

**CALIFORNIA  
BOARD OF BARBERING AND COSMETOLOGY**



**APRIL 30, 2012**  
Board Meeting  
Department of Consumer Affairs  
1625 North Market Boulevard  
1<sup>st</sup> Floor Hearing Room, S-102  
Sacramento, CA 95834



Christie Truc Tran, Industry  
Member, President

Joseph Federico, Industry Member,  
Vice President

Wen Ling Cheng, Public  
Member

Deedee Crossett, Industry Member

Katie Dawson, Public Member

Richard Hedges, Public  
Member

Frank Lloyd, Public  
Member

Kristy Underwood  
Executive Officer

Edmund G. Brown Jr., Governor  
State of California

Department of Consumer Affairs  
Board of Barbering and Cosmetology

Telephone: (916) 575-7100

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

2420 Del Paso Road, Suite 100  
Sacramento, CA 95834

# California State Board of Barbering and Cosmetology

## **Board Meeting Agenda**

Monday, April 30, 2012

10:00 A.M. – 5:00 P.M.

Or until completion of business

Department of Consumer Affairs  
1625 North Market Blvd.  
Hearing Room S-102, 1st Floor  
Sacramento, CA 95834

### **ALL TIMES ARE APPROXIMATE AND SUBJECT TO CHANGE**

#### **OPEN SESSION:**

1. Call to Order/Roll Call (**Christie Truc Tran**)
2. Public Comment on Items not on the Agenda  
*Note: the Board may not discuss or take action on any matter raised during this public comment section, except to decide whether to place the matter on the agenda of a future meeting. [Government Code Sections 11125, 11125.7(a)]*
3. Board President's Report (**Christie Truc Tran**)
4. Executive Officer Report (**Kristy Underwood**)
  - Review of Board Statistics
  - Sunset Review Update
  - Information on the Boards Vehicles
  - Update on Inspector Class Study
5. Approval of Board Meeting Minutes
  - February 6, 2012
  - March 19, 2012
6. Regulations Update (**Kristy Underwood**)
  - Scoring Methods in Examinations – Approval of Modified Text and Final Statement of Reasons
  - Unregulated Practices – Decision on Whether to Pursue or Withdraw
  - Inspection of Examination Papers / Text and Reference Books for Students – Approval of Specific Language and Final Statement of Reasons
7. Legislation Update (**Kristy Underwood**)
  - Assembly Bill 1754 (Make up Artistry License)
8. Discussion on Natural Hair Braiding
9. Discussion on Garra Rufa Fish Pedicures
10. Recommendation on Hand Hvoiene

# California State Board of Barbering and Cosmetology

11. Discussion and Possible Establishment of Ad Hoc Committee on Strategic Planning
12. Discussion on Allies Innovation Initiative
13. Agenda Items for Next Meeting
14. Public Comment  
*Note: the Board may not discuss or take action on any matter raised during this public comment section, except to decide whether to place the matter on the agenda of a future meeting.  
[Government Code Sections 11125, 11125.7(a)]*
15. **Closed Session to Discuss Enforcement Case**
  - Discussion on Reconsideration and Disciplinary Cases (Closed Pursuant to Government Code Section 11126(c) (3)).
  - Report on Potential Litigation (Closed Pursuant to Government Code section 11126(e) (2) (B)).
16. Adjournment

A quorum of the Board will be present. Meetings of the Board of Barbering and Cosmetology are open to the public except when specifically noticed otherwise in accordance with the Open Meeting Act. The audience will be given appropriate opportunities to comment on any issue before the Board, but the Chair may apportion available time among those who wish to speak.

The meeting is accessible to the physically disabled. A person who needs disability-related accommodation or modification in order to participate in the meeting shall make a request no later than five (5) working days before the meeting to the Board by contacting Tami Guess at (916) 575-7144 or sending a written request to that person at the address noted above.

No Attachment

No Attachment

No Attachment

**Quarterly Barbering and Cosmetology  
Licensing Statistics  
Fiscal Year 11/12**

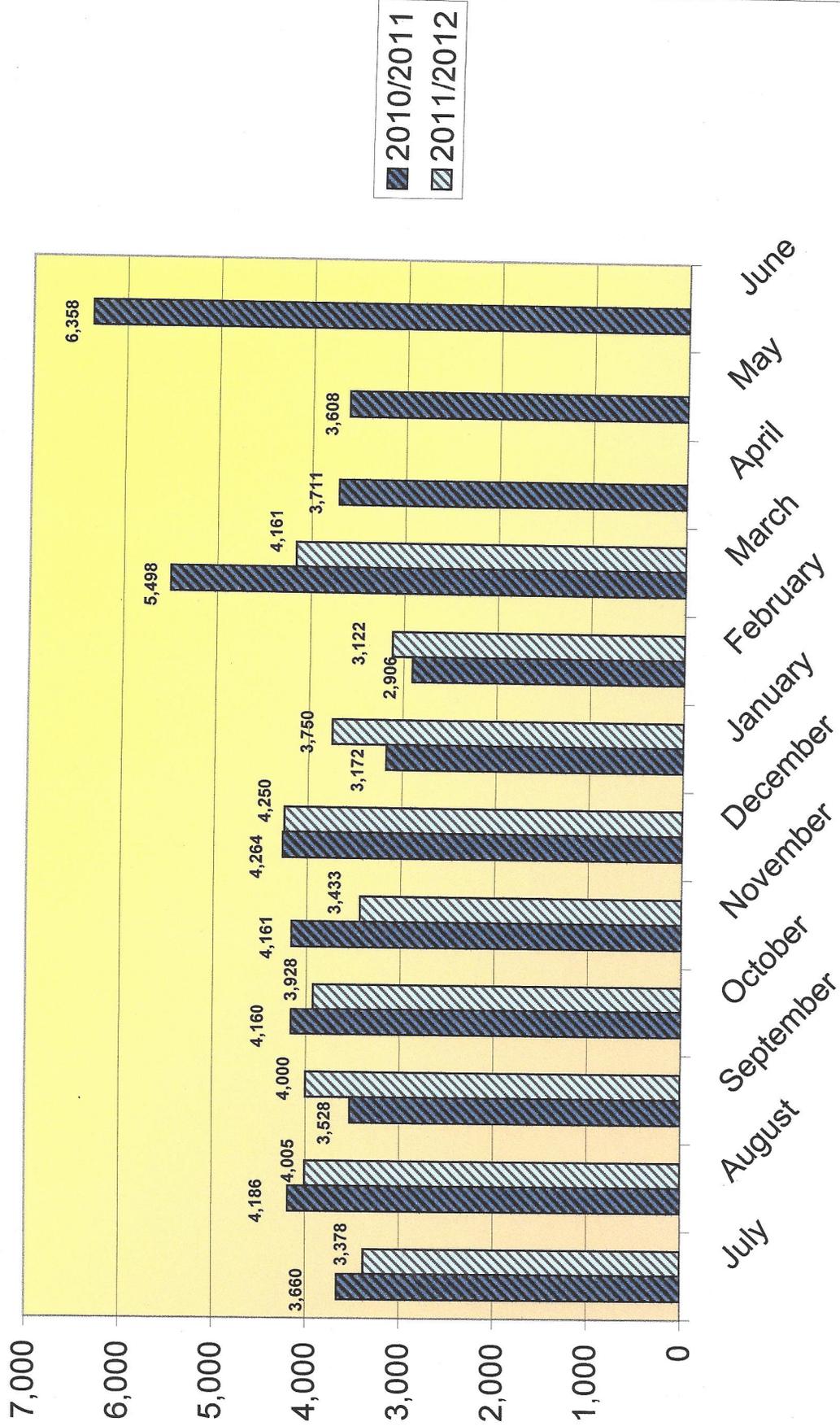
**Applications Received**

	Jul-Sept	Oct-Dec	Jan- Mar	Apr-May	YTD*
Establishment	1,394	1,658	1,479		4,531
Barber	476	426	465		1,367
Barber Apprentice	61	69	61		191
Cosmetology	5,678	5,543	5,628		16,849
Cosmetology Apprentice	122	142	135		399
Electrology	16	10	21		47
Manicuring	2,048	2,043	1,602		5,693
Esthetician	1,588	1,720	1,641		4,949
<b>Total</b>	<b>11,383</b>	<b>11,611</b>	<b>11,032</b>	<b>0</b>	<b>34,026</b>

**Licenses Issued**

	Jul-Sept	Oct-Dec	Jan- Mar	Apr-May	YTD*
Establishment	2,042	1,213	1,439		4,694
Mobile Unit	2	0	1		3
Barber	333	273	282		888
Barber Apprentice	57	57	63		177
Cosmetology	2,335	2,740	2,975		8,050
Cosmetology Apprentice	135	126	113		374
Electrology	2	5	5		12
Manicuring	1,366	1,221	972		3,559
Esthetician	1,050	917	975		2,942
<b>Total</b>	<b>7,322</b>	<b>6,552</b>	<b>6,825</b>	<b>0</b>	<b>20,699</b>

### Number of Applications Received



## Examination Results (January 1, 2012- March 31, 2012)

### Practical Examinations

Administered	Passed	Failed	Total	Pass Rate	*DNA
Barber	296	42	338	88%	78
Cosmetologist	4,100	458	4,558	90%	821
Esthetician	1,171	82	1,253	93%	128
Electrologist	6	1	7	86%	0
Manicurist	1,023	162	1,185	86%	130
<b>TOTAL</b>	<b>6,596</b>	<b>745</b>	<b>7,341</b>	<b>90%</b>	<b>1,157</b>

\* Did Not Attend

### Written Examinations

Barber	Passed	Failed	Total	Pass Rate
English	268	42	310	86%
Spanish	16	4	20	80%
Vietnamese	12	1	13	92%
<b>TOTAL</b>	<b>296</b>	<b>47</b>	<b>343</b>	<b>86%</b>

Cosmetologist	Passed	Failed	Total	Pass Rate
English	2,450	1,673	4,123	59%
Spanish	102	313	415	25%
Vietnamese	179	194	373	48%
<b>TOTAL</b>	<b>2,731</b>	<b>2,180</b>	<b>4,911</b>	<b>56%</b>

Manicurist	Passed	Failed	Total	Pass Rate
English	229	116	345	66%
Spanish	3	8	11	27%
Vietnamese	741	253	994	75%
<b>TOTAL</b>	<b>973</b>	<b>377</b>	<b>1,350</b>	<b>72%</b>

Esthetician	Passed	Failed	Total	Pass Rate
English	762	210	972	78%
Spanish	2	2	4	50%
Vietnamese	257	123	380	68%
<b>TOTAL</b>	<b>1,021</b>	<b>335</b>	<b>1,356</b>	<b>75%</b>

Electrologist	Passed	Failed	Total	Pass Rate
English	5	1	6	83%
Spanish	0	0	0	0%
Vietnamese	0	0	0	0%
<b>TOTAL</b>	<b>5</b>	<b>1</b>	<b>6</b>	<b>83%</b>



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



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

**Fiscal Year 11-12**

**Report Date: March 31, 2012**

	January - March	YTD
<b>NORTHERN</b>		
Heard	231	756
Received	204	757
Pending <sup>1</sup>	680	680 <sup>2</sup>
<b>SOUTHERN</b>		
Heard	464	1,451
Received	553	1,849
Pending <sup>1</sup>	1,606	1,606 <sup>2</sup>

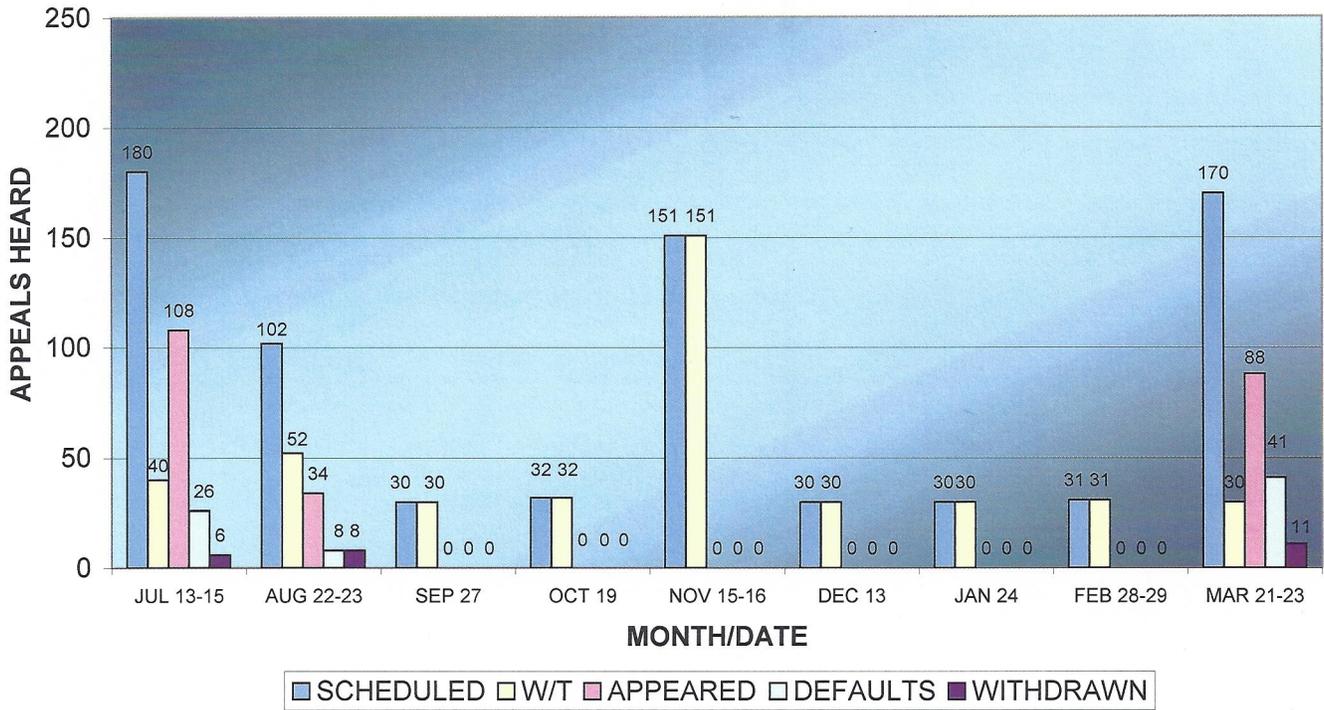
<sup>1</sup> Pending refers to the number of appeals received but not yet heard by DRC.

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

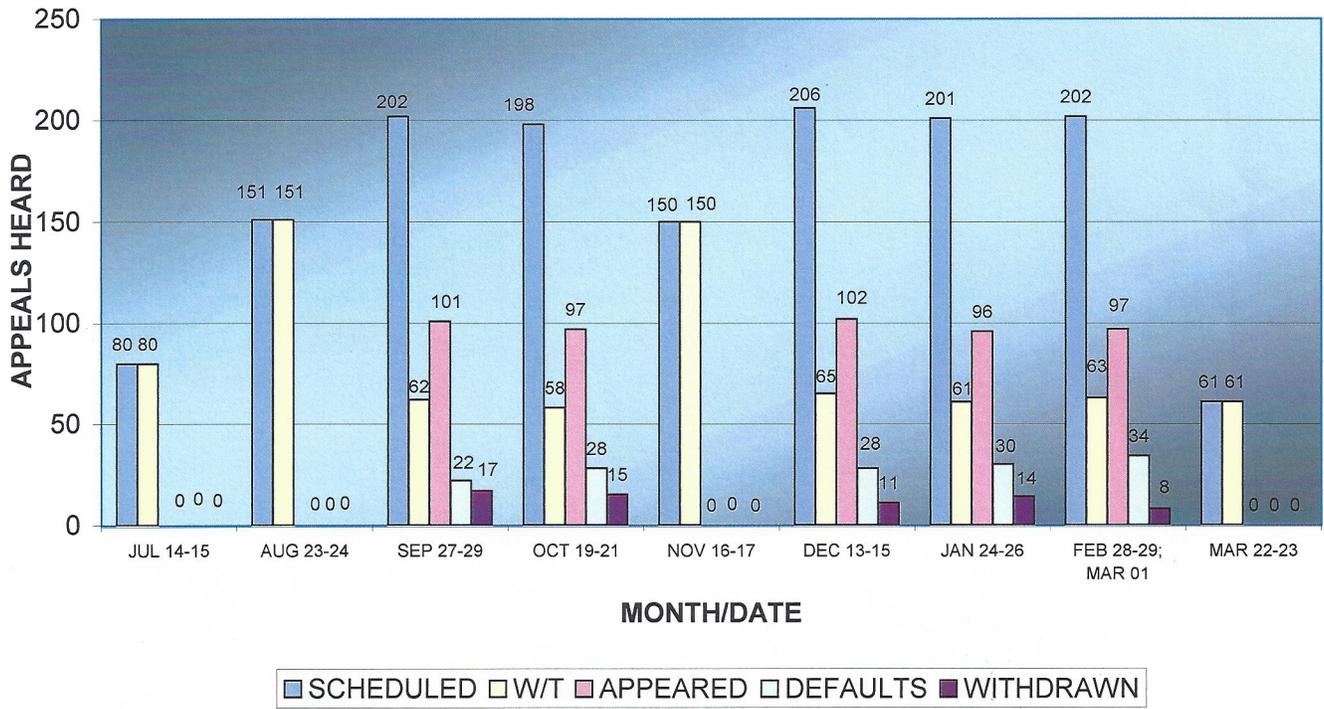
**2012 SCHEDULED HEARINGS**

Area	Location	Date
Southern	San Diego	April 17-19, 2012
Southern	Norwalk	May 15-17, 2012
Northern w/t	Sacramento	June 19-21, 2012
Northern w/t	Sacramento	July 23-25, 2012
Northern w/t	Sacramento	August 27-29, 2012

