

**CALIFORNIA  
BOARD OF BARBERING AND COSMETOLOGY**



**MARCH 13, 2023**

**LEGISLATIVE AND BUDGET COMMITTEE**

**PUBLIC  
TELECONFERENCE**



**CALIFORNIA BOARD  
OF  
BARBERING AND COSMETOLOGY  
LEGISLATIVE AND BUDGET  
COMMITTEE MEETING**



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**MEMBERS OF THE  
COMMITTEE**

Reese Isbell, Chair  
Megan Ellis  
Colette Kavanaugh  
Calimay Pham

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**PUBLIC TELECONFERENCE  
MEETING**

**March 13, 2023**

**12:30 P.M or upon Adjournment of  
the Enforcement and Inspections  
Meeting - Until Completion of  
Business**

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

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**The Board may take action on any  
agenda item.**

**NOTE: Pursuant to Government Code section 11133, neither a public location nor teleconference locations 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/j.php?MTID=m199ee2a1310e6df1214ebe3374b7925e>

Webinar number: 2488 200 4474

Webinar password: BBC03132023

**Instructions to connect to the meeting can be found at:**

[https://www.barbercosmo.ca.gov/about\\_us/meetings/how\\_to\\_join\\_webex\\_event.pdf](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.

In order to ensure all public members have an opportunity to speak and in the interest of time, public comments will be limited to two minutes unless, in the discretion of the committee, circumstances require a shorter period or longer 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

1. Call to Order/Roll Call/Establishment of Quorum
2. Discussion and Possible Approval of the February 13, 2023, Committee Meeting Minutes
3. Discussion and Review of the Current Budget FY 22/23
4. Review and Discussion of the Fee Study Status
5. Discussion and Possible Recommendations Regarding Proposed Bills:
  - a. SB 384 (Bradford) Barbering and Cosmetology
  - b. SB 451 (Nguyen) Worker classification: employees and independent contractors: licensed manicurists
  - c. AB 1328 (Gipson) Barbering and cosmetology: interstate cosmetology licensure compact
6. Public Comment on Items Not on the Agenda  
*Note: The Committee 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))*
7. Suggestions for Future Agenda Items
8. Adjournment

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

\*Government Code section 11125.7 provides the opportunity for the public to address each agenda item during discussion or consideration by the Committee prior to the Committee taking any action on said item. Members of the public will be provided appropriate opportunities to comment on any issue before the Committee, but the Committee Chair may, at his or her discretion, apportion available time among those who wish to speak. Individuals may appear before the Committee to discuss items not on the agenda; however, the Committee 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: Natalie Mitchell at (916) 244-6644, email: natalie.mitchell@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.

*Agenda Item*  
*No. 1*  
*No Attachment*

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

**LEGISLATIVE AND BUDGET COMMITTEE MEETING**

**MINUTES OF FEBRUARY 13, 2022**

**BOARD MEMBERS PRESENT**

Reese Isbell, Chair  
Megan Ellis  
Colette Kavanaugh  
Calimay Pham

**STAFF MEMBERS PRESENT**

Kristy Underwood, Executive Officer  
Carrie Harris, Deputy Executive Officer  
Alex Torkelson, Licensing and Admin Chief  
Sabina Knight, Board Legal Representative  
Allison Lee, Board Project Manager  
Natalie Mitchell, Board Analyst  
Shelby Edmiston, HR Liaison/Presenter

**1. AGENDA ITEM #1, CALL TO ORDER/ROLL CALL/ESTABLISHMENT OF QUORUM**

Reese Isbell, Committee Chair, called the meeting to order at approximately 9:00 a.m. and confirmed the presence of a quorum.

**2. AGENDA ITEM #2, COMMITTEE CHAIR'S OPENING REMARKS**

Chair Isbell kicked off his opening remarks by thanking all the Committee members and welcomed Colette Kavanaugh as the newest member. He also thanked Derick Matos for his service in 2022. Chair Isbell mentioned that the Board had discussed reviving its defunct standing committees as part of the Board's strategic plan to utilize existing subcommittees regularly to discuss larger issues and provide more resources for the Board to make informed decisions.

