CALIFORNIA
BOARD OF BARBERING AND COSMETOLOGY

APRIL 26, 2016

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

California State Board of Barbering and Cosmetology

Board Meeting Agenda

Tuesday, April 26, 2016
10:00 A.M.
Until completion of business

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

An additional meeting location, via teleconference, has been established at:
1038 West 80th Street, Los Angeles CA 90044

ALL TIMES ARE APPROXIMATE AND SUBJECT TO CHANGE

OPEN SESSION:

1. Call to Order/Roll Call/Establishment of a Quorum **(Joseph Federico)**

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 **(Joseph Federico)**

4. Executive Officer Report **(Kristy Underwood)**

5. Approval of Board Meeting Minutes
   - January 24, 2016

6. Licensing and Examination Committee Report **(Chairperson)**
   Consideration of Committee Recommendations and Possible Action
   - Discussion and Recommendations to Board Regarding Possible Licensing Requirements for Establishment Owners.
   - Discussion and Recommendations to Board Regarding Possible Board-Approved Certifications For Each License Type.
   - Update on Personal Service Permit Stakeholder Meetings Held on March 29, 2016 and April 5, 2016. (BPC § 7402.5)
     - Review of Public Stakeholder Meeting Comments
     - Discussion on Recommended Further Actions to be Taken by Board

7. Establishing the Health and Safety Advisory Committee. (BPC § 7314.3)

8. Update and Discussions of Proposed Bills that could Impact BBC:
   - AB 2025 (Gonzalez) - Labor Law Education Requirements
   - AB 2125 (Chiu) - Healthy Nail Salon Recognition Program
   - AB 2437 (Ting) – Nail Establishments: Training: Wage Violations
   - SB 896 (Nguyen) - Credit / Debit cards for Tips
   - SB 1044 (Nguyen) - Assessment of Fines to Individuals and Establishment Owners and Citation Fine Payment Plans

BarberCosmo
Board of Barbering & Cosmetology

Joseph Federico, Industry Member, President

Dr. Kari Williams, Industry Member, Vice President

Mary Lou Amaro, Industry Member

Bobbie Jean Anderson, Public Member

Polly Codorniz, Industry Member

Andrew Drabkin, Public Member

Richard Hedges, Public Member

Coco LaChine, Public Member

Lisa Thong, 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

2420 Del Paso Road, Suite 100
Sacramento, CA 95834

California State Board of Barbering and Cosmetology

9. Proposed Regulations Updates (Possible Actions)

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

10. Discussion on Externship Programs for Students of Public Schools of Cosmetology Pursuant to Business and Professions Code section 7395.1 (a)

11. Discussion on California Reentry Programs and Licensing Ex-Offenders.

12. Agenda Items for Next Meeting

13. 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)]

14. Adjournment

Action may be taken on any item on the agenda. The time and order of agenda items are subject to change at the discretion of the Board President and may be taken out of order. In accordance with the Bagley-Keene Open Meeting Act, all meetings of the Board are open to the public. The Board plans to webcast this meeting on its website at www.barbercosmo.ca.gov. Webcast availability cannot, however, be guaranteed due to limited resources. The meeting will not be cancelled if webcast in not available. If you wish to participate or to have a guaranteed opportunity to observe, please plan to attend at a physical location. Adjournment, if it is the only item that occurs after a closed session, may not be webcast.

**Government Code section 11125.7 provides the opportunity for the public to address each agenda item during discussion or consideration by the Board prior to the Board taking any action on said item. Members of the public will be provided appropriate opportunities to comment on any issue before the Board, but the Board President may, at his or her discretion, apportion available time among those who wish to speak. Individuals may appear before the Board to discuss items not on the agenda; however, the Board can neither discuss nor take official action on these items at the time of the same meeting (Government Code sections 11125, 11125.7(a)).*

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

Quarterly Barbering and Cosmetology Licensing Statistics
Fiscal Year 15/16

Applications Received

	Jul-Sept	Oct-Dec	Jan- Mar	Apr-June	YTD
Establishment	1,795	1,606	1,640		5,041
Mobile Unit	5	0	1		6
Barber					
Pre-App	408	341	216		965
Initial Application	346	296	469		1,111
Re-Exam	388	391	549		1,328
Sub-Total	***1,142***	***1,028***	***1,234***	***0***	***3,404***
Reciprocity	40	52	31		123
Apprentice	156	111	163		430
Cosmetology					
Pre-App	1,737	1,767	1,100		4,604
Initial Application	1,249	1,085	1,068		3,402
Re-Exam	1,506	1,182	1,317		4,005
Sub-Total	***4,492***	***4,034***	***3,485***	***0***	***12,011***
Reciprocity	464	318	391		1,173
Apprentice	164	172	148		484
Electrology					
Pre-App	8	5	8		21
Initial Application	3	5	5		13
Re-Exam	0	4	5		9
Sub-Total	***11***	***14***	***18***	***0***	***43***
Reciprocity	2	1	1		4
Manicuring					
Pre-App	728	676	532		1,936
Initial Application	1,035	943	848		2,826
Re-Exam	943	785	896		2,624
Sub-Total	***2,706***	***2,404***	***2,276***	***0***	***7,386***
Reciprocity	145	135	112		392
Esthetician					
Pre-App	681	783	609		2,073
Initial Application	531	491	432		1,454
Re-Exam	638	305	404		1,347
Sub-Total	***1,850***	***1,579***	***1,445***	***0***	***4,874***
Reciprocity	153	100	102		355
Total	**13,125**	**11,554**	**11,047**		**35,726**

Examination Results
(January 1, 2016-March 31, 2016)

Practical Examinations

Administered	Passed	Failed	Total	Pass Rate
Barber	588	93	681	86%
Cosmetologist	2,376	423	2,799	85%
Electrology	7	0	7	100%
Esthetician	1,126	48	1,174	96%
Manicurist	1,618	352	1,970	82%
TOTAL	**5,715**	**916**	**6,631**	**86%**

Written Examinations

Barber	Passed	Failed	Total	Pass Rate
English	374	404	778	48%
Spanish	35	49	84	42%
Vietnamese	4	21	25	16%
Korean	0	5	5	0%
TOTAL	**413**	**479**	**892**	**46%**

Cosmetologist	Passed	Failed	Total	Pass Rate
English	1,861	449	2,310	81%
Spanish	130	272	402	32%
Vietnamese	239	34	273	88%
Korean	31	8	39	79%
TOTAL	**2,261**	**763**	**3,024**	**75%**

Manicurist	Passed	Failed	Total	Pass Rate
English	313	145	458	68%
Spanish	13	10	23	57%
Vietnamese	1,061	469	1,530	69%
Korean	16	4	20	80%
TOTAL	**1,403**	**628**	**2,031**	**69%**

Esthetician	Passed	Failed	Total	Pass Rate
English	528	132	660	80%
Spanish	3	2	5	60%
Vietnamese	240	83	323	74%
Korean	26	3	29	90%
TOTAL	**797**	**220**	**1,017**	**78%**

Electrologist	Passed	Failed	Total	Pass Rate
English	5	5	10	50%
Spanish	0	0	0	0%
Vietnamese	0	0	0	0%
Korean	0	0	0	0%
TOTAL	**5**	**5**	**10**	**50%**

Licenses Issued

	Jul-Sept	Oct-Dec	Jan- Mar	Apr-June	YTD
Establishment	1,680	1,645	1,618		4,943
Mobile Unit	2	3	0		5
Barber	555	411	426		1,392
Barber Apprentice	122	119	147		388
Cosmetology	2,918	2,831	2,288		8,037
Cosmetology Apprentice	151	166	134		451
Electrology	6	9	5		20
Electrology Apprentice	0	0	0		0
Manicuring	1,394	1,613	1,388		4,395
Esthetician	1,249	1,169	1,026		3,444
Total	**8,077**	**7,966**	**7,032**	**0**	**23,075**

BarberCosmo
Board of Barbering & Cosmetology

Business, Consumer Services, and Housing Agency – Governor Edmund G. Brown Jr.
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QUARTERLY BARBERING AND COSMETOLOGY DISCIPLINARY REVIEW COMMITTEE STATISTICS

Fiscal Year 15-16

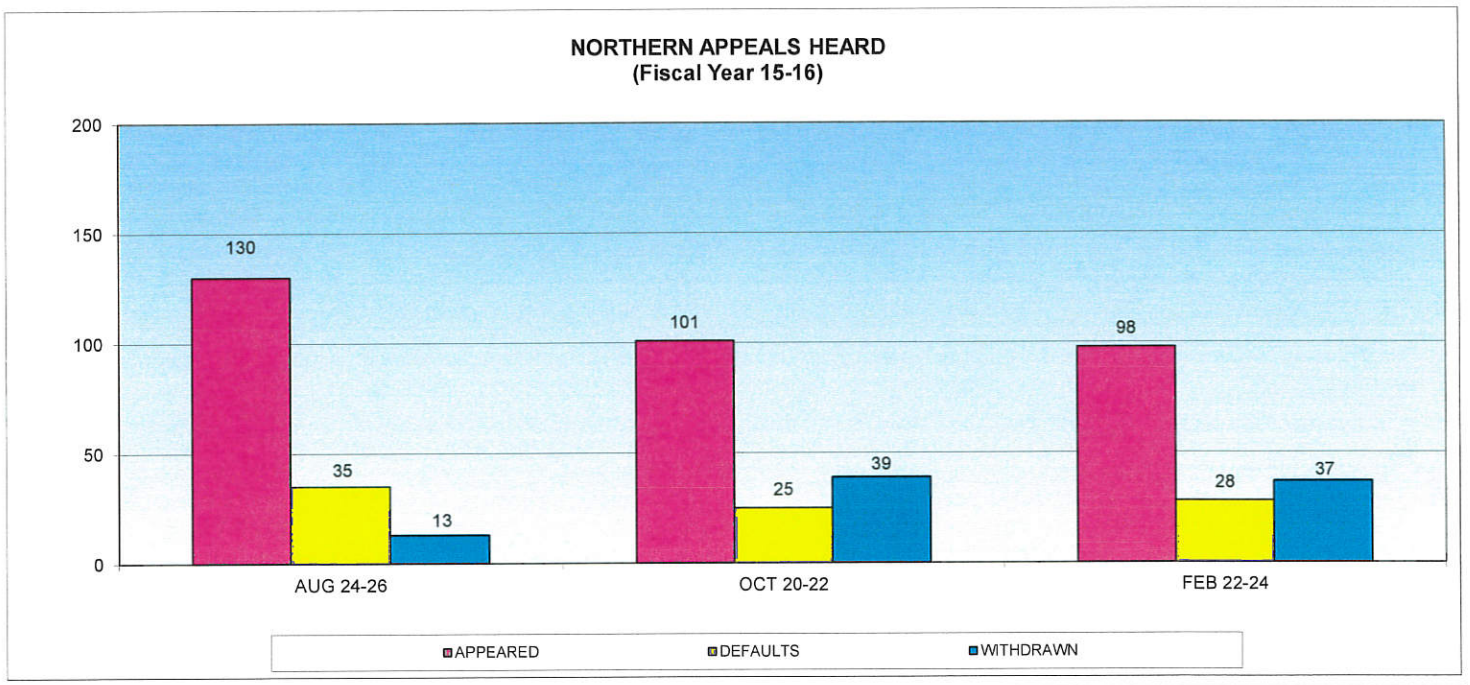
Report Date: March 31, 2016

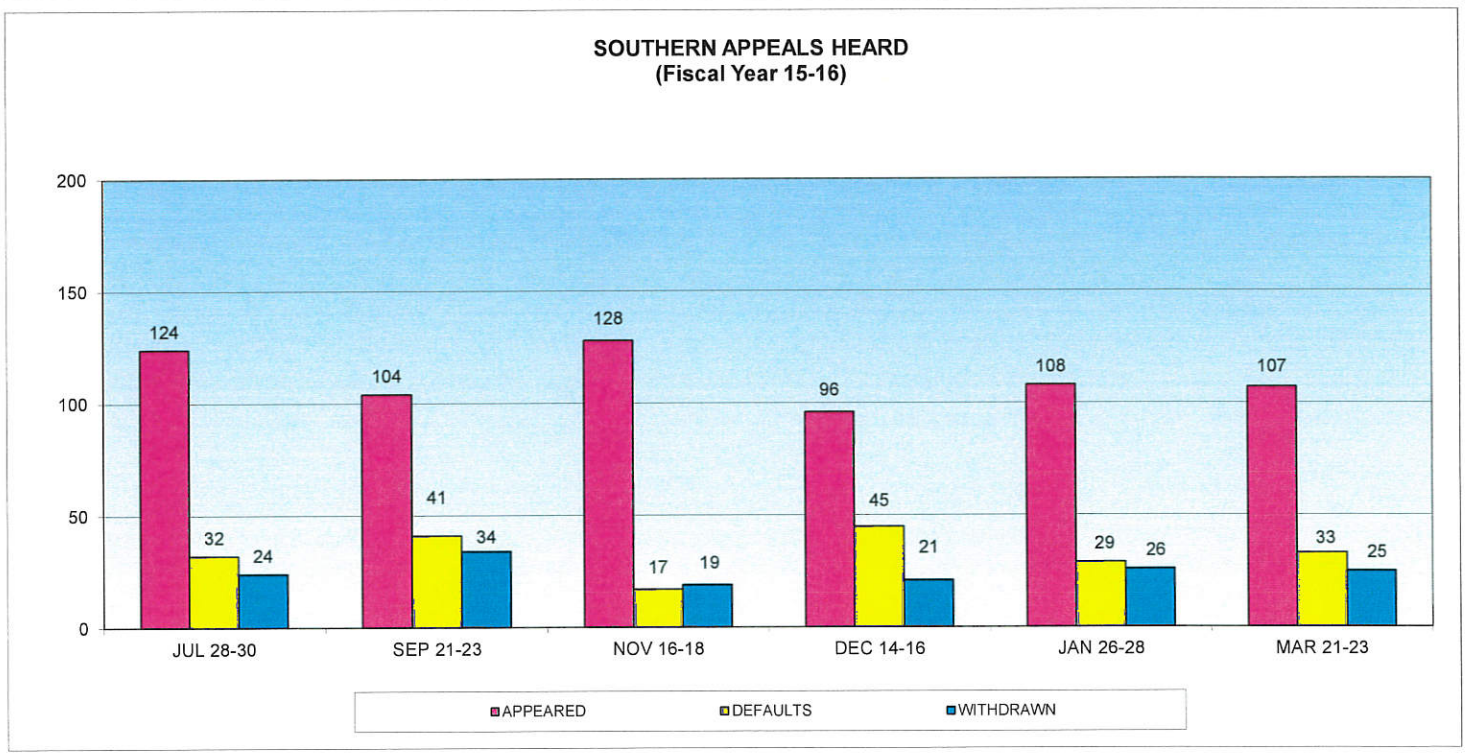
	January - March	YTD
NORTHERN		
Heard	163	506
Received	161	516
Pending[1]	203	203[2]
SOUTHERN		
Heard	328	1,013
Received	293	948
Pending[1]	254	254[2]