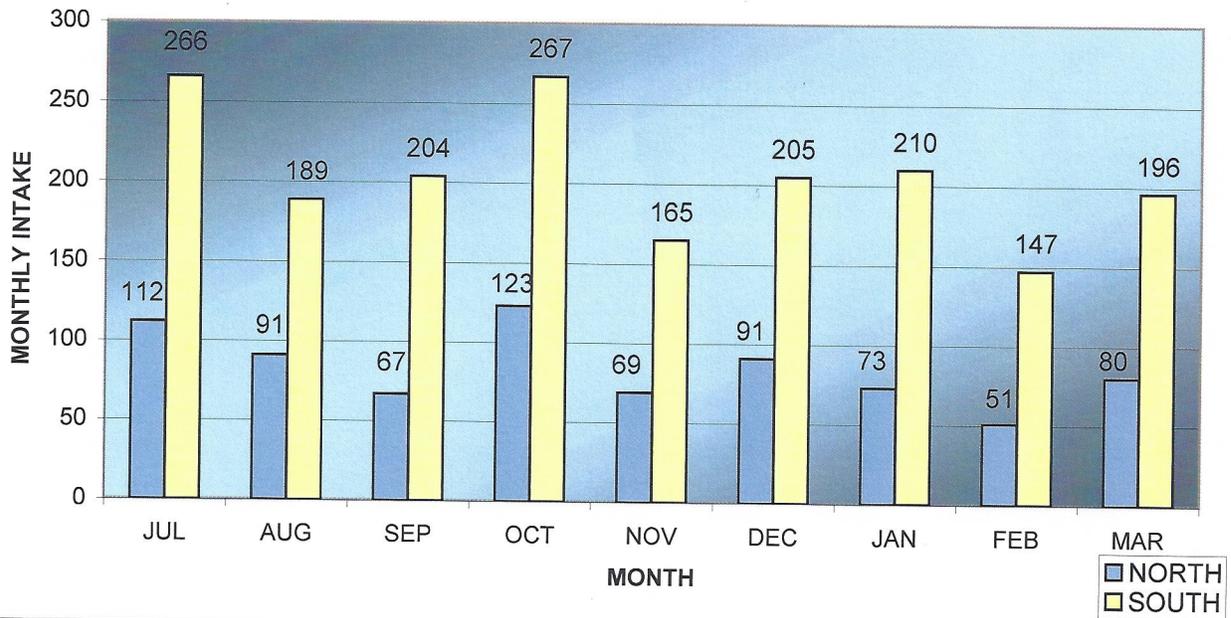
### NORTHERN DRC HEARINGS (Fiscal Year 11-12)



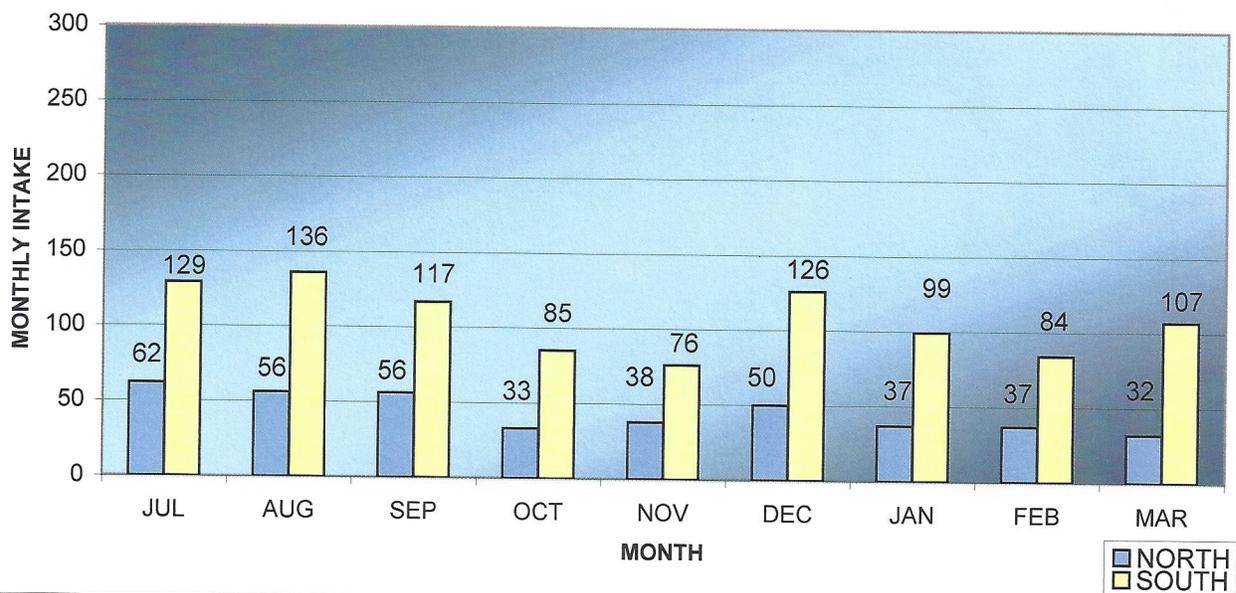
### SOUTHERN DRC HEARINGS (Fiscal Year 11-12)



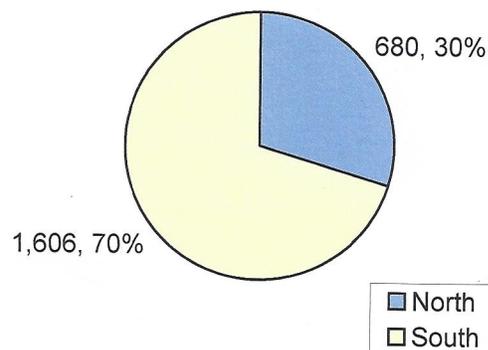
**DRC MONTHLY INCOMING APPEALS (Fiscal Year 11-12)**



**DRC MONTHLY INCOMING WT APPEALS (Fiscal Year 11-12)**



**DRC APPEALS WAITING TO BE HEARD/SCHEDULED  
(As of March 31, 2012)**



**QUARTERLY BARBERING AND COSMETOLOGY  
ENFORCEMENT STATISTICS Fiscal Year 11-12  
Report Date April 6, 2012**

Agenda Item #4

	Jul-Sept	Oct-Dec	Jan- Mar	Apr-Jun	YTD*
<b>COMPLAINTS</b>					
Complaints Received	1017	851	830		2698
Referred to DOI	14	21	17		52
Complaints Closed	927	972	954		2853
Total Complaints Pending	1189	1072	844		924
<b>APPLICATION INVESTIGATIONS</b>					
Received	468	393	483		1344
Pending	115	85	98		98
Closed	455	427	471		1353
<b>ATTORNEY GENERAL</b>					
Referred	34	27	23		84
Accusations Filed	10	16	10		36
Statement of Issues Filed	1	2	0		3
Total Pending	91	101	101		101
<b>DISCIPLINARY PROCESS</b>					
Proposed Decisions	1	4	1		6
Default Decision	7	6	3		16
Stipulation	10	11	6		27
<b>DISCIPLINARY OUTCOMES</b>					
Revocation	20	11	5		36
Revoke, Stay, Probation	0	6	4		10
Revoke, Stay, Suspend/Prob	12	7	4		23
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	15	9	9		33
Surrender of License	0	2	1		3
Public Reprimands	0	0	0		0
License Denied	1	0	2		3
Other	2	0	0		2
Total	50	35	25		110
<b>PROBATION</b>					
Active	202	203	197		197
	Jul-Sept	Oct-Dec	Jan- Mar	Apr-Jun	YTD
<b>CITATIONS **</b>					
Establishments	2723	2299	1060		6082
Barber	132	153	84		369
Barber Apprentice	17	8	7		32
Cosmetologist	951	709	433		2093
Cosmetologist Apprentice	13	17	6		36
Electrologist	2	1	0		3
Electrologist Apprentice	0	0	0		0
Manicurist	745	574	286		1605
Esthetician	75	52	26		153
Unlicensed Est.	137	124	80		341
Unlicensed Individual	189	176	75		440
Total	4984	4113	2057		11154
<b>INSPECTIONS **</b>					
Establishments w/ violations	2694	2277	699		5670
Establishments w/o violations	758	703	187		1648
Total	3452	2350	886		6688

\*\*Reporting Inspections and Citations through March 2012. Still inputting February and March data.



## **Budget Updates**

### **Constraints:**

On April 26, 2011, the Governor issued an Executive Order B-06-11 ordering No travel, either in state or out-of-state, is permitted unless it is mission critical or there is no cost to the state. The board prepared a reduction plan for FY 2011-12. The plan included eliminating the attendance to all outreach events and two (2) staff members will be traveling to conduct the scheduled disciplinary review hearings in Southern CA. All travel must be mission critical and pre-approved by the Boards' Executive Officer.

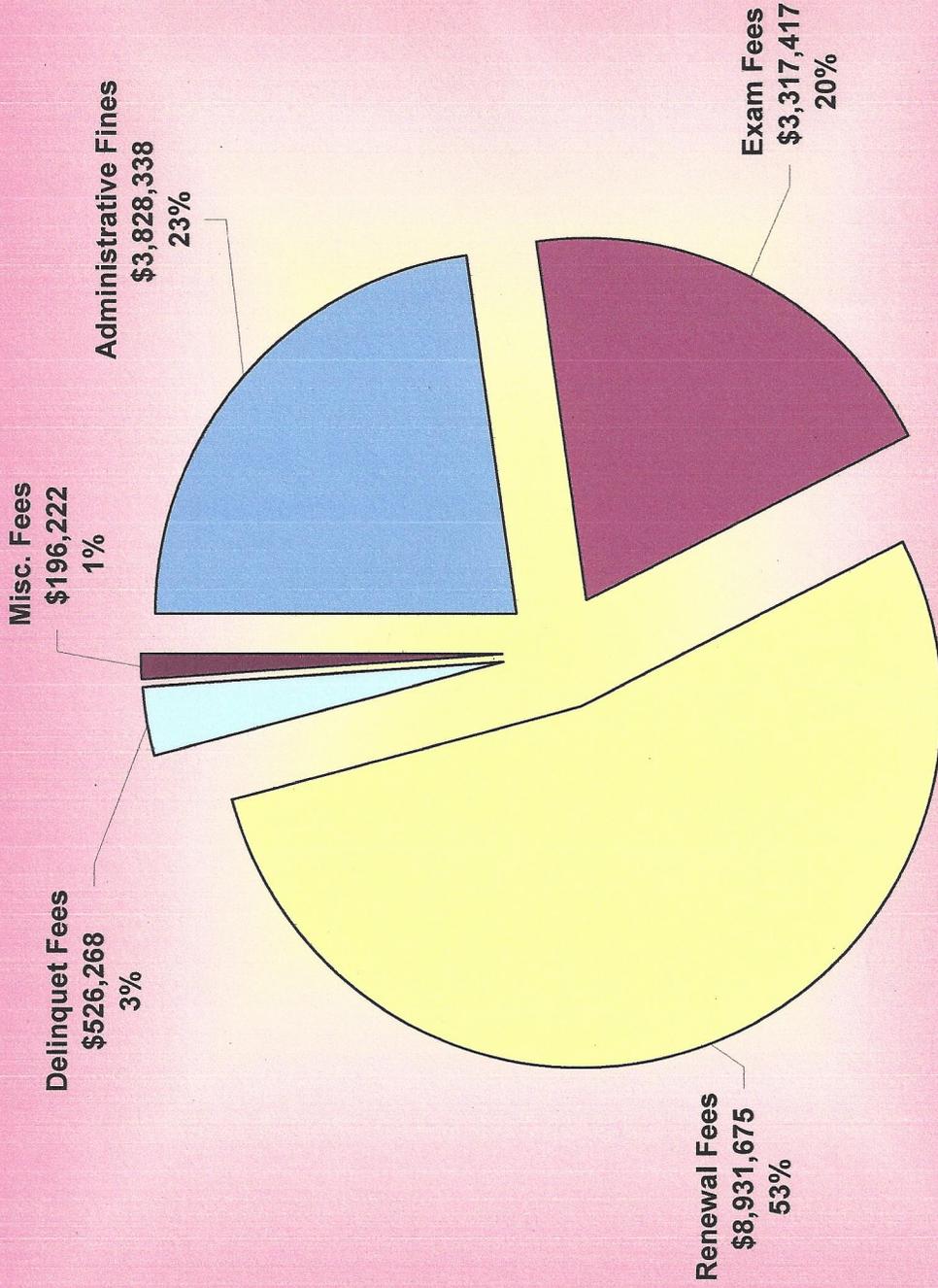
### **1. Budget 2011/12 Fiscal Year (July 2011 - June 2012):**

**Chart 1** displays the revenues received as of March 31, 2012.

**Chart 2** displays the expenditures as of March 31, 2012.

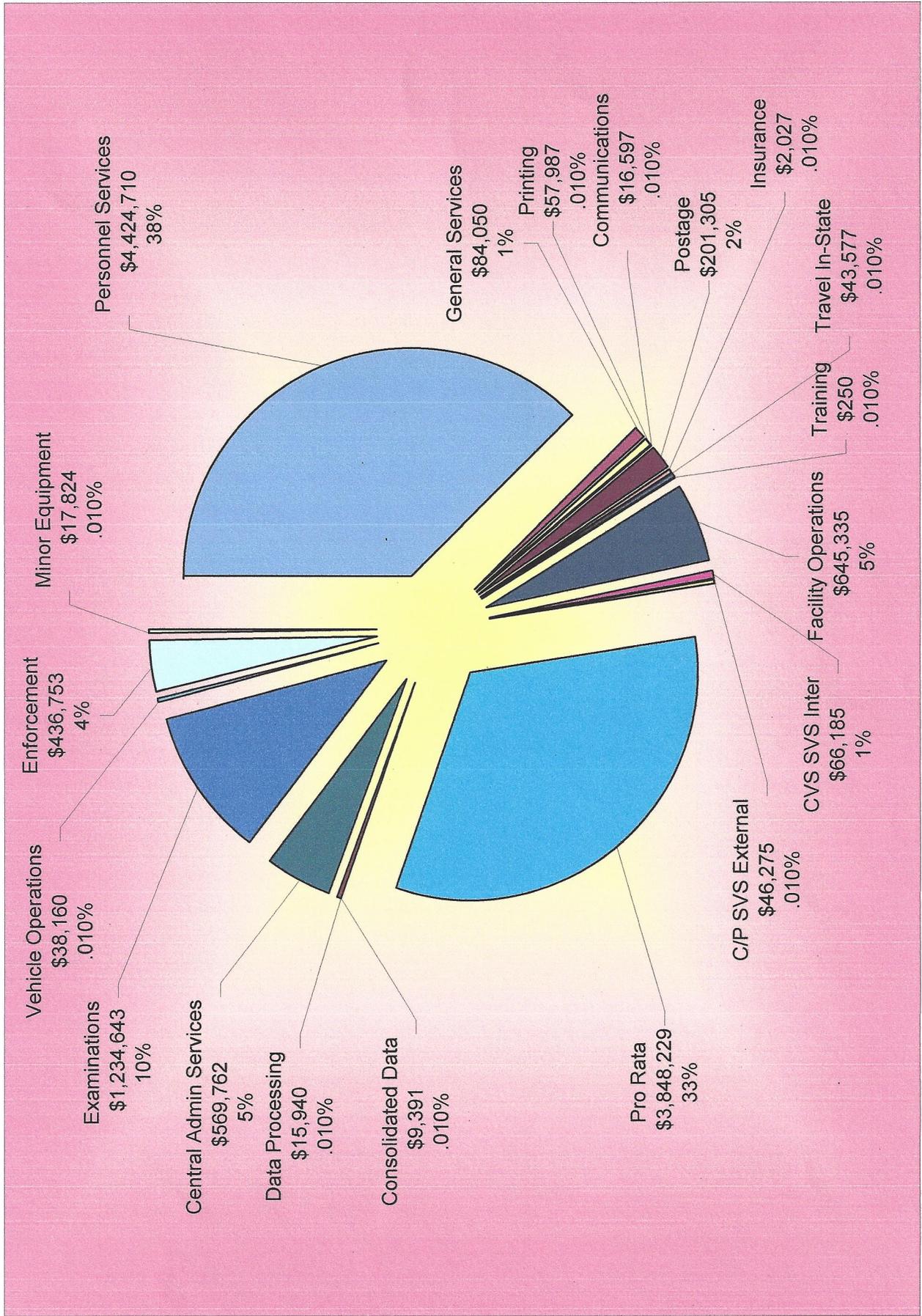
**Attachment 3** displays projected expenditures for end of the year.

Monthly Budget Report (11/12 FY)  
Revenues  
(As of 03/31/12)



Revenues as of 03/31/12  
\$16,799,920

**Monthly Budget Report (11/12 FY)**  
**Expenditures**  
**(As of 03/31/12)**



**Expenditures as of 03/31/12**  
**\$11,758,998**

**Board of Barbering and Cosmetology**  
**Fiscal Year 2011/2012**  
**Projected Expenditures**  
**03/31/12**

Personnel Services	ALLOTMENT	BBC Projected Expenditures	Projected Year
Permanent	3,988,544	3,557,351	431,193
Expert Examiners	452,554	452,554	0
Temporary	0	144,000	(144,000)
Statutory-Exempt	101,852	102,012	(160)
Board Member Commission	0	10,000	(10,000)
Overtime	0	17,000	(17,000)
<b>Total Salary &amp; Wages</b>	<b>4,542,950</b>	<b>4,282,917</b>	<b>260,033</b>
Salary Savings	(141,697)	0	(141,697)
5% Salary Savings	(278,460)	0	(278,460)
<b>Net Salary &amp; Wages</b>	<b>4,122,793</b>	<b>4,282,917</b>	<b>(160,124)</b>
Staff Benefits	1,919,501	1,528,261	391,240
<b>Total of Personnel Services</b>	<b>6,042,294</b>	<b>5,811,178</b>	<b>231,116</b>
<b>Operating Expenses &amp; Equipment (OE&amp;E)</b>			
Operating Expenses & Equipment (OE&E)	Allotment	BBC Projected Expenditures	Projected Year End Balance
General Expense	182,346	158,400	23,946
Printing	220,413	170,000	50,413
Communication	105,605	10,000	95,605
Postage	389,384	300,000	89,384
Insurance	4,489	2,500	1,989
Travel In State	82,789	99,300	(16,511)
Travel, Out-of-State	0	0	0
Training	24,513	20,000	4,513
Facilities Operations	1,327,231	1,327,231	0
Consultant & Professional Svs. - Interdept.	125,781	100,000	25,781
Consultant & Professional Svs. - External	196,947	196,947	0
Depart. and Central Admin. Services	5,132,165	5,100,000	32,165
Pro Rata	759,682	750,000	9,682
Consolidated Data Center	70,088	70,088	0
Examinations	1,394,277	1,354,034	40,243
Major Equipment	57,000	50,000	7,000
Minor Equipment	41,000	35,000	6,000
Data Processing	38,376	30,000	(2,000)
Other Items of Expense	7,288	70,000	(62,712)
Vehicle Operations	14,772	64,575	(49,803)
Enforcement	1,585,096	1,570,096	15,000
Special Items of Expenses	0	0	0
Required OE&OSavings		171,022	(50,482)
<b>Total Operating Expenses &amp; Equipment</b>	<b>11,759,242</b>	<b>11,649,193</b>	<b>220,213</b>
Scheduled reimbursements	(57,000)		(57,000)
<b>Total</b>	<b>17,744,536</b>	<b>17,460,371</b>	<b>163,213</b>

# 0069 - Barbering and Cosmetology Analysis of Fund Condition

Prepared 12/10/11

(Dollars in Thousands)