Chair Isbell apologized for his outspoken commentary at the most recent Board meeting regarding the concept of the Legislative and Budget Committee. He admitted that canceling the January Committee had been a mistake, stating that he had been under the impression that, at that time, there had been no immediate business other than procedural matters. He stated that he had put together an agenda for this first meeting of 2023 because he had been working over the last year to clarify the role and purpose of the Legislative and Budget Committee. He hoped the Committee would discuss and agree on several potential roles of the Committee.

**3. AGENDA ITEM #3, ELECTION OF COMMITTEE CHAIRPERSON.**

Chair Isbell stated that the Committee's chairperson needs to be elected annually. He indicated he was open to the role of Chair again and also welcomed opportunities for new leadership and ideas. Ms. Pham supported Mr. Isbell's nomination, adding that Mr. Isbell has been very passionate about the Committee for the past year.

**Motion:** Ms. Kavanaugh moved to nominate Reese Isbell for Committee Chair. Ms. Pham seconded.

No comments were received from the public.

Motion to appoint Reese Isbell as Chair of the Legislative and Budget Committee carried; 4 yes, 0 no, and 0 abstain, per roll call vote as follows:

The committee members voted "Yes": Reese Isbell, Megan Ellis, Colette Kavanaugh, Calimay Pham.

#### **4. AGENDA ITEM #4, DISCUSSION AND POSSIBLE APPROVAL OF THE AUGUST 15, 2022, COMMITTEE MEETING MINUTES.**

**Motion:** Ms. Pham moved to approve the August 15, 2022, Committee meeting minutes. Mr. Isbell seconded.

No comments were received from the public.

Motion to approve August 15, 2022, Committee meeting minutes carried; 4 yes, 0 no, and 0 abstain, per roll call vote as follows:

The committee members voted "Yes": Reese Isbell, Megan Ellis, Colette Kavanaugh, Calimay Pham.

#### **5. AGENDA ITEM #5, REVIEW AND DISCUSSION OF THE 2023 COMMITTEE CALENDAR.**

Executive Officer Kristy Underwood noted that the Committee calendar was provided because some legislation will be coming soon. The Committee is planned to meet monthly through the end of the session. Though the meetings will be virtual, Ms. Underwood indicated that there were no plans to continue with the virtual meetings after July 1.

No comments were received from the public.

#### **6. AGENDA ITEM #6, REVIEW OF 2022 LEGISLATIVE COMMITTEE ACTIVITIES.**

Chair Isbell indicated that he had requested staff to prepare a memo detailing the Committee's 2022 activities. Ms. Underwood stated that only a few pieces of legislation affected the Committee last year, which is good since SB 803 is still being implemented. The memo provided to the Committee showed the Committees' discussions over the meetings they held. Ms. Underwood noted that legislation coming this year might impact the Committee more. Chair Isbell thanked Ms. Underwood and her team for putting the memo together. He looked forward to the upcoming legislative session.

No comments were received from the public.

## **7. AGENDA ITEM #7, REVIEW, DISCUSSION, AND POSSIBLE RECOMMENDATION REGARDING BOARD MEMBER GUIDELINES AND PROCEDURE MANUAL'S LEGISLATIVE AND BUDGET COMMITTEE PURVIEW.**