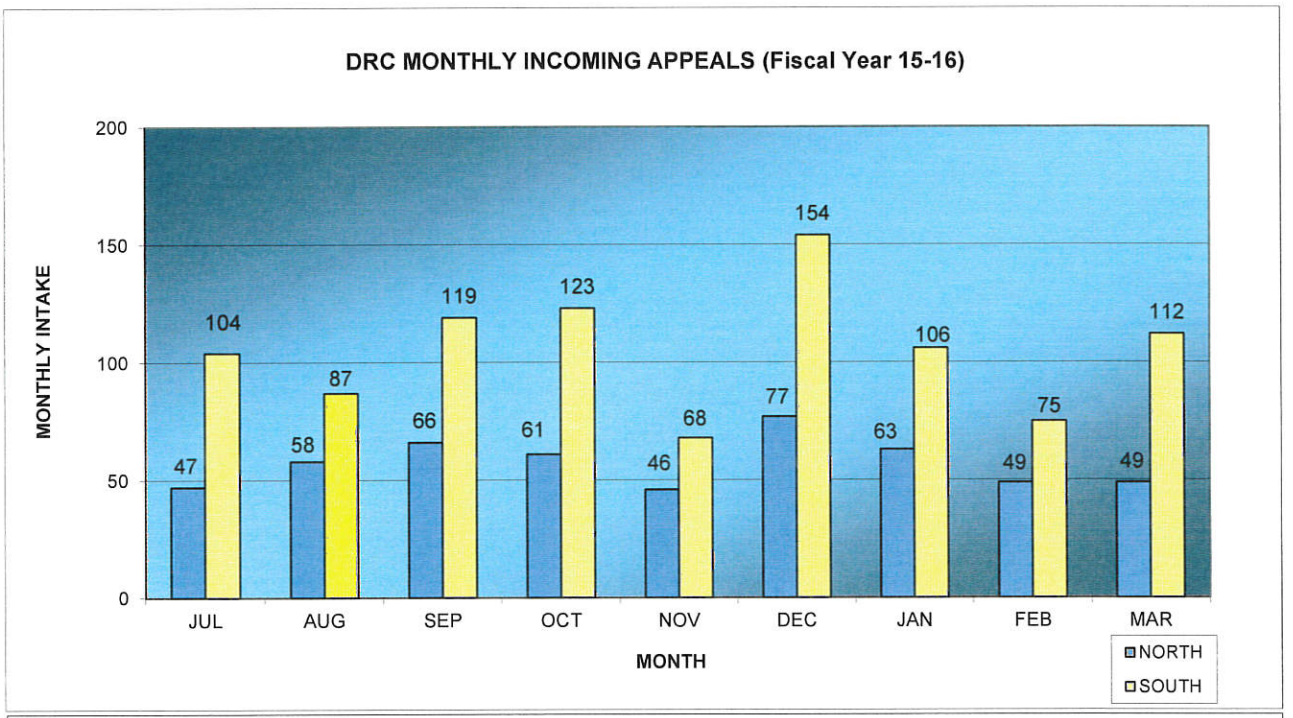
[1] Pending refers to the number of appeals received but not yet heard by DRC.
[2]Figure represents number of pending requests as of report date.

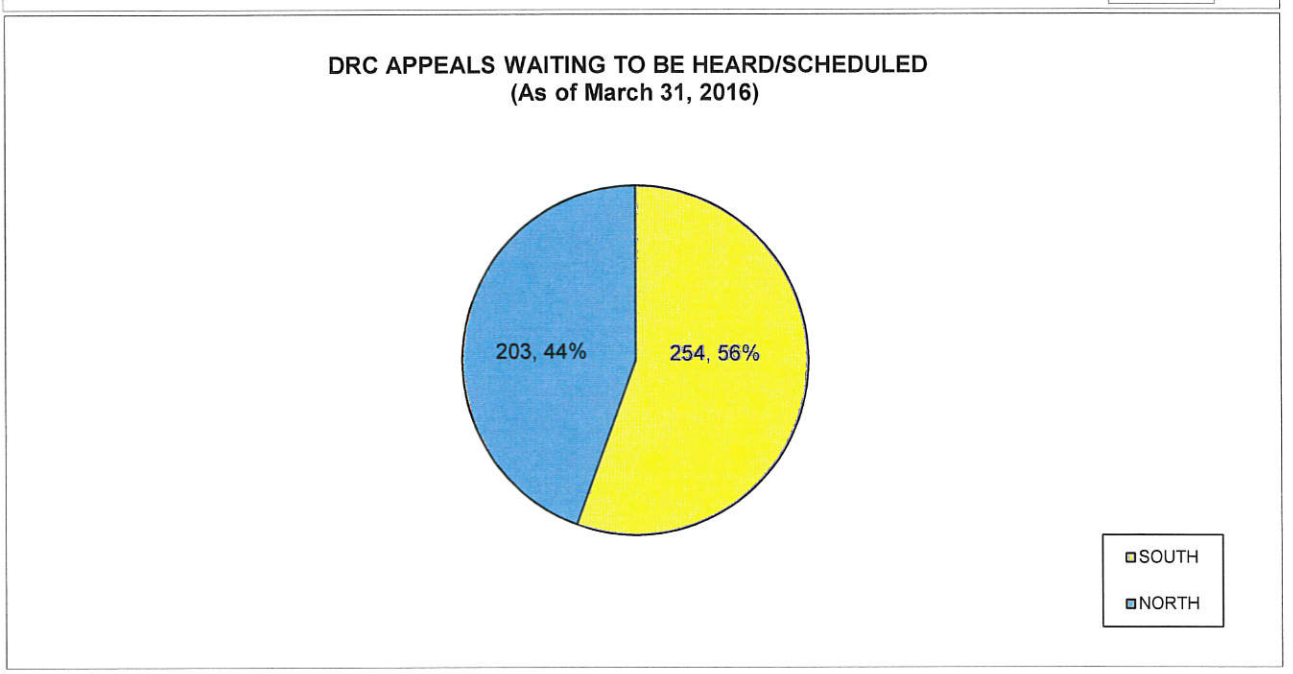
2016 SCHEDULED HEARINGS

Area	Location	Date
Northern	Sacramento	April 27-29, 2016
Southern	Los Angeles	May 23-25, 2016
Northern	Sacramento	June 20-22, 2016
Southern	San Diego	July 19-21, 2016


NORTHERN APPEALS HEARD
(Fiscal Year 15-16)
200
150
100
50
0
130
35
13
101
25
39
98
28
37
AUG 24-26
OCT 20-22
FEB 22-24
APPEARED
DEFAULTS
WITHDRAWN


SOUTHERN APPEALS HEARD
(Fiscal Year 15-16)
200
150
100
50
0
124
32
24
104
41
34
128
17
19
96
45
21
108
29
26
107
33
25
JUL 28-30
SEP 21-23
NOV 16-18
DEC 14-16
JAN 26-28
MAR 21-23
APPEARED
DEFAULTS
WITHDRAWN


DRC MONTHLY INCOMING APPEALS (Fiscal Year 15-16)
MONTHLY INTAKE
200
150
100
50
0
47
104
58
87
66
119
61
123
46
68
77
154
63
106
49
75
49
112
JUL
AUG
SEP
OCT
NOV
DEC
JAN
FEB
MAR
MONTH
NORTH
SOUTH


DRC APPEALS WAITING TO BE HEARD/SCHEDULED
(As of March 31, 2016)
203, 44%
254, 56%
SOUTH
NORTH

Agenda Item #4

QUARTERLY BARBERING AND COSMETOLOGY ENFORCEMENT STATISTICS Fiscal Year 15-16

	Jul-Sept	Oct-Dec*	Jan- Mar*	Apr-Jun	YTD
COMPLAINTS					
Complaints Received	849	912	1025	0	2786
Referred to DOI	3	6	4	0	13
Complaints Closed	786	1765	958	0	3509
Total Complaints Pending	1014	1099	1153		1014
APPLICATION INVESTIGATIONS*					
Received	209	1	1	0	211
Pending	0	3	0	0	0
Closed	233	3	3	0	239
ATTORNEY GENERAL					
Referred	4	15	13	0	32
Accusations Filed	9	9	8	0	26
Statement of Issues Filed	0	2	1	0	3
Total Pending	54	60	64		54
DISCIPLINARY PROCESS					
Proposed Decisions	1	2	1		4
Default Decision	2	4	4		10
Stipulation	6	3	3		12
DISCIPLINARY OUTCOMES					
Revocation	3	7	6	0	16
Revoke, Stay, Probation	0	0	0	0	0
Revoke, Stay, Suspend/Prob	9	9	6	0	24
Revocation, Stay w/ Suspend	0	0	0	0	0
Probation Only	0	0	0	0	0
Suspension Only	0	0	0	0	0
Suspension & Probation	0	0	0	0	0
Suspension, Stay, Probation	3	3	1	0	7
Surrender of License	1	2	0	0	3
Public Reprimands	0	0	0	0	0
License Denied	0	0	0	0	0
Other	0	0	0	0	0
Total	16	21	13	0	50
PROBATION					
Active	122	132	135		122
	Jul-Sept	**Oct-Dec**	**Jan- Mar****	**Apr-Jun**	**YTD**
CITATIONS					
Establishments	2605	2514	1496		6615
Barber	243	167	116		526
Barber Apprentice	16	15	11		42
Cosmetologist	976	856	526		2358
Cosmetologist Apprentice	7	15	10		32
Electrologist	2	1	0		3
Electrologist Apprentice	0	0	0		0
Manicurist	629	673	500		1802
Esthetician	72	84	63		219
Unlicensed Est.	85	60	85		230
Unlicensed Individual	135	108	127		370
Total	4770	4493	2934		12197
INSPECTIONS					
Establishments w/ violations	2875	2390	1930		7195
Establishments w/o violations	682	596	527		1805
Total	3557	2986	2457		9000

*** Application Investigations are only being opened if additional information is needed or if the application is denied.**

****Citation and Inspection Stats are from January 1, 2016 - February 29, 2016**

BarberCosmo
Board of Barbering & Cosmetology

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Budget Updates

Constraints:

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

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

Attachment 1 displays projected expenditures for end of the year.

Board of Barbering and Cosmetology
Fiscal Year 2015/2016
Projected Expenditures 02/29/16

Personnel Services	ALLOTMENT	BBC Projected Expenditures	Projected Year
Permanent	4,179,000	3,891,483	287,517
Expert Examiners	452,777	430,000	22,777
Temporary	134,223	153,641	(19,418)
BL 12-03 Blanket	0	185,374	185,374
Statutory-Exempt	104,000	111,576	(7,576)
Board Member Commission	0	17,300	(17,300)
Overtime	0	2,775	(2,775)
Total Salary & Wages	**4,870,000**	**4,792,149**	**448,599**
Net Salary & Wages	**4,870,000**	**4,792,149**	**77,851**
Staff Benefits	2,348,000	2,394,661	(46,661)
Total of Personnel Services	**7,218,000**	**7,186,810**	**31,190**

Operating Expenses & Equipment (OE&E)	Allotment	BBC Projected Expenditures	Projected Year End Balance
General Expense	191,000	190,000	1,000
Printing	168,000	336,000	(168,000)
Communication	41,000	44,500	(3,500)
Postage	283,000	101,000	182,000
Insurance	4,000	11,508	(7,508)
Travel In State	83,000	139,000	(56,000)
Travel, Out-of-State	0	0	0
Training	11,000	0	11,000
Facilities Operations	1,289,000	910,932	378,068
Utilities	0	1,240	(1,240)
Consultant & Professional Svs. - Interdept.	126,000	0	126,000
Consultant & Professional Svs. - External	474,000	360,017	113,983
Depart. and Central Admin. Services	10,617,000	10,617,000	0
Consolidated Data Center	68,000	4,000	64,000
DP Maintenance	38,000	40,000	(2,000)
Central Admin Pro Rata	1,152,000	1,152,000	0
Examinations	1,394,000	1,783,604	(389,604)
Major Equipment	80,000	120,084	(40,084)
Minor Equipment	12,000	20,614	(8,614)
Other Items of Expense	7,000	1,260	5,740
Vehicle Operations	38,000	50,000	(12,000)
Enforcement	1,673,000	853,600	819,400
Special Items of Expenses	0	0	0
Total Operating Expenses & Equipment	17,749,000	16,736,359	1,012,641
Total Personal Services Expenses	24,604,000	23,842,684	31,190
Total reimbursements	(57,000)		(8,599)
Total	**24,910,000**	**23,748,996**	**1,035,232**

0069 - Barbering and Cosmetology
Analysis of Fund Condition

1/7/2016

(Dollars in Thousands)

NOTE: $10 Million General Fund Repayment Outstanding

2016-17 Governor's Budget

		Actual 2014-15	CY 2015-16	BY 2016-17	BY+1 2017-18
BEGINNING BALANCE		$ 15,919	$ 19,125	$ 18,265	$ 31,313
Prior Year Adjustment		$ 355	$ -	$ -	$ -
Adjusted Beginning Balance		$ 16,274	$ 19,125	$ 18,265	$ 31,313
REVENUES AND TRANSFERS					
Revenues:					
125600	Other regulatory fees	$ 6,309	$ 6,316	$ 6,696	$ 6,696
125700	Other regulatory licenses and permits	$ 4,659	$ 4,800	$ 4,944	$ 4,944
125800	Renewal fees	$ 11,458	$ 11,801	$ 12,155	$ 12,155
125900	Delinquent fees	$ 1,056	$ 1,088	$ 1,120	$ 1,120
141200	Sales of documents	$ 1	$ -	$ -	$ -
142500	Miscellaneous services to the public	$ -	$ -	$ -	$ -
150300	Income from surplus money investments	$ 41	$ 56	$ 57	$ 99
150500	Interest Income from Interfund Loans	$ -	$ -	$ -	$ -
160100	Settlements and Judgements	$ 6	$ -	$ -	$ -
160400	Sale of fixed assets	$ -	$ -	$ -	$ -
161000	Escheat of unclaimed checks and warrants	$ 10	$ 10	$ 10	$ 10
161400	Miscellaneous revenues	$ 17	$ 17	$ 17	$ 17
Totals, Revenues		$ 23,557	$ 24,088	$ 24,999	$ 25,041
Transfers from Other Funds					
	Proposed GF Loan Repayment	$ -	$ -	$ 11,000	$ -
Transfers to Other Funds					
		$ -	$ -	$ -	$ -
	Totals, Revenues and Transfers	$ 23,557	$ 24,088	$ 35,999	$ 25,041
	Totals, Resources	$ 39,831	$ 43,213	$ 54,264	$ 56,354
EXPENDITURES					
Disbursements:					
0840 State Controller (State Operations)		$ -	$ -	$ -	$ -
1110 Program Expenditures (State Operations)		$ 20,690	$ 24,910	$ 22,920	$ 23,378
1111 Program Expenditures (State Operations)					
8880 Financial Information System for California (State Ops)		$ 17	$ 38	$ 31	$ -
9670 Equity Claims / Board of Control (State Operations)		$ -	$ -	$ -	$ -
Total Disbursements		$ 20,707	$ 24,948	$ 22,951	$ 23,378
FUND BALANCE					
Reserve for economic uncertainties		$ 19,125	$ 18,265	$ 31,313	$ 32,976
Months in Reserve		9.2	9.5	16.1	16.6