**NOTE: \$10 Million General Fund Repayment Outstanding**

## 2012-13 Governor's Budget

	GOVERNOR'S BUDGET				
	Actual 2010-11	CY 2011-12	BY 2012-13	BY+1 2013-14	BY+2 2014-15
<b>BEGINNING BALANCE</b>	\$ 10,104	\$ 15,985	\$ 8,174	\$ 10,155	\$ 11,749
Prior Year Adjustment	\$ -55	\$ -	\$ -	\$ -	\$ -
Adjusted Beginning Balance	\$ 10,049	\$ 15,985	\$ 8,174	\$ 10,155	\$ 11,749
<b>REVENUES AND TRANSFERS</b>					
Revenues:					
125600 Other regulatory fees	\$ 4,939	\$ 4,447	\$ 4,625	\$ 4,625	\$ 4,625
125700 Other regulatory licenses and permits	\$ 4,845	\$ 5,038	\$ 5,240	\$ 5,240	\$ 5,240
125800 Renewal fees	\$ 10,434	\$ 10,851	\$ 11,285	\$ 11,285	\$ 11,285
125900 Delinquent fees	\$ 728	\$ 757	\$ 788	\$ 788	\$ 788
141200 Sales of documents	\$ -	\$ -	\$ -	\$ -	\$ -
142500 Miscellaneous services to the public	\$ -	\$ -	\$ -	\$ -	\$ -
150300 Income from surplus money investments	\$ 60	\$ 190	\$ 101	\$ 116	\$ 128
150500 Interest Income from Interfund Loans	\$ -	\$ -	\$ -	\$ -	\$ -
160400 Sale of fixed assets	\$ -	\$ -	\$ -	\$ -	\$ -
161000 Escheat of unclaimed checks and warrants	\$ 19	\$ 19	\$ 19	\$ 19	\$ 19
161400 Miscellaneous revenues	\$ 9	\$ 7	\$ 7	\$ 7	\$ 7
Totals, Revenues	\$ 21,034	\$ 21,309	\$ 22,065	\$ 22,080	\$ 22,092
Transfers from Other Funds					
Proposed GF Loan Repayment					
Transfers to Other Funds					
Proposed GF Loan		\$ -11,000			
Totals, Revenues and Transfers	\$ 21,034	\$ 10,309	\$ 22,065	\$ 22,080	\$ 22,092
Totals, Resources	\$ 31,083	\$ 26,294	\$ 30,239	\$ 32,235	\$ 33,841
<b>EXPENDITURES</b>					
Disbursements:					
0840 State Controller (State Operations)	\$ 27	\$ 19	\$ -	\$ -	\$ -
1110 Program Expenditures (State Operations)	\$ 15,060	\$ 18,023	\$ 20,084	\$ 20,486	\$ 20,895
1111 Program Expenditures (State Operations)					
8880 Financial Information System for California (State Ops)	\$ 11	\$ 78	\$ -	\$ -	\$ -
9670 Equity Claims / Board of Control (State Operations)	\$ -	\$ -	\$ -	\$ -	\$ -
Total Disbursements	\$ 15,098	\$ 18,120	\$ 20,084	\$ 20,486	\$ 20,895
<b>FUND BALANCE</b>					
Reserve for economic uncertainties	\$ 15,985	\$ 8,174	\$ 10,155	\$ 11,749	\$ 12,946
Months in Reserve	12.7	4.9	5.9	6.7	7.3

NOTES:

- A. ASSUMES WORKLOAD AND REVENUE PROJECTIONS ARE REALIZED IN FY 2011-12.
- B. EXPENDITURE GROWTH PROJECTED AT 2% BEGINNING FY 2012-13.



State and Consumer Services Agency – Governor Edmund G. Brown Jr  
**BOARD OF BARBERING AND COSMETOLOGY**  
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### **FY 11-12 Outreach/Industry Events**

- None

On April 26, 2011, the Governor issued an Executive Order B-06-11 ordering No travel, either in state or out-of-state, is permitted unless it is a mission critical or there is no cost to the state.

## Memorandum

**To:** Boards Subject to Review in 2012-2013  
**From:** Senator Curren D. Price, Jr.  
**Date:** March 23, 2012  
**Subject:** Request for Information and Issues to be Addressed for 2012-2013 Oversight Review

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This is to inform you that the Senate Committee on Business, Professions and Economic Development (Committee) will begin its oversight review of the following boards in the fall of 2012:

- Athletic Commission
- Barbering and Cosmetology Board
- Guide Dogs for the Blind
- Interior Design Certification Organization
- Medical Board of California
- Occupational Therapy Board
- Optometry Board
- Osteopathic Medical Board
- Naturopathic Medicine Committee
- Registered Dispensing Opticians
- Respiratory Care Board
- Speech-Language Pathology, Audiology, Hearing Aid Dispensers Board
- Veterinary Medical Board

You are also receiving by email attachment a Report Form that should be completed and submitted to the Committee by November 1, 2012. Last year the Report was significantly revised and has been further modified this year. The revisions are intended to simplify the reporting process for the boards, and focus more clearly on issues of

interest to the Committee. The first sections of the Report provide an overview of the board's current regulatory program, and gives pre-formatted tables and charts to be completed by the board. The latter sections focus on responses by the board to particular issues raised by the individual board or that are raised by the Committee.

We ask that you complete the tables and charts and provide the appropriate statistical information for the fiscal years indicated. Please respond to all questions in the Report. In the event that some information may not pertain to your particular board, please note it on your response, but be sure to include information that is relevant to your activities and programs.

In completing your Report, please note the following sections:

Section 10 – Board Action and Response to Prior Sunset Issues. This should reflect the board's response to each individual issue and recommendation that was raised by the Committee during the prior review of the board.

Section 11 – New Issues. This is the board's opportunity to raise new issues and make recommendations to the Committee. The Committee may also have additional issues that the board will need to address during this review. We encourage the board to request a meeting with Committee staff to review possible issues to be addressed within this document for the 2012 review.

Along with the Report Form, you are also being sent a *Guide for Completing Tables in the Oversight Review Questionnaire*. Most of the tables may be completed from data in standard reports that the board already receives. If your board does not use the Department's report and data processes, please report information using the definitions given in the Guide.

Each board should submit 15 printed copies of its final Report to the Committee, and also submit an electronic copy to the Committee (you may submit a PDF version, but we also request a MS-Word copy).

Committee staff will be responsible for reviewing and analyzing information provided by the board, and for preparing a background paper with issues to be addressed by the board and by interested parties during our public hearings to be held early in 2013.

We expect to announce the dates for the hearings sometime in December. We would like to request that once the hearing dates are set, that the board notify (by mail or email) its interested parties list of organizations, groups, or individuals who regarding the Committee's public hearings.

If you have any questions about the attached documents or the review process, please contact G. V. Ayers of my staff at (916) 651-4104.

**[BOARD NAME]**  
**BACKGROUND INFORMATION AND OVERVIEW OF THE CURRENT REGULATORY PROGRAM**  
**As of [date]**

**Section 1 – Background and Description of the Board and Regulated Profession**

Provide a short explanation of the history and function of the board.<sup>1</sup> Describe the occupations/profession that are licensed and/or regulated by the board (Practice Acts vs. Title Acts).

1. Describe the make-up and functions of each of the board’s committees (cf., Section 12, Attachment B).

<b>Table 1a. Attendance</b>			
[Enter board member name]			
Date Appointed:	[Enter date appointed]		
<b>Meeting Type</b>	<b>Meeting Date</b>	<b>Meeting Location</b>	<b>Attended?</b>
Meeting 1	[Enter Date]	[Enter Location]	[Y/N]
Meeting 2	[Enter Date]	[Enter Location]	[Y/N]
Meeting 3	[Enter Date]	[Enter Location]	[Y/N]
Meeting 4	[Enter Date]	[Enter Location]	[Y/N]

<b>Table 1b. Board/Committee Member Roster</b>					
<b>Member Name</b> (Include Vacancies)	<b>Date First Appointed</b>	<b>Date Re-appointed</b>	<b>Date Term Expires</b>	<b>Appointing Authority</b>	<b>Type</b> (public or professional)

2. In the past four years, was the board unable to hold any meetings due to lack of quorum? If so, please describe. Why? When? How did it impact operations?
3. Describe any major changes to the board since the last Sunset Review, including:
  - Internal changes (i.e., reorganization, relocation, change in leadership, strategic planning)

<sup>1</sup> The term “board” in this document refers to a board, bureau, commission, committee, department, division, program or agency, as applicable. Please change the term “board” throughout this document to appropriately refer to the entity being reviewed.

- All legislation sponsored by the board and affecting the board since the last sunset review.
  - All regulation changes approved by the board the last sunset review. Include the status of each regulatory change approved by the board.
4. Describe any major studies conducted by the board (cf. Section 12, Attachment C).
  5. List the status of all national associations to which the board belongs.
    - Does the board's membership include voting privileges?
    - List committees, workshops, working groups, task forces, etc., on which board participates.
    - How many meetings did board representative(s) attend? When and where?
    - If the board is using a national exam, how is the board involved in its development, scoring, analysis, and administration?

**Section 2 – Performance Measures and Customer Satisfaction Surveys**

6. Provide each quarterly and annual performance measure report as published on the DCA website
7. Provide results for each question in the customer satisfaction survey broken down by fiscal year. Discuss the results of the customer satisfaction surveys.

**Section 3 – Fiscal and Staff**

**Fiscal Issues**

8. Describe the board's current reserve level, spending, and if a statutory reserve level exists.
9. Describe if/when a deficit is projected to occur and if/when fee increase or reduction is anticipated. Describe the fee changes (increases or decreases) anticipated by the board.

<b>Table 2. Fund Condition</b>						
(Dollars in Thousands)	FY 2008/09	FY 2009/10	FY 2009/10	FY 2011/12	FY 2012/13	FY 2013/14
Beginning Balance						
Revenues and Transfers						
<b>Total Revenue</b>	\$	\$	\$	\$	\$	\$
Budget Authority						
Expenditures						
Loans to General Fund						
Accrued Interest, Loans to General Fund						
Loans Repaid From General Fund						
<b>Fund Balance</b>	\$	\$	\$	\$	\$	\$
<b>Months in Reserve</b>						

10. Describe history of general fund loans. When were the loans made? When were payments made? What is the remaining balance?
11. Describe the amounts and percentages of expenditures by program component. Use *Table 3. Expenditures by Program Component* to provide a breakdown of the expenditures by the board in each program area. Expenditures by each component (except for pro rata) should be broken out by personnel expenditures and other expenditures.

<b>Table 3. Expenditures by Program Component</b>								
	FY 2008/09		FY 2009/10		FY 2010/11		FY 2011/12	
	Personnel Services	OE&E						
Enforcement								
Examination								
Licensing								
Administration *								
DCA Pro Rata								
Diversion (if applicable)								
<b>TOTALS</b>	\$	\$	\$	\$	\$	\$	\$	\$

\*Administration includes costs for executive staff, board, administrative support, and fiscal services.

12. Describe license renewal cycles and history of fee changes in the last 10 years. Give the fee authority (Business and Professions Code and California Code of Regulations citation) for each fee charged by the board.

<b>Table 4. Fee Schedule and Revenue</b>							
Fee	Current Fee Amount	Statutory Limit	FY 2008/09 Revenue	FY 2009/10 Revenue	FY 2010/11 Revenue	FY 2011/12 Revenue	% of Total Revenue

13. Describe Budget Change Proposals (BCPs) submitted by the board in the past four fiscal years.

<b>Table 5. Budget Change Proposals (BCPs)</b>								
BCP ID #	Fiscal Year	Description of Purpose of BCP	Personnel Services				OE&E	
			# Staff Requested (include classification)	# Staff Approved (include classification)	\$ Requested	\$ Approved	\$ Requested	\$ Approved

## Staffing Issues

14. Describe any staffing issues/challenges, i.e., vacancy rates, efforts to reclassify positions, staff turnover, recruitment and retention efforts, succession planning.
15. Describe the board's staff development efforts and how much is spent annually on staff development (cf., Section 12, Attachment D).

## Section 4 – Licensing Program

16. What are the board's performance targets/expectations for its licensing<sup>2</sup> program? Is the board meeting those expectations? If not, what is the board doing to improve performance?
17. Describe any increase or decrease in average time to process applications, administer exams and/or issue licenses. Have pending applications grown at a rate that exceeds completed applications? If so, what has been done to address them? What are the performance barriers and what improvement plans are in place? What has the board done and what is the board going to do to address any performance issues, i.e., process efficiencies, regulations, BCP, legislation?
18. How many licenses or registrations does the board issue each year? How many renewals does the board issue each year?

Table 6. Licensee Population					
		FY 2008/09	FY 2009/10	FY 2010/11	FY 2011/12
[Enter License Type]	Active				
	Out-of-State				
	Out-of-Country				
	Delinquent				
[Enter License Type]	Active				
	Out-of-State				
	Out-of-Country				
	Delinquent				
[Enter License Type]	Active				
	Out-of-State				
	Out-of-Country				
	Delinquent				
[Enter License Type]	Active				
	Out-of-State				
	Out-of-Country				
	Delinquent				

<sup>2</sup> The term "license" in this document includes a license certificate or registration.

**Table 7a. Licensing Data by Type**

	Application Type	Received	Approved	Closed	Issued	Pending Applications			Cycle Times		
						Total (Close of FY)	Outside Board control*	Within Board control*	Complete Apps	Incomplete Apps	combined, IF unable to separate out
FY 2009/10	(Exam)					-	-	-	-	-	-
	(License)					-	-	-	-	-	-
	(Renewal)			n/a		-	-	-	-	-	-
FY 2010/11	(Exam)										
	(License)										
	(Renewal)			n/a							
FY 2011/12	(Exam)										
	(License)										
	(Renewal)			n/a							

\* Optional. List if tracked by the board.

**Table 7b. Total Licensing Data**

	FY 2009/10	FY 2010/11	FY 2011/12
<b>Initial Licensing Data:</b>			
Initial License/Initial Exam Applications Received			
Initial License/Initial Exam Applications Approved			
Initial License/Initial Exam Applications Closed			
License Issued			
<b>Initial License/Initial Exam Pending Application Data:</b>			
Pending Applications (total at close of FY)			
Pending Applications (outside of board control)*			
Pending Applications (within the board control)*			
<b>Initial License/Initial Exam Cycle Time Data (WEIGHTED AVERAGE):</b>			
Average Days to Application Approval (All - Complete/Incomplete)			
Average Days to Application Approval (incomplete applications)*			
Average Days to Application Approval (complete applications)*			
<b>License Renewal Data:</b>			
License Renewed			

\* Optional. List if tracked by the board.

19. How does the board verify information provided by the applicant?

- a. What process is used to check prior criminal history information, prior disciplinary actions, or other unlawful acts of the applicant?
- b. Does the board fingerprint all applicants?
- c. Have all current licensees been fingerprinted? If not, explain.

- d. Is there a national databank relating to disciplinary actions? Does the board check the national databank prior to issuing a license? Renewing a license?
  - e. Does the board require primary source documentation?
20. Describe the board's legal requirement and process for out-of-state and out-of-country applicants to obtain licensure.
21. Does the board send No Longer Interested notifications to DOJ on a regular and ongoing basis? Is this done electronically? Is there a backlog? If so, describe the extent and efforts to address the backlog.

**Examinations**

<b>Table 8. Examination Data</b>			
<b>California Examination (include multiple language) if any:</b>			
	License Type		
	Exam Title		
FY 2008/09	# of 1 <sup>st</sup> Time Candidates		
	Pass %		
FY 2009/10	# of 1 <sup>st</sup> Time Candidates		
	Pass %		
FY 2010/11	# of 1 <sup>st</sup> Time Candidates		
	Pass %		
FY 2011/12	# of 1 <sup>st</sup> time Candidates		
	Pass %		
Date of Last OA			
Name of OA Developer			
Target OA Date			
<b>National Examination (include multiple language) if any:</b>			
	License Type		
	Exam Title		
FY 2008/09	# of 1 <sup>st</sup> Time Candidates		
	Pass %		
FY 2009/10	# of 1 <sup>st</sup> Time Candidates		
	Pass %		
FY 2010/11	# of 1 <sup>st</sup> Time Candidates		
	Pass %		
FY 2011/12	# of 1 <sup>st</sup> time Candidates		
	Pass %		
Date of Last OA			
Name of OA Developer			
Target OA Date			

22. Describe the examinations required for licensure. Is a national examination used? Is a California specific examination required?

23. What are pass rates for first time vs. retakes in the past 4 fiscal years? (Refer to Table 8: Examination Data)
24. Is the board using computer based testing? If so, for which tests? Describe how it works. Where is it available? How often are tests administered?
25. Are there existing statutes that hinder the efficient and effective processing of applications and/or examinations? If so, please describe.

### **School approvals**

26. Describe legal requirements regarding school approval. Who approves your schools? What role does BPPE have in approving schools? How does the board work with BPPE in the school approval process?
27. How many schools are approved by the board? How often are schools reviewed?
28. What are the board's legal requirements regarding approval of international schools?

### **Continuing Education/Competency Requirements**

29. Describe the board's continuing education/competency requirements, if any. Describe any changes made by the board since the last review.
- How does the board verify CE or other competency requirements?
  - Does the board conduct CE audits on its licensees? Describe the board's policy on CE audits.
  - What are consequences for failing a CE audit?
  - How many CE audits were conducted in the past four fiscal years? How many fails?
  - What is the board's course approval policy?
  - Who approves CE providers? Who approves CE courses? If the board approves them, what is the board application review process?
  - How many applications for CE providers and CE courses were received? How many were approved?
  - Does the board audit CE providers? If so, describe the board's policy and process.
  - Describe the board's effort, if any, to review its CE policy for purpose of moving toward performance based assessments of the licensees' continuing competence.

## **Section 5 – Enforcement Program**

30. What are the board's performance targets/expectations for its enforcement program? Is the board meeting those expectations? If not, what is the board doing to improve performance?
31. Explain trends in enforcement data and the board's efforts to address any increase in volume, timeframes, ratio of closure to pending, or other challenges. What are the performance barriers? What improvement plans are in place? What has the board done and what is the board going to do to address these issues, i.e., process efficiencies, regulations, BCP, legislation?

