries, ergonomics, theory of electricity in cosmetology, bacteriology, communicable diseases, including HIV/AIDS, Hepatitis B, and staph and Material Safety Data Sheets; Disinfection and Sanitation (20 hours of Technical Instruction); **20 hours in disinfection and sanitation including proper procedures to protect the health and safety of the consumer as well as the technician and proper disinfection procedures for equipment used in establishments and;** 15 hours in the subjects of anatomy and physiology.
- 200 hours of technical instruction and practical training in esthetics – 25 hours in manual, electrical and chemical facials including cleansing, scientific manipulations, packs, and masks, electrical facials using electrical modalities, dermal lights and electrical apparatus, chemical skin peels, packs, masks and scrubs; 25 hours in eyebrow beautification and makeup including eyebrow arching and hair removal, the use of wax, tweezers, electric or manual, and depilatories for the removal of superfluous hair, skin analysis, complete and corrective makeup, the application of false eyelashes, and lash and brow tinting, if a product exists that is not disapproved, prohibited or banned by the U.S. Food and Drug Administration, the Occupational Safety and Health Administration, or the U.S. Environmental Protection Agency.
- 100 hours of technical instruction and practical training in manicuring and pedicuring – 10 hours of manicuring and pedicuring including water and oil manicure, including nail analysis, and hand/foot and arm/ankle massage; 25 hours of artificial nails and wraps including acrylic, liquid and powder brush-ons, artificial nail tips and nail wraps and repairs.

To become a licensed manicurist, an applicant must submit proof of completion to BBC of 400 training hours training covering all practices of a manicurist, according to the following:

- 300 hours of technical instruction and practical training in nail care – 60 hours of technical instruction in manicures and pedicures (water and oil manicures including hand and arm massage, complete pedicure including foot and ankle massage, application of artificial nails including liquid, gel, and powder brush-ons, nail tips, nail wraps and repairs, and nail analysis); 60 hours of practical operations in manicures and pedicures; and 180 hours of nails
- 100 hours of technical instruction and practical training in health and safety – 10 hours on laws and regulations including the Act and BBC Rules and Regulations; 25 hours on chemistry

pertaining to the practices of a manicurist including the chemical composition and purpose of nail care preparations, health and safety/hazardous substances, including training in chemicals and health in establishments, material safety data sheets, protection from hazardous chemicals and preventing chemical injuries, health and safety laws and agencies, ergonomics, and communicable diseases, including HIV/AIDS and Hepatitis B; 20 hours on disinfection and sanitation procedures to protect the health and safety of the consumer as well as the technician which entail disinfecting instruments and equipment as specified with special attention given to pedicure foot spa and basin disinfection procedures and; 10 hours in bacteriology, anatomy and physiology

BBC also recommends that schools provide training in communication skills that includes professional ethics, salesmanship, decorum, record-keeping, client service record cards, and basic tax responsibilities related to independent contractors, booth renters, employees, and employers.

Students may perform services on the public while enrolled in a school approved by BBC but do not get licensed if they offer services at that school, nor are they authorized to receive compensation for that work. Schools, however, do receive compensation from members of the public who receive beautification services from current students.

The 1600-hour education requirement for cosmetology licensure, in particular, has been a discussion point for the Legislature for a number of years. During the 2012-13 sunset review oversight for BBC, Committee staff raised the issue of appropriate licensing categories, noting the need for BBC to evaluate adding specialized certificates or licensure in certain practices. The review asked whether many of the beautification services offered by BBC licensees require the mandatory schooling and training hours necessary for a cosmetologist or esthetician and noted that while there may be significant health concerns related to some practices, there may also not be a need for an individual performing specialized services to invest in a whole training program. The review found that training for many of the beautification services provided by BBC licensees is provided directly from manufacturers and likely not even reflected in BBC-approved curriculum and at BBC-approved schools.

An informal survey conducted by a licensed establishment owner found that most licensees indicated they had a lot of down time, sat around and didn't do anything, noted that working once licensed provided skills and knowledge never gained in school, and that hundreds of hours were wasted learning outdated techniques that are never utilized in day-day to practice but remain components of the practical exam.

The 2014-15 sunset review oversight of the BBC further examined the issue of the required curriculum and connection to practice. AB 181 (Bonilla, Chapter 430, Statutes of 2013) required BBC to conduct a study and review of the 1600-hour training requirement for cosmetologists, conduct an occupational analysis of the cosmetology profession in California, and conduct a review of the national written examination for cosmetologists and of the California practical examination, in order to evaluate whether both examinations assess critical competencies for California cosmetologists and meet professional testing standards. BBC's study advised that the 1600-hour requirement is justified and should remain.

As is the case with a number of states taking efforts to ensure that only practices that pose a harm or risk to the consumer are regulated, a number of states have decreased the number of hours required for licensure. Vermont and Texas now require 1000 hours. Rhode Island went even further and reduced

the requirement for a cosmetology license from 1500 to 600; the requirement for a manicurist license from 300 to 200; the requirement for an esthetics license from 600 to 300; and the requirement for a barbering license from 1500 to 600. States like New York that have long had lower requirements than 1600-hours do not demonstrate any greater consumer harm or significant enforcement statistics related to the lesser amount of required school hours.

BBC has never evaluated the actual risks to the consumer and licensee and where specific harm arises in justifying the 1600-hour requirement, nor is it clear why this standard remains. The first type of evaluation of risks was recently completed by the Nevada Board of Cosmetology which reviewed 21 common services and the risk associated with each. It is unclear where BBC-approved curriculum diminishes the potential for an individual to become infected after visiting a nail salon that does not properly disinfect foot spas, as one example. Health and safety and public protection is the rationale for licensure and for the hours required to become licensed, however the majority of the mandatory training requirements are not related to health and safety. There may be other reasons behind the continuance of this mandate, including clock-hour specifications outlined by USED for schools and training programs to accept federal financial aid or standards that must be met related to examination passage rates (a number of hours are spent directly preparing to pass the examination).

BBC does not require any proof of actual practical operations performed but rather only requires an individual to provide proof that they completed a certain number of hours. Significantly, in California, a review of the *total* number of hours an individual must complete in a particular topic for cosmetology training, compared with the *minimum* number of required hours, highlights a major difference that continues to raise the question as to why 1600-hours remains the standard in this state. BBC regulations require a total of 1100 hours in hair design, but only 185 minimum required hours, a difference of 915 hours. Notably, particularly in light of recent discussions about health and safety, infection control, and the preparedness of licensees to provide services safely during the COVID-19 pandemic, only 200 hours are required in health and safety topics, 85 of which are the minimum number required. Students are only required to complete 20 hours in disinfection and sanitation, yet the only reasons a licensee is cited by a BBC inspector is for disinfection and sanitation violations. 200 hours overall are required in esthetics but only 50 of those constitute the minimum number of required hours. 100 total hours are mandated in manicure/pedicure training but 35 is the minimum number of required hours. As noted in a 2017 occupational analysis conducted by DCA's Office of Professional Examination Services, students spend almost 90 percent of their training focused on hair, 12 percent in esthetics, and just over 9 percent in manicuring/pedicuring. BBC's new request to establish a hairstylist-only license still sets the mandatory number of hours at 1100, the same number of hours currently required in hair design.

Staff Recommendation: *It is important that future licensees receive training in key health and safety topics like infection control, sanitation standards, infection control, and basic labor laws. The Committees may wish to decrease the amount of hours required for licensure in order to allow individuals a swifter path to completing necessary curriculum that will lead to safe beautification services practice. BBC should provide the Committees with demographic statistics, if available, about student populations most significantly impacted by the current requirements to complete so many hours. BBC should provide information to the Committees about the impact this change could have on licensure portability and the ability for California practitioners to easily become licensed in other states. BBC should provide information to the Committees about federal financial aid eligibility related to clock hour requirements.*

Board Response:

In the BBC's 2018 Sunset Report the recommendation was made to implement a hair-stylist only license. This would allow for a reduced number of hours and for an individual to attend school for hair services only as opposed to having to learn hair, skin and nails as a cosmetologist does. The BBC continues to believe that a hairstylist license would be a valuable addition to the Act and would allow quicker entry into the profession.

Reducing the existing number of hours required for licensure would not likely have an impact on licensure portability. Most states require an examination and a license in order to apply for endorsement. States rarely review the curriculum for each of the license types that are similar. For example; a cosmetologist who has completed 1,000 hours and is licensed in one state is usually eligible for a license in another state that requires 1,500 hours. A portability issue may arise if a state moves solely to a hair-stylist license without the option of a cosmetology license. For example, currently in California, if someone is licensed in another state as a hair-stylist, they would be required to obtain additional schooling and take and pass the cosmetology exam to become licensed to work.

Schools of barbering and cosmetology that wish to offer financial aid must have a minimum of a 600-hour course. Currently, all license categories under the BBC are eligible (if the school is accredited) for financial aid with the exception of the manicuring course (400-hours).

The BBC recognizes that this is an important issue and one that continues to be discussed on a national level. The BBC does not collect demographics on students or licensees. The BBC looks forward to further discussions on the issue with the committees.

ISSUE #9: (EXAMS.) BBC requires individuals seeking licensure as a barber, cosmetologist, esthetician, electrologists, or a manicurist to take and pass both a written examination and a practical examination. BBC relies on NIC tests, the same tests utilized in 39 states. Is the national written exam the best means by which to evaluate licensee competency? Is the practical exam still necessary?

Background: In order to obtain a license from the BBC, applicants are required to take and pass both a written examination and a practical examination. BPC Section 7338 specifies that examinations must be "limited to clearly job-related questions, activities, and practical services. Examinations shall also include written tests in antisepsis, disinfection, sanitation, the use of mechanical apparatus and electricity as applicable to the practice of barbering, cosmetology, or electrolysis."

Typically, applicants take both the written and practical examinations in one day but may also take the written examination at a separate PSI testing center, located throughout the state, then take the practical examination at one of the two facilities in the state. As soon as an applicant passes both portions of the examination, they can be issued a license immediately. BBC reports in its 2018 Sunset Review Report that it annually administers approximately 23,000 practical examinations and 26,000 written examinations (initial and retake examinees).

Both the written and practical examinations BBC uses are developed by the National Interstate Council of Board of Cosmetology (NIC). BBC adopted the NIC written examination in 2009 and the NIC practical examination in 2011. According to the NIC, approximately 39 states utilize both a practical and written examination administered by the NIC. Usage of the written and practical examinations has been an issue discussed during each of BBC's prior sunset reviews, including discussion about the low

passage rate applicants who take the examination in Spanish. BBC notes again that “The Spanish pass rate for the written examinations continues to be low. The Board has researched several potential causes often low pass rate but has not found a significant, identifiable cause. While the cosmetology Spanish pass rate has increased from 29% in FY 2013/2014 to 45% in FY 2017/2018, this is still a low passage rate that causes the Board concern.”

The written test is typically multiple-choice and varies in number of questions based on the type of license and individual is seeking. For the practical examination, applicants are required to demonstrate certain services in person while an exam proctor watches their technique and process. According to BBC, the esthetician, manicurist and electrologist examinations take two hours or less, and the barber and cosmetologist examinations take four hours or less. According to the NIC's examination information for cosmetologists, the practical examination tests applicants on industry services such as client protections (disinfecting work areas, disposal of soiled materials), haircutting, thermal curling, chemical waving, hair lightening and color retouch, and blowstyling, among others. These skills are demonstrated on a mannequin head or hand. If an individual meets certain requirements the BBC will authorize the use of an interpreter; a form must be filled out and approved prior by the BBC prior to allowance for the practical examination. Individuals must provide their own mannequin heads or hands, and there are companies that specifically rent practical exam “kits” to applicants, the cost for which is typically around \$200. This cost is in addition to the \$125 examination fee. Kits are marketed to students as ready to go, containing the supplies and equipment needed to complete the examination. Kit rental companies are private businesses not affiliated with BBC. These companies also offer test preparation, creating a whole cottage industry related to the examination that does not appear to be connected to assessing competency. BBC urges applicants, when utilizing one of these companies, to make sure the supplies are in compliance. For example, manufacturer's labels are required on all disinfectants and sanitizers. Any deviation of the standards, including mislabeled items, may result in lost points on the examination.

As with many professions, the COVID-19 pandemic had a significant impact on testing access for applicants for licensure. Due to the emergency stay at home orders, BBC testing centers were required to pause examinations. Prior to the pandemic, the daily number of candidates examined by BBC was 64 candidates at the Fairfield site and 96 candidates at the Glendale site. In order to maintain social distancing, BBC is now examining 36 candidates daily at the Fairfield site and 64 at the Glendale site. It is unclear the total number of individuals who were impacted by the closure, or what BBC's current testing backlog is.

AB 181 (Bonilla, Chapter 430, Statutes of 2013), the bill stemming from the comprehensive review of BBC in 2014, required BBC to conduct a study and review of the 1600-hour training requirement for cosmetologists along with an occupational analysis of the cosmetology profession in California, and conduct a review of the national written examination for cosmetologists and of the California practical examination, in order to evaluate whether both examinations assess critical competencies for California cosmetologists and meet professional testing standards. BBC contracted with DCA's Office of Professional Examination Services (OPES) to conduct the occupational analysis of both the written and practical examinations of the NIC. The assessment was completed in 2017, and, based on its work with subject matter experts (SME's) and stakeholders, OPES determined that, “overall, the SMEs concluded that the National Cosmetology Theory Examination and the National Cosmetology Practical Examination adequately assess what a California cosmetologist is expected to have mastered at the time of licensure.” However, the assessment acknowledged that issues with the passage rate of the Spanish examination continue to be of concern for the BBC.

A number of states have taken steps to ease the licensing process by eliminating a hands-on practical examination. Iowa does not require a practical examination for licensees other than barbers. Kansas is transitioning to a written practical exam. Pennsylvania eliminated a practical exam in 2014 and requires skills demonstrated by answering questions in a written exam. Arkansas eliminated both the practical and written examination in 2017 and requires schools to test competency. Minnesota also requires an exam at the school level. Tennessee is moving to requiring a virtual practical exam. Maine, Delaware, and Wyoming are considering a written practical exam. South Dakota eliminated the requirement for an individual to complete a practical exam as a result of the pandemic and may consider implementing a written practical exam.

Although the occupational analysis noted that the NIC covers what a California cosmetologist is expected to have mastered, the question remains as to whether the test is actually necessary after a student has graduated from a BBC-approved institution. Other than potentially for ease of California licensees becoming licensed in other states that require the individual to have passed a test, it is not clear if both the written and practical examinations are necessary to assess minimal competency and determine whether an individual can safely provide beautification services.

In addition to the cost burdens for individuals to take BBC-required tests, the practical exam in particular does not cover any aspect of practice that a licensee is actually cited for during an inspection. An individual has to demonstrate in the practical exam that they can properly throw away sheets used during a perm but does not ever have to demonstrate that they know how to display their license, the most common reason someone receives a citation. Individuals are cited for hair in shampooing basins or errant hair remaining on scissors and combs that inspectors identify and take photos of, yet at no point in the practical examination do they need to show they can properly clean and disinfect equipment. Some individuals, despite the amount of time they spend in school, may still not be successful at performing beautification services to the level that consumers desire, such as a stylist who provides bad haircuts regardless of the amount of training received. While that same individual has to show a proctor during a practical exam that they can position foils on the hair for a highlight treatment that are a certain amount of space away from an individual's scalp, no inspection ever reviews any aspect of practice. The examination does not even assess whether an individual can properly mix disinfectant. Yet it is this exam that the Act specifies prevails over written tests that actually require someone to demonstrate knowledge about health and safety issues. The practical examination is another step of many toward the end goal of licensure, one that does not appear to add value to licensee's ability to safely conduct their work, nor does it appear to enhance public safety, particularly given that there is no requirement for individuals to show that they can control infections or uphold sanitation protocols, key aspects of maintaining health and safety standards.

Staff Recommendation: *Strong consideration should be given to eliminating the practical examination. BBC should provide the Committees an update on the NIC exam and whether it is necessary to maintain a contract for a national exam, or whether BBC on its own can better craft something to ensure basic minimal competency in the aspects of practice that actually impact consumers like those related to health and safety.*

Board Response:

As noted, the BBC currently contracts with the NIC for the development of the written and practical examinations. The BBC also has a separate contract with the vendor who administers the written (computer-based) portion of the examination. The BBC spends approximately 1 million dollars annually on the development and delivery of the written and practical examination. The NIC is the

most commonly provided examination within the United States, however there are other vendors who provide barbering and cosmetology exams that are referred to as “national” and there are several states that develop their own exams. As noted under Issue #10, the examination content for the various examinations (either state specific or developed by a contracted vendor) is primarily the same. The BBC’s contract with the NIC will end July 1, 2022 and other opportunities will be reviewed in the current year.

ISSUE #10: (ENDORSEMENT.) BBC offers licensure reciprocity to individuals licensed and in good standing in other states. It may no longer be necessary for current limitations on this type of recognition and amendments to the Act may allow individuals to become licensed more quickly.

Background: The Act currently authorizes an individual licensed in another state to become licensed in California without having to take additional steps or conduct additional review, including determining whether the individual completed the same number of hours as California requires for licensure.

BPC Section 7331 allows BBC to license an individual from another state if they complete and application, pay a fee, and show that they possess a current unrestricted license, are in good standing with their licensing authority, and have been “active for three of the last five years, during which time the applicant has not been subject to a disciplinary action or a criminal conviction.”

Since BBC-regulated practice is extremely similar from state to state (other than states that do not require certain low-risk practices to be regulated), and virtually every state recognizes the same basic practices, it is not clear what added risk there is to California consumers to receive services from an individual who has been licensed in another state for a shorter period of time and has not faced any licensure sanctions. Particularly given the need for licensure portability among certain populations like military spouses, it would be helpful for the Committees to understand whether the requirement for an individual to have been active for three of the last five years is necessary and whether other states require the same of California licensees.

Staff Recommendation: *The Committees may wish to amend the Act to streamline the process for licensure based on an individual’s possession of a license in good standing from another state.*

Board Response:

The BBC agrees that the Act should be amended to streamline the endorsement process and allow an individual coming from another state to quickly gain employment. In a review of various examinations provided in four states, it was found that all four exams have similar content. This is displayed in the chart below:

Exam Content	CA	State 1	State 2	State 3
Work Area/Client Preparation	X			X
Thermal Curling	X	X	X	X
Haircutting	X	X	X	X
Chemical Wave	X	X	X	X
Pre-disposition Test	X	X		
Highlight with Foil, Virgin Application,	X	X	X	X

This shows that the testing content area is equivalent among these four states that all utilize a different test. Therefore, someone who tests and becomes licensed in another state should be considered minimally competent to immediately work in California. The Act should be amended to eliminate the requirement that a licensee in another state must hold a valid license for three of the last five years and instead require that anyone who has passed an examination and is equally licensed in another state (with no disciplinary actions) should be immediately licensed and able to gain employment in California.

ISSUE #11: (APPRENTICESHIPS AND EXTERNSHIPS.) BBC allows individuals to obtain training toward licensure through an apprenticeship and externship. Examination passage rates for apprentices are not high and apprenticeship candidates may not have all of the information necessary in order to make an informed decision about this pathway. Externs are required to comply with a number of standards when working in an establishment as a student. Are changes necessary to ensure future licensees are provided fair opportunities through these pathways?

Background: The BBC apprenticeship and externship options toward licensure, and, while not utilized by large numbers of future applicants, provide alternatives and options. A number of issues have arisen about apprenticeship program oversight and the Legislature has been asked to evaluate whether externs should be allowed to receive payment for services they provide during training.

The number of apprenticeship programs has increased significantly in the past number of years. Programs do not have to be approved as schools and instead are approved by the Division of Apprenticeship Standards. In order to become licensed through an apprenticeship, an individual must be over 16 years old and have a 10th grade education or its equivalent. BBC works with DAS, local education agencies throughout the state, and apprenticeship program sponsors as a means of ensuring proper oversight of the Apprentice Program and to ensure apprentices are properly trained in their chosen profession and taught proper health and safety standards. BBC regulations require apprenticeships to consist of an on-the-job training component and a classroom component of related training, 216 hours of instruction over a two year period for barbering and 220 hours over a two year period for cosmetology. BBC defines two years as 3200 hours (5-day work week, maximum of 8.5 hours per day). In order to be recognized by BBC as an apprentice, which is necessary since the individual will be providing services to consumers, a person must complete 39 hours on pre-apprenticeship training. BBC requires a licensee who wishes to train an apprentice to first obtain BBC approval. Upon completion of an apprenticeship, the instructor, apprentice, and apprenticeship program sponsor sign a certificate of completion.

According to BBC, DAS evaluates programs based on completion rates, rather than apprentice success in meeting requirements necessary for licensure in a particular field such as examination passage rates. BBC is concerned that apprentices are being required to take the pre-apprentice training more than once, for example, if the apprentice changes sponsors. The individual may have to then pay multiple times prior to even being licensed to continue as an apprentice. These should be provided at no cost. BBC believes that it makes more sense for the board to require this training, which is comprised of BBC health and safety regulations, only after the individual obtains an apprentice license. This streamlining will better protect the interests of apprentices and remove a potential barrier to successful apprenticeship completion. BBC advises that it can easily develop a necessary course available online, for free, for apprentices to complete in order to move forward in their training.

BBC's externship program is the focus of current legislation (AB 492) which aims to expand the

number of hours of clock hours and individual can earn as an extern and would allow externs to be paid. The externship program allows a current student to work according to strict requirements in a licensed establishment while they are in school. Students are not authorized to receive compensation for beautification services provided while they are being trained and earning hours outside of the legal parameters set forth in the Act for the externship program. Coupled with a potential decrease in the number of hours required for licensure and the ability to work while attending school and receiving compensation as an employee, individuals may be able to benefit and ultimately become successful licensees sooner, having gained on-the-job training and experience.

Staff Recommendation: *The Committees may wish to enhance oversight of apprenticeships and provide opportunities for future applicants to more easily access this training option by allowing BBC to establish a course necessary for apprentices to complete in order to become licensed and practice throughout their apprenticeship.*

Board Response:

The BBC agrees with the recommendation to amend the Act and allow the BBC to create an online pre-apprentice training program that is required prior to apprentice licensure. In addition, the BBC recently established an Apprenticeship Task Force that has met twice in 2021. The focus of this task force was to strengthen the regulations surrounding the apprenticeship program. The committee has developed substantial recommendations that will be presented to the board at the April 2021 board meeting.

ISSUE #12: (PSP.) BBC has worked for the past number of years to implement a personal services permit in order to authorize licensees to have flexibility in where they offer beautification services. Amendments to the Act may be necessary to recognize this option for licensees.

Background: The Act specifies that all BBC-regulated beautification services are required to be obtained within a BBC licensed establishment. BCP § 7317 specifically states that it is unlawful for any person, firm, or corporation to engage in barbering, cosmetology or electrolysis practices, for compensation, in an establishment or mobile unit which is not licensed by the BBC (other than incidental services provided by individuals employed to provide services in the theater, radio, television or motion picture production industry or services performed on a client who is ill or has a physical or mental incapacitation and the appointment is made through a licensed establishment.)

During the 2014-15 sunset review oversight, BBC reported that current trends in the beautification industry show that consumers are beginning to seek services outside the walls of a traditional brick and mortar establishment such as homes, hotels, businesses, and other non-traditional locations. In its 2014 sunset report to the Legislature, the BBC provided information on other states that offer a more flexible license or registration. Washington offers a personal service license and Oregon offers a freelance authorization, both of which allow consumers to access services outside of a licensed establishment. Ohio offers a temporary special event permit which temporarily allows for cosmetology services to be provided in a location not licensed by the regulatory entity. In addition, New York authorizes licensees to practice in remote locations as long as the applicable requirements are followed. Individuals are receiving services at business offices, hotels, or other sites not traditionally common to industry practices in California.

In response to the questions of whether more people are seeking beautification services outside of a traditional salon establishment and whether BBC needs to update current establishment requirements

to meet consumer demands, AB 181 also required BBC to establish regulations to issue a personal services permit (PSP). BBC was required to hold at least two stakeholder meetings and was authorized to issue a PSP to individuals who meet the requirements set forth in the regulation. PSP holders would be able to perform services outside of a licensed establishment but would still be required to obey existing health and safety requirements. AB 181 prohibited BBC from requiring a PSP holder to be employed by an establishment unless BBC determines it would be necessary in order to maintain consumer safety. The regulations also authorized BBC to require a PSP applicant to have proof of liability insurance and pass a criminal background clearance.

In the BBC's report to the Legislature providing an update on the progress of the PSP regulation, BBC summarized the various viewpoints of stakeholder meeting attendees, including that not all services should be authorized under a PSP, liability insurance should be required, and licensees should be in good standing. BBC's Licensing and Examination Committee initially determined the following for a proposed PSP:

- The PSP will be limited to cutting and styling hair
- The PSP will be tied to a licensed, working, brick-and-mortar establishment.
- The licensed establishment and PSP holder will provide proof of liability insurance.
- The number of PSP holders per establishment will be limited.
- A criminal background check will be part of the PSP process.
- The regulations will stipulate how tools will be disinfected and transported. The clean, closed container language can be used and the PSP holder will also be required to carry a soiled container to bring back to the establishment to disinfect later.
- Spray-on disinfectants and wipes will be permitted in the field.
- The PSP holder will post their PSP and establishment licenses on any advertisement.
- A notice will be posted on the website to direct consumers to check license numbers online and verify the connection to an establishment.
- The PSP holder will be required to have a photo I.D. to show that they match the license number advertised.

BBC's report also noted additional requests from industry representatives to require PSP holders to demonstrate, while at the licensed establishment, protocols used when in someone's home or place of business; to require minimum liability insurance of \$1 million; to limit the geographical boundary of a PSP holder so that person can only practice a certain distance from the licensed establishment and; to make PSP holders employees of the establishment they are tied to.

Limitations on the types of services offered by a PSP holder and requirements to remain affiliated with a licensed establishment appeared to be counter to the intention of flexibility and allowing BBC to better recognize trends in the beautification services industry.

The PSP has undergone a number of changes and is still pending final adoption. According to the most recent proposal:

- The PSP applicant must hold a valid license for a minimum of two consecutive years (or have been licensed in another state for three years)
- The PSP applicant must submit fingerprints for use in conducting a criminal background check through the California Department of Justice
- The PSP applicant must provide proof of current liability insurance in a minimum amount of \$1,000,000
- Barbers with a PSP may provide the following: shampooing; cutting, styling, dressing, arranging, curling, and waving hair; applying hair tonics; applying powders, clays, antiseptics, and oils to the scalp, face, or neck; trimming the beard. They cannot provide singeing, relaxing, chemically waving, or dyeing the hair.
- Cosmetologists with a PSP may provide the following: shampooing; cutting, styling, dressing, arranging, curling and waving hair; applying hair tonics; applying powders, clays and oils to the scalp, face or neck; cleaning, massaging, or stimulating the face and neck by means of the hands with the use of cleansing agents, antiseptics, tonics, lotions, or creams; removing hair from the body of any person with tweezers; applying make-up or strip lashes; buffing and filing nails with non-electrical tools; applying and removing nail polish. They cannot provide singeing, relaxing, chemically waving, or dyeing the hair or chemical exfoliation or exfoliation with the use of a tool, machine, or device.
- Estheticians with a PSP may provide the following: cleaning, massaging, or stimulating the face and neck by means of the hands with the use of cleansing agents, antiseptics, tonics, lotions, or creams; applying make-up or strip lashes; removing hair from the body of any person with tweezers. They cannot provide chemical exfoliation or exfoliation with the use of a tool, machine or device.
- Manicurists with a PSP may provide the following: filing and buffing of nails by non-electrical tools; applying and removing nail polish.
- The PSP holder must provide the consumer with a Consumer Notice and a copy of a receipt signed and dated by the consumer.