Chair Isbell stated that the purpose of this agenda item was to open up a discussion of the recently renewed Board guidelines, which had originally been written in 2006. He noted that attached to the memo was the language of the Committee's purview in the Board guidelines. Chair Isbell mentioned that up until the last Board meeting, he had not had concerns with the language, but believed the purview needed to be clarified. He stated that if the Committee's purview is limited only to bills already established with a number and language, then that needs to be stated more clearly. If the Committee wanted a more expansive definition of those terms, that should be said clearly. Chair Isbell stated that, according to him, the legislative process includes discussions before a bill is written and given a number. He noted that those initial conversations are vital to the process. The Board and the Committee lose out on being a full stakeholder in the process if they only work on the legislation once it's been written. He highlighted that under the section on Committee agenda in the same Board member guidelines, it states, among other things, agendas shall focus on the specific tasks assigned by the Board and include time for Committee members to recommend new areas of study to be brought to the Board's attention for a possible assignment. Chair Isbell noted that the words 'new areas of study' indicate that a Committee can more than strictly adhere to bills that have already been formalized and sponsored by the legislature. He further noted that section 2.1 of goal two of the recently adopted strategic plan states to review policies and regulations that advocate for and support consumer protection. Section 2.4 says that the Board calls for establishing a schedule of regular Legislative and Budget Committee meetings to remain current with industry-related issues and policies. He pointed out that the two sections' language focused on Board policies and issues. Chair Isbell also addressed the concept around the Committee as a whole and that of Board members around potential interactions with legislators, legislative staff, or budget staff. He noted that section 2.2 of goal 2 of the Strategic Plan states the plan to establish relationships with legislators to educate them on industry topics and advanced Board interests. This, according to him, is a broad statement of topics and interests and not specific to a bill.

Ms. Pham agreed that the current language should be clarified. Still, she favored keeping the current role of the Committee, which is to review existing legislation in the legislature. Ms. Pham acknowledged Chair Isbell's suggestion that the Committee should be doing more than reviewing current legislation. She, however, pointed out that that is not appropriate since some types of legislation needed to be more specific to the Legislative and Budget Committee. Some of the legislation that the Board would want staff to pursue were topics specific and appropriate from the Education, the Health and Safety, or the Enforcement Committee. She noted that if the Legislative Committee is in charge of coming up with legislation, it would make the purview of the Committee too broad and imply that it is above the other committees. She stated that the Committee's role has been making legislation recommendations. Getting involved in coming up with legislation would be like replicating the work of the Board of vetting the suggestions from the other committees. She reiterated that the language should be clarified to say

when exactly in the process the Committee should look at legislation and added that the role of the Committee should stay as it is. Regarding the kind of contact the Board members should be having with members of the legislature, Ms. Pham stated that the most appropriate way is to direct any conversation through the Executive Officer to ensure that a uniform message is carried to the legislature.

Ms. Knight suggested adding the word “pending” before the word “legislation” to clarify the language. She indicated that the work of the committees is to recommend to the full Board to help facilitate the Board's work. She added that it would be inconsistent with other committees if the Legislative Committee is tasked with reviewing other committees’ work or potential ideas for legislative proposals. She also noted that it is the Executive Officer’s role to be in contact with legislators - it is not in the purview of a committee.

Chair Isbell acknowledged that each Committee should review its issues. He, however, believed that the Legislative Committee has a role that could assist rather than hinder the Board. For instance, Chair Isbell noted that the Committee could have delved deeply into the issue of interstate compact licenses to prepare a conversation for the Board, which would have saved time at the last Board meeting. He added that more than the word pending would be required to cover the role of the Committee. He believed it should be broader to allow for in-depth conversations around the legislature. Regarding contact with the legislature, Chair Isbell agreed that it is the role of staff. Still, he felt it would be more useful if the Committee could join meetings or have their own relationship with legislators.

Ms. Kavanaugh echoed Ms. Pham's sentiments about clarifying the language and supported adding the word pending. She also felt that proposing legislation would be too much work for the Committee and make the meetings longer.

Ms. Ellis also supported adding the word pending in the language. She further expressed concerns about the Legislative Committee playing the role of oversight in terms of the other committees bringing forth legislation recommendations. This, according to her, would be more like seeking permission from the Legislative Committee to pursue legislation. She added that the right venue for such discussions is the Board meetings.

Ms. Knight clarified that only some things, including pending legislation, must come before the Committee before going to the full Board, even if it might affect the Committee. This is because sometimes there is no time to go through the Committee. Additionally, discussing every potential idea that might be legislation is part of the Board’s work.

Chair Isbell indicated that his idea of having the Committee look at legislation before it went to the Board was to save the Board’s time. He acknowledged that his viewpoint was too big in terms of the purview of the Committee and agreed to go with the opinion of the other members. He also stated the need for ongoing regular Committee



meetings, not just holding them to a standard if we have a bill to discuss about. He mentioned that he had canceled many meetings, especially in the fall when no legislative activity existed. He, however, indicated that the Committee should have a role beyond discussing legislation and bills to allow for regular meetings.