<b>Table 9a. Enforcement Statistics</b>			
	FY 2009/10	FY 2010/11	FY 2011/12
<b>COMPLAINT</b>			
Intake (Use CAS Report EM 10)			
Received			
Closed			
Referred to INV			
Average Time to Close	-		
Pending (close of FY)			
Source of Complaint (Use CAS Report 091)			
Public			
Licensee/Professional Groups			
Governmental Agencies			
Other			
Conviction / Arrest (Use CAS Report EM 10)			
CONV Received			
CONV Closed			
Average Time to Close	-		
CONV Pending (close of FY)			
<b>LICENSE DENIAL (Use CAS Reports EM 10 and 095)</b>			
License Applications Denied			
SOIs Filed			
SOIs Withdrawn			
SOIs Dismissed			
SOIs Declined			
Average Days SOI	-		
<b>ACCUSATION (Use CAS Report EM 10)</b>			
Accusations Filed			
Accusations Withdrawn			
Accusations Dismissed			
Accusations Declined			
Average Days Accusations	-		
Pending (close of FY)			

**Table 9b. Enforcement Statistics (continued)**

	FY 2009/10	FY 2010/11	FY 2011/12
<b>DISCIPLINE</b>			
Disciplinary Actions (Use CAS Report EM 10)			
Proposed/Default Decisions			
Stipulations			
Average Days to Complete	-		
AG Cases Initiated			
AG Cases Pending (close of FY)			
Disciplinary Outcomes (Use CAS Report 096)			
Revocation			
Voluntary Surrender			
Suspension			
Probation with Suspension			
Probation			
Probationary License Issued			
Other			
<b>PROBATION</b>			
New Probationers			
Probations Successfully Completed			
Probationers (close of FY)			
Petitions to Revoke Probation			
Probations Revoked			
Probations Modified			
Probations Extended			
Probationers Subject to Drug Testing			
Drug Tests Ordered			
Positive Drug Tests			
Petition for Reinstatement Granted			
<b>DIVERSION</b>			
New Participants			
Successful Completions			
Participants (close of FY)			
Terminations			
Terminations for Public Threat			
Drug Tests Ordered			
Positive Drug Tests			

<b>Table 9c. Enforcement Statistics (continued)</b>			
	FY 2009/10	FY 2010/11	FY 2011/12
<b>INVESTIGATION</b>			
All Investigations (Use CAS Report EM 10)			
First Assigned			
Closed			
Average days to close	-		
Pending (close of FY)			
Desk Investigations (Use CAS Report EM 10)			
Closed	-		
Average days to close	-		
Pending (close of FY)	-		
Non-Sworn Investigation (Use CAS Report EM 10)			
Closed	-		
Average days to close	-		
Pending (close of FY)	-		
Sworn Investigation			
Closed (Use CAS Report EM 10)			
Average days to close	-		
Pending (close of FY)			
<b>COMPLIANCE ACTION (Use CAS Report 096)</b>			
ISO & TRO Issued			
PC 23 Orders Requested			
Other Suspension Orders			
Public Letter of Reprimand			
Cease & Desist/Warning			
Referred for Diversion			
Compel Examination			
<b>CITATION AND FINE (Use CAS Report EM 10 and 095)</b>			
Citations Issued			
Average Days to Complete	-		
Amount of Fines Assessed			
Reduced, Withdrawn, Dismissed			
Amount Collected			
<b>CRIMINAL ACTION</b>			
Referred for Criminal Prosecution			

<b>Table 10. Enforcement Aging</b>						
	FY 2008/09	FY 2009/10	FY 2010/11	FY 2011/12	Cases Closed	Average %
<b>Attorney General Cases (Average %)</b>						
Closed Within:						
1 Year						
2 Years						
3 Years						
4 Years						
Over 4 Years						
Total Cases Closed						
<b>Investigations (Average %)</b>						
Closed Within:						
90 Days						
180 Days						
1 Year						
2 Years						
3 Years						
Over 3 Years						
Total Cases Closed						

32. What do overall statistics show as to increases or decreases in disciplinary action since last review.
33. How are cases prioritized? What is the board's compliant prioritization policy? Is it different from DCA's *Complaint Prioritization Guidelines for Health Care Agencies* (August 31, 2009)? If so, explain why.
34. Are there mandatory reporting requirements? For example, requiring local officials or organizations, or other professionals to report violations, or for civil courts to report actions taken against a licensee. Are there problems with receiving the required reports? If so, what could be done to correct the problems?
35. Does the board operate with a statute of limitations? If so, please describe and provide citation. If so, how many cases were lost due to statute of limitations? If not, what is the board's policy on statute of limitations?
36. Describe the board's efforts to address unlicensed activity and the underground economy.

#### **Cite and Fine**

37. Discuss the extent to which the board has used its cite and fine authority. Discuss any changes from last review and last time regulations were updated. Has the board increased its maximum fines to the \$5,000 statutory limit?
38. How is cite and fine used? What types of violations are the basis for citation and fine?
39. How many informal office conferences, Disciplinary Review Committees reviews and/or Administrative Procedure Act appeals in the last 4 fiscal years?
40. What are the 5 most common violations for which citations are issued?
41. What is average fine pre and post appeal?
42. Describe the board's use of Franchise Tax Board intercepts to collect outstanding fines.

## Cost Recovery and Restitution

43. Describe the board's efforts to obtain cost recovery. Discuss any changes from the last review.
44. How many and how much is ordered for revocations, surrenders and probationers? How much do you believe is uncollectable? Explain.
45. Are there cases for which the board does not seek cost recovery? Why?
46. Describe the board's use of Franchise Tax Board intercepts to collect cost recovery.
47. Describe the board's efforts to obtain restitution for individual consumers, any formal or informal board restitution policy, and the types of restitution that the board attempts to collect, i.e., monetary, services, etc. Describe the situation in which the board may seek restitution from the licensee to a harmed consumer.

<b>Table 11. Cost Recovery</b>				
	FY 2009/10	FY 2010/11	FY 2011/12	FY 2012/13
Total Enforcement Expenditures				
Potential Cases for Recovery *				
Cases Recovery Ordered				
Amount of Cost Recovery Ordered				
Amount Collected				
* "Potential Cases for Recovery" are those cases in which disciplinary action has been taken based on violation of the license practice act.				

<b>Table 12. Restitution</b>				
	FY 2008/09	FY 2009/10	FY 2010/11	FY 2011/12
Amount Ordered				
Amount Collected				

## Section 6 – Public Information Policies

48. How does the board use the internet to keep the public informed of board activities? Does the board post board meeting materials online? When are they posted? How long do they remain on the website? When are draft meeting minutes posted online? When does the board post final meeting minutes? How long do meeting minutes remain available online?
49. Does the board webcast its meetings? What is the board's plan to webcast future board and committee meetings?
50. Does the board establish an annual meeting calendar, and post it on the board's web site?
51. Is the board's complaint disclosure policy consistent with DCA's *Recommended Minimum Standards for Consumer Complaint Disclosure*? Does the board post accusations and disciplinary actions consistent with DCA's *Web Site Posting of Accusations and Disciplinary Actions* (May 21, 2010)?
52. What information does the board provide to the public regarding its licensees (i.e., education completed, awards, certificates, certification, specialty areas, disciplinary action, etc.)?

53. What methods are used by the board to provide consumer outreach and education?

## Section 7 – Online Practice Issues

54. Discuss the prevalence of online practice and whether there are issues with unlicensed activity. How does the board regulate online practice? Does the board have any plans to regulate Internet business practices or believe there is a need to do so?

## Section 8 – Workforce Development and Job Creation

55. What actions has the board taken in terms of workforce development?

56. Describe any assessment the board has conducted on the impact of licensing delays.

57. Describe the board's efforts to work with schools to inform potential licensees of the licensing requirements and licensing process.

58. Provide any workforce development data collected by the board, such as:

- a. Workforce shortages
- b. Successful training programs.

## Section 9 – Current Issues

59. What is the status of the board's implementation of the Uniform Standards for Substance Abusing Licensees?

60. What is the status of the board's implementation of the Consumer Protection Enforcement Initiative (CPEI) regulations?

61. Describe how the board is participating in development of BreEZe and any other secondary IT issues affecting the board.

## Section 10 – Board Action and Response to Prior Sunset Issues

Include the following:

1. Background information concerning the issue as it pertains to the board.
2. Short discussion of recommendations made by the Committee/Joint Committee during prior sunset review.

3. What action the board took in response to the recommendation or findings made under prior sunset review.
4. Any recommendations the board has for dealing with the issue, if appropriate.

## **Section 11 – New Issues**

This is the opportunity for the board to inform the Committee of solutions to issues identified by the board and by the Committee. Provide a short discussion of each of the outstanding issues, and the board's recommendation for action that could be taken by the board, by DCA or by the Legislature to resolve these issues (i.e., legislative changes, policy direction, budget changes) for each of the following:

1. Issues that were raised under prior Sunset Review that have not been addressed.
2. New issues that are identified by the board in this report.
3. New issues not previously discussed in this report.
4. New issues raised by the Committee.

## **Section 12 – Attachments**

Please provide the following attachments:

- A. Board's administrative manual.
- B. Current organizational chart showing relationship of committees to the board and membership of each committee (cf., Section 1, Question 1).
- C. Major studies, if any (cf., Section 1, Question 4).
- D. Year-end organization charts for last four fiscal years. Each chart should include number of staff by classifications assigned to each major program area (licensing, enforcement, administration, etc.) (cf., Section 3, Question 15).

## **Section 13 – Board Specific Issues**

### **Diversion**

Discuss the board's diversion program, the extent to which it is used, the outcomes of those who participate, the overall costs of the program compared with its successes

### **Diversion Evaluation Committees (DEC) (for BRN, Dental, Osteo and VET only)**

1. DCA contracts with a vendor to perform probation monitoring services for licensees with substance abuse problems, why does the board use DEC? What is the value of a DEC?
2. What is the membership/makeup composition?
3. Did the board have any difficulties with scheduling DEC meetings? If so, describe why and how the difficulties were addressed.
4. Does the DEC comply with the Open Meetings Act?
5. How many meetings held in each of the last three fiscal years?
6. Who appoints the members?
7. How many cases (average) at each meeting?
8. How many pending? Are there backlogs?
9. What is the cost per meeting? Annual cost?
10. How is DEC used? What types of cases are seen by the DEC?
11. How many DEC recommendations have been rejected by the board in the past four fiscal years (broken down by year)?

### **Disciplinary Review Committees (Board of Barbering and Cosmetology and BSIS only)**

1. What is a DRC and how is a DRC used? What types of cases are seen by the DRCs?
2. What is the membership/makeup composition?
3. Does the DRC comply with the Open Meetings Act?
4. How many meeting held in last three fiscal years?
5. Did the board have any difficulties with scheduling DRC meetings? If so, describe why and how the difficulties were addressed.
6. Who appoints the members?
7. How many cases (average) at each meeting?
8. How many pending? Are there backlogs?
9. What is the cost per meeting? Annual cost?
10. Provide statistics on DRC actions/outcomes.





# MEMORANDUM

Agenda Item 4

<b>DATE</b>	April 18, 2012
<b>TO</b>	Board Members Board of Barbering and Cosmetology
<b>FROM</b>	Kristy Underwood, Executive Officer Board of Barbering and Cosmetology
<b>SUBJECT</b>	<b>VEHICLE REPORT</b>

On January 28, 2011, Governor Edmund G. Brown Jr. issued Executive Order B-2-11. This directive ordered each agency secretary and department director to:

- Review its organization's vehicle home-storage permits and withdraw those that are non-essential or cost ineffective
- Update and certify their vehicle and mobile equipment information that is presently being collected by the Department of General Services (DGS)
- Conduct an analysis to determine the purpose of, the necessity for, and the cost-effectiveness of, the vehicles and equipment in their fleet
- Relinquish non-essential or cost inefficient vehicles and equipment.

The Executive Order B-2-11 also prohibits state departments from purchasing any vehicles for non-emergency use except under certain circumstances.

The DCA maintained a fleet of 626 owned and leased vehicles and 242 home storage permits which allow employees to store State vehicles at their home address. Of those vehicles:

- BBC owned 19
- BBC maintained 20 home storage permits

The Board currently employs 23 Inspector I, II and III employees, with 2 permanent, full-time vacancies. Inspector III's do not receive vehicles and must use their personal vehicle or obtain an Enterprise rental to conduct inspections and submit reimbursement for gas purchases. The chart below identifies the current status of BBC vehicles:

BBC Inspector I and II	20
Board Owned- Operable	16
Board Owned-Non-operable	2
Vehicles for 2 Vacancies	0
Trippers- 2 week lease from the State garage	3
Enterprise 30 Day Rentals	0

On February 8, 2011, BBC submitted a report to DCA indicating the vehicles and home storage permit that could be relinquished. Since the BBC was given 4 used vehicles from Contractor's State License Board (CSLB) in January 2011, BBC identified 3 BBC leased vehicles that would be relinquished and 1 home storage permit:

- 2 leased vehicles were returned to the State garage and replaced with the CSLB vehicles.
- 1 vehicle where BBC cancelled the lease and the inspector took the vehicle from the Inspector III.
- 1 home storage permit relinquished by the Inspector III.

On March 22, 2011, DCA representatives met with DGS Fleet an attempt to retain its Home Storage Permits. Unfortunately, DCA was not able to achieve the outcome they were hoping for. BBC was requested to relinquish 2 additional home storage permits. The BBC considered pairing two sets of inspectors. However, the Executive Office did not like the idea of the BBC doubling up inspectors because it did not provide for efficiencies nor was it cost effective.

On March 6, 2012, BBC received information that there is no immediate impact to BBC. DCA continues to work with clients who are giving up vehicles to identify which vehicles will be eliminated. If any vehicles are in good, running condition BBC will be offered first choice to replace any vehicles which are not running.

The DGS Fleet Handbook published on April 22, 2008 lists the vehicle replacement schedule criteria for sedans as 120,000 miles or may be disposed of or replaced when it is determined that it would be cost-effective to do so, regardless of age or mileage.

Currently, the BBC owns 18 sedan type vehicles. Of the 18 vehicles:

- 2 are non-operable
- 5 are over 120,000 miles
- 4 are over 100,000 miles

Total vehicle mileage usage for BBC inspectors for calendar year 2011 was 308,302 miles. With the high mileage and frequency of mechanical breakdowns, employee safety is a major concern of the Board.

For fiscal year 2011-12, the BBC was approved for \$57,000 of major equipment. The intent was to purchase 3 vehicles at an estimate of \$19,000 each. Vehicle purchases will not be approved until DCA's reduction plan is approved.

The cost to rent vehicles from the state garage is \$30 per day or \$520 per month. However, the DGS is closing all but its Sacramento garage by June 2012. During 2011 BBC paid \$13,218.27 for State Garage leases and \$2,483.86 for Enterprise rentals.

With Executive Order B-2-11 in place, BBC has identified the following issues:

- The inability to purchase vehicles
- Limited to two-week rentals from the State garage
- Unable to enter into a 30 day vehicle lease with the State garage
- 30 day Enterprise rentals where the inspector must use their own monies to pay for gas to conduct Board inspections.

## Vehicle Statistics 2012

Inspectors	Territories by County	Own, Rent or Lease	\$\$\$	Age	Current Mileage
Inspector 1	Imperial/South San Diego	Own		2007	85095
Inspector 2	San Bernardino	Own		2007	114672
Inspector 3	Fresno/Kings/Madera/Mariposa/Merced/Mono/Tulare	Own		2001	150208
Inspector 4	Los Angeles	Own		2001	116860
Inspector 5	Riverside	Own		2007	82864
Inspector 6	Inyo/Kern/San Luis Obispo/Santa Barbara	Own		2001	130508
Inspector 7	San Joaquin/Stansislaus	Own		2007	102480
Inspector 8	Ventura/Los Angeles	Own		2007	74160
Inspector 9	Alpine/Amador/Butte/Calaveras/EIDorado/Lassen/Modoc/Mono/Nevada/Placer/Plumas/Sierra/Sutter/Tuolumne/Yuba	Own		2007	98316
Inspector 10	Alameda/San Mateo	Tripper	\$30 per day since January 2012	n/a	n/a
Inspector 11	San Francisco	None		n/a	n/a
Inspector 12	North San Diego	Own		2007	50931
Inspector 13	Los Angeles	Own		1998	135546
Inspector 14	Yolo/Sacramento	Own		2007	108435
Inspector 15	Colusa/Del Norte/Glenn/Humbolt/Lake/Marin/Napa Mendocino/Shasta/Siskiyou/Sonoma/Tehama/Trinity	Own		2007	62951
Inspector 16	Los Angeles	Tripper	\$30 per day since January 2012	n/a	n/a
Inspector 17	Los Angeles	Own		2007	73434
Inspector 18	Los Angeles	Own		2007	127558
Inspector 19	Contra Costa/Solano	Tripper	\$30 per day since April 2012	n/a	n/a
Inspector 20	Monterey/Santa Clara/Santa Cruz	Own		2000	156,970

\*Tripper- 2 week State

\*\*Enterprise Rental- 30 day or less



Project No

February 2012

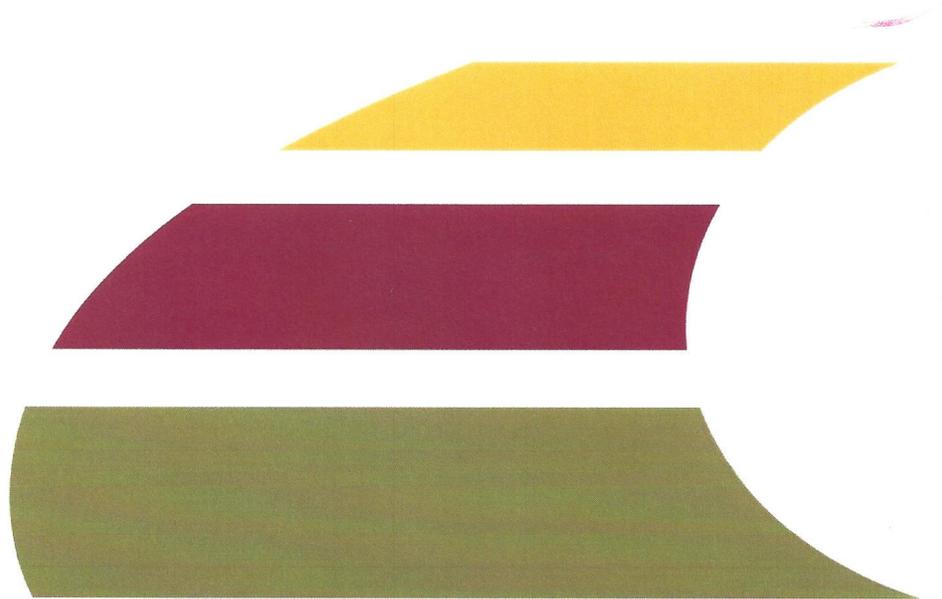
# Board of Barbering and Cosmetology, CA Department of Consumer Affairs

## Inspector I, II & III, DCA

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(C) Class Specifications	

## **Problem Identification**

The Board of Barbering and Cosmetology, DCA has requested assistance to perform and in-depth classification study to determine if the qualifications, duties and responsibilities of the inspectors at the Board of Barbering and Cosmetology are consistent with the series specification for the Inspector, Department of Consumer Affairs. CPS has also been asked to provide classification recommendations in the event of misallocation or inappropriate use of an existing class.