NOTES:

A. ASSUMES WORKLOAD AND REVENUE PROJECTIONS ARE REALIZED IN BY+1 AND ON-GOING.

B. ASSUMES APPROPRIATION GROWTH OF 2% PER YEAR BEGINNING IN BY+1.

C. ASSUMES INTEREST RATE AT 0.3%.

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BarberCosmo
Board of Barbering & Cosmetology

FY 15-16 Outreach/Industry Events

Participated:

- July 7, 2015 — Sacramento and Company News 10 – Safe Salon
  Speaker: Kristy Underwood
- July 28, 2015 — Regis Manager Meeting – New Regulation Update (Orange County)
  Attendees: Kristy Underwood, Tami Guess and Marcene Melliza
- August 9, 2015 — Electrologist Association – New Regulation Update (Sacramento)
  Attendees: Kristy Underwood, Tami Guess and Marcene Melliza
- August 22-24, 2015 — San Jose Face & Body Show (San Jose)
  Attendees: Kristy Underwood, Tami Guess and Patricia Garcia
- September 20, 2015 — Nail Pro Show (Sacramento Convention Center)
  Attendees: Kristy Underwood, Tami Guess, Marcene Melliza and Patricia Garcia
- January 30 – February 1, 2016 — Internatiional Salon and Spa Expo (ISSE) (Long Beach)
  Attendees: Kristy Underwood, Tami Guess, Marcene Melliza and Theresa Rister
- April 12, 2016 — Town Hall Meeting with Senator Nguyen Garden Grove
  Attendees: Kristy Underwood, Tami Guess, and Marcene Melliza

Scheduled:

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CALIFORNIA STATE BOARD OF BARBERING AND COSMETOLOGY

MINUTES OF JANUARY 24, 2016

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

Additional Meeting Location Established via Teleconference at:
2405 Kalanianaole Avenue PH – 11
Hilo, HI 96720

BOARD MEMBERS PRESENT
Dr. Kari Williams, President
Richard Hedges, Vice President (via teleconference)
Mary Lou Amaro
Bobbie Anderson
Polly Codorniz
Andrew Drabkin
Joseph Federico

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

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

Dr. Kari Williams, the Board President, called the meeting to order at 10:00 a.m.

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

Fred Jones, Legal Counsel for the Professional Beauty Federation of California (PBFC), invited the Board to the sixteenth annual Welcome to Our World (W.O.W.) lobbying event, which will be held at the State Capitol Building on Monday, April 11, 2016, on the west steps, from 3pm to 6pm. He thanked Board Member Joseph Federico and his organization for sponsoring the event.

Jaime Schrabeck, of Precision Nails, informed the Board of an upcoming six-week reality series, premiering Thursday, March 17, 2016, called "Global Beauty Masters" on TLC. It showcases the professional beauty industry, featuring licensed hair, make-up, and nail professionals competing for the title of Global Beauty Master, and includes a student competition to promote beauty schools.

Lori Taylor, for CryoConcepts, based in Bethlehem, Pennsylvania, spoke about a new product called CryoClear, which is used on dead skin cells in the upper epidermis. She stated CryoConcepts would like to present their product in the April Board meeting.

Patti Glover, from Citrus College, asked to change the language of Section 7395.1(a) of the Rules and Regulations to "a student who is enrolled in an approved course in a school of cosmetology approved by the Bureau for Private Postsecondary Education or a public school licensed by the Department of Consumer Affairs Board of Barbering and Cosmetology may" – the rest of the language would remain.

Citrus College's rationale is that students who are enrolled in either private or public schools approved by their respective oversight Board should have equal opportunity to participate in the externship program.

Mirela Marinescu, with the International School of Beauty, stated microdermabrasion is a safe procedure. Many estheticians advertise microdermaplaning online. An industry bulletin defines the procedure as the removal of skin, but it can be considered as the removal of hair. It is difficult for estheticians to find jobs and gain experience because their scope of practice is limited. She stated she started a petition that has more than 2,000 signatures and asked to present proofs of popularity in a future Board meeting. She asked why estheticians cannot perform this hair removal procedure while barbers and cosmetologists can.

Dr. Williams stated by law cosmetologists are not allowed to use straight razors; only barbers are.

Ms. Marinescu stated Ms. Underwood reported that cosmetologists can remove hair by means of any instrument or product from any place on the body. She stated a razor is an instrument.

Dr. Williams stated cosmetologists can use straight razors, but not against the skin. Barbers are the only licensed professionals in the state of California who can use a straight razor against the skin to remove hair.

Joseph Federico, a Board Member, thanked Ms. Marinescu for her comments and stated the Board will take her comments into consideration.

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

Dr. Williams stated the Board has successfully completed a lot of things last year as far as going before the Senate and being able to extend the Board for five more years. The sunset review was successful. She thanked the Board, the staff, Fred Jones, and the PBFC for their support. Additionally, there was success with the Disciplinary Review Committee (DRC) backlog. She thanked the Board, staff, and others for their time – the Board is now caught up. She stated she looks forward to serving another year on the Board.

4. Agenda Item #4, EXECUTIVE OFFICER REPORT

Kristy Underwood, the Executive Officer, updated the Board on items that have been in discussion:

Staff has had conversations with legislatures who have been concerned about the New York reports on manicure license type and the issues with labor laws and healthy environments. There is interest in pursuing changes to make this better.

Other topics to be discussed include looking at the establishment license, ensuring that owners understand the labor laws, and defining the difference between employee/employer/independent contractor. Staff will be asking for a Legislative and Budget Committee soon.

Staff is currently updating the Health and Safety Curriculum for licensee safety. It is now more web-based and interactive. A section has been added on workers' rights. Staff will be asking to schedule an Education Committee meeting to review the curriculum before it is passed on to the various approvals that it will have to go through.

Richard Hedges, Board Vice President, referenced the quarterly licensing statistics chart in the meeting packet and asked about the data for cosmetology re-exams. Ms. Underwood stated

those numbers are not unusual. Mr. Hedges referenced the quarterly DRC statistics and asked if the cases heard also include the default cases. Ms. Underwood stated they do not.

Dr. Williams stated the bar graphs show the data broken down further and include the default data.

5. Agenda Item #5, ANNUAL ELECTIONS OF OFFICERS

Dr. Williams asked for nominations for president of the Board for 2016.

Public Comment

Mr. Jones thanked Dr. Williams for her leadership this past year and for representing the Board at the legislative hearing for the sunset review.

Darrin Lyons, the owner of Tangles and Lockes, stated his appreciation for Dr. Williams's work and advocacy in the community and for the staff's quick, friendly customer service.

Ken Williams, former Board Member and school and salon owner, stated his appreciation for Dr. Williams's amazing leadership this past year. He encouraged the Board to stay strong and stay on task.

MOTION: Mr. Hedges made a motion, seconded by Dr. Williams, that the Board elects Joseph Federico as president for 2016. Motion carried 7 yes and 0 no per roll call vote.

Dr. Williams asked for nominations for vice president of the Board for 2016.

Public Comment

Mr. Jones stated it is a good time to have a school owner to lead the Board who can help negotiate federal and state regulations. There will be a possible negative impact on the accessibility, costs, and number of beauty colleges that will be available in the next few years in California. He encouraged the Board to engage the California Bureau for Private Postsecondary Education (BPPE) sunset review process to protect the students and raise the professionalism of all beauty colleges.

Mr. Lyons spoke in support of the vice chair nomination.

MOTION: Mr. Federico made a motion, seconded by Mr. Hedges, that the Board elects Dr. Kari Williams as vice president for 2016. Motion carried 7 yes and 0 no per roll call vote.

6. Agenda Item #6, APPOINTMENT OF COMMITTEE MEMBERS AND APPROVAL OF PROPOSED 2016 MEETING DATES

Dr. Williams, Mr. Hedges, Bobbie Anderson, Mary Lou Amaro, and Polly Codorniz stated they would like to remain in their current Committees.

Mr. Drabkin stated he would like to remain in the Education and Outreach Committee and asked to switch from the Enforcement and Inspections Committee to the Legislative and Budget Committee. Mr. Federico volunteered to drop the Legislative and Budget Committee.

All Board Members approved proposed Board meeting dates for 2016.

7. Agenda Item #7, ANNUAL REVIEW AND APPROVAL OF BOARD MEMBER GUIDELINES AND PROCEDURES MANUAL

Ms. Underwood reviewed the changes made to the Board Member Guidelines and Procedures Manual – the timesheet, meeting dates, training dates, and locations for 2016, travel arrangements, and travel manual.

Mr. Hedges referred to Chapter 6, page 13, Travel Claims and suggested changing "the Board staff will make amendments and submit corrected claims" to "the Board staff will consult with the Board Member before making amendments and submitting corrected claims."

> **MOTION**: Mr. Drabkin made a motion, seconded by Mr. Hedges, that the Board approves the proposed changes to the Board Member Guidelines and Procedures Manual, including the amendment suggested by Mr. Hedges and the technical changes on the dates of the Board meeting. Motion carried 7 yes and 0 no per roll call vote.

8. Agenda Item #8, APPROVAL OF BOARD MEETING MINUTES

Mr. Hedges asked to change "prompter" to "proctor" in the public comment section on page 2, and to change "All material from the EPA" to "All material safety data from the EPA" in the last paragraph on page 7.

Mr. Drabkin stated his name was listed as Dr. Drabkin on page 5.

> **MOTION**: Mr. Drabkin made a motion, seconded by Mr. Hedges, that the Board approves the October 19, 2015, Meeting Minutes as amended. Motion carried 7 yes and 0 no per roll call vote.

9. Agenda Item #9, DISCUSSION AND RECOMMENDATION ON SPANISH COSMETOLOGY PASS RATE ON THE WRITTEN EXAMINATION

Ms. Underwood briefly summarized the comprehensive staff report in the meeting packet on the low passage rates for Spanish cosmetologists and asked Board Members for feedback.

Dr. Williams stated the responses from schools were consistent in that, outside of the fact that there are different dialects; the terminology in textbooks – especially in the anatomy, physiology, and color areas – was different than the words used in the exams, which confused students. There needs to be consistency in terminology between the classroom instruction, the textbooks, and the exam. It goes back to the oversight of schools.

Mr. Federico stated the Board does not oversee schools but only controls the textbooks through the NIC, which is an out-source vendor. He asked if there is a possibility of working with the NIC to develop a bilingual text.

Dr. Williams suggested making a vocabulary list where the textbooks and exam differ to ensure that students will be able to identify the terms used on the exam and asking the instructors to use those terms.

Mr. Hedges stated students in Mexico often learn the barbering and cosmetology industry by apprenticing to a relative. He asked if the Board can connect with schools in Mexico to find out how they train and how extensive the training is, whether they focus on the art of the industry or

if they go into anatomy, physiology, and health and safety issues. He asked about the possibility of finding out which regions in Mexico the students who are having these problems come from.

Mr. Drabkin asked if this issue is unique to the barbering and cosmetology industry. He asked if it would help to give the test orally to further analyze where the problems lie.

Ms. Amaro agreed. She stated Mexico has a good educational system, but many immigrants come with very little education and may have greater difficulty with the written part of the test. Without a good, basic education, the college courses are much more difficult to comprehend.

Mr. Hedges suggested keeping a general population of Spanish speakers taking the test as a control group and selecting a random sample of candidates to take the test with a proctor reading the questions to them in Spanish.

Ms. Underwood stated the current contracts do not include a verbal exam. It is an NIC test that the Board contracts with them to provide and then contracts with subcontractors for computer-based testing. There are legal and capacity issues. She asked Mr. Federico if students are being accepted into beauty schools with no chance of passing due to lack of basic education.

Mr. Federico stated the Board requires students to self-certify that they completed the 10th grade. Accredited colleges only accept students with high school diplomas or the equivalent. He stated the 10th grade requirement should remain to offer students who may not have excelled in the traditional school setting a pathway to a hands-on career.

Mr. Drabkin suggested asking the Legislature for more funding to solve this issue.

Ms. Underwood agreed with creating a vocabulary list and stated staff will contact the NIC to collaborate on the logistics. She suggested offering a bilingual edition of the test in parallel paragraph, two-column format.

Mr. Federico agreed with creating a vocabulary list and stated it is one of the most proactive things the Board can do to assist students.

Mr. Hedges agreed and asked if the Board could require schools to use the vocabulary list in their curriculum. Ms. Underwood stated it can only be required it if it is incorporated into the regulations.

Mr. Drabkin stated the importance of including the Legislature in the conversation on the steps the Board is taking and the things the Board is unable to do, in order to give legislators an opportunity to give feedback and suggestions.

Public Comment

Ms. Schrabeck stated the teachers at beauty schools are not chemists, biologists, or anatomists. They teach on a subject matter that goes beyond their practice use every day. The knowledge gained is shallow, just as it is in the textbooks. She asked if NIC could provide information about what subject areas students are having difficulty with.

Mr. Williams suggested analyzing the number of individuals that failed the first time and how quickly they go back the second time. If students could take the written test prior to the practical, the likelihood of them failing a second time goes down. There is fear and anxiety around taking that test and if students fail, some of them never reapply. He encouraged the Board to analyze how often and how quickly students reapply.

Mr. Williams encouraged the board to explore the different methodologies of the schools in North Carolina, such as their two-tier passing system and suggested creating an advisory board committee of school owners that could help the Board make decisions.

Ms. Marinescu agreed that offering a bilingual parallel test is a good option. She stated seeing the questions in both Spanish and English will help students. She shared how a college that is 95 percent Spanish-speaking solved the problem of not passing the Spanish exam by registering Spanish speakers in the barber school. The only problem the school encountered is that some students wanted to do nails, which was solved by offering scholarships to good students for the necessary crossover hours of training required. Students who took the barber exam did great, but students who chose to take the cosmetology exam did not. She requested that barbers learn to do nails so more students will be willing to enroll in barber school.

Ms. Glover stated students have the opportunity to take interpreters with them when they take the written test. She suggested one of the problems may be that many of these students have never taken an exam on a computer before. In her experience, students see online tests as more difficult than written tests. She asked that the Board include community colleges in the conversation because they want to be part of the solution.

Ms. Glover stated she has worked with two of the textbooks on the list. One has greater detail than the other. Students working with the less-detailed textbook may not be learning the terminology that they need to pass the test. Her school solved the issue by supplementing material that was not included in the less-detailed textbook. The terminology in the new, more-detailed book is more in line with the test and will help students succeed. She stated the belief that including the classes in biology, anatomy, and physiology helps with public health and safety, which is one of this Board's primary responsibilities.