**Motion:** Ms. Pham moved to make a recommendation to update the Board policy regarding the Legislative Committee to add the word “pending” before the word “legislation” in the language to state that the purpose of the Legislative and Budget Committee is to review and track pending legislation that affects the Board and that the Committee shall make recommendations on what position the Board shall take on pending legislation that could affect the operation of the Board, the health and safety of consumers, and the Board's licensees. Ms. Ellis seconded.

Chair Isbell mentioned that he would meet with DCA to discuss the ethical guidelines regarding legislative relationships to ensure he is following them correctly. He urged the other Committee members with similar questions to clarify with DCA.

**Public Comment:**

Wendy Cochran stated that collaborative work with other committees to deal with critical timing in the legislature is important for the Legislative Committee. She also noted that canceling meetings in the fall season with no legislation to discuss indicates that the Committee should be more proactive. According to her, the Committee should use the fall to prepare and plan for the future because they already know the cycles of the legislature. She also mentioned that industry members could freely engage with lawmakers because they are voting citizens.

Motion to make a recommendation to update Board policy regarding the Legislative Committee to add the word “pending” before the word legislation in the language to state that the purpose of the Legislative and Budget Committee is to review and track pending legislation that affects the Board and that the Committee shall make recommendations on what position the Board shall take on pending legislation that could potentially affect the operation of the Board, the health and safety of consumers, and the Board's licensees carried; 4 yes, 0 no, and 0 abstain, per roll call vote as follows:

The committee members voted "Yes": Reese Isbell, Megan Ellis, Colette Kavanaugh, Calimay Pham.

**8. AGENDA ITEM #8, UPDATE AND STATUS OF PENDING BOARD LEGISLATIVE PROPOSALS.**

Ms. Underwood stated that there needs to be bills in print for the two items discussed at the last Board meeting: the compact language and the remedial education language. She mentioned there was significant interest in both, so language might be put into a bill for one or both items next week. At next month's meeting, the Committee is expected to have those two recommendations in a statement.

No comments were received from the public.

**9. AGENDA ITEM #9, PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA.**

Jaime Schrabec from Precision Nails suggested having more discussions in the future about the budget aspect of the Board operations, particularly when we have existing laws and regulations that require the Board to do things that they're not being fully funded for. She noted this might be the case based on the pending legislation with remedial Education. She indicated that the Board needs more funding and that some funds must be reallocated to meet all obligations.

**10. AGENDA ITEM #10, SUGGESTIONS FOR FUTURE AGENDA ITEMS.**

Ms. Pham proposed a discussion on the update on the fee study.

No comments were received from the public.

**11. AGENDA ITEM #11, ADJOURNMENT.**

There being no further business to discuss, the meeting adjourned at approximately 9:52 a.m.



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**Budget Projection Reports and Fund Condition**

Below is the Budget Report Fiscal Year (FY) 2022-23 Expenditure Projection based on Fiscal Month 7 (FM) (January 2023). Based on these projections, the Board is scheduled to revert \$1,257,275 back into the Board's Fund.