## **Background**

The California Department of Consumer Affairs (DCA) is established to provide educational information to consumers in order to prevent unscrupulous or unqualified people who promote deceptive products or services. The DCA also supports consumers by providing current license status information, including disciplinary action on professionals licensed or certified through its boards and bureaus. The DCA provides consumer support through more than 40 bureaus, programs, boards, committees, commission and other entities that license practitioners in multiple categories of professions.

Established in 1927, The Board of Barber Examiners and The Board of Cosmetology were merged in 1992 to create what is now known as the Board of Barbering and Cosmetology (BBC). Currently, the BBC is one of the many boards of the DCA established to provide consumer protection by ensuring that only qualified barbers, cosmetologists, manicurists, estheticians, electrologists and establishments are properly qualified and licensed. The BBC is primarily responsible for Business and Professions Code section 7312 and all applicable health and safety rules of the California Code of Regulations. The BBC ensures that applicants for all categories of licensure have completed the necessary training and passed a written and practical examination. The examination ensures that individuals possess the knowledge and skills required to protect the public's health and safety. After successfully passing the examination, applicants are issued the applicable license by the BBC.

The BBC consists of 9 Board Members appointed by the Governor, an Executive Director and 94 employees. The Board oversees approximately 450,000 active licensees and establishments with an operating budget of \$17 million. The BBC's health and safety rules are enforced through the BBC's Inspection Unit which conducts random and targeted health and safety inspections of establishments and schools. For FY 2010/2011, the BBC issued 29,061 licenses, renewed 209,164 licenses, and conducted 11,202 inspections through which 16,782 citations for various violations were issued.

The Inspector Class Series for the BBC was created in 1963 and was last revised in 1972. During this period, the industry consisted mostly of small hair salons and barber shops owned by single proprietors. The majority of services were for hair cutting, styling, coloring,

perms, roller sets and comb-outs. Manicures were incidental to the hair services. “Nail only” shops were nonexistent as were whirlpool pedicure spa chairs; facials were limited to steaming, cleansing and massage, commonly referred to as “basic skin care”. Incidents of consumers contracting communicable diseases were rare or almost nonexistent.

Today, the industry has greatly expanded where establishments are increasing in size and services by offering work space for rent to “independent contractors”. These independent contractors range from barbers and cosmetologists to manicurists and estheticians and have dramatically increased the number of licensed and non-licensed practitioners. This expansion has also increased the number and range of equipment used, as well as various hair and skin products. Many of these products and equipment have not been approved for use in the industry which poses a substantial health and safety risk for the consumer.

In addition to inspection checklists required in the pre-1990s, inspectors are now required to be able to recognize communicable diseases, document and maintain custody of evidence, issue citations with fine assessments up to \$5,000, conduct field investigations and write reports. Inspectors also must have a strong working knowledge of the California Code of Regulations, as well as various California Laws.

In the inspection and enforcement of the laws and regulations, BBC inspectors are subjected to increased risk to their health and safety. As barber shops, hair salons and nail salons proliferate, Inspectors are more and more exposed to hostile conditions. With the proliferation of these shops, there is an increase in unlicensed and untrained operators which promotes conditions for illegal practices and illegal activity. As a result, inspectors are vulnerable to potential criminal activity and individuals who take part in this activity, thus exposing inspectors to potential harm.

## Methodology

In response to the client’s identified problems, CPS performed the following:

- Document Review: The CPS consultant worked with the BBC representative to obtain various support documents such as class specifications, duty statements and organization charts, agency information and responsibilities.
- Interviews: The CPS consultant conducted interviews with incumbents selected by BBC to confirm and clarify duties and responsibilities performed. The CPS consultant also conducted job site interviews with inspectors (and supervisors) for the Medical and Dental Boards, the Bureau of Electronic and Appliance Repair and Home Furnishing and Thermal Insulation (BEARHTI).
- Research: Comparison with the Enforcement Representative Class Series (non-peace officer) and other state classes

- PDQs: The CPS Consultant also reviewed and analyzed Position Description Questionnaires from incumbents of the California Contractors State Licensing Board and consulted with the CSLB project consultant for clarification of duties.

## Findings

For purposes of this study, CPS used a whole job analysis approach. This approach compares jobs with one another on the basis of an overall evaluation of difficulty or responsibility. The entire position including: the skills required, the decision-making authority, the scope and the magnitude and accountability, is compared as a whole to other positions.

Classification studies often find that positions are assigned a wide range of duties and that incumbents have various levels of responsibility at any one time. Preponderance is a measure of importance and typically positions are classified based on the preponderant duties.

Our research indicates that the Inspector I, II & III, BBC, performs inspections duties and responsibilities that are consistent with the current class specification series. Current inspector Is and IIs are assigned geographical areas and perform inspections on barber shops, hair salons, nail salons, schools and other related practices. The inspections are for compliance with State Health and Safety Laws and Regulations promulgated by the BBC. The Inspector III level is the first line supervisor and supervises a geographical area consisting of five or more inspectors. The Inspector IIIs assign, direct and review the work of inspectors engaged in their inspections and provides information and receives direction from headquarters management. They will also participate in large and complex inspections involving multiple regulatory agencies. Data and information collected supports a finding that Inspector IIIs are performing duties and responsibilities as defined in the existing classification specification.

Working level inspectors conduct unannounced inspections of an establishment in which barbering, cosmetology (including nail services), esthetician and electrology services are performed. In order to ensure compliance with the BBC Laws and Rules, the inspector will locate each work station and verify the license status of the operator before commencing a detailed inspection. The inspector will inspect for cleanliness of the station, equipment and instruments. The inspector will also check that hair products, lotions, creams, and disinfectants are approved and that foot spas, hair cutting tools (electrical and nonelectrical) are clean and free of debris and contamination. Upon completion of the inspection, the Inspector discusses the results of the inspection with each operator and the owner of the establishment. At that time, an Inspection Report will be issued, specifying the nature of any and each violation. The Inspection Report form will then be sent to the Cites and Fines Unit where the penalty for the violations will be determined and sent to the

licensee. The Cites and Fines Unit then determines what, if any, action to take - including fines or suspensions.

## **Discussion/Analysis**

The BBC consists of nine (9) Board Members, an Executive Officer and Assistant Executive Officer. The Inspections Unit is one of five units that make up the BBC and consists of a Staff Services Manager I who manages three regions through three (3) Inspector III (supervisors) and approximately 22 inspector I and II positions for the three regions. Prior to the 1990s, inspectors were required to utilize checklists for their inspections and indicated the most common violations and infractions of regulations. The inspectors needed skills in inspection techniques and a general knowledge of the laws and regulations.

Today, with the proliferation of barber shops, hair salons, nail salons, schools, estheticians, electrologists and other ancillary services, the inspectors must now have knowledge for various instruments and tools used, hair and beauty products (both approved and non-approved for use) and various diseases associated with unsafe and unsanitary practices. Additionally, as a consequence of this proliferation, there exists increased unlicensed establishments and practitioners which exposes the public and inspectors to potential health and safety conditions, hostile environments and in some cases, illegal activity. Working alone, inspectors in the field have been subjected to threats to person and property and vandalism on state vehicles. In many instances, establishment owners/operators who are often unlicensed become irate and hostile and who, on occasion, have physically attacked or threatened inspectors.

As part of this classification study, a review of the Enforcement Representative (Non-peace Officer) class series was conducted. This class series is used exclusively by the Contractors State Licensing Board (CSLB), who is charged with licensing, regulating and enforcing the laws and rules governing contractors working in the state.

The CSLB is governed by a 15 Member Board, appointed by the Governor and the executive officer or Registrar of Contractors, who directs the administrative policy and operations of the Board. The CSLB licenses and regulates more than 300,000 licensed contractors that constitute the construction industry.

The Registrar has approximately 400 employees statewide, who receives and processes applications for licenses, maintains disciplinary status of licensees, and investigates consumer complaints against licensed and unlicensed contractors. As part of the enforcement program, the CSLB employs the Statewide Investigative Fraud Team (SWIFT) which focuses on the underground economy and on unlicensed contractors. This unit conducts stings and sweeps to help curtail illegal contracting by citing those who are not licensed.

The Enforcement Representative Class Series (ER) is the primary classification used for the SWIFT Unit and other enforcement activities where the primary assignment is investigations and public consumer contact.

The ERs Investigate consumer complaints against licensed and unlicensed contractors, refers violations for administrative and criminal disciplinary actions, interview complainants, take witness statements, obtain and preserve evidence and when required, testify in court proceedings and serve as expert witnesses. The ERs also serve as team members in SWIFT activities, by participating in sting operations, joint multiagency taskforces, undercover operations and arrests.

As a result of the above findings, incumbents in the Inspector series appear to be appropriately classified; i.e. duties and responsibilities are consistent with the class specifications. In comparing the inspector duties with the ER I and II classes, there are substantive differences. While the inspector's duties are primarily administrative, using an established protocol (i.e. Inspection Report form & BBC laws and rules) the ER duties are investigative and resolution oriented in nature. Investigations are typically open-ended and entail the collection of information (interviews and evidence), analysis, and a recommended action(s) that remedy a problem or situation and are administrative but frequently can be criminal. The enforcement program for inspectors consists of using the Inspection Report Form to determine if operators are in compliance or in violation of the Board's laws and rules and substantiate violations through photographs. Once the inspection of the establishment is completed, the inspector then discusses the report and violations (if any) with each operator and business owner. Enforcement duties for ER's consist of reviewing and analyzing complaints and seeking resolution, participating in sting operations, investigations of fraud, collection of evidence, interviewing witness, issuing stop work orders and working with other law enforcement agencies in suspected criminal activities or administrative violations.

Although the duties of the incumbent Inspectors appears consistent with the class specifications, the disparity in salary between the Inspector class series and the ER class series is concerning. It is reasonable to assume that the ER I entry level salary is based on investigative duties and responsibilities and minimum qualifications of four (4) years of college or journey level experience in the construction trades, whereas the entry level inspector I requires two (2) years of college or two years of inspection experience. Based on the above, it is believed that while commensurate salaries between the two classes is not supportable, a request for an incremental increase in salary for the inspector classes should be considered and the employer may want to request such an increase for the next round of contract negotiations. In making the request to the Department of Personnel Administration (DPA) (or CalHR given the creation of the new agency), recruitment and retention factors must be examined; however, we believe several challenges will be encountered.

The BBC currently has approximately 22 full time permanent Inspector I and II positions, including 5 full time permanent inspector positions vacant (4 Inspector I & 1 inspector II).

The last examination for the Inspector I & II classes were given in 2010, which resulted in a list consisting of 21 eligibles for the inspector I and 8 eligibles for the inspector II. Most, if not all applicants for the exams are current state employees. There appears to be several barriers for recruiting qualified applicants from outside state service. First, is that inspectors must reside in the geographical location of their respective assignment; second, it is speculated that potential applicants can receive higher salaries elsewhere and third, is that aggressive statewide recruitment efforts are restricted because of budget constraints. In view of the above, additional documentation on recruitment efforts must be examined and a review of past exit interviews should be examined to determine the extent and nature of retention difficulties.

### **Additional Observations**

In addition to the above findings, CPS did find that incumbents in the Inspector I and II classes perform the same variety and level of inspections. After a minimal training period and with general supervision, Inspector I incumbents are assigned areas for inspections substantially the same as incumbents in the Inspector II class and conduct the required inspections with the same independence as the Inspector IIs. It would not be unreasonable to allow incumbents in the Inspector I class movement to the Inspector II class (via Alternate Range Change) after a reasonable period and when proficiency is demonstrated.

As previously noted above, while determining an appropriate salary range for the Inspector Class Series was not a CPS primary charge for this study, it was found that a substantial salary disparity exists between the Inspector and Enforcement Representative classes. Although the perception may exist that the Inspector Class Series and the Enforcement Representative Class series may be comparable, there are significant differences in class concept, duties and qualifications that do not bode well as comparisons. To pursue a salary increase for the Inspector Class Series, significant challenges must be met; such as, quantitative data that depict aggressive recruitment difficulties and retention difficulties and qualitative data (exit interviews), without which, the effort would be unsuccessful.

Notwithstanding the fact that the scope of study for this effort was limited to a classification study of the inspector incumbents, and that in fact we find the incumbents to be properly classified, we recommend that the employer consider two other options:

1. Given the similarity of duties, the employer should consider consolidating the current classes of Inspector I and II into a single class with two alternate ranges;
2. As soon as possible, propose a salary increase to be considered for the next round of bargaining, emphasizing the salary disparity between the subject class and ERs and if available any turnover, retention, or recruitment problems.

CPS is pleased to submit this Report for your consideration. Once the Department has reviewed these recommendations, CPS will be pleased to meet with you to consider all feedback and suggestions prior to preparing a Final Report. Please contact Roy Minami via email ([rminami@cps.ca.gov](mailto:rminami@cps.ca.gov)) or telephone (916)599-0508 with any questions or to schedule the suggested meeting.

Attachment A

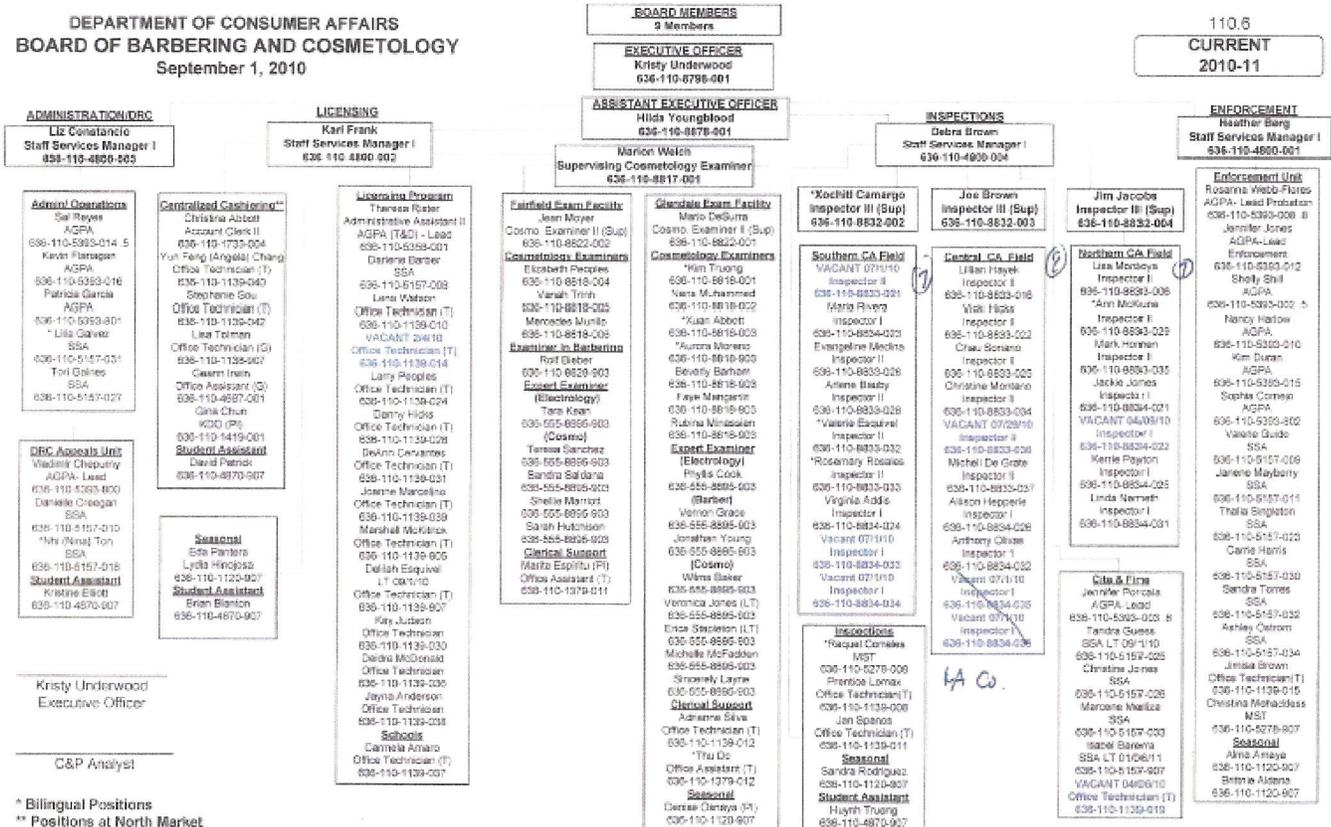
Inspector Interviews

<u>Date Interviewed</u>	<u>Name</u>
07/20/2011	Allison Hepperle, Inspector I, BBC
07/21/2011	Anne McKune, Inspector II, BBC
08/10/2011	James Jacobs, Inspector III, BBC
08/10/2011	Joe Brown, Inspector III, BBC
08/10/2011	Xochiti Camargo, Inspector III, BBC *
09/21/2011	Nancy Butler, Supervising Investigator, Dental Board
09/21/2011	Shirley Boldrini, Inspector II, Dental Board
10/05/2011	Rachel Wachholz-Lasota, Inspector III, Medical Board
10/05/2011	Irene Bisson, Inspector III, Medical Board
10/05/2011	Natalie Estrada, inspector II, Medical Board
10/05/2011	Bertha Hernandez, Inspector I, Medical Board
10/06/2011	Terri Lane, Supervising Investigator, Dental Board
10/06/2011	Dwaylon Calhoun, Inspector II, Dental Board
10/25/2011	Joanne Mikami, Bureau Chief (Acting), BEARHFTI
10/25/2011	Theresa Siefert, SSM I, BEARHFTI
10/25/2011	Zenaida Mercado, Inspector II, BEARHFTI

Attachment B  
Organization Chart

DEPARTMENT OF CONSUMER AFFAIRS  
BOARD OF BARBERING AND COSMETOLOGY  
September 1, 2010

110.6  
CURRENT  
2010-11



\* Bilingual Positions  
\*\* Positions at North Market

Attachment C  
Class Specifications

Inspector\_I\_DCA\_s8834[1].txt  
SPEC: INSPECTOR I, DEPARTMENT OF CONSUMER AFFAIRS  
CALIFORNIA STATE PERSONNEL BOARD

SPECIFICATION

Schematic Code: vw10  
Class Code: 8834  
Established: 10/24/63  
Revised: 12/7/72  
Title Changed: 11/23/70

INSPECTOR I, DEPARTMENT OF  
CONSUMER AFFAIRS

DEFINITION

Under direction, to assure compliance with the provisions of the Administrative and Business and Professions Codes by conducting inspections in one or a combination of business activities; and to do other related work.