While the PSP specifics have improved since BBC initially began implementing AB 181, it is still reliant on licensure and still imposes restrictions on individuals providing services that may not negatively impact public health and safety. For example, even with a PSP, an individual could not legally apply makeup to a bride and bridal party at a hotel if they receive compensation, unless they are currently licensed, and unless they additionally register for a PSP.

Staff Recommendation: *BBC should provide the Committees an update on the status of the PSP and when it is expected to be implemented. The Committees may wish to determine whether all services outlined in the PSP are necessary or whether individuals can safely perform some without obtaining a PSP if they are low-risk to a consumer. BBC should inform the Committees whether statutory changes are necessary and provide amendments to the Act to implement the PSP.*

Board Response:

The BBC has filed the regulations to implement the PSP with the Office of Administrative Law and anticipates an effective date of July 1, 2021 or October 1, 2021. The BBC believes there are several areas of the Act that should be updated in regard to the PSP. Those sections are:

Section 7317: Except as provided in this article, it is unlawful for any person, firm, or corporation to engage in or facilitate barbering, cosmetology, or electrolysis for compensation without a valid, unexpired license issued by the board, or in an establishment or mobile unit other than one licensed by the board, or conduct or operate an establishment, or any other place of business in which barbering, cosmetology, or electrolysis is practiced unless licensed under this chapter. Persons licensed under this chapter shall limit their practice and services rendered to the public to only those areas for which they are licensed. Any violation of this section is subject to an administrative fine and may be subject to a misdemeanor.

Section 7342. Licenses in the practice of the occupation for which the license was sought shall be issued by the board to any applicant who satisfactorily passes an examination, who possesses the other qualifications required by law and who has remitted the license fee required by this chapter. The license shall entitle the holder to engage in the practice of that occupation in a licensed establishment or outside of a licensed establishment with a valid Personal Service Permit. The license shall be issued by the board on the same day that the applicant satisfactorily passes the examination.

Section 7349. It is unlawful for any person, firm, or corporation to hire, employ, or allow to be employed, or permit to work, ~~in or about an establishment,~~ any person who performs or practices any occupation regulated under this chapter and is not duly licensed by the board, except that a licensed ~~cosmetology~~ establishment may utilize a student extern, as described in Section 7395.1.

ISSUE #13: (MOBILE UNITS.) Services can be provided in a licensed “mobile unit” but the standards for these may be outdated and updates may be necessary.

Background: BPC Section 7354 defines a mobile unit as a self-contained, self-supporting, enclosed mobile unit which is at least 24 feet in length which is licensed as an establishment for the practice of any occupation licensed by the board. The Act specifies the requirements that a mobile unit must meet in order to obtain licensure, requirements have not been updated in the last 20 years, including many requirements that are not conducive to the operation of a mobile unit today. For example, current law requires a mobile unit to be 24 feet in length but there are many trailers, motorhomes, vans, or other options at much shorter lengths that might serve as acceptable beautification services mobile units. These specific size requirements are significantly larger than even the current requirement for a brick and mortar establishment. Applicants also have to show proof of lease or ownership, copies of city and county permits, and other documentation that may not be necessary to evaluate quality or the ability for someone to have flexibility in how services are provided.

Staff Recommendation: *The Committees may wish to amend the Act to remove unnecessary barriers to mobile unit licensure.*

Board Response:

The BBC recommends that the Act be amended to remove the unnecessary barriers and outdated requirements for mobile unit licensure. The BBC is available to work with committee staff on proposed language.

BBC ENFORCEMENT ISSUES

ISSUE #14: (CITATIONS.) A BBC inspection is more likely than not to result in at least some type of citation. The majority of citations are appealed and individuals flood BBC’s Disciplinary Review Committee (DRC) hearings. BBC has explored offering remedial education in lieu of fines, as licensees and licensee advocates have long argued that individuals receive citations for violations they were never even aware of. Does the DRC still make sense? Should BBC update its cite and fine efforts to ensure that individuals are cited for violations impacting consumer safety that the licensee is actually aware of?

Background: The Act provides the authority for the BBC to issue citations and assess administrative fines for violating any BBC rules and regulations. BBC has a fine schedule that consists of 68 violations, with fines for violation ranging from \$50 to \$1000, depending on the violation, for a first offense. Those amounts gradually increase on the second and third offense. While the BBC has set the higher fine amounts for the most egregious violations, such as \$500 for performing an invasive procedure, there are many violations that may not have an impact on consumer safety, for example a \$50-\$150 fine for how clean towels are stored.

BBC maintains that the citation and fine program is its main force of discipline, and violations are often are resolved without the need for further follow-up or formal disciplinary action. However, there is no documentation to validate that all of the 68 offenses an individual faces a citation for negatively impact members of the public who receive beautification services. It is unclear how likely consumer safety will benefit if these violations do not occur.

Cite and Fine Program Statistics					
	FY 2013/14	FY 2014/15	FY 2015/16	FY 2016/17	FY 2017/18
Establishments Inspected	11,979	13,712	14,346	14,151	11,061
Citations Issued to Establishments	8,257	10,026	10,844	10,437	6,007
Citations Issued to Individuals	6,452	8,140	8,633	8,034	5,842
Total Citations Issued	14,709	18,166	19,477	18,471	12,776
Establishments with No Violations Cited	3,046	2,958	2,832	4,056	2,957

While less than half of establishments are inspected in a given year, each inspection likely results in multiple citations, including to the licensee working in an establishment, an independent contractor licensee utilizing space in an establishment, and the establishment owner. Concerns about the disproportionate impact of BBC inspections and citations on certain licensing populations have remained for many years. Advocates for workers in the nail industry like the California Healthy Nail Salon Collaborative have historically advised that language and cultural barriers can prevent nail salon workers from fully understanding important occupational health and safety information and regulations. During its 2012-13 sunset review, BBC was asked to track specific data on violations for certain licensees to determine if trends exist among licensees for whom language barriers could be at

the heart of unintentional violations of the law.

The DRC further adds to questions about BBC’s citation program because most citations are appealed and BBC then, following work necessary to evaluate inspections and issue citations, has to turn around and undertake necessary work through the DRC that often changes the outcome of inspection work. DRC backlogs are always an issue and the circular system of citations and appeals to DRC continues to call into question whether licensees are being cited necessarily.

It would be helpful for the Committees to understand what proportion of inspections result in citations, how many citations are appealed, and what changes BBC believes are necessary to ensure violations of health and safety laws, and laws impacting consumers are followed. It would be helpful for the Committees to determine whether the DRC structure makes sense and whether BBC should update its citations and administrative fine schedule in order to ensure that only necessary violations are acted on.

Staff Recommendation: *BBC should provide information to the Committees about the types of citations and fines issued that stem from potential consumer harm and whether those should be eligible for appeal. The Committees should evaluate whether the DRC remains necessary or if instead BBC should be required to update its administrative fine schedule to be relevant to the intended purpose of protecting the public.*

Board Response:

In a review of the top five most reported consumer harm complaints received in the last three years, it was found that some harm cannot be prevented by an inspection.

Top Consumer Harm Complaints	Violations that Could have Led to Harm and Could be Prevented by Inspection
Pedicure Infection	980.1 Cleaning and Disinfecting Foot Spas 979a Not properly disinfecting tools 981 Not disposing of items that cannot be disinfected
Over-Processed Hair	Potential negligence. Not prevented by an inspection.
Manicure Infection	979a Not properly disinfecting tools 981 Not disposing of items that cannot be disinfected
Scalp Burn	Potential negligence. Not prevented by an inspection.
Manicure Cut	Potential negligence. Not prevented by an inspection.

The above chart displays that only two of the five most common harm allegations could have potentially been avoided by an inspection. This indicates that there is harm that the BBC addresses retroactively as opposed to pro-actively. Harm that is a result of potential negligence is investigated by the BBC’s Enforcement Unit and often utilizes an expert witness. However, an inspection can have a significant proactive impact on consumer safety when it is found that tools are not being disinfected properly before any harm occurs.

The BBC agrees that all violations should be closely reviewed and possibly eliminated if there is no potential consumer harm related to that violation.

The DRC provides for due process for licensees that have been cited. It allows for an informal process to appeal a citation as opposed to testifying before an Administrative Law Judge (ALJ). The BBC believes that the DRC is a valuable and cost-effective process to allow licensees to appeal a citation as opposed to the costs that could be incurred by appealing directly to an ALJ. However, the

BBC does believe that a review should be conducted on the amount of violations that are citable and potentially reduce the number of violations, thereby reducing the number of appeals.

Current BBC regulations state that a violation can be appealed for three reasons; 1) the occurrence of the violation, 2) the period of time for correction, if any, and 3) the amount of the fine. The BBC agrees that the regulations for the DRC should be reviewed and amendments considered for the reasons why a fine should not be assessed.

ISSUE #15: (LICENSEE IN CHARGE.) BBC proposes establishing a “licensee in charge” designation. Is the intent to further consumer protection laws or absolve establishment owners from accountability for the actions in a particular establishment?

Background: BPC Section 7348 states that “an establishment at all times shall be in the charge of a person licensed pursuant to this chapter except an apprentice”. BBC defines “person licensed” as an individual person who holds a cosmetology, barber, manicuring, esthetic or electrology license, as well as the holder of an establishment license. BBC believes that the intent of these laws, which have been in effect for over 20 years, is to ensure that a person who knowledgeable about necessary health and safety regulations is present at all times to ensure public protection. An establishment owner is not required to hold an individual licensee and therefore can be in charge of an establishment without having undertaken any of the work to become a licensee, including awareness of rules designed to promote safety and sanitation.

BBC’s sunset report suggests amending the Act to clarify that a “licensee in charge” can be designated so that an individual who holds an establishment license is not the only person responsible for activities in an establishment. BBC also requests adding clarification about services provided to ensure that only establishments offering certain services need to have a “licensee in charge”. BBC cites the example of a massage establishment that occasionally, as BBC notes, offers esthetic services as one that should not be required to have a licensee in charge unless there are esthetic services being provided.

The licensee in charge model is not new. Every pharmacy must have a pharmacist in charge, an individual licensed by the Board of Pharmacy who is specially designated to oversee pharmacy operations. Each pharmacy reports the name of the pharmacist-in-charge, and that person’s name is printed on the pharmacy's license. The pharmacist-in-charge of a pharmacy is employed at that location and has legal responsibility for the daily operation of the pharmacy. When a pharmacist takes on the responsibility of being a pharmacist-in-charge, the pharmacist also ensures the pharmacy’s compliance with state and federal law, quality assurance responsibilities, and inventory controls. Efforts have been undertaken for a number of years to establish a court reporter in charge model whereby a corporation located in another state would designate a California licensed certified shorthand reporter to be a “reporter-in-charge”. The reporter-in-charge would be a full-time employee responsible for the entity’s compliance with all state laws and regulations pertaining to the scope of practice of certified shorthand reporters in California. Essentially, if the entity commits an act that would violate the shorthand reporters’ practice act, the reporter-in-charge could be subject to discipline by the Court Reporter’s Board, regardless of whether that board is able to determine the reporter-in-charge’s involvement with the violation. The individual could then be disciplined for actions beyond their control.

Staff Recommendation: *BBC should provide information to the Committees as to whether this model will benefit establishments or the public.*

Board Response:

The BBC believes that there should be a designated licensee in charge. The benefit to the public is that there is a responsible individual who is ensuring the health and safety regulations are being followed. However, when services under the purview of the BBC are not being offered, an establishment should not be required to have a licensee in charge. The BBC recommends the Act be modified as follows:

BPC section 7348.

An establishment shall at all times that barbering, cosmetology, esthetic, manicuring or electrology services are being performed be in the charge of a person licensed pursuant to this chapter except an apprentice. A person licensed pursuant to this chapter means an individual who holds a cosmetologist, barber, esthetician, manicurist, electrologist, or establishment license.

ISSUE #16: (MANDATORY INSPECTION FOLLOWING LICENSURE.) Is it feasible for BBC to be required to inspect every newly licensed establishment within 90 days of licensure?

Background: BBC is required, through BPC Section 7353 to inspect establishments within 90 days after the issuance of the establishment license. Historically, BBC has not been able to meet this mandate, as BBC prioritizes inspections on establishments for which a complaint has been received or for instances of alleged consumer harm or unlicensed activity. It is unclear if an inspection within 90 days of an establishment license being issued enhances public protection and whether the violations found during one of these initial inspections are comparable to those found when inspections are done related to complaints or legitimate public health concerns.

Staff Recommendation: *In order to ensure that BBC inspection activity is focused on maintaining public, licensee, and consumer health and safety, the Committees should amend the Act to allow BBC to focus its inspection program on harm.*

Board Response:

The BBC agrees that the Act should be amended to allow the BBC to focus on consumer harm cases. While the BBC does currently place consumer harm inspections as a top priority, initial inspections are the second priority due to the statutory requirement. The BBC recommends that the Act be amended as follows:

BPC section 7353 (a)(1):

~~(a) (1) Within 90 days after issuance of the establishment license, the board or its agents or assistants shall inspect the establishment for compliance with the applicable requirements of this chapter and the applicable rules and regulations of the board adopted pursuant to this chapter.~~

COVID-19

ISSUE #17: (WHAT EFFECT HAS THE COVID-19 PANDEMIC HAD ON BBC?) Since March 2020, there have been a number of waivers issued through Executive Order which impact licensees and future licensees alike. Are any of these waivers applicable to BBC? Do any waivers warrant an extension or statutory changes? What is BBC doing to address the pandemic?

Background: In response to the COVID-19 pandemic, a number of actions were taken by the Governor, including the issuance of numerous executive orders in order to address the immediate crisis. Many executive orders directly affect the state's healthcare workforce, including a number of licensed professionals under the DCA. However, many of those waivers likely did not affect licensure or renewal requirements for the majority of BBC licenses. In addition, on March 19, 2020, the Governor issued Executive Order N-33-20 which instituted a statewide stay home order for the residents of California. The order impacted not only consumers, but businesses which may not have been deemed essential. The beautification industry was not considered an essential business and were required to close as part of the state of emergency and subsequent stay at home order declaration. On February 23, 2021, the Governor signed SB 94 (Skinner, Chapter 9, Statutes of 2021) into law, which among other provisions, waives renewal fees for all licenses under the BBC that expire in calendar years 2021 and 2022. This fee relief applies to all license renewals – over 560,000 individuals and over 53,000 establishments.

In response to COVID-19, the BBC reported that it established teleworking for employees on March 20, 2020. The BBC reports that as of December 1, 2020, 85 percent of staff telework, while the remainder work in the office and practice social distancing. One of the most heavily impacted aspects of BBC's work has been the ability to offer practical examinations. BBC is currently working on scheduling candidates who applied while facilities were closed and reports that it is currently booked for examinations until the end of July 2021, continuing to maintain its reduced capacity in order to comply with social distancing requirements.

Part of the BBC's enforcement and regulatory oversight includes the BBC's inspection program whose primary role is noted by the BBC for enforcing health and safety regulations. The inspection program conducts inspections through directed, random, initial and targeted inspections of establishments and schools of barbering, cosmetology, and electrology. As a result of the COVID-19, the BBC reports that it had to temporarily restructure its inspection program to address the pandemic. Initially, all inspectors were taken out of the field. Inspectors were tasked with calling establishments to provide information on the current health orders. As establishments began to reopen, inspectors returned to the field on an educational basis only. Inspectors visited establishments but did not conduct inspections. Instead, they offered information on the current health orders and provided a Returning to Work checklist created by the Board. As changes were made to the health orders, which varied from allowing outside services to limited services indoors and then ultimately allowing all services indoors, the inspections process has changed as well. As of December 1, 2020, the BBC notes that inspectors are slowly returning to conducting inspections and only inspect if it is safe to do so (such as when all licensees are following the COVID-19 guidance).

Inspectors are only inspecting for the most egregious violations that may result in consumer harm. Board inspectors have observed that an overwhelming majority of establishments are following the guidance of wearing facial coverings and social distancing. The BBC notes that it has only issued three interim suspension orders for serious violations and five misdemeanor citations for violations of stay at home orders.

In addition to altering the BBC's inspection program, it has provided additional outreach to licensees related to changes and issues affecting the industry as a result of the Pandemic. The BBC reports that it has created and provided to establishments, a "Returning to Work Checklist". The checklist is available to those establishments which are visited by inspectors, as well as emailed to listserv accounts. The BBC has sent various emails to licensees informing them of updates to public health orders and general educational reminders such as the importance of wearing a mask and social distancing. The Board also developed a COVID-19 informational page on its website that includes links to the California Department of Public Health, the U.S. Center for Disease Control, the Department of Consumer Affairs COVID-19 Information, and the BBC's News Release Encouraging Proper Handwashing. In addition, the website provides COVID-19 Information, establishment guidelines, examination information, and school information (<https://www.barbercosmo.ca.gov/covid19.shtml>). The BBC reports that it has translated all of its COVID-19 information into Korean, Spanish, and Vietnamese.

In addition, BBC reports that its staff have participated in various events to help promote the guidance established by the State's Department of Public Health and individual county departments of public health. Those events include:

- Participation in 30 outreach events
- Sent informational emails to 532,212 licensees and interested parties
- Created and distributed a postcard (available in seven languages) to remind individuals to wear a facial covering
- Created and distributed a poster (available in three languages) for establishments to display to remind individuals to wear a face covering.

Lastly, in November, as part of the Governor's Task Force, the Board worked with San Bernardino, Riverside and Los Angeles counties to provide assistance in promoting guidelines that will reduce the spread of COVID-19. In doing so, the Board visited all establishments in San Bernardino County to educate licensees on the importance of encouraging clients to follow health guidance and conducted joint inspections with the Los Angeles Department of Public Health to demonstrate a united front in the industry. The Board plans to continue with outreach and inspections throughout the coming year to help reduce the spread of COVID-19.

The BBC notes that its current health and safety regulations exist to ensure customers are protected when receiving beauty and barbering services. Regulations receive review and approval by the California Department of Public Health prior to adoption. The regulations already include a significant amount of health and safety, sanitation, and disinfection requirements. The BBC believes that the current regulations are enough to reduce the spread of any future pandemic. The BBC's Health and Safety Committee met on December 18, 2020 and to discuss if any guidance measures should be placed into regulations.

Staff Recommendation: *BBC should update the Committees on the impact to licensees and the public stemming from the pandemic and potential future challenges. The BBC should update the Committees on any recommendations from the last Health and Safety Committee Meeting.*

Board Response:

The COVID-19 pandemic has been extremely difficult on the barbering and cosmetology industry. BBC establishments were required to close on multiple occasions which severely impacting the income of licensees. In addition, many licensees incurred costs to re-open their businesses such as purchasing plexiglass dividers for use between licensees and the clients, outdoor tents to provide services outside, air purifiers, hand sanitizer, face masks and shields, etc. In addition, many counties took a stronger stance on re-openings than the state. When the state re-opened and allowed all BBC licensed services to be offered in the purple tier (the most restrictive) some counties did not allow esthetic services to be provided, leaving thousands of licensees still unable to work.

As establishments re-opened, the BBC began inspections on a limited basis. The focus was to provide information on the importance of face coverings and social distancing. BBC inspectors have reported that the majority of establishments visited were in compliance with the COVID-19 guidance.

The Health and Safety Committee met on December 18, 2020 to discuss updating the BBC's health and safety regulations. The committee discussed the current COVID-19 industry guidance to determine if any of the guidance should be incorporated into the health and safety regulations. The committee made minor recommendations as the current requirements for health and safety already address concerns brought up by the pandemic. For example, the BBC already requires handwashing between clients and cleaning of the work space and tools. While the committee is currently working on significant updates to the health and safety regulations so they are more practical and easier to understand, the overall agreement is that the current regulations provide sufficient safety standards for consumer protection.

TECHNICAL CHANGES

ISSUE #18: (TECHNICAL CHANGES MAY IMPROVE EFFECTIVENESS OF THE ACT AND BBC OPERATIONS.) There are amendments to the Act that are technical in nature but may improve BBC operations and the enforcement of the Barbering and Cosmetology Act.

Background: There are instances in the Barbering and Cosmetology Act where technical clarifications may improve BBC operations and application of the statutes governing BBC's work, including, but not limited to:

- Amending BPC Section 103 to clarify that BBC has authority to reimburse BBC members and Health and Safety Advisory Committee members for travel and per diem.
- Repealing BPC Section 7409 which is obsolete, as BBC updated its administrative fine schedule, set in regulation, to clarify that it cannot waive fines.

Staff Recommendation: *The Committees may wish to amend the Act to include technical clarifications.*

Board Response:

The BBC agrees with making the above noted technical changes to the Act and looks forward to working with the committees to address these changes.

**CONTINUED REGULATION OF INDIVIDUALS PROVIDING
BEAUTIFICATION SERVICES AND BEAUTIFICATION SERVICES
ESTABLISHMENTS BY THE BOARD OF BARBERING AND COSMETOLOGY**

ISSUE #19: (CONTINUED REGULATION BY THE BOARD OF BARBERING AND COSMETOLOGY.) Should the licensing and regulation of individuals providing beautification services and beautification services establishments be continued and be regulated by the current BBC membership?

Background: As an organization, BBC functions well, meets metrics typically used to evaluate regulatory agency effectiveness, and lacks many of the structural problems that other boards face. BBC's problems are the Act it is required to administer to enforce and outdated rules it has to uphold.

BBC has continued, largely unchanged, for decades while at the same time, beautification services have evolved significantly and the growth of the beauty industry has exploded. BBC is not able to begin to reconcile its mandatory curriculum and scope of practice framework to sync to the constant developments in this space yet every day, Californians enroll in school and start the myriad necessary steps required to gain entry in the field and to enjoy economic opportunity available to appearance professionals. The vast majority of BBC licensees are women. Huge numbers of licensees are minorities. Immigrants have a pathway to prosperity and viable career options as beautification services professionals. Licensing implies that members of the public who receive services from an individual face serious harm if that individual has not met certain requirements necessary for that license. Barriers to employment are real and, in the case of beautification services professionals in California, the risk to consumers and harm to the public does not appear to justify maintaining status quo.

Staff Recommendation: *BBC should be continued, to be reviewed again on a future date to be determined; however the Committees should consider making with significant modifications to the Act aimed at reducing barriers to entry in the beautification services industry.*

Board Response:

The BBC agrees with the recommendation that it be continued. The BBC plays a significant role in consumer protection as most services that are performed by licensees can cause significant harm to a consumer. The BBC looks forward to working with the committees on the various issues brought forth in the background paper to reduce barriers and increase efficiencies.



MEMORANDUM

DATE April 26, 2021

TO: Members, Board of Barbering and Cosmetology

FROM: Kristy Underwood, Executive Officer

SUBJECT: Update on the February 18, 2021 Apprenticeship Task Force Meeting

This memo is to provide the Board with a summary of the Apprenticeship Task Force meeting held on February 18, 2021.

Committee Members Present:

- Derick Matos, Board Member
- Jacquie Crabtree, Board Member
- Steve Ellis, Director, Untouchable Apprentice Training
- Glen Forman, Deputy Chief, Apprenticeship Standards, Department of Industrial Relations
- Mercedes Hong, Co-Director, The Spot Apprentice Academy
- Gracie Young, Director, Greater East Bay Barber Cosmetology Apprenticeship Program
- Don Simonich, Apprenticeship Programs Manager, San Joaquin County Office of Education

Staff Members Present:

- Kristy Underwood, Board Executive Officer
- Carrie Harris, Deputy Executive Officer
- Sabina Knight, Board Legal Counsel
- Allison Lee, Board Project Manager
- Marcene Melliza, Board Analyst
- Emily Whaley, Apprentice Analyst

Overview of A Local Education Agency's (LEA's) Role in Apprenticeships

Don Simonich summarized an LEA's role in apprenticeships. He stated an LEA's biggest concern is the welfare of the apprentice and their Related and Supplemental Instruction. Every apprenticeship program in California must have an LEA involved to be approved. The LEA has a contract with each of its programs and receives an allocation from the state of California. The LEA then allocates approximately 80% of that funding to the various programs, which translates to approximately \$5.10/hour. Apprenticeship programs cannot succeed with only this funding. Mr. Simonich also stated that the LEA program contract requires for at least a 75% passing rate on apprentices' first attempt on the State Board exam. If not, the LEA reviews the program to correct issues and make recommendations to improve the pass rate. He believes there are no issues with the on-the-job-training aspect but that it is about the Related and Supplemental Instruction.

Discussion and Recommendations to the Board Regarding Proposed Regulatory Changes to Apprenticeships, Title 16, California Code of Regulations (CCR) Sections 913-926

The attachment contains the Task Force's recommendations of proposed regulatory changes to CCR sections 913-926.

Note: The Task Force did not approve section 919(a)(6), which is highlighted in the attachment. The Task Force agreed that this section requires more discussion and review.

Article 3. Apprenticeship

Title 16, Division 9, California Code of Regulations Board of Barbering and Cosmetology

1.

913. Approval of Apprentice Training Programs

(a) A joint apprenticeship committee, unilateral management or labor apprenticeship committee, or an individual employer wishing to conduct apprenticeships in barbering, cosmetology, electrology, skin care, or nail care shall be known as apprenticeship program sponsors. All approved sponsors shall:

- 1) Maintain records of all licensed apprentices which shall include:
 - A) Daily tracking of on the job Practical Operations and Practical Training.
 - B) Daily tracking of all related classroom training.
- 2) Ensure the apprentice takes and completes the required pre-apprentice training and the Board's Health and Safety Course prior to starting any On the job training.
- 3) Require all apprentices to have in their possession an approved textbook and an approved examination translation guide.
- 4) The approved program sponsor shall provide daily tracking documentation to a Board representative upon request.

(b) An applicant seeking board approval as an apprenticeship program sponsor to conduct apprenticeships in barbering, cosmetology, ~~skin care, nail care~~, or electrology shall:

- (1) Submit a written request for board approval of its apprenticeship program and identify the subject matter of the apprenticeship. The request for apprenticeship approval shall be signed by the individual employer or, where the program sponsor is not an individual, by a responsible officer of the organization.
- (2) Submit proof that the program sponsor is approved by the California Apprenticeship Council to offer the apprenticeship.
- (3) Submit a detailed outline of the proposed training program which demonstrates compliance with the apprenticeship regulations contained in this article.
- (4) Submit a copy of the agreement between the program sponsor and the apprentice (hereafter known as the "apprenticeship agreement"). The apprenticeship agreement shall comply with the provisions of the Shelley-Maloney Apprenticeship Labor Standards Act of 1939 (Labor Code section 3070 et seq.) and the regulations adopted pursuant thereto.