Mr. Jones stated this issue is important to the Legislature. The NIC has already done work on this issue, which the Board can benefit from. He stated the textbooks are not necessarily different from the test because the NIC works closely with their textbook publishers to ensure translation accuracy. He spoke in support of maintaining the contract and relationship with the NIC.

Mr. Jones asked if the door should be closed to first-generation immigrants who may not have high school diplomas but want to contribute to the economy and society. The ability to benefit (ATB) exam, controlled by the BPPE, is given to students without a high school diploma or its equivalent to ensure they have the ability to benefit from the education and eventually to pass the license exam.

Mr. Jones stated, if the Board had sole oversight, it could design a test that is specific to the competencies and the content areas that are on the license exam. With more authority, the Board could drill down to better understand the problems, how students are being taught, why there is a vocabulary issue, and what textbooks are being used.

Mr. Moreno stated this will be an ongoing topic that is important not only to the Board but to schools and students. He agreed that some of the wording may need to be changed on the test. He agreed with taking the test earlier so the material is fresh in students' minds and on schools collaborating together.

Mr. Hedges stated the Board cannot gather the information needed to do the necessary studies to find out what is happening. He agreed that the Board will not get to the root of this issue unless it has control of the schools. This needs to be brought to the Legislature's attention.

Mr. Lyons agreed with making a vocabulary list or changing some of the vocabulary in the test. He suggested including two or three dialects in the testing areas to help students better understand. He stated the need for the instructors who speak Spanish to

truly understand what they are teaching to ensure that the students understand what they are learning.

Mr. Lyons stated the need to learn where the problem areas are and give that information to the instructors so they can focus on those areas. He referred to Ms. Glover's comment about students being unfamiliar with online testing and suggested that instructors begin teaching on computers so students become familiar with online tests. He stated the need for the Board to prepare the instructors so they can better prepare the students.

Ms. Glover asked at what point these adult students will be allowed to take responsibility and ownership for their own education. There are over 100 community colleges in California that offer basic skills. It is the students' responsibility to improve their language skills. The NIC has lowered the testing standards since the time when it was the Board's responsibility. She suggested libraries as places for students to study and prepare.

Ms. Anderson suggested remedial education to help students prepare for higher-level classes.

10. Agenda Item #10, DISCUSSION CONCERNING INTERPRETERS BEING PROVIDED AT THE DISCIPLINARY REVIEW COMMITTEE (DRC):

Ms. Underwood presented her report on the options discussed in the last meeting:

- Bilingual staff members – the HR department advised against using staff as interpreters due to possible conflicts of interest; it is not within staff's duty statement classifications with the state.
- Hired independent interpreters – staff recommended that the Board move to request that staff pursue funding through the Budget Change Proposal (BCP) process to provide interpretation services at DRC meetings.

Ms. Underwood stated the California Healthy Nail Salon Collaborative submitted a letter of support of staff's recommendation.

Mr. Hedges spoke in support of staff's recommendation. Hiring interpreters will expedite the DRC hearings, which will allow the Board to review more cases, and will create a better record.

Mr. Drabkin stated the hiring of interpreters must be conditional on a successful BCP.

Ms. Amaro noted that interpreters charge for a minimum number of hours for their services.

Public Comment

Ms. Schrabeck asked if an interpreter will be available in multiple languages.

Ms. Underwood answered in the affirmative, but stated it is required by law that the language must be spoken by a certain percentage of the population.

Mr. Federico stated interpreters should be provided for the languages the test is offered in.

Mr. Jones agreed with Mr. Drabkin and spoke in support of the motion if the BCP request is successful. He stated, if the BCP is not successful, the Board will need to take funding from another part of the budget to provide contract services for interpretation at DRC hearings. Where the Board is currently devoting resources is of greater importance and should not be detracted from to provide this service. There is due process available prior to the DRC hearing. Since the DRC hearing is at the licensee's request after the due process has been granted and they have been found wanting, it is incumbent upon the licensee to provide their own interpretation services if they need it.

Ms. Glover agreed with Mr. Jones that the licensee going before the DRC should provide their own interpreter just as they do when taking the test.

MOTION: Mr. Hedges made a motion, seconded by Mr. Federico, that staff pursue funding through the BCP process to provide interpretation services at DRC meetings. Motion carried 7 yes and 0 no per roll call vote.

11. Agenda Item #11, REVIEW OF ACTION PLAN FOR THE IMPLEMENTATION OF THE BOARD'S SUNSET BILL (AB 181):

Ms. Underwood summarized the provisions of AB 181, which became effective on January 1, 2016, and extended the Board for four more years, and the implementation plan for each provision as outlined in the meeting packet.

Mr. Hedges suggested that two Board Members attend the Health and Safety Advisory Committee since the Board will be responsible for the final analysis.

12. Agenda Item #12, PROPOSED REGULATIONS UPDATES (POSSIBLE ACTIONS)

Mr. Federico deferred to Ms. Underwood to provide updates on the following items:

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

Ms. Underwood stated the revised rulemaking language has gone through the required 15-day public comment period and staff has prepared the Final Statement of Reasons for Board approval.

MOTION: Mr. Hedges made a motion, seconded by Mr. Drabkin, that the Board approves staff's proposed Final Statement of Reasons for military training under Title 16, Section 910, of the California Code of Regulations. Motion carried 7 yes and 0 no per roll call vote.

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

Ms. Underwood stated the final rulemaking file is under review by the DCA. No action is required.

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

Ms. Underwood tabled this item until the next Board meeting.

- **Consumer Notice – Title 16, Sections 904 and 905 of the California Code of Regulations**

Ms. Underwood described three options of the consumer notice provided in the meeting packet that were based on comments made in the last Board meeting and asked the Board to vote on the preferred version.

Mr. Hedges suggested Option 2, which includes the Board mission statement, as it most concisely summarizes the comments made in the last Board meeting.

Mr. Federico called for a second to Mr. Hedges' motion. No Board Member made a second.

Mr. Drabkin and Ms. Codorniz stated their preference for Option 3. It is simple, to the point, and the contact information in large font is prominently displayed.

Public Comment

Mr. Jones requested striking the term "ethical standards" from the mission statement.

Ms. Schrabeck stated social media is where people go to complain. Quality of service and issues to do with money are not the Board's purview. This is why it is wise to include the mission statement on the notice. She agreed with striking "ethical standards," including a briefer version of the mission statement, and she asked to add the phrase "in California" or "of California" after the word "industry."

Mr. Williams agreed with including a more concise version of the mission statement. He stated his preference for Option 2.

Mr. Lyons agreed with Mr. Williams and Mr. Jones that less is more. The notice should direct individuals to the website where bullet points can be posted clearly. The establishment license already states what the Board stands for. He agreed with striking the term "ethical standards" so it will not open the Board up for lawsuits.

Mr. Federico proposed a friendly amendment to revise Option 3 to include a concise mission statement under the website information on the notice as suggested by public comment.

Mr. Drabkin asked the Board Members if they agreed with adding the mission statement to the notice – five agreed, two disagreed. Mr. Drabkin accepted the friendly amendment. Ms. Codorniz accepted the friendly amendment after verifying the font size will be no larger than the last lettering on the notice.

Mr. Drabkin asked why the Board Members want to include the mission statement when it is just filler. Dr. Williams stated the statement would keep individuals from calling the Board with issues that are out of its purview.

Ms. Underwood stated one of the big issues with the notice is that consumers do not read it because it is unsightly and difficult to read. It is easier for staff to explain to customers who call that their complaint is out of the Board's jurisdiction when the mission statement is on the notice.

Mr. Hedges stated the need to change the notice because there are unnecessary citations given to salons when they accidently cover a portion of it with shop furnishings because the notice is too large.

Mr. Federico removed his friendly amendment.

MOTION: Mr. Drabkin made a motion, seconded by Ms. Codorniz, to approve Consumer Notice Option 3 as presented. Motion carried 5 yes and 2 no per roll call vote.

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

Dr. Williams suggested a discussion on externships being offered to community college students. They are currently left out of the regulatory language so they are unable to take advantage of those opportunities.

Ms. Anderson suggested a discussion on the possibility to assist ex-offenders being trained and licensed in this industry.

Public Comment

Ms. Schrabeck clarified that the personal service permit is in addition to having a license. She stated there are schools that claim students are certified when they obtain the

permit. These individuals are practicing outside of the law. She asked the Board to address this issue.

Mr. Williams suggested discussions on doing the test early and collaborating with school owners statewide and establishing a consortium so their voices can be heard. He stated the desire for the Board to be the sole authority over beauty schools in the state of California. There is no need for dual-regulation. BPPE came into existence because there were many unscrupulous schools at the time. This is no longer the case. The BPPE collects a lot of money while the Board collects money that it is not allowed to use. This is a disconnect that needs to be addressed. He volunteered to assist staff in this effort.

Ms. Taylor stated CryoConcepts would like to be on the next agenda to present on their new product.

Mr. Lyons suggested a discussion on how to attract the younger generation and the older generation by way of social media, such as putting out an Instagram to announce meetings when the agenda comes out.

Thelma Price, the Past President of the California Cosmetology Association, suggested advertising the California Cosmetology Association. It provides education opportunities and is the only professional organization out there that protects the industry.

14. Agenda Item #14, PUBLIC COMMENT

Mr. Williams suggested that the Board explore the possibility of including an additional test site in San Diego to streamline the licensing process and alleviate any backlogs that may occur in the future.

Mr. Lyons suggested that staff look at other avenues of social media. Young people respond to sound bites and visual bites, not long explanations. He gave the example of Sanek Neck Strips being tossed on the floor instead of properly disposing of them. He suggested that the Board broadcast a simple sentence on Facebook pointing out the fine for improper disposal of Sanek Neck Strips or the improper use and disposal of razors. He encouraged the Board to continually educate, motivate, and inspire these young people with short flashes of information to raise the standard in the industry.

15. Agenda Item #15, CLOSED SESSION

A. Pursuant to Government Code Section 11126(c)(3), the Board will Meet in Closed Session to Deliberate on Disciplinary Matters

The Board adjourned into closed executive session.

B Adjourn Closed Session

RECONVENE OPEN SESSION

16. Agenda Item #16, ADJOURNMENT

With no further business, the meeting was adjourned.

Board of Barbering and Cosmetology
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MEMORANDUM

TO: Members, Board of Barbering and Cosmetology Date: April 6, 2016

FROM: Tami Guess, Staff Service Specialist
Board of Barbering and Cosmetology

SUBJECT: Personal Service Permit Stakeholder Meeting

On March 29, 2016 in Sacramento, California and April 5, 2016 in Riverside, California, staff from the California Board of Barbering and Cosmetology (Board) met with stakeholders in compliance to the direction by the California Legislature as set forth in AB 181 (Chapter 430, Statutes of 2015).

INTENT

The focus was to gather information from interested parties regarding regulations they would like to see incorporated in the creation of the Personal Service Permit.

SUMMARY

At both meetings, Executive Officer Kristy Underwood presented a PowerPoint presentation which highlighted the best practice options as compiled from the other State Boards of Barbering and Cosmetology in the United States. A copy of the PowerPoint shown is included with this memo for the members review. Time was scheduled to allow for questions and comments from the interested parties. The agenda to these meetings was posted on the Board's website and agenda mail outs and emails were sent to the interested parties. In addition, the Board made use of social media (Facebook, Twitter) to advertise the pending meetings. Both meetings were webcast and the interested parties were encouraged to submit suggestions/comments either by email or by a comment card provided at the meeting sites.

The agenda items included:

- Summary of Best Practices from Other State Boards.
- Discussion of Appropriate Licensing Categories and the Feasibility of the Personal Service Permit within the Licensing Category in Order to Protect Consumer Safety (BPC § 7402.5(c) (1)).
- Discussion of Proof of Liability Insurance and Criminal Background Clearance Requirements (BPC § 7402.5(c) (5)).
- Discussion of Permit Fee, Renewal Fee and Delinquency Fee. (BPC § 7402.5(d)).

- Discussion and Identification of Specific Draft Language of Regulations Pertaining to the Personal Service Permit.

Results of the March 29, 2016 Meeting

Fred Jones, Professional Beauty Federation of California (PBFC) was the only attendee. He encouraged the Board to recognize the pressures and realities currently facing brick and mortar salons. This includes establishments which are employee based, commission based, booth rental based and pyramid based. The recent changes and proposed changes (minimum wage (AB 1513), piece rate wage, etc.) have put pressure on the employee based salon owners. Mr. Jones cautioned the Board on the possibility of unintended consequences. The PBFC would like to see a direct connection between the Personal Service Permit holder and a physical brick and mortar establishment. This would allow Board inspectors access to check the permit holder's protocols, tools and verify that the Board's health and safety regulations are being followed. Without the physical establishment, the health and safety of consumers cannot be monitored. This may or may not include traditional salon establishments or office type establishments. PBFC recommends personal liability insurance for the holder of a PSP.

Results of the April 4, 2016 Meeting

There were over 75 individuals in attendance with an undisclosed number of individuals on the webcast. The attendees were primarily Riverside Community College and Citrus College students and staff. There was a representative present representing the California Estheticians Facebook group and a few establishment owners.

Views on the PSP were numerous and varied. The attendees appeared to be split on a decision if the permit should even be pursued. Reasoning included the fact that providing personal services already occurs within the State with no documented consumer harm.

Next Steps

The Board will be posting a link to a survey on the BarberCosmo website which will allow licensees to state their position(s) on the PSP.

The Board will be scheduling a stakeholder meeting with establishment owners.

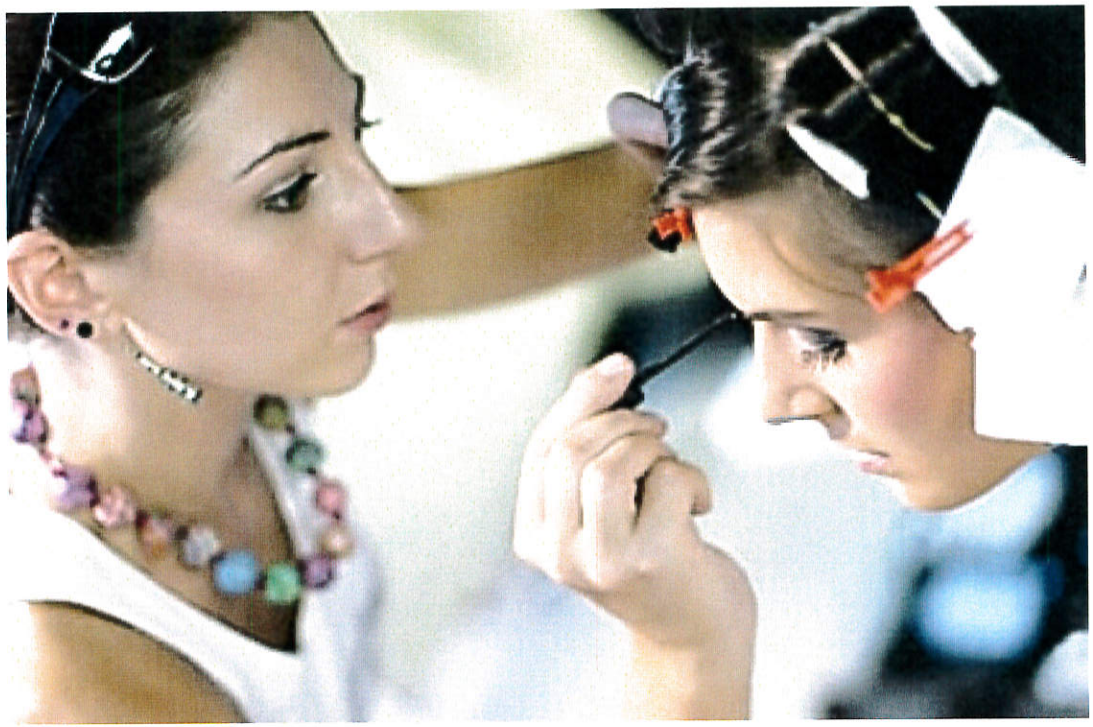
The Board will be conducting Facebook surveys to illicit licensee responses.