TYPICAL TASKS

In an assigned district, makes inspections and investigations and takes samples in the enforcement of the provisions of State laws such as those requiring the licensing of barbers, apprentices, barbershops and schools, cosmetologists, electrologists, instructors in cosmetology and electrology, cosmetology shops and schools, manicurists, dry cleaning shops and plants, spotters and pressers, fur and hat renovators, manufacturers, wholesalers, suppliers, and retailers of upholstered furniture or bedding or those items containing concealed filling materials, veterinary hospitals, and electronic dealer records; investigates complaints in connection with alleged violations of law; gathers evidence for use and assistance in hearings and prosecutions; writes investigation reports and maintains records of inspections and activities; maintains working relationships with law enforcement agencies; has wide contact with the public and assists the public by furnishing information concerning the particular acts within the Business and Professions Code; interviews and consults with licensees to determine causes of violations and to encourage compliance.

MINIMUM QUALIFICATIONS

Either I

Two years of experience with a governmental agency in one or a combination of the following:

1. Inspection of business establishments for compliance with laws, rules, regulations, and standards. or
2. In law enforcement which has included some investigation work.

Inspector I, Department of Consumer Affairs

-2-

Inspector\_I\_DCA\_s8834[1].txt  
Or II

Education:

Equivalent to completion of two years of college with at least 12 units in police science or criminology. (Students within one semester of completing the required two years of college will be admitted to the examination but must produce evidence of completion before they can be considered eligible for appointment.)

KNOWLEDGE AND ABILITIES

Knowledge of: State laws, rules, and regulations regarding individuals and businesses licensed by various agencies with the Department of Consumer Affairs; laws of arrest and rules of evidence and procedures followed in court and administrative hearings; inspection techniques and procedures; industry practices and inspection problems such as those encountered in the barber, cosmetology, dry cleaning, and furniture and bedding businesses, veterinary hospitals, and yacht and ship brokerage establishments.

Ability to: Read and write English at a level required for successful job performance; interpret and apply sections of State laws which relate to individuals and businesses licensed by various agencies in the Department of Consumer Affairs; analyze data and draw sound conclusions; think and act quickly in emergencies; write complete and concise reports; deal with the public in a courteous and fair minded manner.

SPECIAL PERSONAL AND PHYSICAL CHARACTERISTICS

Ability to walk long distances; willingness to travel throughout the state and work odd and irregular hours; keenness of observation; and neat personal appearance.

ADDITIONAL DESIRABLE QUALIFICATION

Education equivalent to completion of the twelfth grade.

Inspector\_II\_DCA\_s8833[1].txt  
SPEC: INSPECTOR II, DEPARTMENT OF CONSUMER AFFAIRS  
CALIFORNIA STATE PERSONNEL BOARD

SPECIFICATION

Schematic Code: VV90  
Class Code: 8833  
Established: 11/19/65  
Revised: --  
Title Changed: 11/23/70

INSPECTOR II, DEPARTMENT OF  
CONSUMER AFFAIRS

DEFINITION

Under general direction, to assure compliance with the provisions of the Administrative and Business and Professions Codes and (1) in an assigned geographic area or small field office, to act as a field representative of the Department, and to conduct independent inspections in all activities assigned to the Division of Investigation, Department of Consumer Affairs, including the most difficult and complex assignments; or (2) to assist an Inspector 111, Department of Consumer Affairs, in the supervision and administration of a larger district; or (3) to act as a leadperson and provide training for lower level inspection staff; and to do other related work.

TYPICAL TASKS

Assigns, trains, and supervises staff, and plans, organizes and performs the work of inspecting businesses and professional activities for compliance with laws, rules and regulations contained in the Administrative and Business and Professions Codes; acts as a field representative for the Department and interprets and explains the provisions of laws, rules, regulations, and policies to field inspectors, licensees, and the general public; examines records, takes samples for physical and chemical evaluations, collects data and reports facts; prepares cases and appears in court or at administrative hearings; evaluates the performance of the staff and recommends appropriate action; reviews and evaluates reports and prepares workload statistics; makes or participates in the more difficult field inspections and investigations; works closely with and secures the confidence of Federal, State, and local law enforcement agencies; dictates correspondence and prepares reports.

MINIMUM QUALIFICATIONS

Either I  
One year of experience performing the duties of an Inspector @,  
Department of Consumer Affairs, in the California state service.

Inspector\_II\_DCA\_s8833[1].txt  
Or II

Experience:

Three years of experience with a governmental agency in one or a combination of the following:

1. Inspection of business establishments for compliance with laws, rules, regulations and standards. or
2. In law enforcement which has included some investigation work. (Equivalent to completion of two years of college with at least 12 units in police science or criminology may be substituted for two years of the required experience.) and twelfth grade.

Education:

Equivalent to completion of the twelfth grade. (Additional qualifying experience may be substituted for the required education on a year-for-year basis.)

KNOWLEDGE AND ABILITIES

Knowledge of: State laws, rules, and regulations regarding individuals and businesses licensed by various agencies with the Department of Consumer Affairs; laws of arrest and rules of evidence and procedures followed in court and administrative hearings; inspection techniques and procedures; the techniques of identifying, preserving and presenting evidence; practices and problems of the barber, cosmetology, dry cleaning, furniture and bedding industry, veterinary hospitals and yacht and ship brokerage establishments. Familiarity with principles and techniques of supervision and training.

Ability to: Interpret and apply to specific cases provisions of the laws, rules, or regulations enforced or administered; review and evaluate the work of others and give guidance and counsel in work methods and procedures; speak effectively and prepare complete and concise reports; establish and maintain cooperative relations with Federal, State, and local law enforcement agencies, analyze data and draw sound conclusions; think and act quickly in emergencies; deal with the public in a courteous and fair-minded manner.

SPECIAL PERSONAL AND PHYSICAL CHARACTERISTICS

Ability to walk long distances; willingness to work odd and irregular hours in various locations throughout the State; keenness of observation; and neat personal appearance.

Inspector\_III\_DCA\_s8832[1].txt  
SPEC: INSPECTOR III, DEPARTMENT OF CONSUMER AFFAIRS  
CALIFORNIA STATE PERSONNEL BOARD

SPECIFICATION

Schematic Code: Wv85  
Class Code: 8832  
Established: 7/13/92  
Revised: 12/7/72  
Title Changed: 11/23/70

INSPECTOR III, DEPARTMENT OF CONSUMER AFFAIRS

DEFINITION

under general direction, to be responsible for a large district requiring five or more inspectors of lower levels and to plan, organize, direct, and train the staff to conduct inspections of business and professional activities for compliance with the provisions of the Administrative and Business and Professions Codes; and to do other related work.

TYPICAL TASKS

Plans, organizes, and assigns work; reviews reports and passes upon problems in connection with directing the work of a staff engaged in the inspection of commercial shops, schools, stores, plants, or professional offices; attends hearings and court cases and assists in prosecution; consults with and advises industry or professional groups on state laws, rules, and regulations; consults with and interprets departmental policies to inspectors in the field; plans and supervises training programs for inspectors; evaluates their performance and takes appropriate action; maintains liaison with other governmental agencies responsible for regulating the operations of these establishments; dictates correspondence and prepares reports.

MINIMUM QUALIFICATIONS

Either I

Two years of experience in the California state service performing the duties of an Inspector II, Department of Consumer Affairs.

Or II

Five years of experience in inspection or investigation work in connection with law enforcement.

KNOWLEDGE AND ABILITIES

Knowledge of: State laws, rules, and regulations regarding individuals and businesses licensed by various agencies with the Department of Consumer Affairs; methods of checking complaints regarding alleged violations, securing facts, and preparing reports; rules of evidence and court procedures; methods of identification, preservation, and presentation of evidence; laws of search and seizure, arrest, and service of legal process, and with the legal rights of citizens; principles of effective supervision and training and directing inspectors engaged in inspection and investigation

Page 1

Inspector\_III\_DCA\_s8832[1].txt

work; the Department's Affirmative Action Program objectives; a manager's role in the Affirmative Action Program and the processes available to meet affirmative action objectives.

Ability to: Read and write English at a level required for successful job performance; train and direct inspectors engaged in inspection and investigation work; interpret and apply to specific cases the provisions of the laws, rules, or regulations enforced or administered; obtain information by observation, record examination, correspondence, and interview, and analyze and evaluate such information; deal with citizens and public officials under conditions requiring a high degree of tact and good judgment; establish and maintain cooperative working relationships with others; analyze situations accurately and take effective action; prepare correspondence and reports; effectively contribute to the Department's affirmative action objectives.

#### SPECIAL PERSONAL CHARACTERISTICS

Willingness to work long and irregular hours; keenness of observation; and neat personal appearance.

#### ADDITIONAL DESIRABLE QUALIFICATION

Education equivalent to completion of the twelfth grade.



State and Consumer Services Agency – Edmund G. Brown Jr., Governor  
**BOARD OF BARBERING AND COSMETOLOGY**  
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P (800) 952-5210 F (916) 575-7281 [www.barbercosmo.ca.gov](http://www.barbercosmo.ca.gov)



**Agenda Item 5**

**CALIFORNIA STATE BOARD OF  
BARBERING AND COSMETOLOGY**

**MINUTES OF FEBRUARY 6, 2012**

**Department of Consumer Affairs  
1625 North Market Blvd.  
Hearing Room S-102, First Floor  
Sacramento, CA 95834**

**Additional Location:  
2405 Kalaniana'ole Avenue PH-11  
Hilo, HI 96720**

**BOARD MEMBERS PRESENT**

Deedee Crossett, President  
Christie Truc Tran, Vice President  
Wen Ling Cheng  
Katie Dawson  
Joseph Federico  
Richard Hedges (via telephone)

**STAFF MEMBERS PRESENT**

Kristy Underwood, Executive Director  
Gary Duke, Legal Counsel  
Theresa Rister, Board Analyst  
Tami Guess, Board Analyst

**BOARD MEMBERS ABSENT**

Frank Lloyd

**1. Agenda Item #1, Call to Order/Roll Call**

Ms. Crossett called the meeting to order at 10:00 a.m. New board member Katie Dawson was introduced and provided a brief background. New board member Joseph Federico was introduced and provided a brief background. Ms. Crossett welcomed the attendees to the meeting that included students from Skyline College.

**2. Agenda Item, #2, Public Comment**

*Note: The Board may not discuss or take action on any matter raised during this public comment section, except to decide whether to place the matter on the agenda of a future meeting. [Government Code Sections 11125, 11125 (a)]*

**Sherry Davis**, of the National Coalition of Estheticians Association (NCEA), California Representative for Advanced Aesthetics, discussed the advanced license 1200 hour program for aestheticians. Aestheticians are one of the top ten fields that is growing. She provided the statistics and information on the proposed program and hoped it could be agendized and discussed by the Board at the next meeting.

**Nancy Reyes** from Mojave Barber College in Victorville, CA, thanked the Board for including barbering in the curriculum changes. They wanted to update the image of barbers and keep the emphasis on haircutting. She expressed concern over the decrease in haircut requirements from 750 to 80. She believed it should be closer to 500 to gain ample experience for students. She also questioned how the method of counting service hours would impact the apprentice program. She asked that this item be included on future agendas for discussion. Ms. Crossett noted the requirements were minimum standards set by the Board and schools could set their own standards. Ms. Reyes stated some schools would only do the minimum because it was easier.

**Fred Jones** of the Professional Beauty Federation of California (PBFC), noted they strongly supported the curriculum changes that were made a few years ago to give flexibility to schools to meet their individual students' needs. The standards were a minimum. He encouraged students to research various schools. Mr. Jones commended licensees in Indiana who were recently faced with delicensing the industry. There are 19,000 licensees in Indiana. Multiple people rallied against the bill and it was pulled before the first vote. Mr. Jones did not believe that could ever be a threat in California. Mr. Jones announced the 12<sup>th</sup> Annual Welcome to Our World "WOW" event at the State Capitol to be held on Monday, April 30, 2012, 3:00 to 7:00 p.m. Ms. Crossett commended on last year's event. A video is available at [beautyfederation.org](http://beautyfederation.org).

**Victor Chang** from Southern California, discussed the legality of fish pedicures and asked the Board to review the process. He provided information regarding the process and safety to allow the Board to make an informed decision. It is an age-old process but new to California. He asked that the item be agendaized for future discussion. Mr. Duke asked if any other states allow fish pedicures. He noted it is allowed in over 30 states. Ohio originally banned the practice then reversed it based on review.

### **3. Agenda Item #3, Board President's Report**

Ms. Crossett welcomed the new Board members and recapped the goals of the Board (consumer protection and safety). Ms. Crossett is available on Twitter for the Board. Four members are utilizing the Go Green initiative (using laptops instead of paper). She reported the beauty industry has remained strong and is growing despite the economy. The number of potential licensees taking the exam has remained steady.

### **4. Agenda Item #4, Annual Election of Officers**

Mr. Hedges made the motion to nominate Christie Tran for president. Mr. Federico seconded the nomination. Ms. Tran accepted the nomination and it was approved by a 6-0 roll call vote. Ms. Crossett noted the government process is challenging and requires patience. Ms. Tran was congratulated for her new position. Mr. Hedges thanked Ms. Crossett for her hard work as president of the Board. Mr. Hedges nominated Joseph Federico for Vice President. Mr. Federico accepted the nomination and stated he is ready to work. Ms. Tran seconded the nomination and it was approved by a 5-1 (Cheng) roll call vote. Ms. Crossett passed the gavel to Ms. Tran.

### **5. Agenda Item #5, Appointment of Committee Members**

Ms. Underwood provided an overview of the committees and their required participation. The Disciplinary committee could require three days per month. Mr. Hedges noted the written portions of the Disciplinary committee could be held anywhere. The Board members expressed their preferences as follows:

Licensing and Exam Committee: Cheng, Crossett, Tran

Enforcement and Inspections: Crossett, Hedges, Federico, Dawson, Tran, Lloyd

Education and Outreach: Cheng, Crossett

Disciplinary Review Committee: Hedges, Federico, Tran, Lloyd, Cheng, Dawson, Crossett (alt)

Legislative and Budget: Federico, Dawson, Hedges

## **6. Agenda Item #6, Overview of Disciplinary Process and Disciplinary Review Committee**

Gary Duke, Legal Counsel, provided an overview of the disciplinary enforcement process and the various legal parameters. The Board serves in an executive function to enforce the laws, legislative to promulgate regulations, and adjudicative to take action against violators. Mr. Duke discussed the meaning of a license and the rights and regulations. There are over 600,000 licensees in California. The license is granted allowing someone to engage in an operation but can also be taken away if violated. It can only be taken away via due process of law in an equitable fashion which can be cumbersome. The Board enforces its laws through inspections, enforcement staff or complaints, all which could result in citations, fines and accusations. Per Business and Professions Code Section 7410, the disciplinary review committee (DRC) has been established to handle the citations at the first level of review. Mr. Duke read Section 7410 into the record. The DRC is the first level of the appeal process. After being heard by the DRC, an accused violator has the right to be heard before an Administrative Law Judge. Third party Administrative Law Judges are hired by the Board to hold formal proceedings. The Board can only make decisions based on the record and not hearsay. These formal proceedings can be expensive.

Mr. Duke provided a schematic chart about the disciplinary process in handling consumer complaints. The Board takes consumer complaints very seriously. When a complaint is received, jurisdiction is determined (within the regulatory scope of the Board). Analysts then determine if further investigation is needed; this may require an expert review. It is then determined if formal action is needed and if there is enough factual evidence to do this. It is a serious matter to take away someone's license. The process and procedures are designed to treat everyone equitably and fairly. If it is determined a case should be filed, the evidence is sent to the Office of Attorney General for prosecution. The Attorney General will decide if an accusation will be filed to justify the revocation or suspension of a license. Notice is provided to the licensee of a formal administrative hearing, similar to a trial. Prior to the hearing, there could be an opportunity for settlement. This could save the Board money and individualize the punishment for each licensee.

The Board is responsible for taking the action after the Administrative Law Judge's proposed decision is presented. It can be rejected or accepted by the Board. Or it may be remanded back to the Judge. If rejected, the Board will need to review the record and make their decision. The Board is prohibited by law from receiving information outside the formal administrative process from any parties involved. Mr. Duke warned Board members they may be contacted by licensees but need to remind them they need to go through the administrative process and not communicate directly (ex parte communication). Ms. Crossett asked how to clarify questions prior to voting but avoid ex parte communication. She noted she was sometimes concerned why the Attorney General's office would change the recommendation of the DRC. Mr. Duke told her she could not ask the licensee or Attorney General's office directly but possibly delay the vote until it could be discussed in closed session. Ms. Underwood note the staff is also working the cases and keeping the Board's interest in mind.

If a case is remanded back to the Judge, another hearing may need to be conducted to garner more facts. This will result in another decision for the Board's approval or rejection. If the Board adopts the decision by the Judge, it becomes the final decision of the Board. A licensee may appeal to the Superior Court. The Court will typically uphold the factual findings of the Judge and the Board and only accept a case due to legality. Only the Board has the authority to revoke or suspend a license.

## **7. Agenda Item #7, Executive Officer Report**

- **Review of Board Statistics**

Ms. Underwood provided a brief summary of the board statistics. The wait times from application to exam has increased due to less staff at examination sites in the past. Additional staff has now been hired. Double days on Tuesdays (Fairfield) and Wednesday (Glendale) are also being conducted to decrease the wait time. The examiners are considered temporary help and not paid overtime for their 12 hour days. Ms. Crossett

asked if there could be more double days but this would affect the workers amount of allotted annual hours. NIC will be coming out in mid February to train the new hires. Mr. Hedges commended Ms. Underwood for her hard work under the economic constraints. Ms. Crossett explained the wait time will affect a student's ability to pay their student loan as they have six months from graduation to start paying. This could also affect a school's default rate. Mr. Hedges agreed with Ms. Crossett. Ms. Crossett stated a student may have a higher chance of not passing if they have been out of school waiting for an exam. Ms. Berg commented that this applied to regular students and not pre-applicants. Ms. Crossett asked if the Board could assist in speeding up the process. Ms. Underwood stated everything is being done that can be done.

Ms. Underwood noted models are being discontinued in the practical exam effective March 1, 2012. Letters have been sent to the schools and will be posted on the website. She believed it will greatly affect the no-show rate. In the last quarter, 98 people did not take the exam as scheduled. Ms. Underwood hoped the process will be streamlined with the Breeze project and allow stand-by testers. Breeze is scheduled to be implemented in August 2012. Mr. Federico asked if future test takers have been informed about the model change. An insert will be sent with all the scheduling letters currently being mailed. The test takers will be required to have a mannequin head and a hand but no foot.

Mr. Hedges commented the budget looked fine and Ms. Underwood agreed, for now. Executive orders are still in place for no travel.

Mr. Hedges noted 5,543 Cosmetology applications were received and 2,740 licenses were issued. Exams are scheduled out 30 days, no shows or disqualifications or failed exams were not counted.