(c) An apprenticeship program sponsor shall notify the board within 10 days of any changes to the information filed with the board in accordance with subsection (b) of this section for board approval.

(d) The board shall inform every person applying for approval to act as an apprenticeship program sponsor in writing, within ten (10) days of receipt of their request for approval whether the application is complete or deficient and what specific information is required.

(1) When the information for a deficient application is returned to the board, the board shall decide within five (5) days of receipt whether the application is complete.

(2) If the application remains deficient, the board shall inform the applicant in writing, within five (5) days of receipt, of what specific information is required.

(e) The board shall notify the applicant, in writing, within thirty-five (35) days after the completed application has been received, whether the applicant meets the requirements for approval.

(f) The minimum, median and maximum times for processing a request for approval of an apprentice training program, from the time of receipt of the application until the Board of Barber Examiners decided to issue the approval based upon actual performance of the board during the two years preceding the proposal of this section, were as follows:

(1) Minimum: 1 day

(2) Median: 15 days

(3) Maximum: 48 days

NOTE: Authority cited: Section 7312, Business and Professions Code and Section 15376, Government Code. Reference: Section 7333, Business and Professions Code; Sections 3070 and 3078, Labor Code and Section 15376, Government Code.

2.

913.1 Withdrawal of Approval: Apprenticeship Program Sponsor

(a) The board may withdraw or otherwise limit its approval of an apprenticeship program sponsor who is not conducting its apprenticeship program in compliance with the provisions of the laws and regulations of the Barbering and Cosmetology Act (Business and Professions Code sections 7301 et seq.), **who is not following the Standards approved by the Division of Apprenticeship Standards or who fails to maintain their responsibilities as a program sponsor or who fails to adhere to regulations as outlined in this chapter.**

(b) (1) A proceeding to withdraw or limit the board's approval of an apprenticeship program sponsor shall be initiated by serving the apprenticeship program sponsor with a notice to show cause. The notice to show cause shall be in writing, shall describe with particularity the nature of the violations, including specific reference to the provisions of law or regulations determined to be violated, and shall contain a proposed order to withdraw or limit the board's approval of the apprenticeship program sponsor.

(2) Where appropriate, a notice to show cause may contain an order of abatement fixing a reasonable time for the abatement of the violations. Where a program sponsor complies with the order of abatement within the time specified, the board shall withdraw its notice to show cause.

(3) In fixing the disciplinary order or order of abatement for a notice to show cause, the board shall give due consideration to the appropriateness of the order with respect to such factors as the gravity of the violations, its impact upon the apprentices participating in the apprenticeship program sponsor's apprenticeship program, its impact on the public, the good faith of the apprenticeship program sponsor, and the history of previous violations.

(c) A notice to show cause shall inform the apprenticeship program sponsor that if it desires a hearing to contest any portion of the notice to show cause, a hearing shall be requested by written notice to the board's executive officer within 30 days of the date of service of the notice to show cause. If a hearing is not requested pursuant to this subsection, the order contained in the notice to show cause shall go into effect on the date specified in the notice to show cause.

(d) A hearing to contest a notice to show cause shall be conducted within 60 days of the board's receipt of the program sponsor's written request for a hearing. Such a hearing shall be before a committee selected by the board. At the conclusion of the hearing, the committee shall prepare or have prepared a written decision of its findings, determinations and order. Such a decision shall be mailed to the program sponsor within 45 days after the conclusion of the hearing.

NOTE: Authority cited: Section 7312, Business and Professions. Reference: Section 7333, Business and Professions Code

914. Filing of Apprenticeship Application; Processing Time

(a) A prospective apprentice must file with the board an application for apprenticeship. Application shall be made on Form 35A-03, Application for Licensure as a Licensed Apprentice and for Approval of Trainers and Establishments, Revised 5/94.

(b) The board shall inform every person applying for licensure as an apprentice, in writing, within ten (10) days of receipt of the application (Form #35A-03, Application for Licensure as a Licensed Apprentice and for Approval of Trainers and Establishments, Revised 5/94), whether the application is complete or deficient and what specific information is required.

(1) When the information for a deficient application is returned to the board, the board shall decide within five (5) days of receipt whether the application is complete.

(2) If the application remains deficient, the board shall inform the applicant in writing, within five (5) days of receipt, of what specific information is required.

(c) The board shall notify the applicant, in writing, within thirty-five (35) days after the completed application has been received, whether the applicant meets the requirements for approval.

(d) The minimum, median and maximum times for processing an application for licensure as an apprentice, from the time of receipt of the application until the Board of Barber Examiners decided to issue the license based upon actual performance of the board during the two years preceding the proposal of this section, were as follows:

(1) Minimum: 1 day

(2) Median: 15 days

(3) Maximum: 48 days

NOTE: Authority cited: Section 7312, Business and Professions Code and Section 15376, Government Code. Reference: Section 7334, Business and Professions Code; and Section 15376, Government Code.

3.

914.1 Filing of Apprenticeship Application; Eligibility

(a) If an applicant for an apprentice license has previously applied for and qualified for the licensing examination in a particular discipline, the applicant is ineligible to apply for the apprenticeship program in the same discipline.

(b) An apprentice shall hold only one license in one scope of practice at a given time.

Note: Authority cited: Section 7312, Business and Professions Code. Reference: Section 7334, Business and Professions Code.

4.

914.2 Filing of Apprenticeship Application; Re-enrollments

(a) The term of an apprenticeship is 2 years. If at any time the apprentice discontinues enrollment in the apprenticeship program, the Board shall be notified by the apprentice program sponsor within 10 days of the ~~dis-enrollment~~ discontinuance **pursuant to section 924.1**.

(b) If after the 2-year period the apprentice has not completed the required 3,200 hours and Related Training, and the Board has been notified of the cancellation of enrollment, and the apprentice license has been surrendered to the Board as required by section 923 of this article, the applicant may re-enroll once to complete the program. After 2 enrollments into the apprenticeship program the applicant is no longer eligible to participate in the program.

Note: Authority cited: Section 7312, Business and Professions Code. Reference: Section 7334, Business and Professions Code.

5.

915. Related Training

(a) Every apprenticeship approved by the board shall consist of an on the job training component and a classroom component of Related Training.

(b) Related Training for barber apprentices must provide a minimum of 216 hours of **classroom** instruction over a two year period. ~~A minimum of 144 of these hours shall cover the theory of barbering and a maximum of 72 hours may be elective training. The 72 hours of elective training may be conducted by classroom instruction or by a seminar or by demonstrations relating to barbering. The elective training shall be verified by course completion certificates or registration records.~~ These hours shall cover the following topics:

(c) Related Training for cosmetology, ~~skin care, nail care or electrology~~ apprenticeships must provide a minimum of 220 hours of classroom instruction over a two-year period. These hours shall cover the following subjects:

(1) The Related Training for a cosmetology apprenticeship shall cover the following subjects as they relate to cosmetology: cosmetology chemistry, health and safety and hazardous substances, theory of electricity, disinfection and sanitation, bacteriology, anatomy and

physiology, wet hair styling, thermal hair styling, permanent waving, chemical straightening, haircutting, hair coloring and bleaching, scalp and hair treatment, facials, eyebrow arching and hair removal, makeup, manicuring and pedicuring.

~~(2) The related training for skin care shall cover the following subjects as they relate to skin care: cosmetology chemistry, health and safety and hazardous substances, theory of electricity, disinfection and sanitation, bacteriology, anatomy, physiology, skin analysis and conditions, facials, eyebrow arching and hair removal, and make-up.~~

~~(3) The related training for nail care shall cover the following subjects as they relate to nail care: cosmetology chemistry, health and safety and hazardous substances, disinfection and sanitation, bacteriology, anatomy and physiology, water and oil manicures, including hand and arm massage, complete pedicure, and application of artificial nails.~~

~~(4) The related training for electrolysis shall cover the following subjects as they relate to electrolysis: health and safety and hazardous substances, disinfection and sanitation and sterilization, bacteriology, anatomy and physiology, electricity, electrolysis, thermolysis, and high frequency and galvanic currents.~~

(d) Related Training for electrology apprentices must provide a minimum of 220 hours of classroom instruction over a 2-year period. These hours shall cover the following subjects:

(1) The Related Training for electrolysis shall cover the following subjects as they relate to electrolysis: health and safety and hazardous substances, disinfection, sanitation, sterilization, bacteriology, anatomy, physiology, electricity, electrolysis, thermolysis, high frequency and galvanic currents.

NOTE: Authority cited: Section 7312, Business and Professions Code. Reference: Sections 7333 and 7334, Business and Professions Code.

916. Training Hours and Schedule

(a) The two years referred to in Section 7335 of the Business and Professions Code means a minimum of thirty-two hundred (3,200) hours of apprenticeship. Full-time apprenticeship means employment and training in an approved program for at least 32 hours per week. No more than eight and one-half hours credit will be allowed for any one work day nor will credit be allowed for more than five days in one week. The maximum training hours shall not exceed 42½ hours per week.

(b) The two year apprenticeship program begins with the issuance of an apprenticeship license by the board.

NOTE: Authority cited: Section 7312, Business and Professions Code. Reference: Sections 7333, 7334, and 7345, Business and Professions Code.

6.

917. Pre-apprentice Training and Health and Safety Course Prior to Serving the Public

(a) The minimum hours of pre-apprentice training referred to in Section 7334 of the Business and Professions Code shall be thirty-nine (39) hours of instruction **in the following areas:** ~~laws and regulations of the board, basic patron protection and sanitation and disinfection procedures. An~~

~~applicant for licensure as an apprentice shall complete the pre-apprenticeship training prior to being licensed as an apprentice.~~

- 1) ~~Disinfection and Sanitation including but not limited to, proper procedures to protect the health and safety of consumers as well as the licensee, proper disinfection procedures for equipment used in establishments.~~
- 2) ~~Laws and Regulations of the Board which shall include a review of the Barbering and Cosmetology Act and the Board's Regulations with special emphasis on Article 12 Health and Safety.~~

~~(b) All apprentices shall complete the Boards Health and Safety Course described in Business and Professions Code section 7389 prior to any on the job training and prior to servicing the public.~~

NOTE: Authority cited: Section 7312, Business and Professions Code. Reference: Section 7334, Business and Professions Code.

7.

~~§ 918. Apprentice Trainers~~

~~a) No licensee shall train an apprentice unless his or her license includes the scope of practice of the apprentice's license.~~

~~b) A licensee is allowed to have under his or her supervision a maximum of two apprentices at any given time.~~

Note: Authority cited: Section 7312, Business and Professions Code. Reference: Sections 7332 and 7336, Business and Professions Code.

918. Board Approved Apprentice Trainers

A licensee who wishes to train an apprentice shall obtain Board approval before employing or training an apprentice. An application for Approval to Train shall be made on a form provided by the Board.

a) Qualifications for apprentice trainer approval

(1) Licensee shall possess a current, valid license issued by the Board.

(2) Licensee shall have no disciplinary actions pending against him/her nor be on probation resulting from past disciplinary action within the two year period immediately preceding his/her application to serve as apprentice trainer.

(3) Licensee is not subject to denial pursuant to Section 480.

(4) The licensee has no unpaid fine issued pursuant to Article 12 of Chapter 10 of Division 3 of the Business and Professions Code.

(5) The licensee may only train an apprentice whose apprentice license is in the same discipline as the trainer's license.

(6) A licensee may only have a maximum of 2 apprentices approved to be under his/her supervision at any time.

8.

918.1 Trainer Responsibilities

A licensee that has been approved by the Board to train an apprentice shall have the following responsibilities:

1. Maintain daily records on a form prescribed by the Board of the training that the apprentice received.
2. Provide Practical Training to the licensed apprentice.
3. Ensure the apprentice is supervised at all times.
4. Ensure the apprentice's licenses is visibly displayed at the station where the apprentice is performing services.
5. Ensure that whenever an apprentice is performing services on the public a trainer is supervising the apprentice while in the establishment.
6. Ensures that no training shall begin until the Board has issued an apprentice license.
7. Ensure that the apprentice has completed the pre-apprentice training and the Board's Health and Safety Course prior to servicing the public.

9.

~~919. Board Approved Trainers and Establishments~~

~~(a) A licensee who wishes to train an apprentice shall obtain board approval before employing or training an apprentice. An establishment wishing to train an apprentice in multiple location establishments which are under common ownership may request to participate in multiple location training. Common ownership includes corporate chains, individually owned multiple establishments, and franchise groups or partnerships. Application for approval of trainers and establishments shall be made on a form provided by the board (Form #35A-03, Application for Licensure as a Licensed Apprentice and for Approval of Trainers and Establishments, Rev. 5/94).~~

~~(1) Establishments participating in training an apprentice in multiple locations under common ownership shall provide as part of the application process, a list of the establishment names, locations, board issued license numbers, names of officers and or owners.~~

~~(b) Qualifications for apprentice trainer approval:~~

~~(1) Licensee shall possess a current, valid license issued by the board.~~

~~(2) Licensee shall have no disciplinary actions pending against him/her nor be on probation resulting from a board disciplinary action nor have completed probation resulting from past disciplinary action within the two year period immediately preceding his or her application to serve as an apprentice trainer.~~

~~(3) Licensee is not subject to denial pursuant to Section 480.~~

~~(4) The licensee has no unpaid fine issued pursuant to Article 12 of Chapter 10 of Division 3 of the Business and Professions Code.~~

~~(c) No apprentice shall work or train in an establishment until it has been approved by the board. Application for establishment approval shall be made on the same form specified in subdivision (a).~~

~~(d) Qualifications for establishment approval are:~~

~~(1) Establishment shall possess a current, valid license issued by the board.~~

~~(2) Establishment shall have no disciplinary actions pending against it nor be on probation resulting from a board disciplinary action nor have completed probation resulting from past disciplinary action within the two year period immediately preceding its application for establishment approval.~~

~~(3) Is not subject to denial pursuant to Section 480.~~

~~(4) The licensee has no unpaid fine issued pursuant to Article 12 of Chapter 10 of Division 3 of the Business and Professions Code.~~

~~(5) If the establishment is participating to train an apprentice in multiple locations under common ownership, there shall be an agreement between the establishments to employ the apprentice.~~

~~(e) The board shall inform every person applying for approval to act as an apprentice trainer or an apprentice establishment in writing, within ten (10) days of receipt of the application (Form #35A-03, Application for Licensure as a Licensed Apprentice and for Approval of Trainers and Establishments, Revised 5/94), whether the application is complete or deficient and what specific information is required.~~

~~(1) When the information for a deficient application is returned to the board, the board shall decide within five (5) days of receipt whether the application is complete.~~

~~(2) If the application remains deficient, the board shall inform the applicant in writing, within five (5) days of receipt, of what specific information is required.~~

~~(f) The board shall notify the applicant, in writing, within thirty five (35) days after the completed application has been received, whether the applicant meets the requirements for approval.~~

~~(g) The minimum, median and maximum times for processing a request for approval, from the time of receipt of the application until the Board of Barbering and Cosmetology decided to issue the license based upon actual performance of the board during the two years preceding the proposal of this section, were as follows:~~

~~(1) Minimum: 1 day~~

~~(2) Median: 15 days~~

~~(3) Maximum: 48 days~~

919. Board Approved Establishments

An establishment owner that wishes to employ an apprentice shall obtain Board approval prior to employing an apprentice. An application for approval shall be completed and attached to an apprentice license application. A new application for establishment approval shall be submitted for all new apprentice applications.

(a) Qualifications for apprentice establishment approval:

(1) Establishment shall possess a current, valid establishment license issued by the Board.

(2) Establishment shall have no disciplinary actions pending against it or be on probation resulting from a board disciplinary action nor have completed probation resulting from past disciplinary action within the two year period immediately preceding the application for apprentice establishment approval.

(3) Is not subject to denial pursuant of Section 480

(4) The establishment licensee had no unpaid fine issued pursuant to Article 12 of Chapter 10 of Division 3 of the Business and Professions Code.

(5) The establishment shall offer all the services within the scope of the apprentice's license.

(6) The apprentice may not hold ownership in the establishment where they are seeking approval for.

(b) An establishment wishing to train an apprentice in multiple locations which are under common ownership may request to participate in multiple location training. Common ownership includes corporate chains, individually owned multiple establishments, and franchise groups or partnerships. Application for approval to train apprentices in multiple locations shall be on a form provided by the Board.

(1) Establishments participating in training an apprentice in multiple locations under common ownership shall provide, as part of the application process, a list of the establishment names, locations, board issued license numbers, and names of officers and/or owners.

10.

919.1 Board Approved Establishment Responsibilities

1. Ensure the apprentice has a designated station and all required supplies to complete services in the licensed scope of practice. For cosmetology apprentices this includes, but is not limited to, a hair stations, facial station and a manicuring station.
2. Ensure that the apprentice is receiving training from their approved trainer.
3. Ensure the apprentice is supervised at all times by their approved trainer.
4. Ensure the apprentice's licenses is visibly displayed at the station where the apprentice is performing services.
5. Ensure the apprentice is not working more than 42½ -hours a week.
6. Ensure the apprentice is never in the establishment alone.
7. Ensures that no on the job training shall begin until the Board has issued an apprentice license.
8. Ensure that the apprentice has completed the pre-apprentice training and the Board's Health and Safety Course prior to servicing the public.
9. Ensure compliance with sections a, b, c, d and e of section 3078 of the Labor Code.

NOTE: Authority cited: Section 7312, Business and Professions Code. Reference: Sections 7332, 7333, 7334 and 7336, Business and Professions Code.

11.

920. Record of Apprentice Training

(a) The apprentice trainer shall present a copy of apprentice daily work records to the board or its representatives upon demand. These work records shall include the name of the apprentice employed, the dates the apprentice worked, the number of **Practical Training** hours worked **earned** and the work processes—**Practical Operations**—performed on those dates, and the trainer's name.

(b) Apprentice program sponsors shall collect the apprentice daily work records which are signed by the trainer and the apprentice monthly. The apprentice program sponsor will evaluate the apprentice daily work records to validate the current Practical Training hours and Practical Operations and maintain a copy of these records in the apprentice file at the program headquarters. The Apprentice program sponsor shall make all records available to a Board representative upon request.

NOTE: Authority cited: Section 7312, Business and Professions Code. Reference: Sections 7333 and 7334, Business and Professions Code.

12.

921. Curriculum for Barber Apprentice Course

a) The curriculum for an apprentice enrolled in a barbering apprenticeship course shall consist of thirty-two hundred (3200) hours of ~~technical instruction and Practical training covering all practices~~ **Practical Operations and Practical Training** of a barber pursuant to Section 7316 of the Barbering and Cosmetology Act.

(b) For the purpose of this section, ~~technical instruction shall mean instruction by demonstration, lecture, classroom participation, or examination;~~ Practical Operations shall mean the actual performance by the student of a complete service on another person or on a mannequin. Practical Training shall mean the time it takes to perform a Practical Operation. ~~Technical instruction and~~ **Practical** Training shall include the following hours:

(1) 2800 Hours of ~~Technical Instruction and~~ Practical Training in Hair Dressing

The required subjects of instruction in Hair Dressing shall be completed with the minimum hours of ~~technical instruction~~ **Practical** Training and Practical Operations for each subject-matter as follows:

Hairstyling (95 hours of ~~Technical Instruction~~ **Practical Training** and 450 Practical Operations):

The subject of Hairstyling shall include, but is not limited to, the following techniques and procedures: Hair analysis, shampooing, finger waving, pin curling, comb outs, straightening, waving, curling with hot combs and hot curling irons and blower styling.

Permanent Waving and Chemical Straightening (40 hours of ~~Technical Instruction~~ **Practical Training** and 120 Practical Operations):

The subject of Permanent Waving and Chemical Straightening shall Include, but is not limited to, the following techniques and procedures: Hair analysis, acid and alkaline permanent waving, chemical straightening including the use of sodium hydroxide and other base solutions.

Hair Coloring and Bleaching (65 hours of ~~Technical Instruction~~ **Practical Training** and 50 Practical Operations):

The subject of Hair Coloring and Bleaching shall include, but is not limited to, the following techniques and procedures (also including, the use of semi-permanent, demi-permanent and temporary colors): Hair analysis, predisposition and strand tests, safety precautions, formula mixing, tinting, bleaching, high and low lights, and the use of dye removers.

Hair Cutting (20 hour of ~~Technical Instruction~~ **Practical Training** and 300 Practical Operations):

The subject of Hair Cutting shall include, but is not limited to, the following techniques and procedures: Use of scissors, razor (shaper), electrical clippers/trimmers, and thinning (tapering) shears for wet and dry cutting.

(2) 200 Hours of ~~Technical Instruction~~ **Practical Training** and Practical Operations in Shaving

The required subjects of instruction in Shaving shall be completed with the minimum hours of technical instruction and Practical Operations for each subject-matter as follows:

Preparation and Performance (100 hours of ~~Technical Instruction~~ **Practical Training** and 40 Practical Operations)

The subject of Preparation and Performance shall include, but is not limited to the following techniques and procedures: Preparing the client's hair for shaving, assessing the condition of the client's skin, performing shaving techniques, applying after-shave antiseptic following facial services, massaging the client's face and rolling cream massages.

(3) 200 Hours of ~~Technical Instruction~~ **Practical Training** in Health and Safety

The required subjects of instruction in Health and Safety shall be completed with the minimum hours of ~~technical instruction~~ **Practical Training** for each subject-matter as follows:

Laws and Regulations (20 hours of ~~Technical Instruction~~ **Practical Training**)

The subjects of Laws and Regulations shall include, but is not limited to, the following issues: The Barbering and Cosmetology Act and the Board's Rules and Regulations.

Health and Safety Considerations (45 hours of ~~Technical Instruction~~ **Practical Training**)

Health and Safety/hazardous substances including training in chemicals and health in establishments, material safety data sheets, protection from hazardous chemicals and preventing chemical injuries, health and safety laws and agencies, bacteriology and preventing communicable diseases including HIV/AIDS and Hepatitis B.

Disinfection and Sanitation (20 hours of ~~Technical Instruction~~ **Practical Training**)

The subject of Disinfection and Sanitation shall include, but is not limited to the following techniques and procedures: Disinfection and sanitation including proper procedures to protect the health and safety of the consumer as well as the technician, and proper disinfection procedures for equipment used in establishments.

Disinfection shall be emphasized throughout the entire training period and must be performed before use of all instruments and equipment.

Anatomy and Physiology (15 hours of ~~Technical Instruction~~ **Practical Training**)

The subjects of Anatomy and Physiology shall include, but is not limited to the following issues:
Human Anatomy, Human Physiology.

(c) The Board recommends that ~~schools~~ **apprentice program sponsors** provide training in the area of communication skills that includes professional ethics, salesmanship, client record-keeping, decorum, and basic tax information relating to booth renters, independent contractors, employees, and employers.

Note: Authority cited: Sections 7312 and 7334(f), Business and Professions Code. Reference: Sections 7316(a), 7321.5(d) (2), 7362(b), 7362.5(a) and 7389, Business and Professions Code; and Section 3078, Labor Code.

921.1 Curriculum for Cosmetology Apprenticeship Course

(a) The curriculum for an apprentice enrolled in a cosmetology apprenticeship course shall consist of thirty-two hundred (3,200) hours of ~~technical instruction and Practical training~~ **Practical Operations and Practical Training** covering all practices constituting the art of cosmetology pursuant to Section 7316 of the Barbering and Cosmetology Act.

(b) For the purpose of this section, ~~technical instruction shall mean instruction by demonstration, lecture, classroom participation, or examination;~~ Practical Operations shall mean the actual performance by the student of a complete service on another person or on a mannequin. Practical Training shall mean the time it takes to perform a Practical Operation. ~~Technical instruction and~~ **Practical Training and Practical Operations** shall include the following hours:

(1) 2600 Hours of ~~Technical Instruction and~~ Practical Training in Hair Dressing

The required subjects of instruction in Hair Dressing shall be completed with the minimum hours of ~~technical instruction~~ **Practical Training** and Practical Operations for each subject-matter as follows:

Hairstyling (95 hours of ~~Technical Instruction~~ **Practical Training** and 450 Practical Operations):

The subject of Hairstyling shall include, but is not limited to, the following techniques and procedures: Hair analysis, shampooing, finger waving, pin curling, comb outs, straightening, waving, curling with hot combs and hot curling irons, and blower styling.

Permanent Waving and Chemical Straightening (40 hours of ~~Technical Instruction~~ **Practical Training** and 210 Practical Operations):

The subject of Permanent Waving and Chemical Straightening shall Include, but is not limited to, the following techniques and procedures: Hair analysis, acid and alkaline permanent waving, chemical straightening including the use of sodium hydroxide and other base solutions.

Hair Coloring and Bleaching (65 hours ~~Technical Instruction~~ **Practical Training** and 215 Practical Operations):

The subject of Hair Coloring and Bleaching shall include, but is not limited to, the following techniques and procedures (also including, the use of semi-permanent, demi-permanent and temporary colors): Hair analysis, predisposition and strand tests, safety precautions, formula mixing, tinting, bleaching, high and low lights, and the use of dye removers

Hair Cutting (20 hour ~~Technical Instruction~~ **Practical Training** and 300 Practical Operations):

The subject of Hair Cutting shall include, but is not limited to, the following techniques and procedures: Use of scissors, razor (shaper), electrical clippers/trimmers, and thinning (tapering) shears for wet and dry cutting.

(2) 200 Hours of ~~Technical~~ **Practical Training** in Health and Safety

The required subjects of instruction in Health and Safety shall be completed with the minimum hours of technical instruction for each subject-matter as follows:

Laws and Regulations (20 Hours of ~~Technical Instruction~~ **Practical Training**):

The subjects of Laws and Regulations shall include, but is not limited to, the following issues: The Barbering and Cosmetology Act and the Board's Rules and Regulations.

Health and Safety Considerations (45 Hours of ~~Technical Instruction~~ **Practical Training**):

The subject of Health and Safety shall include, but is not limited to, the following techniques and procedures: Cosmetology chemistry including the chemical composition and purpose of cosmetic, nail, hair and skin care preparations. Elementary chemical makeup, chemical skin peels, and chemical and physical changes of matter. Hazardous substances including training in chemicals and health in establishments, protection from hazardous chemicals and preventing chemical injuries, ergonomics, theory of electricity in cosmetology, bacteriology, communicable diseases, including HIV/AIDS, Hepatitis B, and staph and Material Safety Data Sheets.

Disinfection and Sanitation (20 Hours of ~~Technical Instruction~~ **Practical Training**):

The subject of Disinfection and Sanitation shall include, but is not limited to the following techniques and procedures: Disinfection and sanitation including proper procedures to protect the health and safety of the consumer as well as the technician. Proper disinfection procedures for equipment used in establishments.