California Board of Barbering and Cosmetology

Personal Services Permit Stakeholder Meeting

What is a Personal Service Permit (PSP)?

A permit that would authorize an individual to perform services (for which he or she is licensed) outside of a licensed establishment.



WHY?

Current law requires that all services in the beauty and barbering industry be performed inside of a licensed establishment. That means anyone found performing services, such as a wedding up-do at a church, a manicure at an office building, are in violation of California law and are subject to citation and fine.

Why Stakeholders

- The Board is meeting with stakeholders to obtain their input on how a PSP can be implemented.

- In order to implement, the Board needs your input on:
- Requirements
- Enforcement
- Fees

Other States: Application Options

- Fee
- Company/Individual Contact
- Questions regarding criminal background
- Valid individual license
- Articles of Incorporation
- Copy of Assumed Business Name
- Liability Insurance

Other States: Posting Options

- Display permit # on all advertisements
- Post permit where services are being performed

Other States: Enforcement Options

- Enforcement is complaint driven
- Limit permit to certain services (hair only)
- License/permit must be with the individual at all times
- Specify where services can be provided (hotel, church, home)
- Random audits for compliance for health and safety
- Licensee must provide their permit # to the individual
- Licensee must obtain consumers signature on a disclosure statement.

Enforcement Options (cont.)

- Maintain client/appointment records at the business address
- Provide consumer with the Board's contact information

Other States: Regulations

- Single-use disposable tools
- All re-usuable tools shall be sanitized after use
- All clean tools shall be in a clean container
- All tools must be transported in an air tight container
- Tools shall remain separated (dirty – clean)
- No alcohol shall be served in the area where services are performed
- No food shall be served where services are performed

Other States: Insurance

- Liability
  - Not less that $100,000
  - Combined bodily injury and property damage

Other States: FEE

- Up to $135.00
- Actual Cost to the Board

Other States: Renewal

- Permit only valid for 7 days
- Limit 4 permits per calendar year
- Permit only valid for 10 days
- Renewable Yearly

THANK YOU!!!!

If you have any additional comments please fill out a comment form available in the back of the room, or if you are watching on-line and have comments, please e-mail:

tandra.guess@dca.ca.gov

BarberCosmo
Board of Barbering & Cosmetology

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MEMORANDUM

TO: Members
Board of Barbering and Cosmetology

Date: March 28, 2016

FROM: Tami Guess, Staff Services Specialist
Board of Barbering and Cosmetology

SUBJECT: Health and Safety Committee

Effective January 1, 2016, the provisions of AB 181 (Bonilla, Chapter 430) became effective. The Board is required to establish a Health and Safety Committee to provide the Board with advice and recommendations on Health and Safety issues before the Board.

Action Required:

1. The Board, by motion, will need to establish:

- which two Board members will participate in the Health and Safety committee.

2. The Board, by motion, will need to establish if the following committee compilation meets with their approval:

Industry Members:

- A licensee/expert from each scope of practice (Barber, Cosmetologist, Electrologist, Esthetician, Manicurist, Establishment Owner)
- Industry Association Representation (2 members)

Public Members:

- Scientist Representation (2 members)
- Medical professionals (Medical Doctor, Registered Nurse, Dermatologist) (2 members)
- Public Health Department Representation (1 member)
- FDA Representation (1 member)

3. The Board, by motion, will need to establish if the following terms are acceptable:

- The Board anticipates a one-year appointment term for Committee members.
- Committee membership is not considered employment with the State of California.
- Members serve on a voluntary basis and do not receive salary, benefits or travel reimbursement.

4. The Board, by motion, may delegate the authority for the appointment of Committee members to the Executive Officer.

It is anticipated that the first meeting will be held in June of 2016.

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Board of Barbering & Cosmetology

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BOARD OF BARBERING & COSMETOLOGY
BILL ANALYSIS

Author: Assembly Member Gonzalez

Subject: Labor Law
Education Requirements

Bill Number: AB 2025

Version: Amended March 18, 2016

Existing Law:

Provides the licensure and regulation of the practices of Barbering, Cosmetology and Electrology by the California Board of Barbering and Cosmetology. (Board)(BP&C* 7312)

Requires any person, firm or corporation operating an establishment where activity regulated under the Board is practiced, to apply for an establishment license. Existing law prohibits the Board from issuing a license to any applicant who has committed specified acts or crimes which are grounds for denial of licensure. (BP&C 7347)

Requires the Board keep a registration record of each licensee containing the name, address, license number, date issued, and any facts that the applicant may have stated in the application for examination for licensure. (BP&C 7314)

Requires the Board to admit to a licensing examination an applicant who meets certain qualifications, including course training as specified by the Board in a Board approved school. (BP&C Sections 7321, 7321.5, 7324, 7326, 7330, 7362)

This Bill:

This bill would require:

1) All written materials given to licensees and applicants be made available in English, Spanish and Vietnamese;

2) The Board to collect (through optional questions on the application) demographic information (written and spoken language preference) beginning January 1, 2018.

3) That knowledge of labor laws pertaining to the barbering and cosmetology industry be included in curriculum established by the Board;

4) That an applicant for an establishment license has knowledge of basic labor laws that pertain to the license types of the Board. The Board shall do this in consultation with the DIR and by adding questions and information to the establishment application.

5) The Board select or create informational materials on basic labor laws.

Fiscal Impact:

The fiscal impact of this bill is still being assessed. The bill will require the Board to revise application forms and curriculums, and possibly develop informational materials relating to labor laws in California as they relate to the barbering and cosmetology industry. Many of the Board's written materials are already translated or set to be translated soon. Work has already been started on a webinar based training and informational fact sheets for applicants, students and current licensees regarding workers' rights.

Analysis:

This bill is designed to prevent abuse of Asian workers – many of whom are recent immigrants working as manicurists. The news media recently publicized the abuse, after which New York City Governor, Andrew N. Cuomo ordered an emergency investigation into nail salons following the revelation that most workers are underpaid or not paid at all. The Board would need to consult with the Department of Industrial Relations regarding implementing the provisions of this bill.

The Board is currently updating its Health and Safety Curriculum and is including a section on workers' rights. Once this curriculum is completed it will ensure that students will be trained in basic labor laws prior to entering into the industry. This bill does not address the education of current licensees so that they are updated on current laws pertaining to workers' rights.

The Board currently translates most of its written materials into English, Spanish, Vietnamese, and Korean. The translation of training materials to Korean is not addressed in this bill.

Board Position:

On April 11, 2016, the Board took the following position: "Support if Amended"

The Board's suggested amendment is under Section 7396.1 (c) (1):

~~In consultation with the Department of Industrial Relations, the Board shall develop and add questions on basic labor laws to the application.~~

*BP&C refers to the California Business and Professions Code.

California LEGISLATIVE INFORMATION

AB-2025 Barbering and cosmetology: labor law education requirements. (2015-2016)

AMENDED IN ASSEMBLY MARCH 18, 2016

CALIFORNIA LEGISLATURE— 2015–2016 REGULAR SESSION

ASSEMBLY BILL **No. 2025**

Introduced by Assembly Member Gonzalez
(Coauthors: Assembly Members Chiu and Ting)
(Coauthor: Senator Nguyen)

February 16, 2016

An act to amend *Sections 7312, 7314, 7362, and 7401 of, to add Section 7396.1 to, and to repeal* Section 7347 ~~of~~ *of,* the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

AB 2025, as amended, Gonzalez. Barbering and ~~cosmetology.~~ *cosmetology: labor law education requirements.*

Existing law, the Barbering and Cosmetology Act, establishes the State Board of Barbering and Cosmetology for the licensure and regulation of barbers, cosmetologists, estheticians, manicurists, electrologists, and apprentices. Existing law requires the board to carry out a list of duties including making rules and regulations, conducting and administering license examinations, issuing licenses to qualified applicants, and disciplining persons who violate the act.

This bill would require that the board offer and make available all written materials provided to licensees and applicants in English, Spanish, and Vietnamese.

Existing law requires the licensure of any person, firm, or corporation operating an establishment engaged in a practice regulated by the board. Existing law requires a separate license for each location where the establishment operates. Existing law requires applicants to submit an

application, accompanied by a prescribed fee. Existing law prohibits the board from issuing a license to any applicant who has committed specified acts or crimes which are grounds for denial of licensure in effect at the time the new application is submitted.

This bill would require the board to require as a condition of licensure to operate an establishment that the applicant has the knowledge of basic labor laws, as defined, that pertain to the types of licensees who may work in the establishment. The bill would require the board, in consultation with the Department of Industrial Relations, to develop and add questions on basic labor law to the application for a license to operate an establishment. The bill would require the board, in consultation with the Department of Industrial Relations and stakeholders, to select or create informational materials on basic labor law that the board determines to be practical and accessible to applicants. The bill would require the board to require, as part of a complete application, a signed acknowledgment that the applicant understands the informational materials on basic labor laws and that establishments are responsible for obeying the labor laws of the State of California.

Existing law requires the board to keep a registration record of each licensee containing the name, address, license number, date issued, and any facts that the applicant may have stated in the application for examination for licensure.

This bill would require the board, beginning January 1, 2018, to collect, through optional questions on the application to operate an establishment, demographic information of each applicant, including her or his preferred language preference.

Existing law requires the board to admit to a licensing examination an applicant who meets certain qualifications, including having completed one or more courses, as specified, offered by a school approved by the board. Existing law requires the board to determine by regulation the required subjects of instruction to be completed in all approved courses.

This bill would require the labor laws that pertain to the types of licensees who may work in establishments to be among these required subjects.

~~The Barbering and Cosmetology Act establishes the State Board of Barbering and Cosmetology and requires, among other duties, that the board issue licenses to qualified applicants, as specified, who submit an application, accompanied by a prescribed fee, to operate an establishment engaged in the practice of barbering, cosmetology, natural hairstyling for compensation, or electrolysis, as those terms are defined. The act authorizes the board to reduce the amount of the fee for an applicant obtaining ownership of an existing establishment. The act requires a separate license for each location where the establishment operates.~~

~~This bill would make a nonsubstantive change to this provision.~~

Vote: majority Appropriation: no Fiscal Committee: ~~no~~*yes* Local Program: no

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THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. *Section 7312 of the Business and Professions Code is amended to read:*

7312. The board shall do all of the following:

(a) Make rules and regulations in aid or furtherance of this chapter in accordance with the Administrative Procedure Act.

(b) Conduct and administer examinations of applicants for licensure.

(c) Issue licenses to those applicants that may be entitled thereto.

(d) Discipline persons who have been determined to be in violation of this chapter or the

regulations adopted pursuant to this chapter.

(e) Adopt rules governing sanitary conditions and precautions to be employed as are reasonably necessary to protect the public health and safety in establishments, schools approved by the board, and in the practice of any profession provided for in this chapter. The rules shall be adopted in accordance with the Administrative Procedure Act, Chapter 3.5 (commencing with Section 11340) of Title 2 of the Government Code, and shall be submitted to the State Department of Health Services and approved by that department prior to filing with the Secretary of State. A written copy of all those rules shall be furnished to each licensee.

(f) Offer and make available all written materials provided to licensees and applicants in English, Spanish, and Vietnamese.

SEC. 2. *Section 7314 of the Business and Professions Code is amended to read:*

7314. The board shall keep a record of its proceedings relating to its public meetings, meetings of committees, and records relating to the issuance, refusal, renewal, suspension and revocation of licenses.

The board shall keep a registration record of each licensee containing the name, address, license number and date issued. This record shall also contain any facts that the applicants may have stated in their application for examination for licensure. *Beginning January 1, 2018, the board shall collect, through optional questions on the applications for a license issued pursuant to Section 7396.1, the demographic information of each applicant including, but not limited to, her or his spoken and written language preference.*

SEC. 3. *Section 7347 of the Business and Professions Code is repealed.*

~~7347.Any person, firm, or corporation desiring to operate an establishment shall make an application to the bureau for a license accompanied by the fee prescribed by this chapter. The application shall be required whether the person, firm, or corporation is operating a new establishment or obtaining ownership of an existing establishment. If the applicant is obtaining ownership of an existing establishment, the bureau may establish the fee in an amount less than the fee prescribed by this chapter. The applicant, if an individual, or each officer, director, and partner, if the applicant is other than an individual, shall not have committed acts or crimes which are grounds for denial of licensure in effect at the time the new application is submitted pursuant to Section 480. A license issued pursuant to this section shall authorize the operation of the establishment only at the location for which the license is issued. Operation of the establishment at any other location shall be unlawful unless a license for the new location has been obtained upon compliance with this section, applicable to the issuance of a license in the first instance.~~

SEC. 4. *Section 7362 of the Business and Professions Code is amended to read:*

7362. (a) A school approved by the board is one that is first approved by the board and subsequently approved by the Bureau for Private Postsecondary Education or is a public school in this state, and provides a course of instruction approved by the board. However, notwithstanding any other law, both the board and the Bureau for Private Postsecondary Education may simultaneously process a school's application for approval.

(b) The board shall determine by regulation the required subjects of instruction to be completed in all approved courses, including the minimum hours of technical minimum number of practical operations for each subject, and shall determine how much training is required before a student may begin performing services on paying patrons. *The labor laws that pertain to the types of licensees who may work in establishments shall be among the required subjects to be completed.*

(c) Notwithstanding any other law, the board may revoke, suspend, or deny approval of a school, in a proceeding that shall be conducted in accordance with Chapter 5 (commencing with Section

11500) of Part 1 of Division 3 of Title 2 of the Government Code, when an owner or employee of the school has engaged in any of the acts specified in paragraphs (1) to (8), inclusive.

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

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

(B) Repeated similar negligent acts.

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

(2) Repeated failure to comply with the rules governing health and safety adopted by the board and approved by the State Department of Public Health, for the regulation of board-approved schools.

(3) Repeated failure to comply with the rules adopted by the board for the regulation of board-approved schools.

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

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

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

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

(8) Any action or conduct that would have warranted the denial of a school approval.