Mr. Hedges asked if fingerprinting could be discussed. He believed this may decrease the time needed for the licensing of out of state applicants. Ms. Underwood was unsure if this would be favorable at this time. Identifying applicants with criminal convictions has improved. Applicants are being permitted to submit applications prior to going to school. Mr. Hedges wondered if the State would agree to fingerprinting being an option to out of state applicants. This would take legislation for it to be made an option.

Mr. Hedges asked if the DRC cases under "Heard" include the cases disposed of by default decision. Ms. Underwood confirmed it did. Mr. Hedges noted they have handled 30 to 50 writtens per month. Mr. Hedges invited new Board members to attend the DRC meetings as an audience member. The schedule is on the website.

## **8. Agenda Item #8, Approval of Board Meeting Minutes**

- **October 17, 2011**
- **October 18, 2011**

Ms. Crossett noted she was referred to as Director Crossett under Agenda Item #2. Ms. Crossett made the motion to approve the minutes of October 17 and 18, 2011. Mr. Hedges seconded the motion and it was approved by a 6-0 vote.

## **9. Agenda Item #9, Legislation Update**

There were no legislation updates to present. Ms. Underwood noted she has been approached about a make-up artist license but has heard nothing further. Her research showed no other states have this license and there is no national exam. There would be a significant fiscal and workload impact if it were to be approved.

## 10. Agenda Item #10, Regulations Update and Approval

The following regulations have been submitted previously to the Board. They have been brought back for final approval prior to submission to the Office of Administrative Law to ensure clarity and proper language.

- **Scoring Methods in Examinations: Consideration of Comment and Approval of Final Statement of Reasons and Specific Language for Section 932 of Division 9 of Title 16 of the California Code of Regulations.** These were disapproved by the Office of Administrative Law pending clarity to the criterion scoring section. The timeframe is unknown at this time. It will again be presented with a 15-day notice for public comment.
- **Unregulated Practices: Consideration of Comments and Approval of Final Statement of Reasons and Specific Language to Adopt Section 966 of Division 9 of Title 16 of the California Code of Regulations.** Changes have been made and the comment period has been completed without comment. It is now ready for the Board's approval. Upon a motion by Mr. Hedges, seconded by Mr. Federico, it was approved by a vote of 6-0.

## 11. Agenda Item #11, Discussion on Health and Safety Regulations and Determine if of Updates are Needed

- **Section 983(b) Personal Cleanliness; Washing of Hands**  
Hand sanitizers are used at the exams. Section 983 requires a licensee to wash their hands between clients with a cleaning agent. Citations are currently not issued for using a hand sanitizer. Mr. Hedges stated he received chemical burns from hand sanitizers and preferred thorough hand washing. He felt it was more sanitary. Ms. Dawson clarified it was either/or and wondered why the choice would be eliminated. Mr. Hedges did not believe hand sanitizers offered the same cleanliness as hand washing. Ms. Dawson believed their determination should be based on factual evidence of a product and not personal experience. Mr. Hedges agreed the hand sanitizers were all different and did not have requirements under FDA. Ms. Crossett agreed there was no substitute for hand washing. Sanitizers can also cause drying and possible cracking. She stated it has been difficult to train students to wash their hands in lieu of sanitizer. She was concerned that sanitizers would not be effective. She was a member of the foot spa committee and they agreed. Mr. Hedges noted the law requires disinfecting and not sanitizing. Ms. Dawson asked if there were guidelines for hand washing. Mr. Hedges agreed this was a good point and should be addressed.

### **Public Comment:**

**Peter Westbrook** from Riverside Community College, reviewed the Centers of Disease Control and other websites that agreed hand sanitizers should not take place of washing hands in removing debris or contaminants. He offered to provide the documentation he collected. The FDA requires weight:volume of hand sanitizers to be 60%:90% ethanol which not all sanitizers were at. He believed the lower income communities would be the most impacted by acceptance of less effective hand sanitizers versus hand washing.

Mr. Hedges asked Ms. Underwood to provide information on a way to resolve this issue for discussion at the next meeting. He agreed hand washing instructions should be developed. Peter Westbrook noted the CDC provided regulations including washing hands for 20 seconds while singing the Happy Birthday song. The FDA agreed and preferred anti-bacterial soap with running water. Ms. Crossett recommended promotion of hand washing with instructions, in lieu of regulation changes. Ms. Hedges again asked Ms. Underwood to provide information on regulations for hand washing. Ms. Crossett noted it could be taken from another health group. Ms. Underwood stated any health regulation changes must go through the Department of Health Services, which would be lengthy. She recommended a

committee be formed to discuss this and other issues in the Health and Safety Regulations. Ms. Dawson noted "hand hygiene" was the appropriate term in most industries.

**Public Comment:**

**Fred Jones** of the PBFC stated this was a complicated subject. He believed the currently regulations were appropriate and provided options. He stated his organization would oppose removing any of the options and would prefer providing helpful practical information.

**Lydia Justice**, an electrologist in Dublin, CA, stated the CDC preferred hand washing but were not against hand sanitizers. They also required intermittent hand washing even when using a sanitizer. She was also opposed to eliminating the options.

- **Section 989 Prohibited Substances**

Ms. Underwood stated this was not an accurate section and needed a regulation change. The section currently states that products should not be used that contain specific chemicals banned by the FDA or in a manner disapproved by the FDA. The chemicals listed in the regulation were not disapproved by the FDA. The regulation needs to be updated to reflect this. Ms. Crossett believed the chemicals were harmful for the tech and the consumer even if they weren't banned. Ms. Underwood noted new limits could be set and be more specific and accurate. It will be discussed at a future meeting of the manicuring advisory committee and a recommendation will be presented to the Board.

- **Section 992 Skin Peels**

The Board has determined aestheticians cannot use a glycolic acid of 30% or higher. This is not written in any regulation and a specific limit should be set. Fines were given but overturned. Ms. Crossett believed the pH level of the skin should be used as the percentage is unclear. Mr. Hedges recommended the Board use the levels set by the FDA Cosmetic Ingredient Review Committee. It was agreed an aesthetician advisory committee be formed to define this. Ms. Crossett believed the aestheticians needed to be more educated on the chemicals. She recommended Rebecca James Gadbury, a product chemist, at UCLA and Mark Lees of Florida for the committee. Ms. Underwood noted the regulations need to be clear to hold people accountable in the field.

**Public Comment**

**Sherry Davis** from the NCEA did not believe the term peeling should be used as it is more of a medical term. It should be referred to as exfoliation. She agreed aestheticians should be more informed to be able to look at their products more closely. Better wording and products should be reviewed. This is an important issue in the schools. She also offered to be part of the committee.

**Jamie Schrabeck** from Precision Nails wanted to see the regulation broadened by deleting the word facial. This also applied to products used on calluses. Caustic products also needed to be addressed.

Staff will continue their research and prepare recommendations for changes in health and safety regulations for the Enforcement Committee. It was agreed it would be important to engage industry chemical experts.

## 12. **Agenda Item #12, Discussion on the Oversight of Schools**

Ms. Underwood met with the staff of the Senate Business and Professions Committee. It was determined the best way to start this discussion about school oversight would be through the Sunset review process which will be January 2014. Staff will prepare their extensive report in 2012 with hearings in early 2013. They will keep the Board apprised. Ms. Crossett disagreed with the interpretation of the laws regarding schools.

### Public Comment

**Fred Jones** with the PBFC was involved in the discussions regarding the bureau and tried to clarify that the Board would be the sole DCA regulatory agency. He was not successful at that time and believed they were looking for fees to hire and create a new bureau. He agreed with Ms. Underwood's approach through the Sunset Review process. He argued at that time, and still agreed it did not make sense to have two Department of Consumer Affairs agencies regulating one business. The current Board controlled curriculum, textbooks, licensing exam, facilities. They only needed to augment the ability to look at the student contracts and refund policies. He believed the Board was more capable of doing this than a new Bureau. They would be able to track students from start to finish. The schools would then be held accountable to one regulatory legal interpretation.

Ms. Crossett explained the Tuition Recovery Fund was only available to in state students of schools that were approved by the Bureau. All students who were from California had to pay into this account but could not access it. The fund is monitored by the Bureau. Mr. Hedges noted the Board has been left with little power over the schools.

## 13. **Agenda Item #13, Enforcement Committee Report**

Mr. Hedges asked staff to research if states enforce the fish tank pedicure process.

- **Update on the Review and Recommendations on the Apprentice Program:**

Mr. Hedges stated the DRC noticed a large amount of fines being given to apprentices and trainers, oftentimes due to an absent trainer or minimal records of hours. Ms. Underwood agreed there were many problems. The Enforcement Committee met in October to discuss and prepare guidelines. Mr. Hedges provided a recap of that meeting. Staff has compiled information and sent a letter to apprentice program sponsors of the requirements of the programs and recommendations that will improve the program. Areas addressed include the pre-apprentice training being completed in an approved training facility. Pre-apprentice training fees cannot be over \$2,999. Trainers are responsible for maintaining records. It was found many of the fees were over the limit. A one to one ratio is recommended for training. Program sponsors must notify the Board if the apprentice discontinues or completes their program. The Board will begin posting pass/fail rates of apprentice program in Fall 2012. The Committee will meet in March to prepare recommendations to the Board.

Ms. Underwood clarified an apprentice can only complete the program one time. Staff is working with the Division of Apprenticeship Standards to get their existing rules enforced more. There is nothing in the Board's regulations to prevent an apprentice from getting a license ore than once. It has been found an apprentice may not complete a program but the Board is not notified. Forms are being developed for training facilities to file once a student completes or discontinues a program.

## 14. **Agenda Item #14, Approval of 2012 Board Meeting Calendar**

Proposed dates for Board meetings were presented. Mr. Hedges made the motion to approve the proposed calendar and it was seconded by Ms. Chen. Ms. Underwood stated the location of the meeting in July may be changed due to travel restrictions. Ms. Crossett requested the October

meeting be changed to October 22nd. Ms. Underwood agreed to change the meeting to October 22<sup>nd</sup>. The motion was approved by a 6-0 vote.

**15. Agenda Item #15, Agenda Items for Next Meeting**

Ms. Dawson asked that braiding be revisited. Apprenticeship program, regulations affecting the use of a hand sanitizer, information about the new fish pedicure process.

Sherry Davis of the NCEA asked to see the advanced skin care program discussed at a future meeting. Ms. Underwood believed it would take three years and include extensive research and legislation. It has not been well received in the past by the medical board. It would required significant fiscal impact. Ms. Davis offered to help in any way.

Nancy Reyes from Mojave Barber College requested more discussion on curriculum changes in barbering. She stated they embraced change. Many school owners will attend the next meeting. She also noted there was a big problem with students buying hours and this would be eliminated if a student was required to register when beginning school. She also noted a barber was not included on the Disciplinary Board and the inspectors had limited knowledge of their practices. They felt unrepresented and that regulations were being made without their input. Ms. Crossett encouraged barbers to apply for an appointment to the Board. Ms. Dawson recommended Ms. Reyes provide justification for their request to increase the curriculum standards. Ms. Reyes believed barbers needed real life experiences to make them better barbers. She was concerned about barbers being trained by other schools who were doing the minimum standards.

**16. Agenda Item #16, Public Comment**

*Note: The Board may not discuss or take action on any matter raised during this public comment section, except to decide whether to place the matter on the agenda of a future meeting.  
[Government Code Sections 11125, 11125 (a)]*

Fred Jones of PBFC commended Ms. Tran for her election to Board president. He noted this was the first time a Vietnamese manicurist has been elected President.

The meeting was adjourned to the closed session.

**17. Agenda Item #17, Closed Session to Discuss Enforcement Cases**

- **Discussion on Reconsideration and Disciplinary Cases (Closed Pursuant to Government Code Section 11126(c) (3).**

**18. Agenda Item #18, ADJOURNMENT**

The board returned to open session. With no further business, the meeting was adjourned.





State and Consumer Services Agency – Edmund G. Brown Jr., Governor  
**BOARD OF BARBERING AND COSMETOLOGY**  
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**CALIFORNIA STATE BOARD OF  
BARBERING AND COSMETOLOGY  
MINUTES OF MARCH 19, 2012**

**Agenda Item 5**

**2420 Del Paso Road  
Sequoia Room, 1<sup>st</sup> Floor  
Sacramento, CA 95834**

**Additional Locations:**

**5385 Camp 8 Road  
Paso Robles, CA 93446**

**1067 Folsom, 2<sup>nd</sup> Floor  
San Francisco, CA 94103**

**1299 Old Bayshore Highway, Suite 118  
Burlingame, CA 94010**

**12501 East Imperial Highway, Suite 601  
Hearing Room C, 6<sup>th</sup> Floor  
Norwalk, CA 90650**

**BOARD MEMBERS PRESENT**  
Christie Truc Tran, President  
Joseph Federico, Vice President  
Wen Ling Cheng  
Frank Lloyd  
Richard Hedges  
Deedee Crossett  
Katie Dawson

**STAFF MEMBERS PRESENT**  
Kristy Underwood, Executive Officer  
Gary Duke, Legal Counsel  
Tandra Guess, Staff Analyst

**1. Agenda Item #1, Call to Order/Roll Call**

Ms. Underwood called roll at 10:00 a.m. As she was in the Sacramento office, Ms. Tran asked her to conduct the meeting.

**2. Agenda Item, #2, Discussion and Vote on Position on Assembly Bill No. 1754, Makeup Artistry**

Ms. Underwood provided a background on Assembly Bill 1754. It is being proposed to allow for a voluntary makeup certification. Ms. Underwood then encouraged comment from the board members.

Mr. Hedges stated he has reviewed the bill very carefully and had some concerns. He was concerned about the cost in reimbursing local communities for enforcement of the criminal aspect of the bill. The Board would have to provide this money if the state would not pay for it. He had some concerns about enforcement of the law as it was not clear in the bill. The schooling and apprenticeship program were not clear in how they would be handled and who would oversee them. However, he did believe the bill would allow other infractions such as unlicensed activities to be treated as a crime which would make it easier to bring people into compliance.

Mr. Hedges questioned self-certification and wondered how it could be enforced. Past experience would be difficult to judge.

Mr. Federico liked the intent of the bill but felt the content was unclear. He was concerned about consumer protection and did not feel there was enough oversight in the bill.

Ms. Crossett believed there was a health and safety issue with the bill. The curriculum only focused 5 hours on bacteriology and 5 hours on anatomy. She believed the possibility of harm or disease was higher than most people thought. She did not feel the amount of time spent on health and safety was enough to protect the consumer. She felt it was a good course for someone who wanted to learn about makeup and be a makeup artist.

Ms. Crossett noted local makeup schools could potentially benefit from this license but are not supportive of the bill.

Mr. Lloyd agreed with the previous comments. He felt the bill would have an impact on the staff which would be difficult with hiring cuts.

Public Comment

Manhal Mansour is the CEO of a boutique cosmetic company. He is an advocate for makeup artists and has been involved with the bill. He noted makeup artists now had nothing and were unable to work in salons or events. He believed wedding work is now done by unlicensed makeup artists. He felt the bill provided the opportunity for makeup artists to work legally. He addressed some of the concerns brought up by the Board Members. He believed the state approved makeup schools would work with state approved cosmetology schools. He agreed the bill is rough and needs

refinement and hoped the Board and other artists could come together to improve it. He agrees with the apprenticeship program and noted the hours are proposed but were excessive. He proposed to amend the bill to 515 hours (versus 680). He believed if the experts felt safety and sanitation needed to be better addressed that it should be done. He discussed self-certification and explained they did not want to burden the Board with opening more testing facilities for makeup artists. There were various accredited schools in the state that could be trusted to administer a test and certify the completion and passing. Mr. Mansour concluded by stating that the makeup artists only wanted an opportunity to work and were open to amending the bill according to the experts, including the Board. The bill has a three year review after its passage.

Mr. Hedges would like to discuss at a future board meeting the possibility of adding more hours to the esthetician license in makeup artistry and permanent makeup.

Ms. Crossett agreed this should be discussed further. She believed the esthetician license covered the needed hours in health and safety for the consumer. She believed adding curriculum and hours for advanced training should be discussed. She believed there is working opportunities for unlicensed makeup artists. If they prefer to work in a salon, they could earn the aesthetician license. She noted there were hours in makeup artistry in aesthetics but it depended on the program how detailed it is. She believed most schools wanted to provide a well rounded curriculum to offer their students more opportunities to find employment.

Mr. Hedges believed it would be beneficial to speak with the author of the bill to add hours and curriculum requirements for the esthetician. This would be more manageable for the Board.

Ms. Crossett cited in New York they developed an add-on to an existing license that required more hours.

Ms. Cheng believed the main goal of the Board is to create job opportunity and monitor compliance. She believed existing curriculums should be modified.

Fred Jones of the Professional Beauty Federation of California (PBFC) believed the intent behind the bill is positive. He was opposed to unnecessary hurdles that could lead to unlicensed activity. He believed the timing was wrong and did not believe the legislature had enough time to thoroughly review the bill in this session. This could lead to the inability to have a thorough discussion and possible amendment. His association was concerned about giving sole regulatory oversight to the schools under the Board and BPPVE. This may lead to contradictions and undermining of the credibility of the law. He hopes the Board would gain complete control over schools it has approved. He is concerned about creating a new school with new responsibilities, without accompanying resources. He hopes this issue will be addressed in 2013 when the Board is scheduled for sunset review. He believed the current bill was premature.

Andrew Poules is the owner of Diva International Salon in San Francisco. He stated he has difficulty finding makeup artists. He typically hires cosmetologists but they want to work on the floor within a few months and there is no room. He supports the bill and

feels it would allow him to expand his business and the ability to provide workers' compensation, medical and vacation time to his employees without difficulty.

Tania Hrast is a freelance makeup artist from Los Angeles. She stated she has difficulty finding steady work as she cannot legally be employed in a salon or work at weddings. She felt the bill would greatly benefit her and her colleagues. She stated she focuses on health and safety of her clients in the entertainment industry. This is vital to her work.

Harold Boyd Jr. is a representative with Pigment Cosmetics in Sacramento. He stated the bill began the previous year and took in a lot of comments. He hopes the Board would now offer their comments and suggestions for amendments. It was clear there were a lot of concerns including jobs and compliance. He hopes everyone could work together to amend the bill and continue the legislative process.

Ms. Dawson expressed her concerns about the voluntary certification. She stated the Board was being asked to legitimize the work without giving it the authority to regulate it. She would strongly support changes in the curriculum to have makeup artistry included but believed it should be done during sunset review. She did not believe the current bill included enough consumer protection.

Sherilyn Ada at Marinello Schools of Beauty agreed the bill's intent was positive but feels there are too many issues that are not covered. She noted there were numerous people who have withdrawn support from the bill including makeup schools. She agreed waiting until the sunset review to look at expanding the esthetician curriculum. She believed the cost would be too overwhelming at this time.