Disinfection shall be emphasized throughout the entire training period and must be performed before use of all instruments and equipment.

Anatomy and Physiology (15 Hours of ~~Technical Instruction~~ **Practical Training**):

The subjects of Anatomy and Physiology shall include, but is not limited to the following issues: Human Anatomy, Human Physiology.

(3) 200 Hours of and Practical Training in Esthetics

The required subjects of instruction in Esthetics shall be completed with the minimum hours of technical instruction and Practical Operations for each subject-matter as follows:

Manual, Electrical and Chemical Facials (25 Hours of ~~Technical Instruction~~ **Practical Training** and 65 Practical Operations):

The subject of manual, electrical and chemical facials shall include, but is not limited to the following techniques and procedures: Manual Facials including cleansing, scientific manipulations, packs, and masks. Electrical Facials include the use of electrical modalities, dermal lights and electrical apparatus for facials and skin care purposes; however, machines capable of producing an electrical current shall not be used to stimulate so as to contract, or for the purpose of contracting, the muscles

of the body or face. Chemical Facials include chemical skin peels, packs, masks and scrubs. Training shall emphasize that only the non-living, uppermost layers of facial skin, known as the epidermis, may be removed, and only for the purpose of beautification. All Practical Operations must be performed in accordance with Section 992 regarding skin exfoliation.

Eyebrow Beautification and Make-up (25 hours ~~Technical Instruction~~ **Practical Training** and 55 Practical Operations):

The subject of Eyebrow Beautification shall include, but is not limited to the following issues: Eyebrow Arching and Hair Removal, including the use of wax, tweezers, electric or manual, and depilatories for the removal of superfluous hair.

The subject of Makeup shall include, but is not limited to, the following issues: skin analysis, complete and corrective makeup, lash and brow tinting, and the application of false eyelashes.

(4) 200 Hours of ~~Technical Instruction~~ and Practical Training in Manicuring and Pedicuring

The required subjects of instruction in Manicuring and Pedicuring shall be completed with the minimum hours of ~~technical instruction~~ **Practical Training** and Practical Operation for each subject-matter as follows:

Manicuring and Pedicuring (10 hours ~~Technical Instruction~~ **Practical Training** and 34 Practical Operations):

The subject of Manicuring and Pedicuring shall include, but are not limited to, the following issues: Water and oil manicure, including nail analysis, and hand/foot and arm/ankle massage.

Artificial Nails and Wraps (25 hours ~~Technical Instruction~~ **Practical Training** and 120 (nails) Practical Operations):

Artificial nails including acrylic: liquid and powder brush-ons, artificial nail tips, and nail wraps and repairs.

(c) The Board recommends that ~~schools~~ **apprentice program sponsors** provide training in the area of communication skills that includes professional ethics, salesmanship, decorum, record keeping, and client service records.

Note: Authority cited: Sections 7312 and 7334(f), Business and Professions Code. Reference: Sections 7316(b), 7321(d) (5), 7362(b), 7362.5(b) and 7389, Business and Professions Code; and Section 3078, Labor Code.

921.2. Curriculum for Electrolysis Apprenticeship Course

(a) The curriculum for an apprentice enrolled in an electrology apprenticeship course shall consist of thirty-two hundred (3200) hours of ~~technical instruction~~ **Practical Operations** and Practical Training covering all practices constituting the art of electrology pursuant to section 7316 of the Barbering and Cosmetology Act.

(b) For the purpose of this section, ~~technical instruction shall mean instruction by demonstration, lecture, classroom participation, or examination;~~ Practical Operations shall mean the actual performance by the student of a complete service on another person. Practical Training shall

mean the time it takes to perform a Practical Operation. ~~Technical instruction~~ **Practical Operations** and Practical Training shall include the following hours:

(1) 400 Hours of ~~Technical Instruction~~ and Practical Training in Electrolysis, Thermolysis, Blend/Dual Modality and Electricity

The required subjects of instruction in electrolysis, thermolysis, blend/dual modality and electricity shall be completed with the minimum hours of technical instruction and Practical Operations for each subject-matter as follows:

Electrolysis (45 hours of ~~Technical Instruction~~ **Practical Training** and 120 Practical Operations)

The subject of Electrolysis shall include the study of epilation using single and multiple-needle insertion techniques, the use of galvanic current, skin reactions and anaphoresis and cataphoresis, and evaluating a client's health history for compatibility with electrolysis treatments.

Thermolysis (45 hours of ~~Technical Instruction~~ **Practical Training** and 120 Practical Operations)

The subject of Thermolysis shall include the study of epilation using automatic and manual thermolysis equipment, insertion techniques, the use of high frequency current in both high and low intensities, skin reactions, and evaluating a client's health history for compatibility with thermolysis treatments.

Blend/Dual Modality (45 hours of ~~Technical Instruction~~ **Practical Training** and 120 Practical Operations)

The subject of Blend/Dual Modality shall include the study of epilation using a combination of high frequency and galvanic currents, insertion techniques, skin reactions and anaphoresis and cataphoresis, and evaluating a client's health history for compatibility with Blend/Dual Modality treatments.

Electricity (15 hours of ~~Technical Instruction~~ **Practical Training**)

The subject of Electricity shall include the nature of electrical current; principles of operating electrical devices; various safety precautions to be applied when operating electrical equipment, and proper maintenance of equipment.

(2) 200 Hours of ~~Technical Instruction~~ **Practical Training** in Health and Safety

The required subjects of instruction in Health and Safety shall be completed with the minimum hours of technical instruction for each subject-matter as follows:

Laws and Regulations (20 Hours of ~~Technical Instruction~~ **Practical Training**)

The subject of Laws and Regulations shall include, but is not limited to, the following issues: The Barbering and Cosmetology Act and the Board's Rules and Regulations.

Health and Safety Considerations (45 Hours of ~~Technical Instruction~~ **Practical Training**)

The subject of Health and Safety shall include, but is not limited to, bacteriology, and HIV/AIDS, hepatitis, herpes, staphylococcal infections and other communicable diseases and their prevention, ergonomics, electrical safety, and material safety data sheets.

Sterilization (25 Hours of ~~Technical Instruction~~ **Practical Training**)

The subject of Sterilization shall include, but is not limited to, the study of proper procedures and techniques for protecting the health and safety of the consumer as well as the technician, and sanitizing equipment used in establishments.

Sterilization and sanitation shall be emphasized throughout the entire training period and must be performed on all instruments and equipment before use. Sterilization times and dates should be monitored and recorded.

Anatomy and Physiology (25 Hours of ~~Technical Instruction~~ Practical Training)

The subjects of Anatomy and Physiology shall include but is not limited to human anatomy and physiology, dermatology and the analysis of skin and hair, and the study of the circulatory, nervous, and endocrine systems.

(c) The Board recommends that ~~schools~~ **apprentice program sponsors** provide training in the area of communication skills that includes professional ethics, consultation, pre- and post-treatment care, salesmanship, decorum, record keeping, client service records, business skills, and basic tax information relating to independent contractors, employees and employers.

Note: Authority cited: Sections 7312 and 7334(f), Business and Professions Code. Reference: Sections 7316(f), 7330(d)(3), 7362(b), 7366 and 7389, Business and Professions Code; and Section 3078, Labor Code.

13.

922. Transfers

An apprentice may request from the program sponsor, a transfer from one approved ~~related training class to another or from one approved~~ establishment and trainer to another. The apprentice and the program sponsor shall notify the board within five days of any transfer by submitting an Apprentice Establishment Transfer Request which includes the apprentice's current number of earned Practical Training hours and the number of Practical Operations completed at the time of transfer.

NOTE: Authority cited: Section 7312, Business and Professions Code. Reference: Sections 7333 and 7336, Business and Professions Code.

923. Surrender of License

Apprentices who successfully pass the licensing examination or terminate their enrollment in the apprentice training program or whose apprentice enrollment expires shall return to the board any apprentice license and identification photograph previously issued to them.

NOTE: Authority cited: Section 7312, Business and Professions Code. Reference: Section 7335, Business and Professions Code.

14.

924 Completion of Apprenticeship Training Program

- (a) Upon successful completion ~~or discontinuance~~ of an apprenticeship program, the apprenticeship program sponsor shall issue to the apprentice, and to the Board a Certificate of Apprenticeship Completion ~~or discontinuance~~. The Certificate of Apprenticeship Completion ~~or discontinuance~~ shall be signed by the instructor trainer, the apprentice and the apprenticeship program sponsor. The Certificate of Apprenticeship Completion shall be on a form provided by the Board.
- (b) The Certificate of Apprenticeship Completion ~~or discontinuance~~ shall be a document prepared by the program sponsor that contains all of the following:
- (1) Course title.
 - (2) The apprentice's name, address, telephone number and date of birth.
 - (3) The apprentice license number and social security number.
 - (4) The program sponsor name and sponsor code issued by the board.
 - (5) The total number of Related Training hours completed.
 - (6) The date the apprentice training was completed ~~or discontinued~~.
 - (7) The total number of hours of ~~on-the-job training~~ Practical Training and Practical Operations the apprentice has completed designated by subject matter.
 - (8) Any training received in a prior board-approved apprenticeship program.
 - (9) A statement confirming that the apprentice has ~~or has not~~ met the course curriculum requirements.
 - (10) A statement, dated and signed under penalty of perjury that all the information on the document is true and correct. The statement shall be worded as follows:
"We, the undersigned, certify under penalty of perjury under the laws of the state of California, that all the information contained herein is true and correct."
- (c) Apprentices shall submit the certificate of apprenticeship completion and all other qualifying documents with their application to take the licensing examination.
- (d) Upon completion of the thirty-two hundred (3,200) hour apprenticeship training course, a valid Certificate of Completion or Discontinuance for each enrollment period must accompany the application for examination.

15.

924.1 Discontinuance of Apprenticeship Training Program

- (a) Upon discontinuance of the apprenticeship program, the apprentice program sponsor shall issue to the apprentice and the Board a Certificate of Apprenticeship Discontinuance. The Certificate of Apprenticeship Discontinuance shall be signed by the trainer, the apprentice and the program sponsor and shall be a form provided by the Board.
- (b) The Certificate of Apprenticeship Discontinuance shall be a document prepared by the program sponsor that contains all of the following:

- (1) Course title.
- (2) The apprentice's name, address, telephone number and date of birth.
- (3) The apprentice license number and social security number.
- (4) The program sponsor name and sponsor code issued by the board.
- (5) The total number of Related Training hours completed.
- (6) The date the apprentice training was ~~completed~~ or discontinued.
- (7) The total number of hours of ~~on-the-job training~~ **Practical Training and Practical Operations** the apprentice has completed designated by subject matter.
- (8) Any training received in a prior board-approved apprenticeship program.
- (9) A statement confirming that the apprentice ~~has~~ or has not met the course curriculum requirements.
- (10) A statement, dated and signed under penalty of perjury that all the information on the document is true and correct. The statement shall be worded as follows:
 "We, the undersigned, certify under penalty of perjury under the laws of the state of California, that all the information contained herein is true and correct.

NOTE: Authority cited: Section 7312, Business and Professions Code. Reference: Sections 7321, 7321.5, 7324, 7326, 7330, 7333 and 7337, Business and Professions Code.

16.

925. Statement of Trainer Responsibilities

~~The owner of the establishment where the apprenticeship is being conducted shall inform, in writing, an employee who is an apprentice trainer of the employee's responsibilities as a trainer. The statement of trainer responsibilities shall include, but not be limited to, those provisions specified in subdivisions (a), (b), (c), (d) and (e) of Section 3078 of the Labor Code. The statement of trainer responsibilities shall be signed by the establishment owner and the apprentice trainer and maintained on the premises of the establishment. The statement of trainer responsibilities shall be presented to the board or its representative upon request.~~

~~Note: Authority cited: Section 7312, Business and Professions Code. Reference: Sections 7332, 7333 and 7336, Business and Professions Code.~~

17.

926. Apprenticeship Credit for Prior Training

- ~~(a) An apprentice who desires to establish **eligibility for examination** pursuant to Sections 7321 through 7330 of the Business and Professions Code for a license in this state based in part on training received in a prior California apprenticeship program shall furnish proof of his or her qualifications as follows:~~
 - ~~(a) An apprentice who wishes to apply previously earned hours and Operations received in a prior California based apprenticeship program to complete the requirements under a new apprenticeship program shall furnish proof of his or her qualifications as follows:~~

(1) The prior training must have taken place in an apprenticeship program approved by the board.

(2) The prior training must have taken place within three years immediately preceding re-enrollment in an apprenticeship program approved by the board.

(3) A valid Certificate of Completion or Discontinuance signed by the apprentice, trainer, school representative and program sponsor must be presented to the enrolling program sponsor before prior credit can be granted.

~~(4) Upon completion of the thirty-two hundred (3,200) hour apprenticeship training course, a valid Certificate of Completion or Discontinuance for each enrollment period must accompany the application for examination.~~

(b) An apprentice must leave the approved program in good standing to obtain credit for the training received. Good standing is defined as:

(1) Has not been terminated from employment for inappropriate activity.

(2) Has returned the apprentice license to the program sponsor for forwarding to the board.

(3) Has attended related and supplemental training classes pursuant to section 915 CCR.

NOTE: Authority cited: Section 7312, Business and Professions Code. Reference: Sections 7333, 7334 and 7345 Business and Professions Code.

18.

927. Apprenticeship Eligibility for Examination

(a) Upon Completion of the apprentice program, apprentice hours will remain valid for 3 years. The apprentice may present a Certificate of Completion with an Application for Examination within 3 years of the date of completion to be evaluated for exam eligibility.



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MEMORANDUM

DATE April 26, 2021

TO: Members, Board of Barbering and Cosmetology

FROM: Kristy Underwood, Executive Officer

SUBJECT: Health and Safety Advisory Committee Meeting Update

This memo is to provide the Board with a summary of the Health and Safety Advisory Committee's virtual meeting held on April 19, 2021.

Committee Members Present:

- Jacquie Crabtree, Board Member
- Andrew Drabkin, Board Member
- Paula Johnson, Department of Public Health Representative
- Leslie Roste, Medical Professional Representative
- Fred Jones, Industry Association Representative
- Paul Bryson, Scientist
- Brandon Hart, Department of Industrial Relations – Cal/OSHA
- Jennifer Cruz-Jimenez, Barber and Cosmetologist
- Kellie Swallow, Esthetician
- Jaime Schrabeck, Manicurist
- Joanie Gonella, Electrologist
- Larry Cromwell, Establishment Owner

Staff Members Present:

- Kristy Underwood, Board Executive Officer
- Carrie Harris, Deputy Executive Officer
- Sabina Knight, Board Legal Counsel
- Allison Lee, Board Project Manager
- Marcene Melliza, Board Analyst

Discussion and Recommendations on Revised Health and Safety Regulations

Committee members reviewed the revisions made based on recommendations from the previous meeting. Discussion focused on revising the regulations so they are practical and easier to understand while still protecting consumers.

Revisions will be discussed further at future meetings before the regulation revisions are brought before the full board.



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BOARD OF BARBERING & COSMETOLOGY

BILL ANALYSIS

Author: Assembly Member Cooper
Coauthor: Assembly Member Rubio

Subject: State bodies: meetings

Bill Number: AB 29

Version: December 7, 2020

Existing Law:

Existing law, the Bagley-Keene Open Meeting Act, requires that all meetings of a state body, as defined, be open and public, and that all persons be permitted to attend any meeting of a state body, except as otherwise provided in that act. Existing law requires the state body to provide notice of its meeting, including specified information and a specific agenda of the meeting, as provided, to any person who requests that notice in writing and to make that notice available on the internet at least 10 days in advance of the meeting.

This Bill:

This bill would require that notice to include all writings or materials provided for the noticed meeting to a member of the state body by the staff of a state agency, board, or commission, or another member of the state body that are in connection with a matter subject to discussion or consideration at the meeting. The bill would require those writings or materials to be made available on the state body's internet website, and to any person who requests the writings or materials in writing, on the same day as the dissemination of the writings and materials to members of the state body or at least 72 hours in advance of the meeting, whichever is earlier. The bill would prohibit a state body from discussing those writings or materials, or from taking action on an item to which those writings or materials pertain, at a meeting of the state body unless the state body has complied with these provisions.

Analysis:

If approved, this bill would impact the Board's operations. Sending the entire packet of meeting materials to interested parties would be both cumbersome and costly as the Board currently has 244 interested parties and meeting materials average around 70 pages. In addition, meeting materials are often finalized the week before board meetings due to updates from reports or special/emergency meetings. It would be a disservice to the industry and public if the Board was unable to discuss documents that were not posted timely due to necessary last-minute changes.

ASSEMBLY BILL

No. 29

**Introduced by Assembly Member Cooper
(Coauthor: Assembly Member Blanca Rubio)**

December 7, 2020

An act to amend Section 11125 of the Government Code, relating to public meetings.

LEGISLATIVE COUNSEL'S DIGEST

AB 29, as introduced, Cooper. State bodies: meetings.

Existing law, the Bagley-Keene Open Meeting Act, requires that all meetings of a state body, as defined, be open and public, and that all persons be permitted to attend any meeting of a state body, except as otherwise provided in that act. Existing law requires the state body to provide notice of its meeting, including specified information and a specific agenda of the meeting, as provided, to any person who requests that notice in writing and to make that notice available on the internet at least 10 days in advance of the meeting.

This bill would require that notice to include all writings or materials provided for the noticed meeting to a member of the state body by the staff of a state agency, board, or commission, or another member of the state body that are in connection with a matter subject to discussion or consideration at the meeting. The bill would require those writings or materials to be made available on the state body's internet website, and to any person who requests the writings or materials in writing, on the same day as the dissemination of the writings and materials to members of the state body or at least 72 hours in advance of the meeting, whichever is earlier. The bill would prohibit a state body from discussing those writings or materials, or from taking action on an item to which

those writings or materials pertain, at a meeting of the state body unless the state body has complied with these provisions.

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 11125 of the Government Code is
2 amended to read:

3 11125. (a) The state body shall provide notice of its meeting
4 to any person who requests that notice in writing. Notice shall be
5 given and also made available on the ~~Internet~~ *state body's internet*
6 *website* at least 10 days in advance of the ~~meeting~~, *meeting* and
7 shall include the name, address, and telephone number of any
8 person who can provide further information ~~prior to~~ *before* the
9 ~~meeting~~, *meeting* but need not include a list of witnesses expected
10 to appear at the meeting. The written notice shall additionally
11 include the address of the ~~Internet site~~ *internet website* where
12 notices required by this article are made available.

13 (b) The notice of a meeting of a body that is a state body shall
14 include a specific agenda for the meeting, containing a brief
15 description of the items of business to be transacted or discussed
16 in either open or closed session. A brief general description of an
17 item generally need not exceed 20 words. A description of an item
18 to be transacted or discussed in closed session shall include a
19 citation of the specific statutory authority under which a closed
20 session is being held. No item shall be added to the agenda
21 subsequent to the provision of this notice, unless otherwise
22 permitted by this article.

23 (c) (1) *A notice provided pursuant to subdivision (a) shall*
24 *include all writings or materials provided for the noticed meeting*
25 *to a member of the state body by the staff of a state agency, board,*
26 *or commission, or another member of the state body that are in*
27 *connection with a matter subject to discussion or consideration*
28 *at the meeting.*

29 (2) *The writings or materials described in paragraph (1) shall*
30 *be made available on the state body's internet website, and to any*
31 *person who requests the writings or materials in writing, on the*
32 *same day as the dissemination of the writings and materials to*

1 *members of the state body or at least 72 hours in advance of the*
2 *meeting, whichever is earlier.*

3 *(3) A state body may not distribute or discuss writings or*
4 *materials described in paragraph (1), or take action on an item*
5 *to which those writings or materials pertain, at a meeting of the*
6 *state body unless the state body has complied with this subdivision.*

7 ~~(e)~~

8 *(d) Notice of a meeting of a state body that complies with this*
9 *section shall also constitute notice of a meeting of an advisory*
10 *body of that state body, provided that the business to be discussed*
11 *by the advisory body is covered by the notice of the meeting of*
12 *the state body, provided that the specific time and place of the*
13 *advisory body's meeting is announced during the open and public*
14 *state body's meeting, and provided that the advisory body's*
15 *meeting is conducted within a reasonable time of, and nearby, the*
16 *meeting of the state body.*

17 ~~(d)~~

18 *(e) A person may request, and shall be provided, notice pursuant*
19 *to subdivision (a) for all meetings of a state body or for a specific*
20 *meeting or meetings. In addition, at the state body's discretion, a*
21 *person may request, and may be provided, notice of only those*
22 *meetings of a state body at which a particular subject or subjects*
23 *specified in the request will be discussed.*

24 ~~(e)~~

25 *(f) A request for notice of more than one meeting of a state body*
26 *shall be subject to the provisions of Section 14911.*

27 ~~(f)~~

28 *(g) The notice shall be made available in appropriate alternative*
29 *formats, as required by Section 202 of the Americans with*
30 *Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal*
31 *rules and regulations adopted in implementation thereof, upon*
32 *request by any person with a disability. The notice shall include*
33 *information regarding how, to whom, and by when a request for*
34 *any disability-related modification or accommodation, including*
35 *auxiliary aids or services may be made by a person with a disability*
36 *who requires these aids or services in order to participate in the*
37 *public meeting.*



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BOARD OF BARBERING & COSMETOLOGY

BILL ANALYSIS

Author: Assembly Member Kiley
Coauthor: Senator Jones

Subject: COVID-19 emergency
**order violation: license
 revocation**

Bill Number: AB 54

Version: April 5, 2021

Existing Law:

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs and provides for the denial, suspension, and revocation of licenses for specified conduct.

Existing law, the Alcoholic Beverage Control Act, which is administered by the Department of Alcoholic Beverage Control, regulates the application, issuance, and suspension of alcoholic beverage licenses. The act provides the grounds upon which the department may suspend or revoke licenses.

This Bill:

This bill would prohibit the Department of Consumer Affairs, a board within the Department of Consumer Affairs, except within the healing arts, and the Department of Alcoholic Beverage Control from revoking a license for failure to comply with any COVID-19 emergency orders unless the board or department can prove that lack of compliance resulted in transmission of COVID-19.

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

Analysis:

Section 7303.1 of the Business and Professions Code states that protection of the public shall be the highest priority of the Board in exercising its licensing, regulatory, and disciplinary functions. If the Board verifies that an establishment is not complying with any COVID-19 emergency orders, it is the Board's duty to bring that establishment into compliance. If the Board waited until lack of compliance resulted in transmission of COVID-19, that would be too late as the public's health and safety was already put at risk.

AMENDED IN ASSEMBLY APRIL 5, 2021

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

ASSEMBLY BILL

No. 54

Introduced by Assembly Member Kiley
(Coauthor: Senator Jones)

December 7, 2020

An act to add Sections 464.5 and 24200.8 to the Business and Professions Code, relating to business, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 54, as amended, Kiley. COVID-19 emergency order violation: license revocation.

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs and provides for the denial, suspension, and revocation of licenses for specified conduct.

Existing law, the Alcoholic Beverage Control Act, which is administered by the Department of Alcoholic Beverage Control, regulates the application, issuance, and suspension of alcoholic beverage licenses. The act provides the grounds upon which the department may suspend or revoke licenses.

This bill would prohibit the Department of Consumer Affairs, a board within the Department of Consumer Affairs, *except within the healing arts*, and the Department of Alcoholic Beverage Control from revoking a license for failure to comply with any COVID-19 emergency orders unless the board or department can prove that lack of compliance resulted in transmission of COVID-19.

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

Vote: 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. Section 464.5 is added to the Business and
2 Professions Code, to read:

3 464.5. (a) The department and any board shall not revoke a
4 license for failure to comply with any COVID-19 emergency
5 orders, unless the department or board can prove that lack of
6 compliance resulted in the transmission of COVID-19.

7 (b) *This section shall not apply to any board or licensee within*
8 *Division 2 (commencing with Section 500).*

9 SEC. 2. Section 24200.8 is added to the Business and
10 Professions Code, to read:

11 24200.8. The Department of Alcoholic Beverage Control shall
12 not revoke the license of any licensee for failure to comply with
13 any COVID-19 emergency orders unless the department can prove
14 that lack of compliance resulted in transmission of COVID-19.

15 SEC. 3. This act is an urgency statute necessary for the
16 immediate preservation of the public peace, health, or safety within
17 the meaning of Article IV of the California Constitution and shall
18 go into immediate effect. The facts constituting the necessity are:

19 In order to protect businesses, including small businesses, which
20 continue to make significant contributions to economic security,
21 which helps ensure public safety, during these unprecedented times
22 caused by the COVID-19 pandemic, as soon as possible, it is
23 necessary for this act to take effect immediately



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BOARD OF BARBERING & COSMETOLOGY

BILL ANALYSIS

Author: Assembly Member Salas

Subject: Licensure: veterans and military spouses.

Bill Number: AB 107

Version: March 24, 2021

Existing Law:

Existing law requires a board within the Department of Consumer Affairs (department) to issue, after appropriate investigation, certain types of temporary licenses to an applicant if the applicant meets specified requirements, including that the applicant supplies evidence satisfactory to the board that the applicant is married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States who is assigned to a duty station in this state under official active duty military orders and the applicant submits an application to the board that includes a signed affidavit attesting to the fact that the applicant meets all of the requirements for a temporary license and that the information submitted in the application is accurate, to the best of the applicant's knowledge.

This Bill:

This bill would expand the requirement to issue temporary licenses to practice a profession or vocation to include licenses issued by any board within the department, except as provided. The bill would require a board to issue a temporary license within 30 days of receiving the required documentation if the results of a criminal background check do not show grounds for denial. The bill would require a board to submit to the department for approval draft regulations necessary to administer these provisions by June 15, 2022. The bill would exempt a board that already has a process in place by which an out-of-state licensed applicant in good standing who is married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States is able to receive expedited, temporary authorization to practice while meeting state-specific requirements for at least one year.

Analysis:

If approved, this bill would have an impact to BreEZe and the Board's operations. Staff would need to develop draft regulations, a new application, and new procedures for temporary licensure. Since the Board already has an expedited process for spouses and domestic partners of those on active duty in the Armed Forces or the California National Guard, it is unknown how many individuals would opt for temporary licensure first. Depending on how many individuals apply, the requirement to issue licenses within 30 days of receiving the required documentation may not be feasible since the Board must appropriately investigate.

AMENDED IN ASSEMBLY MARCH 24, 2021
AMENDED IN ASSEMBLY FEBRUARY 25, 2021
CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

ASSEMBLY BILL

No. 107

Introduced by Assembly Member Salas

December 16, 2020

An act to amend Sections 115.6 and 5132 ~~of, and to add Section 115.7 to,~~ of the Business and Professions Code, and to add Section 95 to the Military and Veterans Code, relating to licensure, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 107, as amended, Salas. Licensure: veterans and military spouses.