SEC. 5. *Section 7396.1 is added to the Business and Professions Code, to read:*

7396.1. *(a) Any person, firm, or corporation desiring to operate an establishment shall make an application to the board for an establishment license accompanied by the fee prescribed by this chapter. The application shall be required whether the person, firm, or corporation is operating a new establishment or obtaining ownership of an existing establishment. If the applicant is obtaining ownership of an existing establishment, the board may establish the fee in an amount less than the fee prescribed by this chapter. A license issued pursuant to this section shall authorize the operation of the establishment only at the location for which the license is issued. Operation of the establishment at any other location shall be unlawful unless a license for the new location has been obtained upon compliance with this section, applicable to the issuance of a license in the first instance.*

(b) The board shall require as a condition of licensure pursuant to subdivision (a) that the applicant meets the following requirements:

(1) The applicant, if an individual, or each officer, director, and partner, if the applicant is other than an individual, shall not have committed acts or crimes that are grounds for denial of licensure in effect at the time the new application is submitted pursuant to Section 480.

(2) The applicant has knowledge of basic labor laws that pertain to the types of licensees who may work in the establishment. For purposes of this section, the definition of the term "basic labor laws" shall include, but not be limited to:

(A) Key differences between the legal rights, benefits, and obligations of an employee and an independent contractor.

(B) Wage and hour rights for hourly employees.

(C) Antidiscrimination laws relating to the use of a particular language in the workplace.

(D) Antiretaliation laws relating to a worker's right to file complaints with the Department of Industrial Relations.

(E) How to obtain more information about labor law from the Department of Industrial Relations.

(c) To ensure that applicants for an establishment license have the knowledge of basic labor laws pursuant to paragraph (2) of subdivision (b) the board shall do all of the following:

(1) In consultation with the Department of Industrial Relations, the board shall develop and add questions on basic labor laws to the application.

(2) In consultation with the Department of Industrial Relations and stakeholders, the board shall select or create informational materials on basic labor laws that the board determines to be practical and accessible to applicants.

(3) As part of a complete application, the board shall require a signed acknowledgment that the applicant understands both of the following:

(A) Establishments are responsible for obeying the labor laws of the State of California.

(B) The informational materials on basic labor laws selected or created by the board pursuant to paragraph (2) of subdivision (c).

SEC. 6. *Section 7401 of the Business and Professions Code is amended to read:*

7401. (a) An individual licensed pursuant to Section 7396 shall report to the board at the time of license renewal, his or her practice status, designated as one of the following:

(1) Full-time practice in California.

(2) Full-time practice outside of California.

(3) Part-time practice in California.

(4) Not working in the industry.

(5) Retired.

(6) Other practice status, as may be further defined by the board.

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

(1) Employee.

(2) Independent contractor or booth renter.

(3) Salon owner.

(c) An individual licensed pursuant to Section ~~7347~~ *7396.1* shall report to the board at the time of license renewal, whether either of the following is applicable to him or her:

(1) He or she has a booth renter operating in the establishment.

(2) He or she has an independent contractor operating in the establishment.

~~SECTION 1.Section 7347 of the Business and Professions Code is amended to read:~~

~~7347.Any person, firm, or corporation desiring to operate an establishment shall make an application to the board for a license accompanied by the fee prescribed by this chapter. The application shall be required whether the person, firm, or corporation is operating a new establishment or obtaining ownership of an existing establishment. If the applicant is obtaining ownership of an existing establishment, the board may establish the fee in an amount less than the fee prescribed by this chapter. The applicant, if an individual, or each officer, director, and partner, if the applicant is other than an individual, shall not have committed acts or crimes that are grounds for denial of licensure in effect at the time the new application is submitted pursuant to Section 480. A license issued pursuant to this section shall authorize the operation of the establishment only at the location for which the license is issued. Operation of the establishment at any other location shall be unlawful unless a license for the new location has been obtained upon compliance with this section, applicable to the issuance of a license in the first instance.~~

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BOARD OF BARBERING & COSMETOLOGY
BILL ANALYSIS

Author: Assembly Member Chiu
Co Author: Assembly Member Hernandez

Subject: Healthy Nail Salon Recognition Program

Bill Number: AB 2125

Version: Amended April 5, 2016

Existing Law:

Provides for the licensure and regulation of the practices of Barbering, Cosmetology and Electrology by the California Board of Barbering and Cosmetology (Board). (BP&C* 7312)

Established the California Safe Cosmetics act of 2005 which requires manufacturers to provide the "Department of Public Health with a list of ingredients used in their products that are known or suspected to cause cancer, developmental or reproductive harm."**

Established the Department of Public Health (DPH), Occupational Safety and Health Administration (OSHA), Department of Industrial Relations (DIR) and Cal/OSHA.

This Bill:

Requires Department of Public Health (Department) to:

- Publish guidelines and one or more model ordinances for implementing the voluntary Healthy Nail Salon Recognition (HNSR) program.

The model ordinance shall require the DPH to:

1. Encourage businesses to reduce toxic chemical exposure in nail salon products, improve ventilation in the salon, learn about the effects chemicals have on a person's health;
2. Coordinate with other local HNSR programs to assist businesses in achieving regulatory compliance;
3. Promote improved community health outcomes, economic vitality, and sustainable business approaches;
4. Require training for the nail establishment owners and staff to ensure knowledge of safe and environmentally friendly procedures;

5. Provide an approved seal or certificate to a salon that meets the programs requirements;

6. Establish a process by which a nail establishment can enroll in an HNSR program and be verified by the local entity;

7. Establish the frequency at which the local entity shall verify continued compliance by a nail establishment that has met all the programs requirements;

8. Throughout the process of developing the model ordinance the Department shall consult with Division of Occupational Safety and Health, representatives of local agencies with existing HNSR programs, private sector, non-profit entities that have experience in implementing the program and members of the affected communities.

- Establishes the program's criteria:

(1) The nail establishment may not use any cosmetic product that contains:

(A) Any ingredient, as defined in subdivision (d) of Section 111791.5, that is a chemical classified by the United States Environmental Protection Agency as carcinogenic to humans, likely to be carcinogenic to humans, or for which there is suggestive evidence of carcinogenic potential, or identified by the state to cause cancer as listed in the Safe Drinking Water and Toxic Enforcement Act of 1986 (Chapter 6.6 (commencing with Section 25249.5) of Division 20) list of chemicals known to cause cancer or reproductive toxicity.
(B) Any ingredient, as defined in subdivision (d) of Section 111791.5, that is a reproductive toxicant that causes birth defects, reproductive harm, or developmental harm as identified by the United States Environmental Protection Agency, or listed in the Safe Drinking Water and Toxic Enforcement Act of 1986 (Chapter 6.6 (commencing with Section 25249.5) of Division 20) list of chemicals known to cause cancer or reproductive toxicity.
(C) Dibutyl phthalate (DBP), formaldehyde, toluene, or methyl ethyl ketone.

(2) The nail establishment shall ensure that all nail salon staff wear nitrile or other gloves determined to be sufficiently protective when using nail products.

(3) The nail establishment shall be ventilated to improve air quality. A specific area shall be designated for artificial nail services and that area shall be properly ventilated with mechanical ventilation units.

(4) All nail establishment staff, whether on payroll or on contract, and owners shall be trained on safer practices delineated in the HNSR program guidelines.

(5) The nail establishment shall not allow clients to bring in outside products for use, unless those products meet the program criteria, as determined by salon staff.

(6) The nail establishment shall be in compliance with Chapter 10 (commencing with Section 7301) of Division 3 of the Business and Professions Code.

(7) Any other guidelines or best practices determined by the department to further the goals of an HNSR program.

- Promote the HNRS program with:

    1. An awareness campaign for local governments on the benefits of implementing the Healthy Nail Salon Recognition Program (HNSR) in their locale;

    2. A campaign directed at nail salon establishment owners and local governments;

    3. A consumer education program designed to promote awareness about the HNSR program;

    4. The development and distribution or posting on the Department's website information for local entities including suggestions for successful implementation of HNSR programs and a resource list with includes vendor contact information;

    5. Development of a web site or section of the DPH's website that links to county HNSR Internet web sites.

Analysis:

The city and county of San Francisco, Alameda, San Mateo and Santa Clara counties, and the city of Santa Monica have adopted a voluntary recognition program that encourages salons to use products with less toxic chemicals within the salon. The current program encourages nail establishment owners to assess the ventilation found in the salon and make improvements. Training is provided by the establishment owner to the staff on best practices for health and safety. Salons that meet the program's criteria are given an acknowledgement certificate, window sticker or poster and are listed as a healthier nail salon on a government website.

If this bill is adopted the Board may be called on to offer technical expertise to the Department of Health.

This bill allows another state agency to establish standards for Board licensed establishments.

This bill does not include the process if the establishment has a change of ownership.

Fiscal Impact:

Unknown.

Board Position:

On April 11, 2016, the Board took the following position: "Oppose"

*BP&C refers to the California Business and Professions Code.
** Information taken from the California Safe Cosmetics website.
https://www.cdph.ca.gov/programs/cosmetics/Pages/default.aspx

California LEGISLATIVE INFORMATION

AB-2125 Healthy Nail Salon Recognition Program. (2015-2016)

AMENDED IN ASSEMBLY APRIL 05, 2016

AMENDED IN ASSEMBLY MARCH 31, 2016

CALIFORNIA LEGISLATURE— 2015–2016 REGULAR SESSION

ASSEMBLY BILL **No. 2125**

Introduced by Assembly Member Chiu
(Coauthor: Assembly Member Roger Hernández)

February 17, 2016

An act to add Chapter 14 (commencing with Section 108960) to Part 3 of Division 104 of the Health and Safety Code, relating to nail salons.

LEGISLATIVE COUNSEL'S DIGEST

AB 2125, as amended, Chiu. Healthy Nail Salon Recognition Program.

Existing law regulates the existence and disclosure of specified chemicals and components in consumer products, including phthalates and bisphenol A. Existing law also provides for the licensing and regulation of nail salons and manicurists by the *State Board of Barbering and Cosmetology within the* Department of Consumer Affairs.

This bill would require the State Department of Public Health to publish ~~guidelines~~ *guidelines, including one or more model ordinances,* for cities, counties, and city and counties to voluntarily implement local healthy nail salon recognition (HNSR) programs with specified criteria for nail salons, including the use of less toxic nail polishes and polish removers and improved ventilation. The bill would also require the department to develop awareness campaigns, model ordinances for local governments, and post specified information on its Internet Web site.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The Legislature finds and declares all of the following:

(a) According to the State Board of Barbering and Cosmetology, there are 98,613 licensed manicurists, and 41,830 licensed business establishments providing manicure services. There are 253,571 licensed cosmetologists, many of whom work as nail salon technicians.

(b) Beauty care workers, including cosmetologists and manicurists, are highly exposed to the potential harm of carcinogens and reproductive toxins in cosmetics. Cosmetologists and manicurists are predominantly women and minorities. In California, an estimated 80 percent of nail salons are operated by Vietnamese women.

(c) Nail services are increasing in popularity among consumers. The money consumers spent in nail salons increased from $7.3 billion in 2012 to $8.54 billion in 2014.

(d) Chemicals in professional cosmetics can be harmful to salon customers, who increasingly include prepubescent girls and young women.

(e) Endocrine-disrupting chemicals can cause harm at very low levels. Some may enter the body through the skin or cuticle.

(f) Dibutyl phthalate (DBP), included in nail polish to reduce brittleness and cracking, is a reproductive and developmental toxicant that is especially harmful to pregnant women.

(g) Developmental toxicants interfere with proper growth or health of a child, acting at any point from conception to puberty.

(h) Toluene, a solvent found in nail polish, is a developmental and neurological toxicant that causes headaches, dizziness, and nausea, among other symptoms.

(i) Formaldehyde, a chemical that acts as a disinfectant and as a preservative in nail polishes, is a known carcinogen. Exposure to formaldehyde in the short term can irritate the eyes, nose, throat, and skin, and in the long term exposure can cause asthma.

(j) Alternatives to substances that cause serious harm, including cancer or reproductive toxicity, are readily available for use in cosmetic products. A number of manufacturers, including both small domestic producers and large multinational corporations, have eliminated certain substances that cause cancer or reproductive harm from their products.

(k) Some local governments have already adopted successful Healthy Nail Salon Recognition Programs (HNSR programs), including the City and County of San Francisco, the Counties of Alameda, San Mateo, and Santa Clara, and the City of Santa Monica.

(l) These local HNSR programs support nail salons that use less toxic products and practices that are safer for workers and their customers.

(m) Given the presence of substances in cosmetic products that cause cancer and reproductive toxicity and other serious adverse impacts, the heavy use of these products by women of childbearing age, the increasing use of manicure services among consumers including prepubescent girls and young women, the significant exposure to these products in occupational settings such as nail and beauty salons, the recently enacted successful local HNSR programs, and the availability of safer alternative products, it is in the interest of the people of the State of California to take steps to ensure that nail salons are given guidelines to operate safely for workers and consumers, support local solutions to reduce potentially harmful chemical exposures among customers and workers, determine the success of the HNSR programs in reducing harmful exposures experienced by nail salon customers and workers, and make recommendations for program improvements, as appropriate.

SEC. 2. Chapter 14 (commencing with Section 108960) is added to Part 3 of Division 104 of the Health and Safety Code, to read:

CHAPTER 14. Healthy Nail Salon Recognition Program

108960. (a) The State Department of Public Health shall, by January 1, 2018, publish ~~guidelines and best practices~~ *guidelines, including one or more model ordinances,* for cities, counties, and cities and counties to voluntarily implement local healthy nail salon recognition (HNSR) programs.

(b) ~~Qualifications~~ *The guidelines, including the model ordinance or ordinances,* for an HNSR program may include, but are not limited to, all of the ~~following:~~ *following qualifications:*

(1) The salon shall not use any cosmetic product that contains any of the following:

(A) Any ingredient, as defined in subdivision (d) of Section 111791.5, that is a chemical classified by the United States Environmental Protection Agency as carcinogenic to humans, likely to be carcinogenic to

humans, or for which there is suggestive evidence of carcinogenic potential, or identified by the state to cause cancer as listed in the Safe Drinking Water and Toxic Enforcement Act of 1986 (Chapter 6.6 (commencing with Section 25249.5) of Division 20) list of chemicals known to cause cancer or reproductive toxicity.

(B) Any ingredient, as defined in subdivision (d) of Section 111791.5, that is a reproductive toxicant that causes birth defects, reproductive harm, or developmental harm as identified by the United States Environmental Protection Agency, or listed in the Safe Drinking Water and Toxic Enforcement Act of 1986 (Chapter 6.6 (commencing with Section 25249.5) of Division 20) list of chemicals known to cause cancer or reproductive toxicity.

(C) Dibutyl phthalate (DBP), formaldehyde, toluene, or methyl ethyl ketone.

(2) The salon shall ensure that all nail salon staff wear nitrile or other gloves determined to be sufficiently protective when using nail products.

(3) The salon shall be ventilated to improve air quality. A specific area shall be designated for artificial nail services and that area shall be properly ventilated with mechanical ventilation units.

(4) All salon staff, whether on payroll or on contract, and owners shall be trained on safer practices delineated in the HNSR program guidelines.