**Board of Barbering and Cosmetology  
 FM 7 Fiscal Year 2022/23  
 Projected Expenditures 1/31/2023**

Personnel Services	ALLOTMENT	BBC Projected Expenditures	Projected Year
5100 Permanent	5,790,000	4,747,962	1,042,038
5100 Temporary	587,000	675,000	(88,000)
5105-5108 Per Diem, Overtime & Lump Sum	0	73,365	(73,365)
5150 Staff Benefits	3,470,000	3,221,944	248,056
5170 Salary Savings	0	0	0
<b>Total of Personnel Services</b>	<b>9,847,000</b>	<b>8,718,271</b>	<b>1,128,729</b>
Operating Expenses & Equipment (OE&E)	Allotment	BBC Projected Expenditures	Projected Year End Balance
5301 General Expense	166,000	161,460	4,540
5302 Printing	250,000	455,748	(205,748)
5304 Communication	21,000	71,008	(50,008)
5306 Postage	232,000	53,666	178,334
5308 Insurance	4,000	14,673	(10,673)
53202-204 Travel In State	73,000	48,864	24,136
53206-208 Travel, Out-of-State	0	2,500	(2,500)
5322 Training	11,000	5,200	5,800
5324 Facilities Operations	1,022,000	1,116,752	(94,752)
53402-53404 Attorney General, OAH, C&P Services Interdept	1,672,000	543,659	1,128,341
53404-53405 Consultant & Professional Sys. - External	1,646,000	2,203,223	(557,223)
5342 DCA Pro Rata	6,080,000	6,080,000	0
5342 Interagency Services	1,000	108,626	(107,626)
5344 Consolidated Data Center	68,000	32,000	36,000
5346 Information Technology	35,000	77,104	(42,104)
5362-5368 Equipment	223,000	324,102	(101,102)
5390 Other Items of Expense & Vehicles	43,000	86,151	(43,151)
54 Special Items and Expenses	0	33,718	(33,718)
<b>Total Operating Expenses &amp; Equipment</b>	<b>11,547,000</b>	<b>11,418,454</b>	<b>128,546</b>
<b>Total Expenses</b>	<b>21,394,000</b>	<b>20,136,725</b>	<b>1,257,275</b>
Schedule Reim. Other			
<b>Net Appropriation</b>	<b>21,394,000</b>	<b>20,136,725</b>	<b>1,257,275</b>

The below analysis of the Board’s Fund Condition projects to have 9.9 months in reserve for FY 2022/23. This means the Board would be able to continue to operate for 9.9 months without collecting any additional revenue. Due to expenditures naturally increasing, the Board’s fund will start to decrease, beginning in FY 2023/24, down to 8.9 months of revenue in reserves.

**0069 - Barbering and Cosmetology Contingency Fund Analysis of Fund Condition**  
**(Dollars in Thousands)**  
 2023-24 Governor’s Budget w\_ FM 7 Projections

Prepared Date 3.1.2023

	ACTUAL 2021-22	CY 2022-23	BY 2023-24	BY +1 2024-25	BY +1 2024-25
<b>BEGINNING BALANCE</b>	\$ 23,812	\$ 26,587	\$ 18,198	\$ 16,676	\$ 39,510
Prior Year Adjustment	\$ 2,727	\$ 0	\$ 0	\$ 0	\$ 0
Adjusted Beginning Balance	\$ 26,539	\$ 26,587	\$ 18,198	\$ 16,676	\$ 39,510
<b>REVENUES, TRANSFERS AND OTHER ADJUSTMENTS</b>					
Revenues					
4121200 - Delinquent fees	\$ 223	\$ 118	\$ 1,079	\$ 1,079	\$ 1,079
4127400 - Renewal fees	\$ 439	\$ 547	\$ 9,584	\$ 9,584	\$ 9,584
4129200 - Other regulatory fees	\$ 2,003	\$ 2,151	\$ 5,207	\$ 5,207	\$ 5,207
4129400 - Other regulatory licenses and permits	\$ 4,120	\$ 4,459	\$ 4,340	\$ 4,340	\$ 4,340
4143500 - Miscellaneous Services to the Public	\$ 15	\$ 9	\$ 0	\$ 0	\$ 0
4163000 - Income from surplus money investments	\$ 138	\$ 251	\$ 219	\$ 214	\$ 552
4170400 - Capital Asset Sales Proceeds	\$ 0	\$ 14	\$ 0	\$ 0	\$ 0
4171400 - Escheat of unclaimed checks and warrants	\$ 13	\$ 13	\$ 12	\$ 12	\$ 12
4172500 - Miscellaneous revenues	\$ 4	\$ 3	\$ 8	\$ 8	\$ 8
Totals, Revenues	\$ 6,955	\$ 7,565	\$ 20,449	\$ 20,444	\$ 20,782
Loan from the General Fund (0001) to the Barbering and Cosmetology Contingent Fund (0069) per Item 1111-011-0069, Budget Act of 2020	\$ 0	\$ 0	\$ 0	\$ 25,000	\$ 0
Operating Transfers To General Fund 0001 per EO E 21/22-276 Revised (AB 84)	\$ -723	\$ 0	\$ 0	\$ 0	\$ 0
Totals, Transfers and Other Adjustments	\$ -723	\$ 0	\$ 0	\$ 25,000	\$ 0
<b>TOTALS, REVENUES, TRANSFERS AND OTHER ADJUSTMENTS</b>	\$ 6,232	\$ 7,565	\$ 20,449	\$ 45,444	\$ 20,782
<b>TOTAL RESOURCES</b>	\$ 32,771	\$ 34,152	\$ 38,647	\$ 62,120	\$ 60,292
Expenditures:					
1111 Department of Consumer Affairs Regulatory Boards, Bureaus, Divisions (State Operations)	\$ 17,479	\$ 20,085	\$ 21,295	\$ 21,934	\$ 22,592
9892 Supplemental Pension Payments (State Operations)	\$ 316	\$ 316	\$ 316	\$ 316	\$ 0
9900 Statewide General Administrative Expenditures (Pro Rata) (State Operations)	\$ 1,189	\$ 1,197	\$ 360	\$ 360	\$ 360
Less funding provided by the General Fund (State Operations)	\$ -12,800	\$ -5,644	\$ 0	\$ 0	\$ 0
<b>TOTALS, EXPENDITURES AND EXPENDITURE ADJUSTMENTS</b>	\$ 6,184	\$ 15,954	\$ 21,971	\$ 22,610	\$ 22,952
<b>FUND BALANCE</b>					
Reserve for economic uncertainties	\$ 26,587	\$ 18,198	\$ 16,676	\$ 39,510	\$ 37,340
Months in Reserve	20.0	9.9	8.9	21.0	19.5