(1) Under existing law, the Department of Consumer Affairs (department), under the control of the Director of Consumer Affairs, is comprised of various boards that license and regulate various professions and vocations. Existing law requires an applicant seeking a license from a board within the department to meet specified requirements and to pay certain licensing fees. Existing law requires a board within the department to issue, after appropriate investigation, certain types of temporary licenses to an applicant if the applicant meets specified requirements, including that the applicant supplies evidence satisfactory to the board that the applicant is married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States who is assigned to a duty station in this state under official active duty military orders and the applicant submits an application to the board that includes a signed affidavit attesting to the fact that the applicant meets all of the requirements for a temporary

license and that the information submitted in the application is accurate, to the best of the applicant's knowledge. Under existing law, some of the funds within the jurisdiction of a board consist of revenue from fees that are continuously appropriated. Existing law authorizes a board to adopt regulations necessary to administer these provisions.

~~This bill would require boards not subject to the temporary licensing provisions described above to issue licenses to an applicant if the applicant meets specified requirements, including that the applicant supplies evidence satisfactory to the board that the applicant is an honorably discharged veteran of the Armed Forces of the United States or is married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States, as provided. The bill would require an application for a license to include a signed affidavit attesting to the fact that the applicant meets all requirements for a license, in the same area and scope of practice as a license issued by another state, district, or territory of the United States. By expanding the scope of the crime of perjury, the bill would impose a state-mandated local program. The bill's expansion of the requirement to issue licenses would result in revenues from fees for certain licenses being deposited into continuously appropriated funds. By establishing a new source of revenue for those continuously appropriated funds, the bill would make an appropriation.~~

This bill would expand the requirement to issue temporary licenses *to practice a profession or vocation* to include licenses issued by ~~the Veterinary Medical Board, the Dental Board of California, the Dental Hygiene Board of California, the California State Board of Pharmacy, the State Board of Barbering and Cosmetology, the Board of Psychology, the California Board of Occupational Therapy, the Physical Therapy Board of California, and the California Board of Accountancy.~~ *any board within the department, except as provided.* The bill would require a board to issue a temporary license within 30 days of receiving the required documentation. ~~The bill would further specify that an applicant seeking a temporary license submit a signed affidavit attesting to the fact that the applicant meets all of the requirements for a temporary license in the same area and scope of practice for which the applicant holds a license in another state, district, or territory of the United States.~~ *documentation if the results of a criminal background check do not show grounds for denial.* The bill would specifically direct revenues from fees for temporary licenses issued by the California Board of Accountancy to be credited to the Accountancy Fund, a

continuously appropriated fund. ~~By establishing a new source of revenue for a continuously appropriated fund, the bill would make an appropriation.~~ The bill would ~~require~~ *require, if necessary to implement the bill's provisions,* a board to submit to the department for approval draft regulations necessary to administer these provisions by June 15, 2022. The bill would exempt from these provisions a board that has a process in place by which an out-of-state licensed applicant in good standing who is married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States is able to receive expedited, temporary authorization to practice while meeting state-specific requirements for a period of at least one year. The bill would make conforming changes. *By expanding the scope of the crime of perjury, the bill would impose a state-mandated local program. The bill's expansion of the requirement to issue temporary licenses would result in revenues from fees for certain licenses being deposited into continuously appropriated funds. By establishing a new source of revenue for those continuously appropriated funds, the bill would make an appropriation.*

(2) Existing law requires the Department of Veterans Affairs to develop a transition assistance program for veterans who have been discharged from the Armed Forces of the United States designed to assist them in successfully transitioning from military to civilian life in California. Existing law requires the program to include, among other topics, higher education benefits, vocational training assistance, small business resources and information, and housing information. Existing law establishes the Department of Consumer Affairs in the Business, Consumer Services, and Housing Agency to, among other things, ensure that certain businesses and professions that have potential impact upon the public health, safety, and welfare are adequately regulated. Existing law establishes the Commission on Teacher Credentialing to establish professional standards, assessments, and examinations for entry and advancement in the education profession. Existing law makes it unlawful for a person to engage in the business of, act in the capacity of, advertise as, or assume to act as a real estate broker or real estate salesperson without first obtaining a real estate license from the Department of Real Estate. Under existing law, the State Department of Public Health is responsible for issuing licenses for the operation of health facilities, clinics, and other facilities, as specified.

This bill would require the Department of Consumer Affairs, the Commission on Teacher Credentialing, the Department of Real Estate,

and the State Department of Public Health to each place a prominently displayed military licensure icon or hyperlink on the home page of its internet website that is linked to information about each occupational board or program for licensure or certification that it administers along with additional information relating to the professional licensure of veterans, service members, and their spouses, as specified. The bill requires the Department of Veterans Affairs to have a prominently displayed military licensure icon or hyperlink at an appropriate location on its internet website that links to those websites. The bill would require an annual report to the Legislature containing specified information relating to the professional licensure of veterans, service members, and their spouses.

(3) 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. The Legislature finds and declares the following:
- 2 (a) If active duty military personnel, veterans, service members
- 3 separating from military service, and their spouses are able to
- 4 maintain careers through frequent moves and key transitions, they
- 5 are able to help support their families while providing critical
- 6 services to their communities. Yet, if a military spouse is
- 7 transferred to California, or a service member leaves the Armed
- 8 Forces of the United States and returns to or remains in California,
- 9 these professionals may face difficulty transporting their
- 10 professional licenses obtained in another state.
- 11 (b) The process for transferring licenses for professional careers
- 12 can be long, burdensome, redundant, and expensive and can prevent
- 13 some military spouses, veterans, and separating service members
- 14 from obtaining employment in their field.
- 15 (c) Removing barriers to license transfers for spouses of active
- 16 duty service members, separating service members, and veterans
- 17 would ease the burden of relocation and transition and provide
- 18 vital stability to military families and the communities they serve.

1 (d) Prioritizing military spouses as part of state economic
2 recovery efforts must be viewed proactively in a way that
3 recognizes their preexisting challenge of substantially higher
4 unemployment and underemployment than their civilian
5 counterparts and with broader goals, such as bridging gender gaps
6 in wage earning, reducing military and veteran financial insecurity,
7 ensuring successful transitions into veteran life, and fostering
8 successful community participation and sense of belonging.

9 SEC. 2. Section 115.6 of the Business and Professions Code
10 is amended to read:

11 115.6. (a) (1) Except as provided in subdivision ~~(h)~~; (i), a
12 board within the department shall, after appropriate investigation,
13 issue ~~the following eligible a temporary licenses~~ *license to practice*
14 *a profession or vocation* to an applicant ~~within 30 days of receiving~~
15 ~~the required documentation pursuant to meeting~~ *who meets* the
16 requirements set forth in subdivision ~~(e)~~; (c).

17 ~~(1) Registered nurse license by the Board of Registered Nursing.~~

18 ~~(2) Vocational nurse license issued by the Board of Vocational~~
19 ~~Nursing and Psychiatric Technicians of the State of California.~~

20 ~~(3) Psychiatric technician license issued by the Board of~~
21 ~~Vocational Nursing and Psychiatric Technicians of the State of~~
22 ~~California.~~

23 ~~(4) Speech-language pathologist license issued by the~~
24 ~~Speech-Language Pathology and Audiology and Hearing Aid~~
25 ~~Dispensers Board.~~

26 ~~(5) Audiologist license issued by the Speech-Language~~
27 ~~Pathology and Audiology and Hearing Aid Dispensers Board.~~

28 ~~(6) All licenses issued by the Veterinary Medical Board.~~

29 ~~(7) All licenses issued by the Board for Professional Engineers,~~
30 ~~Land Surveyors, and Geologists.~~

31 ~~(8) All licenses issued by the Medical Board of California.~~

32 ~~(9) All licenses issued by the Podiatric Medical Board of~~
33 ~~California.~~

34 ~~(10) All licenses issued by the Dental Board of California.~~

35 ~~(11) All licenses issued by the Dental Hygiene Board of~~
36 ~~California.~~

37 ~~(12) All licenses issued by the California State Board of~~
38 ~~Pharmacy.~~

39 ~~(13) All licenses issued by the State Board of Barbering and~~
40 ~~Cosmetology.~~

1 ~~(14) All licenses issued by the Board of Psychology.~~

2 ~~(15) All licenses issued by the California Board of Occupational~~
3 ~~Therapy.~~

4 ~~(16) All licenses issued by the Physical Therapy Board of~~
5 ~~California.~~

6 ~~(17) All licenses issued by the California Board of Accountancy.~~
7 ~~Revenues~~

8 (2) *Revenues* from fees for temporary licenses issued ~~under this~~
9 ~~paragraph~~ *by the California Board of Accountancy* shall be credited
10 to the Accountancy Fund in accordance with Section 5132.

11 (b) The board may conduct an investigation of an applicant for
12 purposes of denying or revoking a temporary license issued
13 pursuant to this section. This investigation may include a criminal
14 background check.

15 (c) An applicant seeking a temporary license pursuant to this
16 section shall meet the following requirements:

17 (1) The applicant shall supply evidence satisfactory to the board
18 that the applicant is married to, or in a domestic partnership or
19 other legal union with, an active duty member of the Armed Forces
20 of the United States who is assigned to a duty station in this state
21 under official active duty military orders.

22 (2) The applicant shall hold a current, active, and unrestricted
23 license that confers upon the applicant the authority to practice,
24 in another state, district, or territory of the United States, the
25 profession or vocation for which the applicant seeks a temporary
26 license from the board.

27 (3) The applicant shall submit an application to the board that
28 shall include a signed affidavit attesting to the fact that the
29 applicant meets all of the requirements for the temporary license,
30 ~~in the same area and scope of practice issued in the other state,~~
31 ~~district, or territory of the United States, as described in paragraph~~
32 ~~(2);~~ and that the information submitted in the application is
33 accurate, to the best of the applicant’s knowledge. The application
34 shall also include written verification from the applicant’s original
35 licensing jurisdiction stating that the applicant’s license is in good
36 standing in that jurisdiction.

37 (4) The applicant shall not have committed an act in any
38 jurisdiction that would have constituted grounds for denial,
39 suspension, or revocation of the license under this code at the time
40 the act was committed. A violation of this paragraph may be

1 grounds for the denial or revocation of a temporary license issued
2 by the board.

3 (5) The applicant shall not have been disciplined by a licensing
4 entity in another jurisdiction and shall not be the subject of an
5 unresolved complaint, review procedure, or disciplinary proceeding
6 conducted by a licensing entity in another jurisdiction.

7 (6) The applicant shall, upon request by a board, furnish a full
8 set of fingerprints for purposes of conducting a criminal
9 background check.

10 (d) *A board shall issue a temporary license pursuant to this*
11 *section within 30 days following receipt of the documentation*
12 *specified in subdivision (c) if the results of the criminal background*
13 *check do not show grounds for denial.*

14 ~~(d)~~

15 (e) A temporary license issued pursuant to this section may be
16 immediately terminated upon a finding that the temporary
17 licenseholder failed to meet any of the requirements described in
18 subdivision (c) or provided substantively inaccurate information
19 that would affect the person's eligibility for temporary licensure.
20 Upon termination of the temporary license, the board shall issue
21 a notice of termination that shall require the temporary
22 licenseholder to immediately cease the practice of the licensed
23 profession upon receipt.

24 ~~(e)~~

25 (f) An applicant seeking a temporary license as a civil engineer,
26 geotechnical engineer, structural engineer, land surveyor,
27 professional geologist, professional geophysicist, certified
28 engineering geologist, or certified hydrogeologist pursuant to this
29 section shall successfully pass the appropriate California-specific
30 examination or examinations required for licensure in those
31 respective professions by the Board for Professional Engineers,
32 Land Surveyors, and Geologists.

33 ~~(f)~~

34 (g) A temporary license issued pursuant to this section shall
35 expire 12 months after issuance, upon issuance of an expedited
36 license pursuant to Section 115.5, a license by endorsement, or
37 upon denial of the application for expedited licensure by the board,
38 whichever occurs first.

39 ~~(g)~~

1 (h) A board shall submit to the department for ~~approval~~
 2 *approval, if necessary to implement this section*, draft regulations
 3 necessary to administer this section by June 15, 2022. These
 4 regulations shall be adopted pursuant to 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).

7 ~~(h)~~

8 (i) (A) This section shall not apply to a board that has a process
 9 in place by which an out-of-state licensed applicant in good
 10 standing who is married to, or in a domestic partnership or other
 11 legal union with, an active duty member of the Armed Forces of
 12 the United States is able to receive expedited, temporary
 13 authorization to practice while meeting state-specific requirements
 14 for a period of at least one year.

15 (B) *This section shall apply only to the extent that it does not*
 16 *amend an initiative or violate constitutional requirements.*

17 ~~SEC. 3. Section 115.7 is added to the Business and Professions~~
 18 ~~Code, to read:~~

19 ~~115.7. (a) A board not specified in subdivision (a) of Section~~
 20 ~~115.6 shall, after appropriate investigation, issue a license to an~~
 21 ~~applicant if the applicant meets all of the following requirements:~~

22 ~~(1) The applicant shall supply evidence satisfactory to the board~~
 23 ~~that the applicant is an honorably discharged veteran of the Armed~~
 24 ~~Forces of the United States or is married to, or in a domestic~~
 25 ~~partnership or other legal union with, an active duty member of~~
 26 ~~the Armed Forces of the United States who is assigned to a duty~~
 27 ~~station in this state under official active duty military orders.~~

28 ~~(2) The applicant shall hold a current, active, and unrestricted~~
 29 ~~license that confers upon the applicant the authority to practice,~~
 30 ~~in another state, district, or territory of the United States, the~~
 31 ~~profession or vocation for which the applicant seeks a license from~~
 32 ~~the board.~~

33 ~~(3) The applicant shall submit an application to the board that~~
 34 ~~shall include a signed affidavit attesting to the fact that the~~
 35 ~~applicant meets all of the requirements for the license, in the same~~
 36 ~~area and scope of practice as issued in the other state, district, or~~
 37 ~~territory of the United States described in paragraph (2), and that~~
 38 ~~the information submitted in the application is accurate, to the best~~
 39 ~~of the applicant's knowledge. The application shall also include~~
 40 ~~written verification from the applicant's original licensing~~

1 jurisdiction stating that the applicant's license is in good standing
2 in that jurisdiction.

3 ~~(4) The applicant shall not have committed an act in any~~
4 ~~jurisdiction that would have constituted grounds for denial,~~
5 ~~suspension, or revocation of the license under this code at the time~~
6 ~~the act was committed. A violation of this paragraph may be~~
7 ~~grounds for the denial or revocation of a license issued by the~~
8 ~~board.~~

9 ~~(5) The applicant shall not have been disciplined by a licensing~~
10 ~~entity in another jurisdiction and shall not be the subject of an~~
11 ~~unresolved complaint, review procedure, or disciplinary proceeding~~
12 ~~conducted by a licensing entity in another jurisdiction.~~

13 ~~(6) The applicant shall, upon request by a board, furnish a full~~
14 ~~set of fingerprints for purposes of conducting a criminal~~
15 ~~background check.~~

16 ~~(b) A board may adopt regulations necessary to administer this~~
17 ~~section.~~

18 ~~SEC. 4.~~

19 *SEC. 3.* Section 5132 of the Business and Professions Code is
20 amended to read:

21 5132. (a) All moneys received by the board under this chapter
22 from any source and for any purpose and from a temporary license
23 issued under Section 115.6 shall be accounted for and reported
24 monthly by the board to the Controller and at the same time the
25 moneys shall be remitted to the State Treasury to the credit of the
26 Accountancy Fund.

27 (b) The secretary-treasurer of the board shall, from time to time,
28 but not less than once each fiscal year, prepare or have prepared
29 on their behalf, a financial report of the Accountancy Fund that
30 contains information that the board determines is necessary for
31 the purposes for which the board was established.

32 (c) The report of the Accountancy Fund, which shall be
33 published pursuant to Section 5008, shall include the revenues and
34 the related costs from examination, initial licensing, license
35 renewal, citation and fine authority, and cost recovery from
36 enforcement actions and case settlements.

37 ~~SEC. 5.~~

38 *SEC. 4.* Section 95 is added to the Military and Veterans Code,
39 to read:

1 95. (a) The Department of Veterans Affairs shall place a
2 prominently displayed military licensure icon or hyperlink on its
3 internet website, in an appropriate location pertaining to licensure
4 and employment opportunities for veterans, service members, and
5 spouses, that links to the internet websites identified in this section.

6 (b) The Department of Consumer Affairs, the Commission on
7 Teacher Credentialing, the Department of Real Estate, and the
8 State Department of Public Health shall place a prominently
9 displayed military licensure icon or hyperlink on the home page
10 of their internet websites, linked to information for each
11 occupational board or program for licensure or certification that
12 it administers. In addition to general licensure or certificate
13 information, the following information shall be displayed:

14 (1) Each licensing agency's process for expediting applications
15 for service members, veterans, and spouses, including the average
16 processing times for expedited applications and the number of
17 expedited applications requested in the calendar year.

18 (2) The availability of temporary or provisional licensure,
19 specific requirements needed to obtain a temporary or provisional
20 license, and how long the provisional or temporary license is valid.

21 (c) (1) The Department of Consumer Affairs shall establish a
22 specific gateway aligned with the existing "Board and Bureau
23 Military Contact Information," "Expedited Licensure," and
24 "Renewal Fee Waivers" gateways on their Military Member
25 Resources page, including a list of all boards that provide
26 temporary or provisional licensure, with hyperlinks linking to each
27 board's military licensure data.

28 (2) The Department of Consumer Affairs shall establish a
29 "Licensure by Endorsement" section on its internet website listing
30 all boards that offer an option for licensure by endorsement,
31 accompanied by a hyperlink to each board's military licensure
32 data.

33 (d) The Department of Consumer Affairs, the Commission on
34 Teacher Credentialing, the Department of Real Estate, and the
35 State Department of Public Health shall compile information on
36 military, veteran, and spouse licensure into an annual report for
37 the Legislature, which shall be submitted in conformance with
38 Section 9795 of the Government Code. The report shall include
39 all of the following:

1 (1) The number of applications for a license submitted by active
2 duty service members, separating service members, veterans, or
3 military spouses per calendar year.

4 (2) The number of licenses issued and denied, including reason
5 for denial, to active duty service members, separating service
6 members, veterans, and military spouses per calendar year.

7 (3) The number of licenses of active duty service members,
8 separating service members, veterans, or military spouses that
9 were suspended or revoked per calendar year.

10 (4) The number of applications for waived renewal fees received
11 from active duty service members and military spouses per calendar
12 year.

13 (5) The number of fee waivers issued to active duty service
14 members and military spouses per calendar year.

15 (6) The average length of time between application and issuance
16 of licenses for active duty service members, separating service
17 members, veterans, or military spouses per board and occupation.

18 ~~SEC. 6.~~

19 *SEC. 5.* No reimbursement is required by this act pursuant to
20 Section 6 of Article XIII B of the California Constitution because
21 the only costs that may be incurred by a local agency or school
22 district will be incurred because this act creates a new crime or
23 infraction, eliminates a crime or infraction, or changes the penalty
24 for a crime or infraction, within the meaning of Section 17556 of
25 the Government Code, or changes the definition of a crime within
26 the meaning of Section 6 of Article XIII B of the California
27 Constitution.



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BOARD OF BARBERING & COSMETOLOGY

BILL ANALYSIS

Authors: Assembly Members Gray, Gallagher,
and Patterson

**Subject: DCA: boards: veterans:
military spouses: licenses.**

Bill Number: AB 225

Version: January 11, 2021

Existing Law:

Existing law requires an applicant seeking a license from a board within the Department of Consumer Affairs (department) to meet specified requirements and to pay certain licensing fees. Existing law requires specified boards within the department to issue, after appropriate investigation, certain types of temporary licenses to an applicant if the applicant meets specified requirements, including that the applicant supplies evidence satisfactory to the board that the applicant is married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States who is assigned to a duty station in this state under official active duty military orders and the applicant holds a current, active, and unrestricted license that confers upon the applicant the authority to practice, in another state, district, or territory of the United States, the profession or vocation for which the applicant seeks a temporary license from the board. Existing law requires these temporary licenses to expire 12 months after issuance.

This Bill:

This bill would require the temporary licenses described above to expire 30 months after issuance. The bill would require boards not responsible for the licensure and regulation of healing arts licensees and not subject to the temporary licensing provisions described above to issue licenses to an applicant if the applicant meets specified requirements, including that the applicant supplies evidence satisfactory to the board that the applicant is an honorably discharged veteran of the Armed Forces of the United States or is married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States, as provided. The bill would require an application for a license to include a signed affidavit attesting to the fact that the applicant meets all requirements for a license. The bill would authorize the immediate termination of a license issued pursuant to these provisions upon a finding that the license holder failed to meet specified requirements or provided substantively inaccurate information that would affect the person's eligibility for licensure, as provided.

Analysis:

The bill needs more specific information. For instance, it does not specify whether an individual can be issued a temporary license more than once and if it is automatically canceled once a permanent license is issued. Also, this bill may undermine existing reciprocity requirements by lowering those existing standards. Issuance of a license will be contingent upon whether the applicant is licensed in another state and if the applicant is an honorably discharged veteran of the Armed Forces of the United States or is married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States who is assigned to a duty station in this state under official active duty military orders. This does not consider the training and education requirements or standards of other states and if they are comparable to California. Lower standards for licensure from other states could potentially result in consumer harm for California consumers, especially if the scopes of practice are not equitable.

ASSEMBLY BILL

No. 225

Introduced by Assembly Members Gray, Gallagher, and Patterson

January 11, 2021

An act to amend Section 115.6 of, and to add Section 115.7 to, the Business and Professions Code, relating to professions and vocations, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 225, as introduced, Gray. Department of Consumer Affairs: boards: veterans: military spouses: licenses.

Under existing law, the Department of Consumer Affairs, under the control of the Director of Consumer Affairs, is comprised of various boards that license and regulate various professions and vocations, including healing arts licensees. Existing law requires an applicant seeking a license from a board within the department to meet specified requirements and to pay certain licensing fees. Existing law requires specified boards within the department to issue, after appropriate investigation, certain types of temporary licenses to an applicant if the applicant meets specified requirements, including that the applicant supplies evidence satisfactory to the board that the applicant is married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States who is assigned to a duty station in this state under official active duty military orders and the applicant holds a current, active, and unrestricted license that confers upon the applicant the authority to practice, in another state, district, or territory of the United States, the profession or vocation for which the applicant seeks a temporary license from the board. Existing law requires these temporary licenses to expire 12 months after issuance. Under

existing law, some of the funds within the jurisdiction of a board consist of revenue from fees that are continuously appropriated.

This bill would require the temporary licenses described above to expire 30 months after issuance. The bill would require boards not responsible for the licensure and regulation of healing arts licensees and not subject to the temporary licensing provisions described above to issue licenses to an applicant if the applicant meets specified requirements, including that the applicant supplies evidence satisfactory to the board that the applicant is an honorably discharged veteran of the Armed Forces of the United States or is married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States, as provided. The bill would require an application for a license to include a signed affidavit attesting to the fact that the applicant meets all requirements for a license. The bill would authorize the immediate termination of a license issued pursuant to these provisions upon a finding that the licenseholder failed to meet specified requirements or provided substantively inaccurate information that would affect the person’s eligibility for licensure, as provided. By expanding the scope of the crime of perjury, the bill would impose a state-mandated local program. The bill’s expansion of the requirement to issue licenses would result in revenues from fees for certain licenses being deposited into continuously appropriated funds. By establishing a new source of revenue for those continuously appropriated funds, the bill would make an appropriation.

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 115.6 of the Business and Professions
- 2 Code is amended to read:
- 3 115.6. (a) A board within the department shall, after
- 4 appropriate investigation, issue the following eligible temporary
- 5 licenses to an applicant if the applicant meets the requirements set
- 6 forth in subdivision (c):

1 (1) Registered nurse license by the Board of Registered Nursing.

2 (2) Vocational nurse license issued by the Board of Vocational
3 Nursing and Psychiatric Technicians of the State of California.

4 (3) Psychiatric technician license issued by the Board of
5 Vocational Nursing and Psychiatric Technicians of the State of
6 California.

7 (4) Speech-language pathologist license issued by the
8 Speech-Language Pathology and Audiology and Hearing Aid
9 Dispensers Board.

10 (5) Audiologist license issued by the Speech-Language
11 Pathology and Audiology and Hearing Aid Dispensers Board.

12 (6) Veterinarian license issued by the Veterinary Medical Board.

13 (7) All licenses issued by the Board for Professional Engineers,
14 Land Surveyors, and Geologists.

15 (8) All licenses issued by the Medical Board of California.

16 (9) All licenses issued by the Podiatric Medical Board of
17 California.

18 (b) The board may conduct an investigation of an applicant for
19 purposes of denying or revoking a temporary license issued
20 pursuant to this section. This investigation may include a criminal
21 background check.

22 (c) An applicant seeking a temporary license pursuant to this
23 section shall meet the following requirements:

24 (1) The applicant shall supply evidence satisfactory to the board
25 that the applicant is married to, or in a domestic partnership or
26 other legal union with, an active duty member of the Armed Forces
27 of the United States who is assigned to a duty station in this state
28 under official active duty military orders.

29 (2) The applicant shall hold a current, active, and unrestricted
30 license that confers upon the applicant the authority to practice,
31 in another state, district, or territory of the United States, the
32 profession or vocation for which the applicant seeks a temporary
33 license from the board.

34 (3) The applicant shall submit an application to the board that
35 shall include a signed affidavit attesting to the fact that the
36 applicant meets all of the requirements for the temporary license
37 and that the information submitted in the application is accurate,
38 to the best of the applicant's knowledge. The application shall also
39 include written verification from the applicant's original licensing

1 jurisdiction stating that the applicant’s license is in good standing
2 in that jurisdiction.

3 (4) The applicant shall not have committed an act in any
4 jurisdiction that would have constituted grounds for denial,
5 suspension, or revocation of the license under this code at the time
6 the act was committed. A violation of this paragraph may be
7 grounds for the denial or revocation of a temporary license issued
8 by the board.

9 (5) The applicant shall not have been disciplined by a licensing
10 entity in another jurisdiction and shall not be the subject of an
11 unresolved complaint, review procedure, or disciplinary proceeding
12 conducted by a licensing entity in another jurisdiction.

13 (6) The applicant shall, upon request by a board, furnish a full
14 set of fingerprints for purposes of conducting a criminal
15 background check.

16 (d) A board may adopt regulations necessary to administer this
17 section.

18 (e) A temporary license issued pursuant to this section may be
19 immediately terminated upon a finding that the temporary
20 licenseholder failed to meet any of the requirements described in
21 subdivision (c) or provided substantively inaccurate information
22 that would affect the person’s eligibility for temporary licensure.
23 Upon termination of the temporary license, the board shall issue
24 a notice of termination that shall require the temporary
25 licenseholder to immediately cease the practice of the licensed
26 profession upon receipt.

27 (f) An applicant seeking a temporary license as a civil engineer,
28 geotechnical engineer, structural engineer, land surveyor,
29 professional geologist, professional geophysicist, certified
30 engineering geologist, or certified hydrogeologist pursuant to this
31 section shall successfully pass the appropriate California-specific
32 examination or examinations required for licensure in those
33 respective professions by the Board for Professional Engineers,
34 Land Surveyors, and Geologists.