Mr. Hedges made the motion that the Board oppose the current bill and extend an invitation to the author to work with the Board to include his ideas within the curriculum for the aesthetician. He recommended they then go to the Legislature united. Mr. Federico seconded the motion. The motion passed by a roll call vote of 7-0.

#### **Public Comment Not on the Agenda**

Kathy Don stated her license expires March 30. She works in a nail salon owned by her sister who is unlicensed and has never worked in the salon. She had various questions to ask the Board staff with regard to licensing her sister's salon. Mr. Duke stated this was a very individualized situation and recommended it be dealt with by staff after the meeting.

### **3. Agenda Item #3, ADJOURNMENT**

With no further business, the meeting was adjourned.



State and Consumer Services Agency – Governor Edmund G. Brown Jr.  
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## MEMORANDUM

DATE: April 30, 2012

TO: Members, Board of Barbering and Cosmetology

FROM: Kristy Underwood  
Executive Officer

SUBJECT: Regulations Update

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- Scoring Methods in Examinations:** This package was rejected by the Office of Administrative Law (OAL) with four months to resubmit. A 15-day notice on the modified text was held, during which there were no new comments. The Board needs to approve the modified text and final statement of reasons in order to resubmit the file by the May 27 deadline.
- Unregulated Services:** Agency has rejected these regulations. The one-year deadline for submitting the regulation with OAL ended on April 22, 2012. Consequently, if the Board decides to proceed with a revised version of the regulation, we will need hold a new 45-day notice.
- Inspection of Examination Papers / Text and Reference Books for Students:** This proposed rulemaking action updates the Board's regulations to reflect the change to the NIC examination. The comment period on this package ended on January 30, 2012. No comments were received. The Board needs to approve the specific language and final statement of reasons. The file will then be submitted to DCA, the State and Consumer Services Agency and ultimately OAL.

BOARD OF BARBERING AND COSMETOLOGY

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

MODIFIED TEXT

LEGEND

<u>Underline</u>	Indicates proposed amendments or additions to the existing regulation.
<del>Strikeout</del>	Indicates proposed deletions to the existing regulation.
<u>Double Underline</u>	Indicates an addition to the originally proposed text of the r regulations
<del>Double Strikeout</del>	Indicates a deletion to the originally proposed text of regulations

Amend Section 932 of the California Code of Regulations as follows:

**932. Passing Grades in Examinations.**

An overall average of 75 percent shall be the passing grade for examinations.

~~(a) Examinations consist of two parts: a practical part and a written part.~~

~~(b) If the applicant fails to receive a passing grade for the barbering examination, the applicant will be required to be reexamined in the practical part and the written part of the examination.~~

~~(c) The total possible examination score for the barbering exam consists of 100 points: The practical part is valued at 80 points and the written portion is valued at 20 points.~~

~~(d) If the applicant fails to receive a passing grade but only fails one part of any cosmetology or electrology examination, the applicant will be required to be re-examined only in the part failed, provided the re-examination takes place within one year after the notice of the results of the examination in which the applicant failed one part has been delivered.~~

~~(e) The total possible examination score for any cosmetology or electrology exam consists of 400 points: The practical part is valued at 300 points and the written portion is valued at 100 points.~~

~~(f) To pass any of the cosmetology or electrology examinations, the applicant must achieve at least 300 points overall including a score of at least 225 in the practical part and at least 70 in the written part.~~

(a) Examinations shall consist of a practical ~~examination~~ demonstration and a written ~~examination~~ test.

(b) ~~The Board shall establish passing scores for examinations based on criterion-referenced scoring methodology.~~ An applicant must obtain a passing score on both the practical demonstration and the written test. The board will determine the passing scores using a criterion-referenced method and based on the recommendation of subject matter experts under the direction of the Board and the Board's examination contractor.

Note: Authority cited: Sections 7312, 7338 and 7340, Business and Professions Code.  
Reference: Sections ~~139,~~ 7338, and 7340, ~~7341 and 7342,~~ Business and Professions Code.

## BOARD OF BARBERING AND COSMETOLOGY

### FINAL STATEMENT OF REASONS

**Hearing Date:** June 13, 2011

**Subject Matter of Proposed Regulations:** Passing Grades in Examinations

**Sections Affected:** Section 932, California Code of Regulations

#### Updated Information

The State Board of Barbering and Cosmetology (hereinafter, "the Board") has made certain changes to the originally proposed specific language of the regulations after the original file was disapproved by the Office of Administrative Law over clarity issues. The changes are as follows:

- The modified text now clarifies that the examination is a single examination that consists of a practical demonstration and a written test. This new language is more consistent with the statute upon which the regulation is based (Section 7338, Business and Professions Code)
- The modified text clarifies that the passing score will be determined by the Board based on the recommendation of subject matter experts under the direction of the Board and its examination contractor. Although the Initial Statement of Reasons indicated that the Department of Consumer Affairs' Office of Professional Examination Services would also be involved in setting the passing grade, this is not the case.
- The modified text corrects the authority citation to include Section 7338 of the Business and Professions Code and corrects the reference citation by removing Section 139 of the Business and Professions Code.

#### Local Mandate

A mandate is not imposed on local agencies or school districts.

#### Small Business Impact

There is no significant impact to small business.

#### Consideration of Alternatives

No reasonable alternative which was considered or that has otherwise been

identified and brought to the attention of the board would be either as effective and less burdensome to affected private persons than the adopted regulation or more cost effective to affected private persons and equally effective in implementing the statutory policy on other provision of law.

**Summary of, and Responses to, Comments Received During the 45-day Comment Period**

**Comment #1**

**Fred Jones, Counsel for the Professional Beauty Federation of California:** Mr. Jones urged the Board to amend the proposed regulation's references to a "practical examination" and "written examination" to better reflect the language of the authorizing statute, Section 7338 of the Business and Professions Code. While not opposed to the inclusion of "criterion-referenced scoring" in regulation, Mr. Jones expressed concern that the proposed regulation might be too vague and undermine or contradict some of the provisions of Section 7338 of the Business and Professions Code, notably the primacy of the practical portion of the exam.

*Board Response:* The Board rejects these comments. The Board believes the new language is clear. The Board has also made a commitment to adopting criterion referenced scoring of examinations that will follow the mandate of Section 7338 regarding the primacy of practical demonstrations over written tests.

**Summary of, and Responses to, Comments Received During the 15-day Comment Period on the Modified Text**

No comments were received.

**BOARD OF BARBERING AND COSMETOLOGY**  
*Title 16, Division 9 of the California Code of Regulations.*

**SPECIFIC LANGUAGE**

**LEGEND**

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

**Repeal Section 933 of the California Code of Regulations as follows:**

**~~§ 933. Inspection of Examination Papers.~~**

~~(a) An applicant who has failed the written examination may inspect his or her answer sheet for that examination by making a written request to the board within ninety (90) days after notification of the examination result. Such an inspection shall be conducted in the city where the examination was taken or, at the election of the applicant, in the board office.~~

~~(b) At the time of such inspection, no one other than the applicant and a representative of the board shall have access to the written examination papers. Only the applicant's answer sheet for the written examination shall be available for inspection to an applicant.~~

~~Note: Authority cited: Sections 7312 and 7340, Business and Professions Code. Reference: Sections 496 and 7341, Business and Professions Code.~~

**Amend Section 961 of the California Code of Regulations as follows:**

**§ 961. Text and Reference Books for Students.**

(a) In teaching, schools shall use text and reference books approved by the board. They may use other teaching material to supplement the approved text and reference books.

(b) Each student shall possess the following:

(1) At least one (1) of the textbooks approved by the board.

~~(2) The Performance Criteria developed by the board.~~

~~(3)~~ (2) The Barbering and Cosmetology Act and the Rules and Regulations of the Board of Barbering and Cosmetology.

(c) There shall be available for the use of students in the school:

(1) A list of the text and reference books approved by the board.

(2) Any two approved texts other than the one text possessed by the student. (Shall not apply to barber schools if there are less than three approved texts.)

Note: Authority cited: Sections 7312 and 7362, Business and Professions Code.  
Reference: Section 7362, Business and Professions Code.

BOARD OF BARBERING AND COSMETOLOGY

**FINAL STATEMENT OF REASONS**

**Hearing Date:** No hearing was scheduled by the Board or requested by a member of the public.

**Subject Matter of Proposed Regulations:** Inspection of Examination Papers/Text and Reference Books for Students

**Sections Affected:** Sections 933 and 961, California Code of Regulations

**Updated Information**

The Initial Statement of Reasons is included in the file. There is no updated information.

**Local Mandate**

A mandate is not imposed on local agencies or school districts.

**Small Business Impact**

There is no significant impact to small business.

**Consideration of Alternatives**

No reasonable alternative which was considered or that has otherwise been identified and brought to the attention of the board would be either as effective and less burdensome to affected private persons than the adopted regulation or more cost effective to affected private persons and equally effective in implementing the statutory policy on other provision of law.

**Summary of, and Responses to, Comments Received During the 45-day Comment Period**

No comments were received.

*No Attachment*



# MEMORANDUM

<b>DATE</b>	April 12, 2012
<b>TO</b>	Board Members Board of Barbering and Cosmetology
<b>FROM</b>	Kristy Underwood Board of Barbering and Cosmetology
<b>SUBJECT</b>	<b>Hair Braiding</b>

The Board of Barbering and Cosmetology has been an integral part of the evolution of hair care and the changes produced. In 1930, the California Cosmetology law placed regulation of all hairstyling under the State Board of Cosmetology. On May 16, 1982, the Attorney General issued an opinion finding African hair braiding is covered by cosmetology licensing requirements. On January 28, 1997, the Institute of Justice filed a lawsuit in a federal district court in San Diego challenging California's cosmetology licensing statute and regulations on behalf of practitioners of African hair braiding and other forms of natural hairstyling. The name of the case was Joanne Cornwell and the American Hairbraiders and Natural Hair Care Association v. Ron Joseph, Acting Director of DCA; Pamela Reed, Program Administrator, Barbering and Cosmetology Program, DCA; Susan Harrigan, Assistant Program Administrator, Barbering and Cosmetology Program, DCA; and Daniel E. Lungren, Attorney General of the State of California. The case number was 97CV0138 B. The plaintiff's challenged the constitutionality of the Barbering and Cosmetology Act as it relates to hair braiding as an act of cosmetology. The suit was not for monetary damages. Deputy Attorney General Thomas Lazar and Richard Garske handled the case for the Board of Barbering and Cosmetology. On August 18, 1999 the court ruled in favor of the plaintiff. Noted below is an excerpt from this judgment:

“As set forth, the basis of this Order is the finding that the State's mandated curriculum, on its face and upon review of its actual implementation and associated texts and exam, does not teach braiding while at the same time it requires hair braiders to learn too many irrelevant, and even potentially harmful, tasks. The vice is not the statute, but the implementing regulations. If an individual does more than braid – if he or she routinely shampoos or cuts or dyes hair, or uses chemicals at all – they are not a hair braider. If they do such activities, they are subject to the Act and regulations.”

In an effort to further fine tune the Board's correlation to the profession of hair braiding a legal opinion was requested on November 9, 2011 from the Legal Council representing the Department of Consumer Affairs Board of Barbering and Cosmetology. The legal opinion clarified the Board's inspectors are not to cite hair braiders who are not licensed with the Board for using a brush or comb.



## MEMORANDUM

**Date:** March 29, 2012  
**To:** Members, Board of Barbering and Cosmetology  
**From:** Kristy Underwood, Executive Officer  
Board of Barbering and Cosmetology  
**Subject:** Garra Rufa Fish Pedicures

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It has come to the California Board of Barbering and Cosmetology's attention that an increasing number of establishments are offering "fish pedicures". The procedure is summarized in the publication, "Guidance on the Management of the Public Health Risks from Fish Pedicures". The manual states, "This practice involves immersing the feet in a tank of water containing *Garra rufa* fish (a small toothless species of freshwater carp) that nibble off dead and thickened skin. The use of the *Garra rufa* fish is long established in Turkey, India and the Far East where it has a history as a treatment for a variety of skin conditions and more recently as a cosmetic treatment for the removal of dead and hardened skin from the feet".

The Board has been asked to reconsider their stand of "No Fish Pedicures" in the State of California. Mr. Victor Chang appeared at the October 17, 2011 and the February 6, 2012 Board meetings beseeching the Board to research the fish pedicure process and rescind their current position. The following are the results of that research.

The fish pedicure poses an undue risk to public health. The Board of Barbering and Cosmetology health and safety rules currently in place do not permit the procedure, given that the fish and water are used on multiple customers and have the potential to transmit infectious disease. Additionally, the fish would not survive the cleaning and disinfection procedures outlined in the Barbering and Cosmetology Regulations 979.

The Department of Fish and Game have expressed concern about the dangers to the California lakes and streams if the fish, a non-native species, find their way into the California waters when salons dispose of the fish when they grow too large to be used for pedicures.

There are no Cosmetology or Barbering Boards that allow fish pedicures in the United States of America.

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## MEMORANDUM

<b>DATE</b>	April 17, 2012
<b>TO</b>	Board Members Board of Barbering and Cosmetology
<b>FROM</b>	Kristy Underwood Board of Barbering and Cosmetology
<b>SUBJECT</b>	<b>Hand Hygiene</b>

After the February 6, 2012 Board meeting, the Board Members asked the Board of Barbering and Cosmetology to re-examine and research regulation 983 (b) of the Barbering and Cosmetology Regulations. Regulation 983 (b) states:

### **983. Personal Cleanliness**

- (a) The person and attire of a licensee serving a patron shall at all times be clean.
- (b) Every licensee performing services shall thoroughly wash his or her hands with soap and water or *any equally effective cleansing agent* immediately before serving each patron.

NOTE: Authority cited: Section 7312, Business and Professions Code. Reference: Section 7312(e), Business and Professions Code.

Questions were raised during the Board meeting in regard to the appropriateness of using a hand sanitizer in place of soap and water. Are alcohol based hand sanitizers as effective as soap and water in disinfecting? Will continued and repetitious use of a hand sanitizer have a detrimental effect on a licensee's hand? What kind of training/awareness can the Board of Barbering and Cosmetology make available to licensee's to ensure proper hand hygiene?

For the purpose of this report the definition of a hand sanitizer is as follows:

Alcohol-based hand rub: An alcohol-containing preparation designed for application to the hands for reducing the number of viable microorganisms on the hands. In the United States, such preparations usually contain 60%–95% ethanol or isopropanol.

### **Summary**

This report is based on the findings by the United States Food & Drug Administration, Center of Disease Control and the World Health Organization. All three entities recognize the effectiveness of using an alcohol-based hand sanitizer.

The **United States Food and Drug Administration (FDA)** states: “That while soap and water are undoubtedly the first choice for hand hygiene, alcohol-based hand rubs may be used if soap and water are not available. However, the agency cautions against using the alcohol-based rubs when hands are visibly dirty. This is because organic material such as dirt or blood can inactivate the alcohol, rendering it unable to kill bacteria.” The FDA on April 20, 2011 issued 4 warning letters to companies that manufacture and market over-the-counter drug products, including hand sanitizers, that claim to prevent infection for methicillin-resistant *Staphylococcus aureus* bacteria (MRSA). The FDA has not approved any products claiming to prevent infection from MRSA, *E.coli*, *Salmonella* or H1N1 flu, which a consumer can just walk into a store and buy. The Board of Barbering and Cosmetology has recorded one MRSA complaint in the Fiscal Year of 2010-2011 and one MRSA complaint from January – June, 2012. Both complaints are MRSA pedicure complaints. The FDA did provide one adverse action report regarding the use of a hand sanitizer. In summary, a consumer reported erratic blood glucose test readings. The consumer prior to the testing did not wash their hands but rather used a hand sanitizer. There was no report of death, serious injury or mistreatment associated with this event.

The **Center of Disease Control (CDC)** states: “Washing hands with soap and water is the best way to reduce the number of germs on them. If soap and water are not available, use an alcohol-based hand sanitizer that contains at least 60% alcohol. Alcohol-based hand sanitizers can quickly reduce the number of germs on hands in some situations, but sanitizers do **not** eliminate all types of germs. Hand sanitizers are not effective when hands are visibly dirty.” The CDC published hand hygiene guidelines as part of their Morbidity and Mortality Weekly Report (MMWR). These guidelines provide specific recommendations on how to improve hand hygiene practices and reduce transmission of pathogenic microorganisms. The CDC now recommends using alcohol-based hand rubs. The guideline says that these hand rubs significantly reduce the number of microorganisms on the skin; they are fast acting, and can cause less skin irritation than traditional hand washing. The rubs also take less time and data show that health care personnel may be more inclined to use alcohol-based hand rubs because they are more convenient. The CDC is not recommending alcohol hand rub products to the exclusion of traditional soap and water hand washing. The major change is that CDC is now recommending the alcohol hand products for routine use, and not just when soap and water are not available. The document still recommends a soap and water hand wash before eating and after using the bathroom.

The **World Health Organization** concludes: When an alcohol-based hand rub is available it should be used as the preferred means for routine hand hygiene in health care. Alcohol-based hand rubs have the following immediate advantages:

1. elimination of the majority of germs (including viruses)
2. the short time required for action (20 to 30 seconds)
3. availability of the product at the point of care
4. better skin tolerability (see Part 1.14 of the Guidelines)
5. no need for any particular infrastructure (clean water supply network, washbasin, soap, hand towel)

Included in this report are endorsements for the use of alcohol-based hand rubs as seen in Section 5.

This report concludes there are not detrimental effects to the environment as documented in Section 6.

## **Conclusion / Recommendations**

Nothing can take the place of washing your hands with soap and water. It is the preferred method for hand hygiene. The use of an alcohol-based hand rub is a convenient way to enhance hand hygiene. However, if the Board of Barbering and Cosmetology continues to allow licensees to use alcohol-based hand rubs in the salon, it may actually increase disease prevention. More licensees may engage in hand hygiene due to the convenience of an alcohol-based hand rub. The Board related MRSA complaints in the past year and a half have been pedicure related. According to the CDC allergic contact dermatitis associated with alcohol-based hand rubs is uncommon. Several recent prospective, randomized trials have demonstrated that alcohol-based hand rubs containing emollients were better tolerated by health workers than washing their hands with non-antimicrobial soaps or antimicrobial soaps. It is recommended that the Board of Barbering and Cosmetology post on their website, "BarberCosmo" the CDC's poster, "How to Hand Wash?" and "How to Hand Rub?" in conjunction with a link to the "Hands Together" video provided by the CDC. Due to the fact the FDA, CDC and the WHO recognize the benefits of using an alcohol-based hand rub it is recommended that no changes are made to our current 983 (b) regulation.

*No Attachment*

*No Attachment*

*No Attachment*

*No Attachment*

*Closed Session*

*No Attachment*