**NOTES:**

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

*Agenda Item*

*No. 4*

*No Attachment*



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## BOARD OF BARBERING & COSMETOLOGY

### BILL ANALYSIS

**Author:** Senator Bradford

**Subject:** Barbering and  
cosmetology

**Bill Number:** SB 384

**Version:** February 9, 2023

**Existing Law:**

Existing law, the Barbering and Cosmetology Act, provides for the licensure and regulation of the practice of barbering and cosmetology by the State Board of Barbering and Cosmetology within the Department of Consumer Affairs. Existing law exempts specified persons from those requirements.

**This Bill:**

Would clarify that the Department of Corrections is now called the Department of Corrections and Rehabilitation.

**Status:** 02/22/2023 Referred to Committee on Rules.

**Analysis:**

This is a spot bill for remedial education language. At the January 23, 2023, board meeting, the Board motioned to direct staff to pursue legislative change to Business and Professions Code section 7407.1 to allow remedial education to reduce or remove administrative fines in lieu of a first offense of a health and safety violation. Board staff are waiting for this bill to be amended to include remedial education language.

**Staff Position Recommendation:** Watch

**Action Needed:** Committee may make a motion to recommend a position to the full Board.

**Introduced by Senator Bradford**

February 9, 2023

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An act to amend Section 7319 of the Business and Professions Code, relating to barbering and cosmetology.

LEGISLATIVE COUNSEL'S DIGEST

SB 384, as introduced, Bradford. Barbering and cosmetology.

Existing law, the Barbering and Cosmetology Act, provides for the licensure and regulation of the practice of barbering and cosmetology by the State Board of Barbering and Cosmetology within the Department of Consumer Affairs. Existing law exempts specified persons from those requirements.

This bill would make nonsubstantive changes to those provisions.

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

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

- 1 SECTION 1. Section 7319 of the Business and Professions
- 2 Code is amended to read:
- 3 7319. The following persons are exempt from this chapter:
- 4 (a) All persons authorized by the laws of this state to practice
- 5 medicine, surgery, dentistry, pharmacy, osteopathic medicine,
- 6 chiropractic, naturopathy, podiatry, or nursing and acting within
- 7 the scope of practice for which they are licensed.
- 8 (b) Commissioned officers of the United States Army, Navy,
- 9 Air Force, Marine Corps, members of the United States Public
- 10 Health Service, and attendants attached to those services when
- 11 engaged in the actual performance of their official duties.