35 (g) A temporary license issued pursuant to this section shall
36 expire ~~12~~ 30 months after issuance, upon issuance of an expedited
37 license pursuant to Section 115.5, or upon denial of the application
38 for expedited licensure by the board, whichever occurs first.

39 SEC. 2. Section 115.7 is added to the Business and Professions
40 Code, to read:

1 115.7. (a) A board not specified in Division 2 (commencing
2 with Section 500) or subdivision (a) of Section 115.6 shall, after
3 appropriate investigation, issue a license to an applicant if the
4 applicant meets all of the following requirements:

5 (1) The applicant shall supply evidence satisfactory to the board
6 that the applicant is an honorably discharged veteran of the Armed
7 Forces of the United States or is married to, or in a domestic
8 partnership or other legal union with, an active duty member of
9 the Armed Forces of the United States who is assigned to a duty
10 station in this state under official active duty military orders.

11 (2) The applicant shall hold a current, active, and unrestricted
12 license that confers upon the applicant the authority to practice,
13 in another state, district, or territory of the United States, the
14 profession or vocation for which the applicant seeks a license from
15 the board.

16 (3) The applicant shall submit an application to the board that
17 shall include a signed affidavit attesting to the fact that the
18 applicant meets all of the requirements for the license and that the
19 information submitted in the application is accurate, to the best of
20 the applicant's knowledge. The application shall also include
21 written verification from the applicant's original licensing
22 jurisdiction stating that the applicant's license is in good standing
23 in that jurisdiction.

24 (4) The applicant shall not have committed an act in any
25 jurisdiction that would have constituted grounds for denial,
26 suspension, or revocation of the license under this code at the time
27 the act was committed. A violation of this paragraph may be
28 grounds for the denial or revocation of a license issued by the
29 board.

30 (5) The applicant shall not have been disciplined by a licensing
31 entity in another jurisdiction and shall not be the subject of an
32 unresolved complaint, review procedure, or disciplinary proceeding
33 conducted by a licensing entity in another jurisdiction.

34 (6) The applicant shall, upon request by a board, furnish a full
35 set of fingerprints for purposes of conducting a criminal
36 background check.

37 (b) A board may adopt regulations necessary to administer this
38 section.

39 (c) A license issued pursuant to this section may be immediately
40 terminated pursuant to the board's procedural due process

1 requirements, upon a finding that the licenseholder failed to meet
2 any of the requirements described in subdivision (a) or provided
3 substantively inaccurate information that would affect the person's
4 eligibility for licensure. Upon termination of the license, the board
5 shall issue a notice of termination that shall require the
6 licenseholder to immediately cease the practice of the licensed
7 profession or vocation upon receipt.

8 SEC. 3. No reimbursement is required by this act pursuant to
9 Section 6 of Article XIII B of the California Constitution because
10 the only costs that may be incurred by a local agency or school
11 district will be incurred because this act creates a new crime or
12 infraction, eliminates a crime or infraction, or changes the penalty
13 for a crime or infraction, within the meaning of Section 17556 of
14 the Government Code, or changes the definition of a crime within
15 the meaning of Section 6 of Article XIII B of the California
16 Constitution.



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BOARD OF BARBERING & COSMETOLOGY

BILL ANALYSIS

Author: Assembly Member Nguyen

Subject: Worker classification:
 employees and independent
 contractors: licensed manicurists.

Bill Number: AB 231

Version: January 12, 2021

Existing Law:

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 the Labor Code, the Unemployment Insurance Code, and the wage orders of the Industrial Welfare Commission. Under the ABC test, 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. 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 the ABC test described above. Existing law, instead, provides that these exempt relationships are governed by the multifactor test previously adopted in the case of *S. G. Borello & Sons, Inc. v. Department of Industrial Relations* (1989) 48 Cal.3d 341. These exemptions include services provided by a licensed manicurist, subject to the manicurist meeting specified conditions. Existing law makes this exemption for licensed manicurists inoperative on January 1, 2022.

This Bill:

This bill would delete the January 1, 2022, inoperative date, thereby making licensed manicurists subject to this exemption indefinitely.

Analysis:

This bill does not impact any operations of the Board, however, it would impact manicurists operating as booth renters/independent contractors. This bill would allow manicurists to remain exempt from the ABC test like the other Board license types.

ASSEMBLY BILL

No. 231

Introduced by Assembly Member Nguyen

January 12, 2021

An act to amend Section 2778 of the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 231, as introduced, Nguyen. Worker classification: employees and independent contractors: licensed manicurists.

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 the Labor Code, the Unemployment Insurance Code, and the wage orders of the Industrial Welfare Commission. Under the ABC test, 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. 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 the ABC test described above. Existing law, instead, provides that these exempt relationships are governed by the multifactor test previously adopted in the case of *S. G. Borello & Sons, Inc. v. Department of Industrial Relations* (1989) 48 Cal.3d 341. These exemptions include services provided by a licensed manicurist, subject

to the manicurist meeting specified conditions. Existing law makes this exemption for licensed manicurists inoperative on January 1, 2022.

This bill would delete the January 1, 2022, inoperative date, thereby making licensed manicurists subject to this exemption indefinitely.

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 2778 of the Labor Code is amended to
2 read:

3 2778. (a) Section 2775 and the holding in *Dynamex* do not
4 apply to a contract for “professional services” as defined below,
5 and instead the determination of whether the individual is an
6 employee or independent contractor shall be governed by *Borello*
7 if the hiring entity demonstrates that all of the following factors
8 are satisfied:

9 (1) The individual maintains a business location, which may
10 include the individual’s residence, that is separate from the hiring
11 entity. Nothing in this paragraph prohibits an individual from
12 choosing to perform services at the location of the hiring entity.

13 (2) If work is performed more than six months after the effective
14 date of this section and the work is performed in a jurisdiction that
15 requires the individual to have a business license or business tax
16 registration, the individual has the required business license or
17 business tax registration in order to provide the services under the
18 contract, in addition to any required professional licenses or permits
19 for the individual to practice in their profession.

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

22 (4) Outside of project completion dates and reasonable business
23 hours, the individual has the ability to set the individual’s own
24 hours.

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

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

31 (b) For purposes of this section:

1 (1) An “individual” includes an individual providing services
2 as a sole proprietor or other business entity.

3 (2) “Professional services” means services that meet any of the
4 following:

5 (A) Marketing, provided that the contracted work is original
6 and creative in character and the result of which depends primarily
7 on the invention, imagination, or talent of the individual or work
8 that is an essential part of or necessarily incident to any of the
9 contracted work.

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

15 (C) Travel agent services provided by either of the following:

16 (i) A person regulated by the Attorney General under Article
17 2.6 (commencing with Section 17550) of Chapter 1 of Part 3 of
18 Division 7 of the Business and Professions Code.

19 (ii) An individual who is a seller of travel within the meaning
20 of subdivision (a) of Section 17550.1 of the Business and
21 Professions Code and who is exempt from the registration under
22 subdivision (g) of Section 17550.20 of the Business and Professions
23 Code.

24 (D) Graphic design.

25 (E) Grant writer.

26 (F) (i) Fine artist.

27 (ii) For the purposes of this subparagraph, “fine artist” means
28 an individual who creates works of art to be appreciated primarily
29 or solely for their imaginative, aesthetic, or intellectual content,
30 including drawings, paintings, sculptures, mosaics, works of
31 calligraphy, works of graphic art, crafts, or mixed media.

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

36 (H) Payment processing agent through an independent sales
37 organization.

38 (I) Services provided by any of the following:

39 (i) By a still photographer, photojournalist, videographer, or
40 photo editor who works under a written contract that specifies the

1 rate of pay and obligation to pay by a defined time, as long as the
2 individual providing the services is not directly replacing an
3 employee who performed the same work at the same volume for
4 the hiring entity; the individual does not primarily perform the
5 work at the hiring entity's business location, notwithstanding
6 paragraph (1) of subdivision (a); and the individual is not restricted
7 from working for more than one hiring entity. This subclause is
8 not applicable to a still photographer, photojournalist, videographer,
9 or photo editor who works on motion pictures, which is inclusive
10 of, but is not limited to, theatrical or commercial productions,
11 broadcast news, television, and music videos. Nothing in this
12 section restricts a still photographer, photojournalist, photo editor,
13 or videographer from distributing, licensing, or selling their work
14 product to another business, except as prohibited under copyright
15 laws or workplace collective bargaining agreements.

16 (ii) To a digital content aggregator by a still photographer,
17 photojournalist, videographer, or photo editor.

18 (iii) For the purposes of this subparagraph the following
19 definitions apply:

20 (I) "Photo editor" means an individual who performs services
21 ancillary to the creation of digital content, such as retouching,
22 editing, and keywording.

23 (II) "Digital content aggregator" means a licensing intermediary
24 that obtains a license or assignment of copyright from a still
25 photographer, photojournalist, videographer, or photo editor for
26 the purposes of distributing that copyright by way of sublicense
27 or assignment, to the intermediary's third party end users.

28 (J) Services provided by a freelance writer, translator, editor,
29 copy editor, illustrator, or newspaper cartoonist who works under
30 a written contract that specifies the rate of pay, intellectual property
31 rights, and obligation to pay by a defined time, as long as the
32 individual providing the services is not directly replacing an
33 employee who performed the same work at the same volume for
34 the hiring entity; the individual does not primarily perform the
35 work at the hiring entity's business location, notwithstanding
36 paragraph (1) of subdivision (a); and the individual is not restricted
37 from working for more than one hiring entity.

38 (K) Services provided by an individual as a content contributor,
39 advisor, producer, narrator, or cartographer for a journal, book,
40 periodical, evaluation, other publication or educational, academic,

1 or instructional work in any format or media, who works under a
2 written contract that specifies the rate of pay, intellectual property
3 rights and obligation to pay by a defined time, as long as the
4 individual providing the services is not directly replacing an
5 employee who performed the same work at the same volume for
6 the hiring entity, the individual does not primarily perform the
7 work at the hiring entity’s business location notwithstanding
8 paragraph (1) of subdivision (a); and the individual is not restricted
9 from working for more than one hiring entity.

10 (L) Services provided by a licensed esthetician, licensed
11 electrologist, licensed manicurist, licensed barber, or licensed
12 cosmetologist provided that the individual:

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

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

18 (iii) Has their own book of business and schedules their own
19 appointments.

20 (iv) Maintains their own business license for the services offered
21 to clients.

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

25 ~~(vi) This subparagraph shall become inoperative, with respect
26 to licensed manicurists, on January 1, 2022.~~

27 (M) A specialized performer hired by a performing arts company
28 or organization to teach a master class for no more than one week.
29 “Master class” means a specialized course for limited duration that
30 is not regularly offered by the hiring entity and is taught by an
31 expert in a recognized field of artistic endeavor who does not work
32 for the hiring entity to teach on a regular basis.

33 (N) Services provided by an appraiser, as defined in Part 3
34 (commencing with Section 11300) of Division 4 of the Business
35 and Professions Code.

36 (O) Registered professional foresters licensed pursuant to Article
37 3 (commencing with Section 750) of Chapter 2.5 of Division 1 of
38 the Public Resources Code.

39 ~~(b)~~

1 (c) Section 2775 and the holding in Dynamex do not apply to
2 the following, which are subject to the Business and Professions
3 Code:

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

11 (A) For purposes of unemployment insurance by Section 650
12 of the Unemployment Insurance Code.

13 (B) For purposes of workers' compensation by Section 3200 et
14 seq.

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

19 (2) A home inspector, as defined in Section 7195 of the Business
20 and Professions Code, and subject to the provisions of Chapter 9.3
21 (commencing with Section 7195) of Division 3 of that code.

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



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BOARD OF BARBERING & COSMETOLOGY

BILL ANALYSIS

Authors: Assembly Members Lee and Garcia

Subject: State and local
government: open meetings.

Bill Number: AB 339

Version: January 28, 2021

Existing Law:

Existing law requires all meetings, as defined, of a house of the Legislature or a committee thereof to be open and public, and requires all persons to be permitted to attend the meetings, except as specified. The Ralph M. Brown Act requires, with specified exceptions, that all meetings of a legislative body of a local agency, as those terms are defined, be open and public and that all persons be permitted to attend and participate. The Bagley-Keene Open Meeting Act requires, with specified exceptions, that all meetings of a state body be open and public and all persons be permitted to attend any meeting of a state body. The Act requires at least one member of the state body to be physically present at the location specified in the notice of the meeting. The Dymally-Alatorre Bilingual Services Act requires any materials explaining services available to the public to be translated into any non-English language spoken by a substantial number of the public, as defined, served by the agency, and requires every state and local agency serving a substantial number of non-English-speaking people, as defined, to employ a sufficient number of qualified bilingual persons in public contact positions or as interpreters to ensure provision of information and services in the language of the non-English-speaking person.

This Bill:

This bill would require all meetings, including gatherings using teleconference technology, to include an opportunity for all persons to attend via a call-in option or an internet-based service option that provides closed captioning services and requires both a call-in and an internet-based service option to be provided to the public. The bill would require all meetings to provide the public with an opportunity to comment on proposed legislation, as provided, and requires translation services to be provided for the 10 most-spoken languages, other than English, in California, and would require those persons commenting in a language other than English to have double the amount of time as those giving a comment in English, if time restrictions on public comment are utilized, except as specified.

The bill would require, even in the case of a declared state or local emergency, teleconferenced meetings to include an in-person public comment opportunity. The bill would

also require the legislative bodies of the local agency to employ a sufficient amount of qualified bilingual persons to provide translation during the meeting in the language of a non-English-speaking person, in jurisdictions which govern a substantial number of non-English-speaking people, as defined.

The bill would require instructions on how to attend the meeting via call-in or internet-based service to be posted online along with the meeting agenda in an easily accessible location at least 72 hours before all regular meetings and at least 24 hours before all special meetings.

This bill would require legislative bodies of local agencies, and state bodies, as defined, to translate agendas and instructions for accessing the meeting to be translated into all languages for which 5% of the population in the area governed by the local agency, or state body's jurisdiction, are speakers.

Analysis:

This bill would greatly impact the Board's operations. Closed captioning and translation services at all meetings would be costly. The bill as written does not specify whether the closed captioning may be auto generated (which could result in accuracy issues) or if it must be provided by a live person. The bill also does not specify what is a "sufficient amount" of bilingual persons to translate during the meeting. Requiring an in-person public comment opportunity even during a declared state or local emergency seems unnecessary and unsafe.

ASSEMBLY BILL

No. 339

Introduced by Assembly Members Lee and Cristina Garcia

January 28, 2021

An act to amend Sections 9027, 54953, 54954.2, 54954.3, 11122.5, 11123, 11125.7 of, and to add Sections 9027.1 and 9028.1 to, the Government Code, relating to state and local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 339, as introduced, Lee. State and local government: open meetings.

Existing law requires all meetings, as defined, of a house of the Legislature or a committee thereof to be open and public, and requires all persons to be permitted to attend the meetings, except as specified.

This bill would require all meetings, including gatherings using teleconference technology, to include an opportunity for all persons to attend via a call-in option or an internet-based service option that provides closed captioning services and requires both a call-in and an internet-based service option to be provided to the public. The bill would require all meetings to provide the public with an opportunity to comment on proposed legislation, as provided, and requires translation services to be provided for the 10 most-spoken languages, other than English, in California, and would require those persons commenting in a language other than English to have double the amount of time as those giving a comment in English, if time restrictions on public comment are utilized, except as specified. The bill would require instructions on how to attend the meeting to be posted at the time notice of the meeting is publicized, as specified.

Existing law, the Ralph M. Brown Act, requires, with specified exceptions, that all meetings of a legislative body of a local agency, as those terms are defined, be open and public and that all persons be permitted to attend and participate.

This bill would require all meetings to include an opportunity for all persons to attend via a call-in option or an internet-based service option that provides closed captioning services and requires both a call-in and an internet-based service option to be provided to the public. The bill would require, even in the case of a declared state or local emergency, teleconferenced meetings to include an in-person public comment opportunity. The bill would require all meetings to provide the public with an opportunity to address the legislative body remotely via call-in or internet-based service, as provided, and would require instructions on how to attend the meeting to be posted at the time notice of the meeting is publicized, as specified. The bill would also require the legislative bodies of the local agency to employ a sufficient amount of qualified bilingual persons to provide translation during the meeting in the language of a non-English-speaking person, in jurisdictions which govern a substantial number of non-English-speaking people, as defined.

Existing law, the Bagley-Keene Open Meeting Act, requires, with specified exceptions, that all meetings of a state body be open and public and all persons be permitted to attend any meeting of a state body. The Act requires at least one member of the state body to be physically present at the location specified in the notice of the meeting.

This bill would require all meetings, as defined, to include an opportunity for all persons to attend via a call-in option or an internet-based service option that provides closed captioning services and requires both a call-in and an internet-based service option to be provided to the public. The bill would require instructions on how to attend the meeting via call-in or internet-based service to be posted online along with the meeting agenda in an easily accessible location at least 72 hours before all regular meetings and at least 24 hours before all special meetings. The bill would require all meetings to provide the public with an opportunity to address the legislative body remotely via call-in or internet-based service, as provided, and would require those persons commenting in a language other than English to have double the amount of time as those giving a comment in English, if time restrictions on public comment are utilized, except as specified.

Existing law, the Dymally-Alatorre Bilingual Services Act, requires any materials explaining services available to the public to be translated

into any non-English language spoken by a substantial number of the public, as defined, served by the agency, and requires every state and local agency serving a substantial number of non-English-speaking people, as defined, to employ a sufficient number of qualified bilingual persons in public contact positions or as interpreters to ensure provision of information and services in the language of the non-English-speaking person.

This bill would require legislative bodies of local agencies, and state bodies, as defined, to translate agendas and instructions for accessing the meeting to be translated into all languages for which 5% of the population in the area governed by the local agency, or state body's jurisdiction, are speakers.

By imposing new duties on local governments with respect to meetings, this bill would impose a state-mandated local program.

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

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

The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or open meetings and contains findings demonstrating that the enactment furthers the constitutional requirements relating to this purpose.

This bill would make legislative findings to that effect.

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

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

- 1 SECTION 1. Section 9027 of the Government Code is amended
- 2 to read:
- 3 9027. Except as otherwise provided in this article, all meetings
- 4 of a house of the Legislature or a committee thereof shall be open
- 5 and public, and all persons shall be permitted to attend the
- 6 meetings. *Additionally, all meetings shall include an opportunity*
- 7 *for all persons to attend via a call-in option or an internet-based*
- 8 *service option that provides closed captioning services. Both a*
- 9 *call-in and an internet-based service option shall be provided to*

1 *the public*. As used in this article, “meeting” means a gathering of
2 a quorum of the members of a house or committee in one place
3 *place, including a gathering using teleconference technology*, for
4 the purpose of discussing legislative or other official matters within
5 the jurisdiction of the house or committee. As used in this article,
6 “committee” includes a standing committee, joint committee,
7 conference committee, subcommittee, select committee, special
8 committee, research committee, or any similar body.

9 SEC. 2. Section 9027.1 is added to the Government Code, to
10 read:

11 9027.1. All meetings shall provide the public with an
12 opportunity to comment on proposed legislation, either in person
13 or remotely via call-in or internet-based service, consistent with
14 requirements in Section 9027. Persons commenting in person shall
15 not have more time or in any other way be prioritized over persons
16 commenting remotely via call-in or internet-based service.
17 Translation services shall be provided for the 10 most-spoken
18 languages, other than English, in California. If there are time
19 restrictions on public comment, persons giving a public comment
20 in a language other than English shall have double the amount of
21 time as those giving a comment in English to allow for translation,
22 unless simultaneous translation equipment is available.

23 SEC. 3. Section 9028.1 is added to the Government Code, to
24 read:

25 9028.1. Instructions on how to attend the meeting via call-in
26 or internet-based service shall be posted online in an easily
27 accessible location at the time the meeting is scheduled and notice
28 of the meeting is published. The posted instructions shall include
29 translations into the 10 most-spoken languages, other than English,
30 in California, and shall list a hotline that members of the public
31 can call for assistance, with assistance in the 10 most-spoken
32 languages provided.

33 SEC. 4. Section 54953 of the Government Code is amended
34 to read:

35 54953. (a) All meetings of the legislative body of a local
36 agency shall be open and public, and all persons shall be permitted
37 to attend any meeting of the legislative body of a local agency,
38 except as otherwise provided in this chapter. *Additionally, all*
39 *meetings shall include an opportunity for all persons to attend via*
40 *a call-in option or an internet-based service option that provides*

1 *closed-captioning services. Both a call-in and an internet-based*
2 *service option shall be provided to the public.*

3 (b) (1) Notwithstanding any other provision of law, the
4 legislative body of a local agency may use teleconferencing for
5 the benefit of the public and the legislative body of a local agency
6 in connection with any meeting or proceeding authorized by law.
7 The teleconferenced meeting or proceeding shall comply with all
8 requirements of this chapter and all otherwise applicable provisions
9 of law relating to a specific type of meeting or proceeding.

10 (2) Teleconferencing, as authorized by this section, may be used
11 *by members of the legislative body* for all purposes in connection
12 with any meeting within the subject matter jurisdiction of the
13 legislative body. All votes taken during a teleconferenced meeting
14 shall be by rollcall.

15 (3) If the legislative body of a local agency elects to use
16 teleconferencing, *other than what is required by subdivision (a)*,
17 it shall post agendas at all teleconference locations and conduct
18 teleconference meetings in a manner that protects the statutory
19 and constitutional rights of the parties or the public appearing
20 before the legislative body of a local agency. Each teleconference
21 location shall be identified in the notice and agenda of the meeting
22 or proceeding, and each teleconference location shall be accessible
23 to the public. During the teleconference, at least a quorum of the
24 members of the legislative body shall participate from locations
25 within the boundaries of the territory over which the local agency
26 exercises jurisdiction, except as provided in subdivision (d). The
27 agenda shall provide an opportunity for members of the public to
28 address the legislative body directly pursuant to Section 54954.3
29 at each teleconference location.

30 (4) For the purposes of this section, “teleconference” means a
31 meeting of a legislative body, the members of which are in different
32 locations, connected by electronic means, through either audio or
33 video, or both. Nothing in this section shall prohibit a local agency
34 from providing the public with additional teleconference locations.

35 (5) *Notwithstanding any laws that prohibit in-person government*
36 *meetings in the case of a declared state of emergency, including*
37 *a public health emergency, teleconferenced meetings shall include*
38 *an in-person public comment opportunity, wherein members of*
39 *the public can report to a designated site to give public comment*
40 *in person.*

1 (c) (1) No legislative body shall take action by secret ballot,
2 whether preliminary or final.

3 (2) The legislative body of a local agency shall publicly report
4 any action taken and the vote or abstention on that action of each
5 member present for the action.

6 (3) Prior to taking final action, the legislative body shall orally
7 report a summary of a recommendation for a final action on the
8 salaries, salary schedules, or compensation paid in the form of
9 fringe benefits of a local agency executive, as defined in
10 subdivision (d) of Section 3511.1, during the open meeting in
11 which the final action is to be taken. This paragraph shall not affect
12 the public's right under the California Public Records Act (Chapter
13 3.5 (commencing with Section 6250) of Division 7 of Title 1) to
14 inspect or copy records created or received in the process of
15 developing the recommendation.

16 (d) (1) Notwithstanding the provisions relating to a quorum in
17 paragraph (3) of subdivision (b), if a health authority conducts a
18 teleconference meeting, members who are outside the jurisdiction
19 of the authority may be counted toward the establishment of a
20 quorum when participating in the teleconference if at least 50
21 percent of the number of members that would establish a quorum
22 are present within the boundaries of the territory over which the
23 authority exercises jurisdiction, and the health authority provides
24 a teleconference number, and associated access codes, if any, that
25 allows any person to call in to participate in the meeting and the
26 number and access codes are identified in the notice and agenda
27 of the meeting.

28 (2) Nothing in this subdivision shall be construed as
29 discouraging health authority members from regularly meeting at
30 a common physical site within the jurisdiction of the authority or
31 from using teleconference locations within or near the jurisdiction
32 of the authority. A teleconference meeting for which a quorum is
33 established pursuant to this subdivision shall be subject to all other
34 requirements of this section.

35 (3) For purposes of this subdivision, a health authority means
36 any entity created pursuant to Sections 14018.7, 14087.31,
37 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare
38 and Institutions Code, any joint powers authority created pursuant
39 to Article 1 (commencing with Section 6500) of Chapter 5 of
40 Division 7 for the purpose of contracting pursuant to Section

1 14087.3 of the Welfare and Institutions Code, and any advisory
2 committee to a county sponsored health plan licensed pursuant to
3 Chapter 2.2 (commencing with Section 1340) of Division 2 of the
4 Health and Safety Code if the advisory committee has 12 or more
5 members.

6 SEC. 5. Section 54954.2 of the Government Code is amended
7 to read:

8 54954.2. (a) (1) At least 72 hours before a regular meeting,
9 the legislative body of the local agency, or its designee, shall post
10 an agenda containing a brief general description of each item of
11 business to be transacted or discussed at the meeting, including
12 items to be discussed in closed session. A brief general description
13 of an item generally need not exceed 20 words. The agenda shall
14 specify the time and location of the regular meeting and shall be
15 posted in a location that is freely accessible to members of the
16 public and on the local agency's ~~Internet Web site~~, *internet website*,
17 if the local agency has one. If requested, the agenda shall be made
18 available in appropriate alternative formats to persons with a
19 disability, as required by Section 202 of the Americans with
20 Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal
21 rules and regulations adopted in implementation thereof. The
22 agenda shall include information regarding how, to whom, and
23 when a request for disability-related modification or
24 accommodation, including auxiliary aids or services, may be made
25 by a person with a disability who requires a modification or
26 accommodation in order to participate in the public meeting. *In*
27 *compliance with the Dymally-Alatorre Bilingual Services Act*
28 *(Chapter 17.5 (commencing with Section 7290) of Division 7 of*
29 *Title 1), agendas and instructions for accessing the meeting,*
30 *whether teleconferenced or in person, shall be translated into all*
31 *languages for which 5 percent of the population in the area*
32 *governed by the local agency is a speaker.*

33 (2) For a meeting occurring on and after January 1, 2019, of a
34 legislative body of a city, county, city and county, special district,
35 school district, or political subdivision established by the state that
36 has an ~~Internet Web site~~, *internet website*, the following provisions
37 shall apply:

38 (A) An online posting of an agenda shall be posted on the
39 primary ~~Internet Web site~~ *internet website* homepage of a city,
40 county, city and county, special district, school district, or political

1 subdivision established by the state that is accessible through a
 2 prominent, direct link to the current agenda. The direct link to the
 3 agenda shall not be in a contextual menu; however, a link in
 4 addition to the direct link to the agenda may be accessible through
 5 a contextual menu.