(5) The salon shall not allow clients to bring in outside products for use, unless those products meet the program criteria, as determined by salon staff.

(6) The salon shall be in compliance with Chapter 10 (commencing with Section 7301) of Division 3 of the Business and Professions Code.

(7) Any other guidelines or best practices determined by the department to further the goals of an HNSR program.

(c) The model ordinance required pursuant to subdivision (a) shall impose, but not be limited to, all of the following requirements on a local entity that adopts a HNSR program:

(1) Coordinate with other local HNSR programs to assist businesses in achieving and moving beyond regulatory compliance.

(2) Encourage businesses to implement strategies to reduce toxic exposures to chemicals in nail salon products, improve ventilation strategies, and achieve greater understanding of products and their impacts on health.

(3) Promote improved community health outcomes, economic vitality, and sustainable business approaches.

(4) Require training for the salon owners and staff to ensure thorough knowledge of safe and environmentally friendly procedures.

(5) Provide an approved seal or certificate to a salon that has met all specified requirements, required to be displayed in full public view in the salon location.

(6) Establish a process by which a salon can enroll in an HNSR program and be verified by the local entity.

(7) Establish the frequency at which the local entity shall verify continued compliance by a salon that has previously met all specified requirements.

(d) The State Department of Public Health shall, throughout the process of developing guidelines pursuant to subdivision (a), consult with the Division of Occupational Safety and Health, representatives of local agencies with existing HNSR programs, personnel of private nonprofit entities who have experience and skills in implementing HNSR programs, and members of affected communities, among others.

~~(c)~~

(e) The department shall promote the HNSR program established pursuant to this chapter by doing all of the following:

(1) Solicit and support voluntary implementation of HNSR programs through awareness campaigns directed at nail salon business owners and local governments.

(2) Develop and implement a consumer education program to promote awareness about HNSR programs.

~~(3)Develop and adopt one or more model ordinances that local entities may adopt to implement an HNSR program. The model ordinance shall direct local entities to, at a minimum, do all of the following:~~

~~(A)Coordinate with other local HNSR programs to assist businesses in achieving and moving beyond regulatory compliance.~~

~~(B)Encourage businesses to implement strategies to reduce toxic exposures to chemicals in nail salon products, improve ventilation strategies, and achieve greater understanding of products and their impacts on health.~~

~~(C)Promote improved community health outcomes, economic vitality, and sustainable business approaches.~~

~~(D)Require a training element for owners and staff to ensure thorough knowledge of safe and environmentally friendly procedures.~~

~~(E)Provide an approved seal or certificate upon meeting all requirements to be hung in full public view in the business.~~

~~(F)Establish a process by which a salon can enroll in an HNSR program and be verified by the local entity.~~

~~(G)Establish the frequency at which salon compliance will be reverified by the local entity.~~

~~(4)Consult with the Division of Occupational Safety and Health, representatives of local agencies with existing HNSR programs, personnel of private nonprofit entities who have experience and skills in implementing HNSR programs, and members of affected communities, among others, throughout the development of the model program or ordinance.~~

~~(5)~~

(3) Develop and either distribute or post on its Internet Web site information for local entities, including, but not limited to, suggestions for successful implementation of HNSR programs and resource lists that include names and contact information of vendors, consultants, or providers of financial assistance or loans for purchases of ventilation equipment.

~~(6)~~

(4) Develop an Internet Web site or a section on the department's Internet Web site that links to county HNSR Internet Web sites.

~~(d)~~

(f) The department may prioritize its outreach to those counties that have the greatest number of nail salons and that have the highest pollution burdens and vulnerabilities as determined by CalEnviroScreen.

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BOARD OF BARBERING & COSMETOLOGY
BILL ANALYSIS

Author: Assembly Member Ting

Subject: Nail Care Establishments Wage Violation Training

Bill Number: AB 2437

Version: Amended March 31, 2016

Existing Law:

Provides the licensure and regulation of the practices of Barbering, Cosmetology and Electrology by the California Board of Barbering and Cosmetology. (Board)(BP&C* 7312)

Requires any person, firm or corporation operating an establishment where activity regulated under the Board is practiced, to apply for an establishment license. Existing law prohibits the Board from issuing a license to any applicant who has committed specified acts or crimes which are grounds for denial of licensure. (BP&C 7347)

Creates the Division of Labor Standards Enforcement within the Department of Industrial Relations, which includes the general duty of enforcing labor laws, including those relating to wage claims and employer retaliation.

Prohibits an employer from continuing to conduct business in California if a final judgment (for non-payment of wages) against that employer remains unsatisfied.

This Bill:

- Requires the Board to deny the renewal of a nail care establishment if a final judgment for an employers' non-payment of wages exists.
- Requires the Board to verify with the Labor Commissioner that the establishment is not conducting business in violation of Section 238 of the Labor Code.
- Requires the Labor Commissioner to notify the Board if the nail services establishment is in violation of the Labor Code.
- Requires licensed nail establishments to register with the Division of Labor Standards (within Department of Industrial Relations) and receive training in workplace rights. Establishment owners must arrange and pay for the training to be provided to the establishment employees. This training is to be provided every two years upon license renewal.

- Requires nail services establishment owners to provide the Board with evidence that they are not conducting business in violation of the Labor Code.

- Requires the Division of Labor Standards (Division) to provide training to the nail services establishment and employees. The Division may contract with nonprofit vendors to provide the training. Requires the Division to consider specific factors when approving the nonprofit vendor. Authorizes the Division to charge a fee to the nail services establishment.

- Requires curriculum to include training in: Misclassification, wage and hour laws, retaliation, business expense reimbursement, tips and reporting violations.

- Requires the training fee not to exceed regulatory cost of providing the training. The fee must be deposited into the Nail Care Establishment Training Fund which is created by the bill.

Fiscal Impact:

Establishment Owners - Since the fee for the training has not been established, the fiscal impact is unknown. It should be noted that there may be a loss of wages to the establishment owner if the training should have to occur during regular work hours.

Board – If adopted this bill will have a significant impact upon the Board. At this time, a dollar amount cannot be provided. However, the bill would require significant IT changes and an increase in staffing.

Analysis:

This bill only applies to licensed establishments that provide nail services. It does not clarify to what extent the establishment should be offering nail services. For instance, is an establishment that hires all barbers with the exception of one cosmetologist who does nail services on occasion make the establishment a nail service establishment?

This bill requires that the Board deny the renewal of licenses of individuals whose establishment owners have not provided them with the required training. There is no provision in the bill for the individual licensee to obtain the training themselves, without the presence of the establishment owner.

Concerns:

- The Board does not differentiate between the types of services provided at the establishments.

- As written, this bill will require a new interface to be developed between the BreEZe database and the Division of Labor Standards.

- It is unclear if and how the Board could enforce the requirements of the bill as it appears the bill requires the Board to enforce labor laws.

- Currently, individual licensees are not required to tell the Board where they are working so the Board has no knowledge of their employers.

*BP&C refers to the California Business and Professions Code.

California LEGISLATIVE INFORMATION

AB-2437 Nail care establishments: training: wage violations. (2015-2016)

AMENDED IN ASSEMBLY MARCH 31, 2016

CALIFORNIA LEGISLATURE— 2015–2016 REGULAR SESSION

ASSEMBLY BILL **No. 2437**

Introduced by Assembly Member Ting

February 19, 2016

An act to ~~amend Section 6330 of~~ *add Sections 7401.1 and 7401.2 to the Business and Professions Code, and to add Section 238.6 to, and to add Part 10.5 (commencing with Section 2268) to Division 2 of,* the Labor Code, relating to ~~employment.~~ *nail care establishments, and making an appropriation therefor.*

LEGISLATIVE COUNSEL'S DIGEST

AB 2437, as amended, Ting. ~~Division of Occupational Safety and Health: jurisdiction.~~ *Nail care establishments: training: wage violations.*

(1) The Barbering and Cosmetology Act provides for the licensure and regulation of barbers, cosmetologists, estheticians, manicurists, electrologists, and apprentices by the State Board of Barbering and Cosmetology. The act requires the licensure of any person, firm, or corporation operating an establishment engaged in a practice regulated by the board, as specified, and requires a licensed establishment to comply with various requirements. A violation of the Barbering and Cosmetology Act is generally a misdemeanor.

Existing law prohibits an employer from continuing to conduct business in this state, as specified, if a final judgment against that employer arising from the employer's nonpayment of wages for work performed in this state remains unsatisfied after a specified period of time after the time to appeal has expired and no appeal is pending, except as specified.

This bill would require the State Board of Barbering and Cosmetology to deny the renewal of a license to an establishment that provides nail care services if that establishment is conducting business in violation of the above provision regarding final judgments arising from an employer's nonpayment of wages for work performed in this state, and would require the board to verify with the Labor Commissioner that such an establishment is not conducting business in violation of those provisions. The bill would also require the Labor Commissioner to notify the board if such an establishment is conducting business in violation of those provisions. The bill would authorize such an establishment to provide evidence to the board that it is not conducting business in violation of those provisions.

(2) Existing law creates the Division of Labor Standards Enforcement within the Department of Industrial Relations, and vests the division with the general duty of enforcing labor laws, including those relating to wage claims and employer retaliation.

This bill would require an establishment, which provides nail care services and is required to be licensed as an establishment under the Barbering and Cosmetology Act, to register with the division and receive specified training regarding workplace rights and wage and hour laws, including, but not limited to, overtime compensation, and would also require the establishment to arrange for the training to be provided to its employees. The bill would require the division to provide that training to such an establishment and its employees. The bill would authorize the division to contract with nonprofit vendors to perform that training and would require the division to consider certain factors when approving a nonprofit vendor, including that the vendor has familiarity with the labor laws to be discussed during the training. The bill would authorize the division to charge a fee to each nail care establishment, not to exceed the reasonable regulatory cost of providing the training, and would require that fee to be deposited into the Nail Care Establishment Training Fund, which would be created by this bill. The bill would continuously appropriate the money in that fund solely for the purposes of providing the required training. The bill would also define various terms for these purposes.

~~Existing law permits the Occupational Safety and Health Standards Board within the Department of Industrial Relations to adopt occupational health and safety standards to protect the welfare of employees. The Division of Occupational Safety and Health (division) enforces occupational safety and health standards and orders. Certain violations of these standards and orders are crimes. Existing law also requires the division to report annually to the Legislature specified matters, including providing recommendations for legislation to improve the ability of the division to provide safety in employment.~~

~~This bill would also require the division to include in its report to the Legislature, recommendations to improve the ability of the division to maximize health outcomes in places of employment.~~

Vote: majority Appropriation: ~~no~~*yes* Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. *Section 7401.1 is added to the Business and Professions Code, to read:*

7401.1. *(a) The board shall not renew the license of an establishment that provides nail care services if it is conducting business in violation of Section 238 of the Labor Code.*

(b) Before renewing the license of an establishment that provides nail care services as defined in Section 7316, the board shall verify with the Labor Commissioner whether that establishment is conducting business in violation of Section 238 of the Labor Code.

(c) An establishment that provides nail care services may demonstrate to the board that is not conducting business in violation of Section 238 of the Labor Code by providing evidence to the board.

SEC. 2. *Section 7401.2 is added to the Business and Professions Code, to read:*

7401.2. *The board shall not renew the establishment license of an establishment that provides nail care services, as defined under Section 7316, if the establishment and its employees have not received the training required pursuant to Part 10.5 (commencing with Section 2268) of the Labor Code.*

SEC. 3. *Section 238.6 is added to the Labor Code, to read:*

238.6. *(a) If an employer is an establishment that offers nail care services and is required to obtain a license from the State Board of Barbering and Cosmetology pursuant to Chapter 10 (commencing with Section 7301) of Division 3 of the Business and Professions Code is found to be conducting business in violation of Section 238, the Labor Commissioner shall notify the State Board of Barbering and Cosmetology that the establishment is conducting business in violation of Section 238.*

(b) For the purposes of this section, "nail care services" means the practice of cutting, trimming, polishing, coloring, tinting, cleansing, manicuring, or pedicuring the nails of a person or massaging, cleansing, or beautifying from the elbow to the fingertips or the knee to the toes of a person.

SEC. 4. *Part 10.5 (commencing with Section 2268) is added to Division 2 of the Labor Code, to read:*

PART 10.5. Nail Care Establishments

2268. *For the purposes of this part, the following terms shall have the following meanings:*

(a) "Division" means the Division of Labor Standards Enforcement.

(b) "Establishment" means an establishment licensed under Chapter 10 (commencing with Section 7301) of Division 3 of the Business and Professions Code that offers nail care services.

(c) "License" means a license issued to an establishment under Chapter 10 (commencing with Section 7301) of Division 3 of the Business and Professions Code.

(d) "Licensee" means an employee of an establishment who is licensed under Chapter 10 (commencing with Section 7301) of Division 3 of the Business and Professions Code to perform nail care services.

(e) "Nail care" means the practice of cutting, trimming, polishing, coloring, tinting, cleansing, manicuring, or pedicuring the nails of a person or massaging, cleansing, or beautifying from the elbow to the fingertips or the knee to the toes of a person.

2268.1. *(a) An establishment shall register with the division pursuant to this part and receive the training required by this part once every license renewal period. An establishment shall also arrange for licensees employed at that establishment to receive the required training from either the division under subdivision (b) or from a nonprofit vendor under subdivision (c).*

(b) (1) By June 1, 2017, the division shall provide training to an establishment and licensees employed at that establishment regarding laws pertaining to workplace rights and wage and hour laws.

(2) The training shall include, but not be limited to:

(A) Misclassification of an employee as a contractor.

(B) Wage and hour laws, such as minimum wage, overtime compensation, meal periods, and rest breaks.

(C) Protection for retaliation.

(D) Business expense reimbursement.

(E) Tip or gratuity distribution.

(F) How to report violations of the law.

(3) To the extent possible, the training shall be provided separately to an establishment and licensees.

(4) The training shall be provided in a culturally competent and linguistically appropriate manner for the demographic groups that work in the nail care industry.

(c) (1) In lieu of providing training under subdivision (b), the division may contract with an approved nonprofit vendor to provide the training required by this section.

(2) The division shall consider all of the following when approving a nonprofit vendor to provide the training required by this section:

(A) The linguistic capabilities of the nonprofit vendor. The nonprofit vendor shall have language capacity to conduct the training in the languages of the demographic groups that work in the nail care industry, including, but not limited to, Vietnamese.

(B) The nonprofit vendor shall have a demonstrated history of providing culturally competent services to the demographic groups that work in the nail care industry, including, but not limited to, the Vietnamese community.

(C) The nonprofit vendor shall have familiarity with the laws to be discussed in the training. The vendor may obtain this legal expertise through other service providers, such as a nonprofit legal service agency.

(D) Any other criteria deemed appropriate by the division.

(3) The nonprofit vendor shall not charge a fee to the attendees of the training.