1 (c) Persons employed to render barbering, cosmetology, or  
2 electrolysis services in the course of and incidental to the business  
3 of employers engaged in the theatrical, radio, television or motion  
4 picture production industry.

5 (d) Persons engaged in any practice within its scope when done  
6 outside of a licensed establishment, without compensation.

7 (e) Persons engaged in the administration of hair, skin, or nail  
8 products for the exclusive purpose of recommending,  
9 demonstrating, or selling those products.

10 (f) Persons who render barbering or cosmetology services in an  
11 institutional program during the course of and incidental to the  
12 incarceration or confinement of inmates, prisoners, or persons  
13 charged with a crime. However, all of the following conditions  
14 shall apply:

15 (1) Those persons shall complete a barbering training course,  
16 developed by the Department of Corrections *and Rehabilitation*  
17 and approved by the Department of Consumer Affairs, in the proper  
18 care of instruments and the prevention of infectious diseases.

19 (2) Those persons shall successfully pass an examination,  
20 developed and administered by the Department of ~~Corrections;~~  
21 *Corrections and Rehabilitation*, on the proper care of instruments  
22 and the prevention of infectious diseases.

23 (3) All barbering facilities located in correctional institutions  
24 shall be subject to all appropriate health and safety sanitation  
25 standards, as determined by the Department of ~~Corrections.~~  
26 *Corrections and Rehabilitation*.





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## BOARD OF BARBERING & COSMETOLOGY

### BILL ANALYSIS

**Author:** Senator Nguyen

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

**Bill Number:** SB 451

**Version:** February 13, 2023

#### **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 exempts specified occupations and business relationships from the application of the ABC test. 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, 2025.

#### **This Bill:**

This bill would delete the January 1, 2025, inoperative date, thereby making licensed manicurists subject to this exemption indefinitely.

**Status:** Referred to Committee on Labor, Public Employment and Retirement

#### **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.

**Staff Position Recommendation:** Support

**Action Needed:** Committee may make a motion to recommend a position to the full Board.

**Introduced by Senator Nguyen**February 13, 2023

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

## LEGISLATIVE COUNSEL'S DIGEST

SB 451, 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, 2025.

This bill would delete the January 1, 2025, 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:

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

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

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

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

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

14 (i) A person regulated by the Attorney General under Article  
15 2.6 (commencing with Section 17550) of Chapter 1 of Part 3 of  
16 Division 7 of the Business and Professions Code.

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

22 (D) Graphic design.

23 (E) Grant writer.

24 (F) (i) Fine artist.

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

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

34 (H) Payment processing agent through an independent sales  
35 organization.

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

37 (i) By a still photographer, photojournalist, videographer, or  
38 photo editor who works under a written contract that specifies the  
39 rate of pay and obligation to pay by a defined time, as long as the  
40 individual providing the services is not directly replacing an

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

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

16 (iii) For the purposes of this subparagraph the following  
17 definitions apply:

18 (I) “Photo editor” means an individual who performs services  
19 ancillary to the creation of digital content, such as retouching,  
20 editing, and keywording.

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

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

36 (K) Services provided by an individual as a content contributor,  
37 ~~advisor~~, *adviser*, producer, narrator, or cartographer for a journal,  
38 book, periodical, evaluation, other publication or educational,  
39 academic, or instructional work in any format or media, who works  
40 under a written contract that specifies the rate of pay, intellectual

1 property ~~rights~~ *rights*, and obligation to pay by a defined time, as  
2 long as the individual providing the services is not directly  
3 replacing an employee who performed the same work at the same  
4 volume for the hiring entity, the individual does not primarily  
5 perform the work at the hiring entity’s business location  
6 notwithstanding paragraph (1) of subdivision ~~(a)~~; (a), and the  
7 individual is not restricted from working for more than one hiring  
8 entity.