6 (B) An online posting of an agenda including, but not limited
 7 to, an agenda posted in an integrated agenda management platform,
 8 shall be posted in an open format that meets all of the following
 9 requirements:

10 (i) Retrievable, downloadable, indexable, and electronically
 11 searchable by commonly used Internet search applications.

12 (ii) Platform independent and machine readable.

13 (iii) Available to the public free of charge and without any
 14 restriction that would impede the reuse or redistribution of the
 15 agenda.

16 (C) A legislative body of a city, county, city and county, special
 17 district, school district, or political subdivision established by the
 18 state that has an ~~Internet Web site~~ *internet website* and an integrated
 19 agenda management platform shall not be required to comply with
 20 subparagraph (A) if all of the following are met:

21 (i) A direct link to the integrated agenda management platform
 22 shall be posted on the primary ~~Internet Web site~~ *internet website*
 23 homepage of a city, county, city and county, special district, school
 24 district, or political subdivision established by the state. The direct
 25 link to the integrated agenda management platform shall not be in
 26 a contextual menu. When a person clicks on the direct link to the
 27 integrated agenda management platform, the direct link shall take
 28 the person directly to an ~~Internet Web site~~ *internet website* with
 29 the agendas of the legislative body of a city, county, city and
 30 county, special district, school district, or political subdivision
 31 established by the state.

32 (ii) The integrated agenda management platform may contain
 33 the prior agendas of a legislative body of a city, county, city and
 34 county, special district, school district, or political subdivision
 35 established by the state for all meetings occurring on or after
 36 January 1, 2019.

37 (iii) The current agenda of the legislative body of a city, county,
 38 city and county, special district, school district, or political
 39 subdivision established by the state shall be the first agenda
 40 available at the top of the integrated agenda management platform.

1 (iv) All agendas posted in the integrated agenda management
2 platform shall comply with the requirements in clauses (i), (ii),
3 and (iii) of subparagraph (B).

4 (D) For the purposes of this paragraph, both of the following
5 definitions shall apply:

6 (i) “Integrated agenda management platform” means an ~~Internet~~
7 ~~Web site~~ *internet website* of a city, county, city and county, special
8 district, school district, or political subdivision established by the
9 state dedicated to providing the entirety of the agenda information
10 for the legislative body of the city, county, city and county, special
11 district, school district, or political subdivision established by the
12 state to the public.

13 (ii) “Legislative body” has the same meaning as that term is
14 used in subdivision (a) of Section 54952.

15 (E) The provisions of this paragraph shall not apply to a political
16 subdivision of a local agency that was established by the legislative
17 body of the city, county, city and county, special district, school
18 district, or political subdivision established by the state.

19 (3) No action or discussion shall be undertaken on any item not
20 appearing on the posted agenda, except that members of a
21 legislative body or its staff may briefly respond to statements made
22 or questions posed by persons exercising their public testimony
23 rights under Section 54954.3. In addition, on their own initiative
24 or in response to questions posed by the public, a member of a
25 legislative body or its staff may ask a question for clarification,
26 make a brief announcement, or make a brief report ~~on his or her~~
27 *the member’s* own activities. Furthermore, a member of a
28 legislative body, or the body itself, subject to rules or procedures
29 of the legislative body, may provide a reference to staff or other
30 resources for factual information, request staff to report back to
31 the body at a subsequent meeting concerning any matter, or take
32 action to direct staff to place a matter of business on a future
33 agenda.

34 (b) Notwithstanding subdivision (a), the legislative body may
35 take action on items of business not appearing on the posted agenda
36 under any of the conditions stated below. Prior to discussing any
37 item pursuant to this subdivision, the legislative body shall publicly
38 identify the item.

1 (1) Upon a determination by a majority vote of the legislative
 2 body that an emergency situation exists, as defined in Section
 3 54956.5.

4 (2) Upon a determination by a two-thirds vote of the members
 5 of the legislative body present at the meeting, or, if less than
 6 two-thirds of the members are present, a unanimous vote of those
 7 members present, that there is a need to take immediate action and
 8 that the need for action came to the attention of the local agency
 9 subsequent to the agenda being posted as specified in subdivision
 10 (a).

11 (3) The item was posted pursuant to subdivision (a) for a prior
 12 meeting of the legislative body occurring not more than five
 13 calendar days prior to the date action is taken on the item, and at
 14 the prior meeting the item was continued to the meeting at which
 15 action is being taken.

16 (c) This section is necessary to implement and reasonably within
 17 the scope of paragraph (1) of subdivision (b) of Section 3 of Article
 18 I of the California Constitution.

19 (d) For purposes of subdivision (a), the requirement that the
 20 agenda be posted on the local agency's ~~Internet Web site~~, *internet*
 21 *website*, if the local agency has one, shall only apply to a legislative
 22 body that meets either of the following standards:

23 (1) A legislative body as that term is defined by subdivision (a)
 24 of Section 54952.

25 (2) A legislative body as that term is defined by subdivision (b)
 26 of Section 54952, if the members of the legislative body are
 27 compensated for their appearance, and if one or more of the
 28 members of the legislative body are also members of a legislative
 29 body as that term is defined by subdivision (a) of Section 54952.

30 SEC. 6. Section 54954.3 of the Government Code is amended
 31 to read:

32 54954.3. (a) Every agenda for regular meetings shall provide
 33 an opportunity for members of the public to directly address the
 34 legislative body on any item of interest to the public, before or
 35 during the legislative body's consideration of the item, that is
 36 within the subject matter jurisdiction of the legislative body,
 37 provided that no action shall be taken on any item not appearing
 38 on the agenda unless the action is otherwise authorized by
 39 subdivision (b) of Section 54954.2. *All meetings must also provide*
 40 *the public with an opportunity to address the legislative body*

1 *remotely via call-in and internet-based service, consistent with*
2 *requirements in Section 54953. Persons commenting in person*
3 *shall not have more time or in any other way be prioritized over*
4 *persons commenting remotely via call-in or internet-based service.*
5 *Instructions on how to attend the meeting via call-in or*
6 *internet-based service shall be posted online along with the meeting*
7 *agenda in an easily accessible location.* However, the agenda need
8 not provide an opportunity for members of the public to address
9 the legislative body on any item that has already been considered
10 by a committee, composed exclusively of members of the
11 legislative body, at a public meeting wherein all interested members
12 of the public were afforded the opportunity to address the
13 committee on the item, before or during the committee's
14 consideration of the item, unless the item has been substantially
15 changed since the committee heard the item, as determined by the
16 legislative body. Every notice for a special meeting shall provide
17 an opportunity for members of the public to directly address the
18 legislative body concerning any item that has been described in
19 the notice for the meeting before or during consideration of that
20 item.

21 (b) (1) The legislative body of a local agency may adopt
22 reasonable regulations to ensure that the intent of subdivision (a)
23 is carried out, including, but not limited to, regulations limiting
24 the total amount of time allocated for public testimony on particular
25 issues and for each individual speaker.

26 (2) Notwithstanding paragraph (1), when the legislative body
27 of a local agency limits time for public comment, the legislative
28 body of a local agency shall provide at least twice the allotted time
29 to a member of the public who utilizes a translator to ensure that
30 non-English speakers receive the same opportunity to directly
31 address the legislative body of a local agency.

32 (3) Paragraph (2) shall not apply if the legislative body of a
33 local agency utilizes simultaneous translation equipment in a
34 manner that allows the legislative body of a local agency to hear
35 the translated public testimony simultaneously.

36 (c) The legislative body of a local agency shall not prohibit
37 public criticism of the policies, procedures, programs, or services
38 of the agency, or of the acts or omissions of the legislative body.
39 Nothing in this subdivision shall confer any privilege or protection
40 for expression beyond that otherwise provided by law.

1 (d) *Legislative bodies of local agencies shall employ a sufficient*
2 *amount of qualified bilingual persons to provide translation during*
3 *the meeting in the language of the non-English-speaking person,*
4 *in jurisdictions which govern a substantial number of*
5 *non-English-speaking people. “Non-English-speaking people” is*
6 *defined as members of a group who either do not speak English,*
7 *or who are unable to effectively communicate in English because*
8 *it is not their native language, and who comprise 5 percent or*
9 *more of the people served by the statewide or any local office or*
10 *facility of a state agency.*

11 SEC. 7. Section 11122.5 of the Government Code is amended
12 to read:

13 11122.5. (a) As used in this article, “meeting” includes any
14 congregation of a majority of the members of a state ~~body~~ *body,*
15 *including a virtual congregation using teleconference technology,*
16 *at the same time and place to hear, discuss, or deliberate upon any*
17 *item that is within the subject matter jurisdiction of the state body*
18 *to which it pertains.*

19 (b) (1) A majority of the members of a state body shall not,
20 outside of a meeting authorized by this chapter, use a series of
21 communications of any kind, directly or through intermediaries,
22 to discuss, deliberate, or take action on any item of business that
23 is within the subject matter of the state body.

24 (2) Paragraph (1) shall not be construed to prevent an employee
25 or official of a state agency from engaging in separate
26 conversations or communications outside of a meeting authorized
27 by this chapter with members of a legislative body in order to
28 answer questions or provide information regarding a matter that
29 is within the subject matter jurisdiction of the state agency, if that
30 person does not communicate to members of the legislative body
31 the comments or position of any other member or members of the
32 legislative body.

33 (c) The prohibitions of this article do not apply to any of the
34 following:

35 (1) Individual contacts or conversations between a member of
36 a state body and any other person that do not violate subdivision
37 (b).

38 (2) (A) The attendance of a majority of the members of a state
39 body at a conference or similar gathering open to the public that
40 involves a discussion of issues of general interest to the public or

1 to public agencies of the type represented by the state body, if a
2 majority of the members do not discuss among themselves, other
3 than as part of the scheduled program, business of a specified
4 nature that is within the subject matter jurisdiction of the state
5 body.

6 (B) Subparagraph (A) does not allow members of the public
7 free admission to a conference or similar gathering at which the
8 organizers have required other participants or registrants to pay
9 fees or charges as a condition of attendance.

10 (3) The attendance of a majority of the members of a state body
11 at an open and publicized meeting organized to address a topic of
12 state concern by a person or organization other than the state body,
13 if a majority of the members do not discuss among themselves,
14 other than as part of the scheduled program, business of a specific
15 nature that is within the subject matter jurisdiction of the state
16 body.

17 (4) The attendance of a majority of the members of a state body
18 at an open and noticed meeting of another state body or of a
19 legislative body of a local agency as defined by Section 54951, if
20 a majority of the members do not discuss among themselves, other
21 than as part of the scheduled meeting, business of a specific nature
22 that is within the subject matter jurisdiction of the other state body.

23 (5) The attendance of a majority of the members of a state body
24 at a purely social or ceremonial occasion, if a majority of the
25 members do not discuss among themselves business of a specific
26 nature that is within the subject matter jurisdiction of the state
27 body.

28 (6) The attendance of a majority of the members of a state body
29 at an open and noticed meeting of a standing committee of that
30 body, if the members of the state body who are not members of
31 the standing committee attend only as observers.

32 SEC. 8. Section 11123 of the Government Code is amended
33 to read:

34 11123. (a) All meetings of a state body shall be open and
35 public and all persons shall be permitted to attend any meeting of
36 a state body except as otherwise provided in this article.
37 *Additionally, all meetings shall include an opportunity for all*
38 *persons to attend via a call-in option or an internet-based service*
39 *option that provides closed captioning services. Both a call-in and*
40 *an internet-based service option shall be provided to the public.*

1 (b) (1) This article does not prohibit a state body from holding
2 an open or closed meeting by teleconference for the benefit of the
3 public and state body. The meeting or proceeding held by
4 teleconference shall otherwise comply with all applicable
5 requirements or laws relating to a specific type of meeting or
6 proceeding, including the following:

7 (A) The teleconferencing meeting shall comply with all
8 requirements of this article applicable to other meetings.

9 (B) The portion of the teleconferenced meeting that is required
10 to be open to the public shall be audible to the public at the location
11 specified in the notice of the meeting.

12 (C) If the state body elects to conduct a meeting or proceeding
13 by teleconference, *other than what is required by subdivision (a)*
14 *and such that all members of the body that are present at the*
15 *meeting are teleconferencing into the meeting*, it shall post agendas
16 at all teleconference locations and conduct teleconference meetings
17 in a manner that protects the rights of any party or member of the
18 public appearing before the state body. Each teleconference
19 location shall be identified in the notice and agenda of the meeting
20 or proceeding, and each teleconference location shall be accessible
21 to the public. The agenda shall provide an opportunity for members
22 of the public to address the state body directly pursuant to Section
23 11125.7 at each teleconference location.

24 (D) All votes taken during a teleconferenced meeting shall be
25 by rollcall.

26 (E) The portion of the teleconferenced meeting that is closed
27 to the public may not include the consideration of any agenda item
28 being heard pursuant to Section 11125.5.

29 (F) At least one member of the state body shall be physically
30 present at the location specified in the notice of the ~~meeting~~.
31 *meeting to ensure that members of the public are able to give*
32 *public comment in person. This location must be publicly accessible*
33 *and able to accommodate a reasonable amount of people, given*
34 *the circumstances.*

35 (2) For the purposes of this subdivision, “teleconference” means
36 a meeting of a state body, the members of which are at different
37 locations, connected by electronic means, through either audio or
38 both audio and video. ~~This~~ *While this section requires that both*
39 *an call-in and internet-based service are available to the public*
40 *to join all open meetings that are held in-person, this section does*

1 not prohibit a state body from providing members of the public
2 with additional locations in *or opportunities* by which the public
3 may observe or address the state body by electronic means, through
4 either audio or both audio and video.

5 (c) *Instructions on how to attend the meeting via call-in or*
6 *internet-based service shall be posted online along with the meeting*
7 *agenda in an easily accessible location at least 72 hours before*
8 *all regular meetings and at least 24 hours before all special*
9 *meetings. In compliance with the Dymally-Alatorre Bilingual*
10 *Services Act(Chapter 17.5 (commencing with Section 7290) of*
11 *Division 7 of Title 1), the posted instructions shall also be*
12 *translated into all languages of which 5 percent of the population*
13 *of the state body's jurisdiction speaks.*

14 (e)

15 (d) The state body shall publicly report any action taken and
16 the vote or abstention on that action of each member present for
17 the action.

18 SEC. 9. Section 11125.7 of the Government Code is amended
19 to read:

20 11125.7. (a) Except as otherwise provided in this section, the
21 state body shall provide an opportunity for members of the public
22 to directly address the state body on each agenda item before or
23 during the state body's discussion or consideration of the item.
24 This section is not applicable if the agenda item has already been
25 considered by a committee composed exclusively of members of
26 the state body at a public meeting where interested members of
27 the public were afforded the opportunity to address the committee
28 on the item, before or during the committee's consideration of the
29 item, unless the item has been substantially changed since the
30 committee heard the item, as determined by the state body. Every
31 notice for a special meeting at which action is proposed to be taken
32 on an item shall provide an opportunity for members of the public
33 to directly address the state body concerning that item prior to
34 action on the item. In addition, the notice requirement of Section
35 11125 shall not preclude the acceptance of testimony at meetings,
36 other than emergency meetings, from members of the public if no
37 action is taken by the state body at the same meeting on matters
38 brought before the body by members of the public.

39 (b) *In compliance with subdivision (a) of Section 11123, public*
40 *comment shall be made available for those attending any meeting*

1 *via call-in or internet-based service option. Persons commenting*
2 *in person shall not have more time or in any other way be*
3 *prioritized over persons commenting remotely via call-in or*
4 *internet-based service.*

5 (b)

6 (c) The state body may adopt reasonable regulations to ensure
7 that the intent of subdivision (a) is carried out, including, but not
8 limited to, regulations limiting the total amount of time allocated
9 for public comment on particular issues and for each individual
10 speaker.

11 (e)

12 (d) (1) Notwithstanding subdivision (b), when a state body
13 limits time for public comment the state body shall provide at least
14 twice the allotted time to a member of the public who utilizes a
15 translator to ensure that non-English speakers receive the same
16 opportunity to directly address the state body. *In compliance with*
17 *the Dymally-Alatorre Bilingual Services Act (Chapter 17.5*
18 *(commencing with Section 7290) of Division 7 of Title 1),*
19 *translation services shall be provided for all languages of which*
20 *5 percent of the population of the state body's jurisdiction speaks.*
21 *Should there be a limit on speaking time, persons commenting in*
22 *another language shall be given twice as much time as those*
23 *commenting in English in order to accommodate time for*
24 *translation services. This is not required when simultaneous*
25 *translation services are available.*

26 (2) Paragraph (1) shall not apply if the state body utilizes
27 simultaneous translation equipment in a manner that allows the
28 state body to hear the translated public testimony simultaneously.

29 (d)

30 (e) The state body shall not prohibit public criticism of the
31 policies, programs, or services of the state body, or of the acts or
32 omissions of the state body. Nothing in this subdivision shall confer
33 any privilege or protection for expression beyond that otherwise
34 provided by law.

35 (e)

36 (f) This section is not applicable to closed sessions held pursuant
37 to Section 11126.

38 (f)

39 (g) This section is not applicable to decisions regarding
40 proceedings held pursuant to Chapter 5 (commencing with Section

1 11500), relating to administrative adjudication, or to the conduct
2 of those proceedings.

3 ~~(g)~~

4 *(h)* This section is not applicable to hearings conducted by the
5 California Victim Compensation Board pursuant to Sections 13963
6 and 13963.1.

7 ~~(h)~~

8 *(i)* This section is not applicable to agenda items that involve
9 decisions of the Public Utilities Commission regarding adjudicatory
10 hearings held pursuant to Chapter 9 (commencing with Section
11 1701) of Part 1 of Division 1 of the Public Utilities Code. For all
12 other agenda items, the commission shall provide members of the
13 public, other than those who have already participated in the
14 proceedings underlying the agenda item, an opportunity to directly
15 address the commission before or during the commission's
16 consideration of the item.

17 SEC. 10. No reimbursement is required by this act pursuant to
18 Section 6 of Article XIII B of the California Constitution because
19 the only costs that may be incurred by a local agency or school
20 district under this act would result from a legislative mandate that
21 is within the scope of paragraph (7) of subdivision (b) of Section
22 3 of Article I of the California Constitution.

23 SEC. 11. The Legislature finds and declares that Sections 4,
24 5, and 6 of this act, which amend Section 54953, 54954.2, and
25 54954.3 of the Government Code, further, within the meaning of
26 paragraph (7) of subdivision (b) of Section 3 of Article I of the
27 California Constitution, the purposes of that constitutional section
28 as it relates to the right of public access to the meetings of local
29 public bodies or the writings of local public officials and local
30 agencies. Pursuant to paragraph (7) of subdivision (b) of Section
31 3 of Article I of the California Constitution, the Legislature makes
32 the following findings:

33 The provisions of the act allow for greater public access through
34 requiring specified entities to provide a call-in and internet-based
35 service and instructions on how to access these options to the public
36 for specified meetings and allow for greater accommodations for
37 non-English speakers attending the meetings.

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BOARD OF BARBERING & COSMETOLOGY

BILL ANALYSIS

Author: Assembly Member Patterson
Coauthor: Assembly Member Gallagher

Subject: Cosmetology students:
 externships.

Bill Number: AB 492

Version: February 8, 2021

Existing Law:

Existing law, the Barbering and Cosmetology Act, provides for the licensure, regulation, and discipline of cosmetologists by the State Board of Barbering and Cosmetology. Existing law authorizes a cosmetology student enrolled in an approved course, as provided, to work as an unpaid extern in an establishment participating in the educational program of the school upon completion of at least 60% of the clock hours required for graduation in the course.

Existing law requires an extern to receive clock hour credit toward graduation and prohibits that credit from exceeding 8 hours per week and 10% of the total clock hours required for completion of the course.

This Bill:

This bill would delete the requirement that the cosmetology externship be unpaid and would permit a student to work as an extern upon completion of at least 25% of the clock hours required for graduation in the course.

This bill would prohibit the extern's clock hour credit for graduation from exceeding 25 hours per week and 25% of the total clock hours required for completion of the course.

Analysis:

The Board does not have oversight of individuals acting as externs. Currently schools only notify the Board that they are participating in the program. Increasing the extern program could place more students working in an establishment that are not tracked at all by the Board. This could potentially increase the risk of consumer harm.

ASSEMBLY BILL

No. 492

**Introduced by Assembly Member Patterson
(Coauthor: Assembly Member Gallagher)**

February 8, 2021

An act to amend Section 7395.1 of the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

AB 492, as introduced, Patterson. Cosmetology students: externships.

Existing law, the Barbering and Cosmetology Act, provides for the licensure, regulation, and discipline of cosmetologists by the State Board of Barbering and Cosmetology. Existing law authorizes a cosmetology student enrolled in an approved course, as provided, to work as an unpaid extern in an establishment participating in the educational program of the school upon completion of at least 60% of the clock hours required for graduation in the course.

This bill would delete the requirement that the cosmetology externship be unpaid and would permit a student to work as an extern upon completion of at least 25% of the clock hours required for graduation in the course.

Existing law requires an extern to receive clock hour credit toward graduation and prohibits that credit from exceeding 8 hours per week and 10% of the total clock hours required for completion of the course.

This bill would instead prohibit the extern's clock hour credit for graduation from exceeding 25 hours per week and 25% of the total clock hours required for completion of the course.

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

3 7395.1. (a) A student who is enrolled in an approved course
4 of instruction in a school of cosmetology approved by the board
5 pursuant to subdivision (a) of Section 7362 may, upon completion
6 of a minimum of ~~60~~ 25 percent of the clock hours required for
7 graduation in the course, work as an ~~unpaid~~ extern in an
8 establishment participating in the educational program of the
9 school.

10 (b) A person working as an extern shall receive clock hour credit
11 toward graduation, but that credit shall not exceed ~~eight~~ 25 hours
12 per week and shall not exceed ~~40~~ 25 percent of the total clock
13 hours required for completion of the course.

14 (c) The externship program shall be conducted in an
15 establishment meeting all of the following criteria:

16 (1) The establishment is licensed by the board.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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BOARD OF BARBERING & COSMETOLOGY

BILL ANALYSIS

Author: Senator Umberg
Coauthors: Senators Min, Newman, and Ochoa Bogh
 Assembly Member Daly

Subject: Income taxes: credits:
 California Fair Fees Tax Credit

Bill Number: SB 49

Version: April 6, 2021

Existing Law:

The Personal Income Tax Law and the Corporation Tax Law allow various credits against the taxes imposed by those laws.

This Bill:

This bill would allow a credit against those taxes for each taxable year beginning on or after January 1, 2022, and before January 1, 2027, in an unspecified amount to a taxpayer that meets certain criteria, including that the taxpayer temporarily ceased business operations for an unspecified minimum number of consecutive days during the taxable year in response to an emergency order, as defined. The bill would designate the credit allowed under its provisions as the California Fair Fees Tax Credit. The bill would require a taxpayer claiming this credit to declare, under penalty of perjury, that it has complied with all applicable emergency orders. This bill would take effect immediately as a tax levy.

Analysis:

This bill would have no impact on the Board's operations but may impact the barbering and cosmetology industry if establishments are required to cease business due to emergency orders in the future.

AMENDED IN SENATE APRIL 6, 2021

AMENDED IN SENATE MARCH 8, 2021

AMENDED IN SENATE FEBRUARY 1, 2021

SENATE BILL

No. 49

Introduced by Senator Umberg
(Coauthors: Senators Min, Newman, and Ochoa Bogh)
(Coauthor: Assembly Member Daly)

December 7, 2020

An act to add and repeal Sections 17053.70 and 23670 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 49, as amended, Umberg. Income taxes: credits: California Fair Fees Tax Credit.

The Personal Income Tax Law and the Corporation Tax Law allow various credits against the taxes imposed by those laws.

This bill would allow a credit against those taxes for each taxable year beginning on or after January 1, 2022, and before January 1, 2027, ~~for eligible costs paid or incurred by in an unspecified amount to a taxpayer that meets certain criteria, including that the taxpayer temporarily ceased business operations for an unspecified minimum number of consecutive days during the taxable year in response to an emergency order, as defined, including certain costs paid or incurred before January 1, 2022.~~ *defined*. The bill would designate the credit allowed under its provisions as the California Fair Fees Tax Credit. ~~The bill would define "eligible costs" for these purposes as any amount of fees, as defined, paid to a state agency or a local government in~~

~~connection with a permit, license, or other mandatory operating cost imposed by the state or a local government during the time in which the qualified taxpayer was required to cease business operations in response to an emergency order.~~ The bill would require a taxpayer claiming this credit to declare, under penalty of perjury, that it has complied with all applicable emergency orders.

Existing law requires that any bill introduced on or after January 1, 2020, that would authorize certain tax expenditures, as defined, or tax exemptions contain, among other things, specific goals, purposes, and objectives that the tax expenditure or exemption will achieve, detailed performance indicators, and data collection requirements.

This bill would include additional information required for any bill authorizing a new tax expenditure.

By expanding the scope of the crime of perjury, this bill would impose a state-mandated local program.

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

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

This bill would take effect immediately as a tax levy.

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

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

1 SECTION 1. Section 17053.70 is added to the Revenue and
2 Taxation Code, to read:
3 17053.70. (a) For each taxable year beginning on or after
4 January 1, 2022, and before January 1, 2027, there shall be allowed
5 as a credit against the “net tax,” as defined in Section 17039, an
6 amount equal to the amount paid or incurred in eligible costs by ___
7 dollars (\$___) to a qualified taxpayer.
8 (b) For purposes of this section:
9 ~~(1) (A) “Eligible costs” means any amount of fees paid to a~~
10 ~~state agency or a local government in connection with a permit,~~
11 ~~license, or other mandatory operating cost imposed by the state or~~
12 ~~a local government during the time in which the qualified taxpayer~~
13 ~~was required to cease business operations in response to an~~
14 ~~emergency order.~~

1 ~~(B) “Eligible costs” includes any amounts described in~~
2 ~~subparagraph (A) that were paid or incurred on or before January~~
3 ~~1, 2022, in response to the COVID-19 state of emergency. For~~
4 ~~purposes of this subparagraph, “COVID-19 state of emergency”~~
5 ~~means the state of emergency proclaimed by the Governor on~~
6 ~~March 4, 2020.~~

7 ~~(2)~~

8 (1) “Emergency order” means any order issued by the Governor
9 pursuant to the California Emergency Services Act (Chapter 7
10 commencing with Section 8550) of Division 1 of Title 2 of the
11 Government Code), any state agency, or any local government
12 that requires the closure of businesses in response to a state of
13 emergency.

14 ~~(3) (A) “Fees” mean a charge imposed for the reasonable~~
15 ~~regulatory costs to the state or a local government incident to~~
16 ~~issuing licenses and permits, performing investigations, inspections,~~
17 ~~and audits, enforcing agricultural marketing orders, and the~~
18 ~~administrative enforcement and adjudication thereof.~~

19 ~~(B) “Fees” does not include any charge imposed for purposes~~
20 ~~of protecting the health and safety of the residents of this state.~~

21 ~~(4) “Local government” means a city, whether general law or~~
22 ~~chartered, county, or any officer of a city or county.~~

23 ~~(5)~~

24 (2) “Qualified taxpayer” means a taxpayer for which ~~both~~ *all*
25 of the following apply:

26 (A) The taxpayer is a business that requires substantial in-person
27 contact to conduct its business operations.

