

BARBERING & COSMETOLOGY ACT and REGULATIONS (2016)

SUPPLEMENT

Editor's Note: The following changes were made after the publication of the 2016 BARBERING & COSMETOLOGY ACT and REGULATIONS booklet:

Chapter 10 of Division 3 of the California Business and Professions Code

7312. Powers and Duties of the Board

(a) The board shall do all of the following:

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

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

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

(4) Discipline persons who have been determined to be in violation of this chapter or the regulations adopted pursuant to this chapter.

(5) 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 Public Health 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.

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

(b) The amendments made to this section by the act adding this subdivision shall become operative on July 1, 2017.

7314. Recordkeeping

(a) 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.

(b) 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. The board shall collect, through optional questions on a written application for a license and in an electronic application to renew a license issued pursuant to this chapter, the spoken and written language preference of each applicant.

(c) The amendments made to this section by the act adding this subdivision shall become operative on July 1, 2017.

7314.3. Health and Safety Advisory Committee

(a) The board shall establish a Health and Safety Advisory Committee to provide the board with advice and recommendations on health and safety issues before the board that impact licensees, including how to ensure licensees are aware of basic labor laws. Basic labor laws include, but are not limited to, all of the following:

- (1) Key differences between the legal rights, benefits, and obligations of an employee and an independent contractor.
- (2) Wage and hour rights for hourly employees.
- (3) Antidiscrimination laws relating to the use of a particular language in the workplace.
- (4) Anti-retaliation laws relating to a worker's right to file complaints with the Department of Industrial Relations.
- (5) How to obtain more information about state and federal labor laws.

(b) The amendments made to this section by the act adding this subdivision shall become operative on July 1, 2017.

7337. Formal Requirements of Application; Fee

(a) Every application for admission to examination and licensure shall be in writing, on forms prepared and furnished by the board.

(b) Each application shall be accompanied by the required fee, and shall contain proof of the qualifications of the applicant for examination and licensure. It shall be verified by the oath of the applicant and shall include a signed acknowledgment that the applicant understands his or her rights as a licensee as outlined in informational materials on basic labor laws, as specified in Section 7314.3, that the applicant is provided by the board with the application. Every applicant shall, as a condition of admittance to the examination facility, present satisfactory proof of identification. Satisfactory proof of identification shall be in the form of a valid, unexpired driver's license or identification card, containing the photograph of the person to whom it was issued, issued by any state, federal, or other government entity.

(c) Every electronic application to renew a license shall include a signed acknowledgment that the renewal applicant understands his or her rights as a licensee as outlined in informational materials on basic labor laws, as specified in Section 7314.3, that the renewal applicant is provided by the board with the renewal application.

(d) The amendments made to this section by the act adding this subdivision shall become operative on July 1, 2017.

7347. Application for License to Operate Establishment

(a) 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. The application shall include a signed acknowledgment that the applicant understands that establishments are responsible for compliance with any applicable labor laws of the state and that the applicant understands the informational materials on basic labor laws, as specified in Section 7314.3, the applicant is provided by the board with the application. Every electronic application to renew a license shall include a signed acknowledgment that the renewal applicant understands that establishments are responsible for compliance with any applicable labor laws of the state and that the applicant understands the informational materials on basic labor laws, as specified in Section 7314.3, that the renewal applicant is provided by the board with the renewal application. 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 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.

(b) The amendments made to this section by the act adding this subdivision shall become operative on July 1, 2017.

7353.4. Workplace Rights and Wage and Hour Laws Notice

(a) On and after July 1, 2017, an establishment licensed by the board shall, upon availability of the posting notice developed by the Labor Commissioner pursuant to Section 98.10 of the Labor Code, post that notice in a manner that complies with the requirements of Section 98.10 of the Labor Code in a conspicuous location in clear view of employees and where similar notices are customarily posted. The notice shall be posted in English, Spanish, Vietnamese, and Korean.

(b) The board shall inspect for compliance with this posting requirement when it conducts an inspection pursuant to Section 7353.

(c) A violation of this section shall be punished by an administrative fine established pursuant to Section 7407 and shall not be punished as a misdemeanor under Section 7404.1.

7389. Health and Safety Course on Hazardous Substances

(a) The board shall develop or adopt a health and safety course on hazardous substances and basic labor laws, as specified in Section 7314.3, which shall be taught in schools approved by the board. Course development shall include pilot testing of the course and training classes to prepare instructors to effectively use the course.

(b) The amendments made to this section by the act adding this subdivision shall become operative on July 1, 2017.

7407.1. Fines Assessed to Both Establishments, Individuals for Same Violation

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 licensees within the same establishment.

7408.1. Installment Payment Plan

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.

7414. Effect of Failure to Pay Administrative Fines

The issuance of a license to, or the renewal of a license of, a person who fails to pay administrative fines that were not contested or that were contested but the appeal has been adjudicated may be made contingent upon all fines being paid in addition to any application, renewal, or delinquency fees which are required.

Title 16, Division 9 California Code of Regulations

965.1. Persons Exempt from Application of Chapter; Demonstration of Products

For the purposes of Section 7319 (e) of the Business and Professions Code concerning persons exempt from the Barbering and Cosmetology Act, the term “demonstrating” means to perform a one-time service on a consumer, without compensation, to show how that 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: Sections 7316 and 7319, Business and Professions Code.