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

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

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

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

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

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

24 ~~(vi) This subparagraph shall become inoperative, with respect~~  
25 ~~to licensed manicurists, on January 1, 2025.~~

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

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

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

38 (c) Section 2775 and the holding in *Dynamex* do not apply to  
39 the following, which are subject to the Business and Professions  
40 Code:

- 1 (1) A real estate licensee licensed by the State of California  
2 pursuant to Division 4 (commencing with Section 10000) of the  
3 Business and Professions Code, for whom the determination of  
4 employee or independent contractor status shall be governed by  
5 subdivision (b) of Section 10032 of the Business and Professions  
6 Code. If that section is not applicable, then this determination shall  
7 be governed as follows:
- 8 (A) For purposes of unemployment insurance by Section 650  
9 of the Unemployment Insurance Code.
- 10 (B) For purposes of workers' compensation by Section 3200 et  
11 seq.
- 12 (C) For all other purposes in the Labor Code by Borello. The  
13 statutorily imposed duties of a responsible broker under Section  
14 10015.1 of the Business and Professions Code are not factors to  
15 be considered under the Borello test.
- 16 (2) A home inspector, as defined in Section 7195 of the Business  
17 and Professions Code, and subject to the provisions of Chapter 9.3  
18 (commencing with Section 7195) of Division 3 of that code.
- 19 (3) A repossession agency licensed pursuant to Section 7500.2  
20 of the Business and Professions Code, for whom the determination  
21 of employee or independent contractor status shall be governed  
22 by Section 7500.2 of the Business and Professions Code, if the  
23 repossession agency is free from the control and direction of the  
24 hiring person or entity in connection with the performance of the  
25 work, both under the contract for the performance of the work and  
26 in fact.



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## BOARD OF BARBERING & COSMETOLOGY

### BILL ANALYSIS

**Author:** Assembly Member Gipson

**Subject:** Barbering and cosmetology: interstate cosmetology licensure compact.

**Bill Number:** AB 1328

**Version:** February 16, 2023

**Existing Law:**

Existing law, the Barbering and Cosmetology Act, establishes the State Board of Barbering and Cosmetology in the Department of Consumer Affairs to license and regulate barbers and cosmetologists. Existing law requires the board to grant a license to practice to an applicant who holds a current license to practice issued by another state that is not revoked, suspended, or otherwise restricted and is in good standing, upon submission of a completed application form and fees.

**This Bill:**

This bill would state the intent of the Legislature to enact legislation that would facilitate membership in an interstate cosmetology licensure compact.

**Status:** From printer. May be heard in committee March 19.

**Analysis:** At the January 23, 2023, the Board voiced support of joining the inter-state compact and motioned to move forward with a legislative proposal. The bill language is not currently specific to the proposed model legislation, however this is the first step in moving forward with the compact. The compact will allow the Board access to enforcement information through a shared database and grant the Board the authority to participate in joint investigations with other states.

**Staff Position Recommendation:** Support

**Action Needed:** Committee may make a motion to recommend a position to the full Board.



**ASSEMBLY BILL**

**No. 1328**

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**Introduced by Assembly Member Gipson**

February 16, 2023

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An act relating to business and professions.

LEGISLATIVE COUNSEL'S DIGEST

AB 1328, as introduced, Gipson. Barbering and cosmetology: interstate cosmetology licensure compact.

Existing law, the Barbering and Cosmetology Act, establishes the State Board of Barbering and Cosmetology in the Department of Consumer Affairs to license and regulate barbers and cosmetologists. Existing law requires the board to grant a license to practice to an applicant who holds a current license to practice issued by another state that is not revoked, suspended, or otherwise restricted and is in good standing, upon submission of a completed application form and fees.

This bill would state the intent of the Legislature to enact legislation that would facilitate membership in an interstate cosmetology licensure compact.

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

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

- 1 SECTION 1. It is the intent of the Legislature to enact
- 2 legislation that would facilitate membership in an interstate
- 3 cosmetology licensure compact.

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*Agenda Items*

*No. 6-8*

*No Attachments*