28 (B) The taxpayer temporarily ceased business operations for at
29 least ~~___ days___~~ *consecutive days during the taxable year* in
30 response to an emergency order.

31 (C) *The taxpayer had gross receipts of ___ dollars (\$___) or*
32 *less during the taxable year.*

33 ~~(6)~~

34 (3) “State of emergency” means a state of emergency proclaimed
35 by the Governor pursuant to Article 13 (commencing with Section
36 8625) of Chapter 7 of Division 1 of Title 2 of the Government
37 Code.

38 (c) A qualified taxpayer claiming a credit allowed by this section
39 shall declare, under penalty of perjury, that the qualified taxpayer

1 has complied with all applicable emergency orders, in the form
2 and manner prescribed by the Franchise Tax Board.

3 (d) In the case where the credit allowed by this section exceeds
4 the “net tax,” the excess may be carried over to reduce the “net
5 tax” in the following taxable year, and *the* succeeding *six* years if
6 necessary, until the credit is exhausted.

7 (e) The credit allowed by this section and Section 23670 shall
8 be known, and may be cited, as the California Fair Fees Tax Credit.

9 (f) This section shall remain in effect only until December 1,
10 2027, and as of that date is repealed. However, any unused credit
11 may continue to be carried forward, as provided in subdivision
12 (d), until the credit is exhausted.

13 SEC. 2. Section 23670 is added to the Revenue and Taxation
14 Code, to read:

15 23670. (a) For each taxable year beginning on or after January
16 1, 2022, and before January 1, 2027, there shall be allowed as a
17 credit against the “tax,” as defined in Section 23036, an amount
18 equal to ~~the amount paid or incurred in eligible costs by~~ ___ dollars
19 (\$___) to a qualified taxpayer.

20 (b) For purposes of this section:

21 ~~(1) (A) “Eligible costs” means any amount of fees paid to a~~
22 ~~state agency or a local government in connection with a permit,~~
23 ~~license, or other mandatory operating cost imposed by the state or~~
24 ~~a local government during the time in which the qualified taxpayer~~
25 ~~was required to cease business operations in response to an~~
26 ~~emergency order.~~

27 ~~(B) “Eligible costs” includes any amounts described in~~
28 ~~subparagraph (A) that were paid or incurred on or before January~~
29 ~~1, 2022, in response to the COVID-19 state of emergency. For~~
30 ~~purposes of this subparagraph, “COVID-19 state of emergency”~~
31 ~~means the state of emergency proclaimed by the Governor on~~
32 ~~March 4, 2020.~~

33 ~~(2)~~

34 ~~(1) “Emergency order” means any order issued by the Governor~~
35 ~~pursuant to the California Emergency Services Act (Chapter 7~~
36 ~~(commencing with Section 8550) of Division 1 of Title 2 of the~~
37 ~~Government Code), any state agency, or any local government~~
38 ~~that requires the closure of businesses in response to a state of~~
39 ~~emergency.~~

1 ~~(3) (A) “Fees” mean a charge imposed for the reasonable~~
2 ~~regulatory costs to the state or a local government incident to~~
3 ~~issuing licenses and permits, performing investigations, inspections,~~
4 ~~and audits, enforcing agricultural marketing orders, and the~~
5 ~~administrative enforcement and adjudication thereof.~~

6 ~~(B) “Fees” does not include any charge imposed for purposes~~
7 ~~of protecting the health and safety of the residents of this state.~~

8 ~~(4) “Local government” means a city, whether general law or~~
9 ~~chartered, county, or any officer of a city or county.~~

10 ~~(5)~~

11 (2) “Qualified taxpayer” means a taxpayer for which ~~both~~ *all*
12 of the following apply:

13 (A) The taxpayer is a business that requires substantial in-person
14 contact to conduct its business operations.

15 (B) The taxpayer temporarily ceased business operations for at
16 least ~~_____ days~~ *consecutive days during the taxable year* in
17 response to an emergency order.

18 (C) *The taxpayer had gross receipts of _____ dollars (\$____) or*
19 *less during the taxable year.*

20 ~~(6)~~

21 (3) “State of emergency” means a state of emergency proclaimed
22 by the Governor pursuant to Article 13 (commencing with Section
23 8625) of Chapter 7 of Division 1 of Title 2 of the Government
24 Code.

25 (c) A qualified taxpayer claiming a credit allowed by this section
26 shall declare, under penalty of perjury, that the qualified taxpayer
27 has complied with all applicable emergency orders, in the form
28 and manner prescribed by the Franchise Tax Board.

29 (d) In the case where the credit allowed by this section exceeds
30 the “tax,” the excess may be carried over to reduce the “net tax”
31 in the following taxable year, and *the succeeding six* years if
32 necessary, until the credit is exhausted.

33 (e) The credit allowed by this section and Section 17053.70
34 shall be known, and may be cited, as the California Fair Fees Tax
35 Credit.

36 (f) This section shall remain in effect only until December 1,
37 2027, and as of that date is repealed. However, any unused credit
38 may continue to be carried forward, as provided in subdivision
39 (d), until the credit is exhausted.

1 SEC. 3. For purposes of complying with Section 41 of the
2 Revenue and Taxation Code, the Legislature finds and declares
3 the following with respect to Sections 17053.70 and 23670 of the
4 Revenue and Taxation Code, as added by this act, hereafter referred
5 to as “the tax credit:”

6 (a) The specific goals, purposes, and objectives that the tax
7 credit will achieve are as follows:

8 (1) Ensuring that businesses are compensated for fees paid to
9 local and state government when those local and state governments
10 disallowed their operations due to a proclaimed state of emergency,
11 including, but not limited to, a pandemic, fire, flood, or earthquake.

12 (2) To the extent possible, providing equity for businesses during
13 a state of emergency.

14 (3) To the extent possible, curbing the closure of small
15 businesses and the laying off of employees during a state of
16 emergency.

17 (b) Detailed performance indicators for the Legislature to use
18 in determining whether the tax credit allowed by this act meet
19 those goals, purposes, and objectives are as follows:

20 (1) The number of tax credits claimed by businesses, which is
21 evidence of businesses being charged by governmental entities
22 when governments are also disallowing them to open.

23 (2) To the extent feasible, the number of small business
24 prevented from closing or laying off employees as a result of the
25 tax credit.

26 (c) The Legislative Analyst’s Office shall, on an annual basis
27 beginning January 1, 2023, and each January 1 thereafter until
28 January 1, 2028, collaborate with the Franchise Tax Board to
29 review the effectiveness of the tax credit. The review shall include,
30 but not be limited to, the metrics described above.

31 (d) The data collection requirements for determining whether
32 the tax credit are meeting, failing to meet, or exceeding those
33 specific goals, purposes, and objectives are as follows:

34 (1) To assist the Legislature in determining whether the tax
35 credit allowed by this act meet the goals, purposes, and objectives
36 specified in subdivision (a), and in carrying out their duties under
37 subdivision (c), the Legislative Analyst’s Office may request
38 information from the Franchise Tax Board.

1 (2) (A) The Franchise Tax Board shall provide any data
2 requested by the Legislative Analyst's Office pursuant to this
3 subdivision.

4 (B) The disclosure provisions of this paragraph shall be treated
5 as an exception to Section 19542 of the Revenue and Taxation
6 Code under Article 2 (commencing with 19542) of Chapter 7 of
7 Part 10.2 of Division 2 of the Revenue and Taxation Code.

8 SEC. 4. No reimbursement is required by this act pursuant to
9 Section 6 of Article XIII B of the California Constitution because
10 the only costs that may be incurred by a local agency or school
11 district will be incurred because this act creates a new crime or
12 infraction, eliminates a crime or infraction, or changes the penalty
13 for a crime or infraction, within the meaning of Section 17556 of
14 the Government Code, or changes the definition of a crime within
15 the meaning of Section 6 of Article XIII B of the California
16 Constitution.

17 SEC. 5. This act provides for a tax levy within the meaning of
18 Article IV of the California Constitution and shall go into
19 immediate effect.



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BOARD OF BARBERING & COSMETOLOGY

BILL ANALYSIS

Author: Senator Melendez
Coauthors: Senators Bates, Grove, and Jones
 Assembly Members Choi, Gallagher, Mathis, and Seyarto

Subject: COVID-19 emergency
 order violation: license
 revocation

Bill Number: SB 102

Version: March 17, 2021

Existing Law:

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs and provides for the denial, suspension, and revocation of licenses for specified conduct.

Existing law, the Alcoholic Beverage Control Act, which is administered by the Department of Alcoholic Beverage Control, regulates the application, issuance, and suspension of alcoholic beverage licenses. The act provides the grounds upon which the department may suspend or revoke licenses.

This Bill:

This bill would prohibit the Department of Consumer Affairs, a board within the Department of Consumer Affairs that does not regulate healing arts licensees, and the Department of Alcoholic Beverage Control from revoking a license or imposing a fine or penalty for failure to comply with any COVID-19 state of emergency orders or COVID-19 stay-at-home orders, unless the board or department can prove that lack of compliance resulted in transmission of COVID-19. The bill would specify that the provisions do not preclude issuance of fines, penalties, or revoking a license for any action that is not related to the issuance of any COVID-19 state of emergency orders or COVID-19 stay-at-home order. The provisions of the bill would remain in effect until either the COVID-19 state of emergency is terminated or all COVID-19 stay-at-home orders are no longer in effect, whichever occurs later, but in no case would the provisions remain in effect after January 1, 2024. This bill would declare that it is to take effect immediately as an urgency statute.

Analysis:

Section 7303.1 of the Business and Professions Code states that protection of the public shall be the highest priority of the Board in exercising its licensing, regulatory, and disciplinary functions. If the Board verifies that an establishment is not complying with any COVID-19 emergency orders, it is the Board's duty to bring that establishment into compliance. If the Board waited until lack of compliance resulted in transmission of COVID-19, that would be too late as the public's health and safety was already put at risk.

AMENDED IN SENATE MARCH 17, 2021

AMENDED IN SENATE FEBRUARY 10, 2021

SENATE BILL

No. 102

Introduced by Senator Melendez

~~(Coauthor: Senator~~ **Coauthors: Senators Bates, Grove, and Jones)**

(Coauthors: Assembly Members Choi, Gallagher, Mathis, and Seyarto)

December 30, 2020

An act to add *and repeal* Sections 464.5 and 24200.8 to the Business and Professions Code, relating to business, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 102, as amended, Melendez. COVID-19 emergency order violation: license revocation.

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs and provides for the denial, suspension, and revocation of licenses for specified conduct. Existing law provides for the regulation of healing arts by various boards. Existing law authorizes boards to impose fines or penalties, as provided.

Existing law, the Alcoholic Beverage Control Act, which is administered by the Department of Alcoholic Beverage Control, regulates the application, issuance, and suspension of alcoholic beverage licenses. The act provides the grounds upon which the department may suspend or revoke licenses and impose fines and penalties, as provided.

This bill would prohibit the Department of Consumer Affairs, a board within the Department of Consumer Affairs that does not regulate healing arts licensees, and the Department of Alcoholic Beverage Control from revoking a license or imposing a fine or penalty for failure

to comply with any COVID-19 *state of emergency orders or COVID-19 stay-at-home orders*, unless the board or department can prove that lack of compliance resulted in transmission of COVID-19. *The bill would specify that the provisions do not preclude issuance of fines, penalties, or revoking a license for any action that is not related to the issuance of any COVID-19 state of emergency orders or COVID-19 stay-at-home order. The provisions of the bill would remain in effect until either the COVID-19 state of emergency is terminated or all COVID-19 stay-at-home orders are no longer in effect, whichever occurs later, but in no case would the provisions remain in effect after January 1, 2024.*

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

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

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

1 SECTION 1. Section 464.5 is added to the Business and
2 Professions Code, to read:
3 464.5. (a) The department and any board shall not revoke a
4 license, fine, or impose a penalty for failure to comply with any
5 COVID-19 *state of emergency—orders; orders or COVID-19*
6 *stay-at-home orders*, unless the department or board can prove
7 that lack of compliance resulted in the transmission of COVID-19.
8 (b) For the purposes of this section, board does not include a
9 healing arts board as described in Division 2 (commencing with
10 Section 500).
11 (c) *For the purposes of this section:*
12 (1) *“COVID-19 state of emergency” means the state of*
13 *emergency proclaimed by the Governor on March 4, 2020.*
14 (2) *“COVID-19 stay-at-home order” means either of the*
15 *following:*
16 (A) *Executive Order No. N-33-20, or any similar order issued*
17 *by the Governor pursuant to the California Emergency Services*
18 *Act (Chapter 7 (commencing with Section 8550) of Division 1 of*
19 *Title 2 of the Government Code) or the State Department of Public*
20 *Health that requires the closure of businesses in response to the*
21 *COVID-19 state of emergency.*

1 (B) Any order by a local government that requires the closure
2 of businesses in response to the COVID-19 state of emergency,
3 including, but not limited to, an order issued pursuant to the police
4 power of a city or county or any order issued by a local health
5 officer pursuant to Section 101040 or 120175 of the Health and
6 Safety Code.

7 (d) Nothing in this section shall preclude the department or any
8 board from issuing fines, penalties, or revoking a license for any
9 action that is not related to the issuance of any COVID-19 state
10 of emergency orders or COVID-19 stay-at-home orders.

11 (e) This section shall remain in effect only until either the
12 COVID-19 state of emergency terminates pursuant to Section 8629
13 of the Government Code or all COVID-19 stay-at-home orders
14 are no longer in effect, whichever occurs later, and as of that date
15 is repealed. However, if those contingencies are not met, then in
16 no case shall this section remain in effect after January 1, 2024,
17 and as of that date is repealed.

18 SEC. 2. Section 24200.8 is added to the Business and
19 Professions Code, to read:

20 24200.8. (a) The Department of Alcoholic Beverage Control
21 shall not revoke the license, fine, or impose a penalty of any
22 licensee for failure to comply with any COVID-19 state of
23 emergency—~~orders~~ orders, or COVID-19 stay-at-home orders,
24 unless the department can prove that lack of compliance resulted
25 in transmission of COVID-19.

26 (b) For the purposes of this section:

27 (1) “COVID-19 state of emergency” means the state of
28 emergency proclaimed by the Governor on March 4, 2020.

29 (2) “COVID-19 stay-at-home order” means either of the
30 following:

31 (A) Executive Order No. N-33-20, or any similar order issued
32 by the Governor pursuant to the California Emergency Services
33 Act (Chapter 7 (commencing with Section 8550) of Division 1 of
34 Title 2 of the Government Code) or the State Department of Public
35 Health that requires the closure of businesses in response to the
36 COVID-19 state of emergency.

37 (B) Any order by a local government that requires the closure
38 of businesses in response to the COVID-19 state of emergency,
39 including, but not limited to, an order issued pursuant to the police
40 power of a city or county or any order issued by a local health

1 officer pursuant to Section 101040 or 120175 of the Health and
2 Safety Code.

3 (c) Nothing in this section shall preclude the department or any
4 board from issuing fines, penalties, or revoking a license for any
5 action that is not related to the issuance of any COVID-19 state
6 of emergency orders or COVID-19 stay-at-home orders.

7 (d) This section shall remain in effect only until either the
8 COVID-19 state of emergency terminates pursuant to Section 8629
9 of the Government Code or all COVID-19 stay-at-home orders
10 are no longer in effect, whichever occurs later, and as of that date
11 is repealed. However, if those contingencies are not met, then in
12 no case shall this section remain in effect after January 1, 2024,
13 and as of that date is repealed.

14 SEC. 3. This act is an urgency statute necessary for the
15 immediate preservation of the public peace, health, or safety within
16 the meaning of Article IV of the California Constitution and shall
17 go into immediate effect. The facts constituting the necessity are:

18 In order to protect businesses, including small businesses, which
19 continue to make significant contributions to economic security,
20 which helps ensure public safety, during these unprecedented times
21 caused by the COVID-19 pandemic, as soon as possible, it is
22 necessary for this act to take effect ~~immediately~~ *immediately*.



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BOARD OF BARBERING & COSMETOLOGY

BILL ANALYSIS

Author: Senator Ochoa Bogh
Coauthor: Senator Borgeas

Subject: Professions and vocations: citations: minor violations.

Bill Number: SB 772

Version: February 19, 2021

Existing Law:

Existing law authorizes the State Board of Chiropractic Examiners, the Osteopathic Medical Board of California, and any board within the Department of Consumer Affairs to issue a citation to a licensee, which may contain an order of abatement or an order to pay an administrative fine assessed by the board.

This Bill:

This bill would prohibit the assessment of an administrative fine for a minor violation, and would specify that a violation shall be considered minor if it meets specified conditions, including that the violation did not pose a serious health or safety threat and there is no evidence that the violation was willful.

Analysis:

This bill does not specify how to determine whether a violation is a serious health or safety threat. The Board had correctable fines in the past and found licensees were not complying because they knew they could request for the fine to be waived. A fine is an effective deterrent to encourage licensees to follow the health and safety regulations.

A violation without a fine may need to be reviewed to determine if it even warrants a citation. The Board is currently reviewing its health and safety regulations and will update them using the regulatory process, so this bill may be unnecessary.

**Introduced by Senator Ochoa Bogh
(Coauthor: Senator Borgeas)**

February 19, 2021

An act to amend Section 125.9 of the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

SB 772, as introduced, Ochoa Bogh. Professions and vocations: citations: minor violations.

Existing law authorizes the State Board of Chiropractic Examiners, the Osteopathic Medical Board of California, and any board within the Department of Consumer Affairs to issue a citation to a licensee, which may contain an order of abatement or an order to pay an administrative fine assessed by the board.

This bill would prohibit the assessment of an administrative fine for a minor violation, and would specify that a violation shall be considered minor if it meets specified conditions, including that the violation did not pose a serious health or safety threat and there is no evidence that the violation was willful.

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 125.9 of the Business and Professions
- 2 Code is amended to read:
- 3 125.9. (a) Except with respect to persons regulated under
- 4 Chapter 11 (commencing with Section 7500), any board, bureau,
- 5 or commission within the department, the State Board of

1 Chiropractic Examiners, and the Osteopathic Medical Board of
2 California, may establish, by regulation, a system for the issuance
3 to a licensee of a citation which may contain an order of abatement
4 or an order to pay an administrative fine assessed by the board,
5 bureau, or commission where the licensee is in violation of the
6 applicable licensing act or any regulation adopted pursuant thereto.

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

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

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

13 (3) In no event shall the administrative fine assessed by the
14 board, bureau, or commission exceed five thousand dollars (\$5,000)
15 for each inspection or each investigation made with respect to the
16 violation, or five thousand dollars (\$5,000) for each violation or
17 count if the violation involves fraudulent billing submitted to an
18 insurance company, the Medi-Cal program, or Medicare. In
19 assessing a fine, the board, bureau, or commission shall give due
20 consideration to the appropriateness of the amount of the fine with
21 respect to factors such as the gravity of the violation, the good
22 faith of the licensee, and the history of previous violations.

23 (4) A citation or fine assessment issued pursuant to a citation
24 shall inform the licensee that if the licensee desires a hearing to
25 contest the finding of a violation, that hearing shall be requested
26 by written notice to the board, bureau, or commission within 30
27 days of the date of issuance of the citation or assessment. If a
28 hearing is not requested pursuant to this section, payment of any
29 fine shall not constitute an admission of the violation charged.
30 Hearings shall be held pursuant to Chapter 5 (commencing with
31 Section 11500) of Part 1 of Division 3 of Title 2 of the Government
32 Code.

33 (5) Failure of a licensee to pay a fine or comply with an order
34 of abatement, or both, within 30 days of the date of assessment or
35 order, unless the citation is being appealed, may result in
36 disciplinary action being taken by the board, bureau, or
37 commission. Where a citation is not contested and a fine is not
38 paid, the full amount of the assessed fine shall be added to the fee
39 for renewal of the license. A license shall not be renewed without
40 payment of the renewal fee and fine.

- 1 (c) The system may contain the following provisions:
2 (1) A citation may be issued without the assessment of an
3 administrative fine.
4 (2) Assessment of administrative fines may be limited to only
5 particular violations of the applicable licensing act.
6 (d) Notwithstanding any other provision of law, if a fine is paid
7 to satisfy an assessment based on the finding of a violation,
8 payment of the fine and compliance with the order of abatement,
9 if applicable, shall be represented as satisfactory resolution of the
10 matter for purposes of public disclosure.
11 (e) Administrative fines collected pursuant to this section shall
12 be deposited in the special fund of the particular board, bureau, or
13 commission.
14 (f) *A licensee shall not be assessed an administrative fine for a*
15 *violation of the applicable licensing act or any regulation adopted*
16 *pursuant to the act if the violation is a minor violation. A violation*
17 *shall be considered minor if all of the following conditions are*
18 *satisfied:*
19 (1) *The violation did not pose a serious health or safety threat.*
20 (2) *There is no evidence that the violation was willful.*
21 (3) *The licensee was not on probation at the time of the*
22 *violation.*
23 (4) *The licensee does not have a history of committing the*
24 *violation.*
25 (5) *The licensee corrects the violation within 30 days from the*
26 *date notice of the violation is sent to the licensee.*



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BOARD OF BARBERING & COSMETOLOGY

BILL ANALYSIS

Author: Senator Roth

Subject: Barbering and
cosmetology

Bill Number: SB 803

Version: February 19, 2021

Existing Law:

Existing law, the Barbering and Cosmetology Act provides for the licensure and regulation of barbers and cosmetologists by the State Board of Barbering and Cosmetology in the Department of Consumer Affairs. The act requires the board to conduct certain reviews and report its findings and recommendations as prescribed by November 1, 2018. The act provides that it confers no authority to practice medicine or surgery.

This Bill:

This bill would delete that obsolete report requirement. The bill would prohibit the practice of medicine from being performed by, or offered by, a licensee under the act without being authorized and licensed to perform that act pursuant to a license obtained in accordance with some other provision of law.

Analysis:

This bill as written would have no impact on the Board. The Board already prohibits licensees from practicing medicine or surgery, but this bill clarifies that licensees may perform or offer these services if they are properly licensed.

The Board anticipates this bill will be amended as it is likely a spot bill for Sunset.

Introduced by Senator Roth

February 19, 2021

An act to amend Section 7320 of, and to repeal Section 7303.2 of, the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

SB 803, as introduced, Roth. Barbering and cosmetology.

Existing law, the Barbering and Cosmetology Act provides for the licensure and regulation of barbers and cosmetologists by the State Board of Barbering and Cosmetology in the Department of Consumer Affairs. The act requires the board to conduct certain reviews and report its findings and recommendations as prescribed by November 1, 2018. The act provides that it confers no authority to practice medicine or surgery.

This bill would delete that obsolete report requirement. The bill would prohibit the practice of medicine from being performed by, or offered by, a licensee under the act without being authorized and licensed to perform that act pursuant to a license obtained in accordance with some other provision of law.

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 7303.2 of the Business and Professions
- 2 Code is repealed.
- 3 ~~7303.2. The board shall conduct the following reviews, and~~
- 4 ~~shall report its findings and recommendations to the Assembly~~
- 5 ~~Committee on Business and Professions and the Senate Committee~~

1 on Business, Professions, and Economic Development no later
2 than November 1, 2018:

3 (a) The board, pursuant to Section 139, shall review the
4 1,600-hour training requirement for cosmetologists, conduct an
5 occupational analysis of the cosmetology profession in California,
6 and conduct a review of the national written examination for
7 cosmetologists and of the practical examination, in order to
8 evaluate whether both examinations assess critical competencies
9 for California cosmetologists and meet professional testing
10 standards.

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

15 SEC. 2. Section 7320 of the Business and Professions Code is
16 amended to read:

17 7320. This chapter confers no authority to practice medicine
18 or surgery. *The practice of medicine shall not be performed by, or*
19 *offered by, a licensee under this chapter without being authorized*
20 *and licensed to perform that act pursuant to a license obtained in*
21 *accordance with some other provision of law.*

Summary of, and Responses to, Comments Received During the 15-day Comment Period on the Modified Text During the Period of April 1, 2021 – April 16, 2021

James Young, Owner/President of J & J Beauty Lounge, submitted a written comment to the Board on the proposed rulemaking during the third 15-day comment period, which ended April 16, 2021. He stated he and other owners have concerns and requested the Board's authority in Business and Professions Codes 7312, 7402.5, and 7421 be overturned and the Board not adopt California Code of Regulations section 965.2 regarding issuing a personal service permit as it will lead to problems, such as health and safety concerns for consumers, tax evasion, and loss of business for establishment owners.

Response: The Board rejects this comment. This comment is outside the scope of the modifications proposed during the 15-day period. In addition, the Board previously addressed these concerns in part. The Board addressed health and safety concerns potentially posed by the proposal at pages 2 and 7 of the Initial Statement of Reasons, in response to Jaime Schragebeck's comment #1 received during the 45-day comment period, in response to Wendy Jacobs Cochran's comment received during the 45-day comment period, and in response to Swati Sharma's comment #12 received during the 45-day comment period. The Board addressed the potential for tax evasion in response to Swati Sharma's comment #5 received during the 45-day comment period. The Board addressed loss of business for establishment owners in part in the Economic Impact Assessment of the Initial Statement of Reasons. Even if the PSP is approved, there will still be licensees who wish to work in a brick-and-mortar establishment setting and there will still be consumers who would rather visit an establishment instead of allowing a licensee in their home. Moreover, the protection of the public, not ensuring that businesses are profitable, is the Board's highest priority. (BPC, § 7303.1.) The Board makes no substantive changes to the language in response to this comment.



MEMORANDUM

DATE April 26, 2021

TO: Members, Board of Barbering and Cosmetology

FROM: Kristy Underwood, Executive Officer

SUBJECT: Regulations Update

Externs (Title 16, CCR Sections 962, 962.1 and 962.2)

This initial package was filed with the Office of Administrative Law on April 6, 2021 and published in the California Regulatory Notice Register on April 16, 2021. The 45-day comment period ends on June 2, 2021.

The following final rulemaking packages were filed with the Office of Administrative Law and are under review:

- Title 16, CCR section 900, 965.2, and 988 (Personal Service Permit)
 - Changes were made to the proposed text after receiving feedback from the Office of Administrative Law. The 15-day comment period was April 1, 2021 to April 16, 2021. The Board received one public comment and the comment response is being submitted to the Board for approval.

Action Needed: In order to continue the regulatory process of the Personal Service Permit regulation package, board staff needs a motion to direct staff to reject the comment, provide the response to the comment as indicated in the meeting materials, and complete the regulatory process.

- Title 16, CCR sections 970 and 971 (Substantial Relationship Criteria, Criteria for Rehabilitation)

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 961 (Instructional Materials)
- Title 16, CCR Section 972 (Disciplinary Guidelines)
- Title 16, CCR Section 974.1 (Disciplinary Review Committee)

Adjournment