2268.2. *(a) The division shall charge a fee to an establishment, not to exceed the reasonable regulatory cost, for providing the training under this part or for contracting out with an approved nonprofit vendor to provide the training required under this part.*

(b) The fee shall be deposited into the Nail Care Establishment Training Fund, which is hereby created. The fee shall only be used for the purposes of providing the training required pursuant to this part and, notwithstanding Section 13340 of the Government Code, is continuously appropriated without regard to fiscal year solely for these purposes.

~~SECTION 1.Section 6330 of the Labor Code is amended to read:~~

~~6330.The director shall prepare and submit to the Legislature, not later than March 1, an annual report on the division activities. The report shall include, but need not be limited to, the following information for the previous calendar year:~~

~~(a)The amount of funds allocated and spent in enforcement, education and research, and administration by the division.~~

~~(b)Total inspections made, and citations issued by the division.~~

~~(c)The number of civil penalties assessed, total amount of fines collected and the number of appeals heard.~~

~~(d)The number of contractors referred to the Contractor's State License Board for hearing, pursuant to Section 7109.5 of the Business and Professions Code, and the total number of these cases resulting in suspension or revocation of a license.~~

~~(e)The report from the division prepared by the Bureau of Investigations for submission to the director pursuant to Section 6315.3.~~

~~(f)Recommendations for legislation which improves the ability of the division to provide safety and maximize health outcomes in places of employment.~~

~~The report shall be made to the Speaker of the Assembly and the Chairman of the Rules Committee of the Senate, for assignment to the appropriate committee or committees for evaluation.~~

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BOARD OF BARBERING & COSMETOLOGY
BILL ANALYSIS

Author: Senator Nguyen **Subject: Credit/Debit Card for Tips**

Bill Number: SB 896 **Version: Amended March 17, 2016**

Existing Law:

Provides the licensure and regulation of the practices of Barbering, Cosmetology and Electrology by the California Board of Barbering and Cosmetology (Board). (BP&C* 7312)

Requires any person, firm or corporation operating an establishment where activity regulated under the Board is practiced, to comply with the Board's rules and regulations. (BP&C 7402)

Authorizes the Board to assess administrative fines for the violation of the Act or regulations adopted by the Board. (BP&C 7406)

This Bill:

- Requires an establishment offering nail care services that accepts a debit/credit card for payment of services to also accept a debit/credit card payment for tips
- Provides that no reimbursement to the State is required by this act because it does not:
  - ✓ Create a new crime or infraction
  - ✓ Eliminate a crime or infraction
  - ✓ Change the penalty for a crime or infraction within the meaning of the Government Code Section 17556
  - ✓ Change the definition of a crime within the California Constitution, Section 6, Article XIII B.

Analysis:

This bill addresses the issue of use of credit/debit card payments for tips to establishments that offer nail care services. It does not include barber shops, beauty salons or electrology establishments that do not offer nail care services. No enforcement provisions are included with in the bill.

Fiscal Impact to the Board:

None

Board Position:

On April 11, 2016, the Board took the following position: "Oppose"

*BP&C refers to the California Business and Professions Code.

California LEGISLATIVE INFORMATION

SB-896 Barbering and cosmetology: nail care establishments: credit and debit cards.
(2015-2016)

AMENDED IN SENATE MARCH 17, 2016

CALIFORNIA LEGISLATURE— 2015–2016 REGULAR SESSION

SENATE BILL **No. 896**

Introduced by Senator ~~Bates~~ *Nguyen*

January 21, 2016

An act to ~~amend Section 921 of~~ *add Section 7353.5 to* the Business and Professions Code, relating to ~~healing arts.~~ *professions and vocations.*

LEGISLATIVE COUNSEL'S DIGEST

SB 896, as amended, ~~Bates~~ *Nguyen.* ~~Health care professionals.~~ *Barbering and cosmetology: nail care establishments: credit and debit cards.*

Existing law, the Barbering and Cosmetology Act, provides for the licensure and regulation of barbers, cosmetologists, estheticians, manicurists, electrologists, and apprentices by the State Board of Barbering and Cosmetology. The act requires the licensure of any person, firm, or corporation operating an establishment engaged in a practice regulated by the board, as specified, and requires a licensed establishment to comply with various requirements. A violation of the Barbering and Cosmetology Act is generally a misdemeanor.

This bill would require an establishment offering nail care services, if it accepts a debit or credit as payment for nail care services, to also accept a debit or credit card for payment of a tip.

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

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

~~Existing law, the Health Care Professional Disaster Response Act, states findings of the Legislature regarding the shortage of qualified health care practitioners during times of national or state disasters, and authorizes a physician and surgeon, whose license has been expired for less than 5 years and who meets specified criteria, to obtain a license without paying fees.~~

~~This bill would make a nonsubstantive change to those findings.~~

Vote: majority Appropriation: no Fiscal Committee: ~~no~~*yes* Local Program: ~~no~~*yes*

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. *Section 7353.5 is added to the Business and Professions Code, to read:*

7353.5. *If an establishment offering nail care services accepts a debit or credit card as payment for nail care services, the establishment shall also accept a debit or credit card for payment of a tip.*

SEC. 2. *No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.*

~~SECTION 1.Section 921 of the Business and Professions Code is amended to read:~~

~~921.(a)The Legislature finds and declares both of the following:~~

~~(1)In times of national or state disasters, a shortage of qualified health care practitioners may exist in areas throughout the state where they are desperately required to respond to public health emergencies.~~

~~(2)Health care practitioners with lapsed or inactive licenses could potentially serve in those areas where a shortage of qualified health care practitioners exists, if licensing requirements were streamlined and fees curtailed.~~

~~(b)Therefore, it is the intent of the Legislature to address these matters through the Health Care Professional Disaster Response Act.~~

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BOARD OF BARBERING & COSMETOLOGY
BILL ANALYSIS

Author: Senator Nguyen **Subject: Double Fines; Payment Plans**

Bill Number: SB 1044 **Version: Amended March 17, 2016**

Existing Law:

Requires the Board to issue a citation for violations for which an administrative fine is authorized to be assessed. The citation must be in writing, the nature of the violation alleged must be printed on the citation and the fine must be attached at the time the citation is written. The citation shall include an order to correct any violations, as determined by the Board. (BP&C 7408)

Requires the establishment owner and individual licensee to be jointly responsible for implementing and maintaining the Health and Safety rules. (CCR** 904(b))

Requires that all citations be paid within 30 days of issuance of a citation (BP&C 125.9 (b)(5))

This Bill:

- Requires the Board to determine by regulation when a fine should be assessed to the establishment holder and the individual licensee for the same health and safety violation;
- Requires the Board to use the following specifications when making the determination on who should be fined:
    1. Consider the egregiousness of the health and safety violation
    2. Consider whether the violation is a repeated violation by an individual licensee within the same establishment
- Authorizes the Board to enter into a payment plan for citations with administrative fines exceeding $500.00;
- Requires the Board to define by regulation the parameters of the payment plan (including the terms of the plan and the grounds for the cancellation of the plan).

Background:

It is the Board's practice to cite the establishment owner(s) for ALL violations found within the establishment regardless of whether the establishment owner precipitated the violation.

Currently, the Board offers an informal payment plan in which the account terms are noted on the BreEZe database (work notes) but the responsibility to keep track of payments, how much is due, and final balance falls to the licensee. The Board has provided this informal service in an attempt to not have fines impact the livelihood of licensees.

Analysis:

The evaluation of who receives the fine (establishment owner or individual licensee) or the institution of a payment plan for a licensee would mean minimal process changes for Board staff. Initially, it is felt that the workload could be absorbed within the Boards current work load capabilities.

There may be equipment interfacing costs to update the BreEZe database.

This bill does favor economic interests within the State as an individual can continue to provide services in a licensed establishment while paying off fines that may have otherwise gone unpaid without a payment plan. In addition, discontinuing the practice of double fining the establishment owner and personal licensee will result in fewer fines to parties that are not directly responsible for the violation while still addressing disciplinary actions (fines) to the proper offender.

Fiscal Impact:

The Board is currently using the BreEZE database. The BreEZe database does not have the capability to schedule, track or report a payment plan. Additional interfacing would need to be implemented to the database. It is estimated that the interfaces required for BreEZe could be up to $20,000 per change incident. At this time, it is unknown how many system changes would be incurred or the exact cost of any system change.

Board Position:

On April 11, 2016, the Board took the following position: "Support if Amended"

The Board's suggested amendment is under Section 7407.1:

In making these determinations, the board shall consider the egregiousness of the violation of the health and safety regulations and whether the violation is a repeated violation by ~~an individual~~ licensees within the same establishment.

With this amendment, the Board will be added as the Sponsor of this bill.

*BP&C refers to the California Business and Professions Code.
**CCR refers to the California Code of Regulations

California LEGISLATIVE INFORMATION

SB-1044 Barbering and cosmetology. (2015-2016)

AMENDED IN SENATE MARCH 17, 2016

CALIFORNIA LEGISLATURE— 2015–2016 REGULAR SESSION

SENATE BILL **No. 1044**

Introduced by Senator Nguyen

February 12, 2016

~~An act to amend Section 7401 of the Business and Professions Code, relating to professions and vocations.~~ ***An act to add Sections 7407.1 and 7408.1 to the Business and Professions Code, relating to professions and vocations.***

LEGISLATIVE COUNSEL'S DIGEST

SB 1044, as amended, Nguyen. Barbering and cosmetology.

Existing law, the Barbering and Cosmetology Act, provides for the licensure and regulation of the practices of barbering, cosmetology, and electrolysis by the State Board of Barbering and Cosmetology. Existing law also requires any person, firm, or corporation operating an establishment where any activity licensed under the act is practiced to apply to the board for a license. Existing law requires protection of the public to be the highest priority for the board in exercising its licensing, regulatory, and disciplinary functions. Under existing law, whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public is required to be paramount.

Under existing law, the board is authorized to assess administrative fines for the violation of the act or the violation of any rules and regulations adopted by the board pursuant to the act. Existing law requires the board to establish by regulation a schedule of administrative fines for violations of the act.

This bill would require the board to determine by regulation when a fine is required to be assessed

against both the holder of the establishment license and the individual licensee for the same violation. The bill would also require the board to determine by regulation when a fine shall be assessed to only the holder of the establishment license or to only an individual licensee for the same violation. In making these determinations, the bill would require the board to consider specified factors.

Existing law requires the board to issue a citation with respect to any violation for which an administrative fine is authorized to be assessed. Existing law requires these citations to be in writing and to describe with particularity the nature of the violation alleged to have been violated. Under existing law, the administrative fine, if any, is required to be attached at the time the citation is written.

The bill would authorize the board to enter into a payment plan for citations with administrative fines exceeding $500. The bill would require the board to define by regulation the parameters of the payment plans, as specified.

~~Existing law, the Barbering and Cosmetology Act, provides for the licensure and regulation of barbers, cosmetologists, estheticians, manicurists, electrologists, and apprentices by the State Board of Barbering and Cosmetology. Existing law requires an individual licensed to practice in one of these vocations to report to the board at the time of license renewal his or her practice status and relationship with his or her place of operation. Existing law requires an individual licensed to operate an establishment to report to the board at the time of license renewal whether any booth renters or independent contractors operate in the establishment.~~

~~This bill would make nonsubstantive changes to this provision.~~

Vote: majority Appropriation: no Fiscal Committee: ~~no~~*yes* Local Program: no

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THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. *Section 7407.1 is added to the Business and Professions Code, to read:*

7407.1. *The board shall determine by regulation when a fine shall be assessed to both the holder of the establishment license and the individual licensee for the same violation. The board shall also determine by regulation when a fine shall be assessed to only the holder of the establishment license or to only an individual licensee for the same violation. In making these determinations, the board shall consider the egregiousness of the violation of the health and safety regulations and whether the violation is a repeated violation by an individual licensee within the same establishment.*

SEC. 2. *Section 7408.1 is added to the Business and Professions Code, to read:*

7408.1. *The board may enter into a payment plan for citations with administrative fines that exceed five hundred dollars ($500). The board shall define by regulation the parameters of the payment plan, which shall include, but shall not be not limited to, the terms of the plan and grounds for cancellation of the plan.*

~~SECTION 1.Section 7401 of the Business and Professions Code is amended to read:~~

~~7401.(a)An individual licensed pursuant to Section 7396 shall report to the board at the time of license renewal her or his practice status, designated as one of the following:~~

~~(1)Full-time practice in California.~~

~~(2)Full-time practice outside of California.~~

~~(3)Part-time practice in California.~~

~~(4)Not working in the industry.~~

~~(5)Retired.~~

~~(6)Other practice status, as may be further defined by the board.~~

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

~~(1)Employee.~~

~~(2)Independent contractor or booth renter.~~

~~(3)Salon owner.~~

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

~~(1)She or he has a booth renter operating in the establishment.~~

~~(2)She or he has an independent contractor operating in the establishment.~~

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MEMORANDUM

DATE	April 26, 2016
TO	Members, Board of Barbering and Cosmetology
FROM	Kristy Underwood, Executive Officer
SUBJECT	**Regulations Update**

- **Military Training:** The final rulemaking file has been approved by the Department of Consumer Affairs (DCA) and the Business, Consumer Services, and Housing Agency (BCSHA). It is now under final review by the Office of Administrative Law (OAL). This review should be complete by the end of May.

  Action: None needed.

- **Administrative Fine Schedule:** The final rulemaking file has been approved by OAL. The new schedule goes into effect on July 1.

  Action: None needed.

- **Demonstration of Products:** DCA's Legal Affairs Division has asked for changes to the regulatory language already presented to the public for comment. The modified text is being submitted to the Board for approval. If approved, the modified text will be presented to the public for a 15-day comment period, after which staff will produce the final rulemaking file for review by DCA.

  Action: The Board should vote on the modified text. **ATTACHED**

- **Consumer Notice:** Staff is producing the documents necessary to begin the rulemaking process.

  Action: None needed.

BOARD OF BARBERING AND COSMETOLOGY

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

Modified Text

LEGEND	
Underline	**Indicates proposed amendments or additions to the existing regulation.**
~~Strikeout~~	**Indicates proposed deletions to the existing regulation.**
Double Underline	**Indicates an addition to the originally proposed text of regulations.**
~~Double Strikeout~~	**Indicates a deletion to the originally proposed text of regulations.**

.

- **Adopt Section 965.1, Title 16, California Code of Regulations, as follows:**

§ 965.1. Persons Exempt from ~~Licensing~~ Application of Chapter; Demonstration of Products.

For the purposes of Section 7319~~, as specified in subdivision~~ (e) of the Business and Professions Code concerning persons exempt from the Barbering and Cosmetology Act, the term "demonstrating" means ~~the following:~~ to perform ~~performing~~ a one-time service on a consumer, without compensation, to show how that ~~a~~ product is used or to prove its value or effectiveness, with the intent that the consumer may later purchase and apply the product him- or herself, without the help of a licensee or product instructor, and the purchase price of the product charged to the consumer is no more than its average retail price.

Note: Authority cited: Section 7312, Business and Professions Code. Reference: ~~Section~~ Sections 7316 and 7319~~(e)~~, Business and Professions Code.