

**CALIFORNIA
BOARD OF BARBERING AND COSMETOLOGY**



**NOVEMBER 17, 2020
Legislative and Budget
Committee Meeting**

**PUBLIC
TELECONFERENCE**



**CALIFORNIA BOARD
OF
BARBERING AND COSMETOLOGY**



**MEMBERS OF THE
COMMITTEE**

Jacquelyn Crabtree
Andrew Drabkin
Lisa Thong

**LEGISLATIVE AND BUDGET
COMMITTEE MEETING**

**PUBLIC TELECONFERENCE
MEETING**

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

November 17, 2020

**9:00am – Until Completion of
Business**

NOTE: Pursuant to the provisions of Governor Gavin Newsom's Executive Order N-29-20, dated March 17, 2020, neither Board member locations nor a public meeting location are provided. Public participation may be through teleconferencing as provided below.

Important Notices to the Public: The Board of Barbering and Cosmetology will hold a public meeting via a Webex Events. To participate in the WebEx Events meeting, please log on to this website the day of the meeting:

<https://dca-meetings.webex.com/dca-meetings/onstage/g.php?MTID=edf230d1c3c3db61f6681d885a2ae8533>

INSTRUCTIONS FOR PARTICIPATION: Please see the instructions attached hereto to observe and participate in the meeting using WebEx from a Microsoft Windows-based PC.

AGENDA

1. Call to Order/ Roll Call/ Establishment of Quorum
2. Review and Discussion of 2019-2020 Legislation Impacting the Board:
 - a. AB 5 (Gonzalez) – Worker Status: Independent Contractors
 - b. AB 193 (Patterson) – Barbering and Cosmetology Scope of Practice Changes
 - c. AB 496 (Low) – Business & Professions Changes
 - d. AB 817 (Kiley) – Mobile Units
 - e. AB 1271 (Diep) – Licensing Examination Reports
 - f. AB 1607 (Boerner Horvath) – Gender Discrimination
 - g. AB 1928 (Kiley and Melendez) – Employment Standards

- h. AB 2113 (Low) – Refugees, Asylees, and Special Immigrant Visa Holders
 - i. AB 2465 (Gonzalez) – Booth Renter Permit
 - j. SB 188 (Mitchell) – Discrimination: Hairstyles
 - k. SB 238 (Grove) – Workers Status
 - l. SB 806 (Grove) – Employees: Independent Contractors
 - m. SB 878 (Jones) – License Application Processing Timeframes
- 3. Discussion and Possible Recommendation Regarding Future Legislative Changes to:
 - a. Business and Professions Code (BPC) section 7316, Practice of Barbering and Cosmetology.
 - b. BPC sections 7354 through 7361, Mobile Units.
 - c. BPC sections 7362 through 7366, Curriculum Requirements.
 - 4. Public Comment on Items Not on the Agenda
Note: The Committee may not discuss or take any action on any item raised during this public comment section, except to decide whether to place the matter on the agenda of a future meeting (Government Code Sections 11125, 11125.7(a))
 - 5. Agenda Items for the Next Meeting
 - 6. 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 Committee Chair 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.

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

The meeting is being held via Webex Events. The meeting is accessible to the physically disabled. A person who needs disability-related accommodation or modification in order to participate in the meeting may make a request by contacting: 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.

HOW TO – Join – DCA WebEx Event

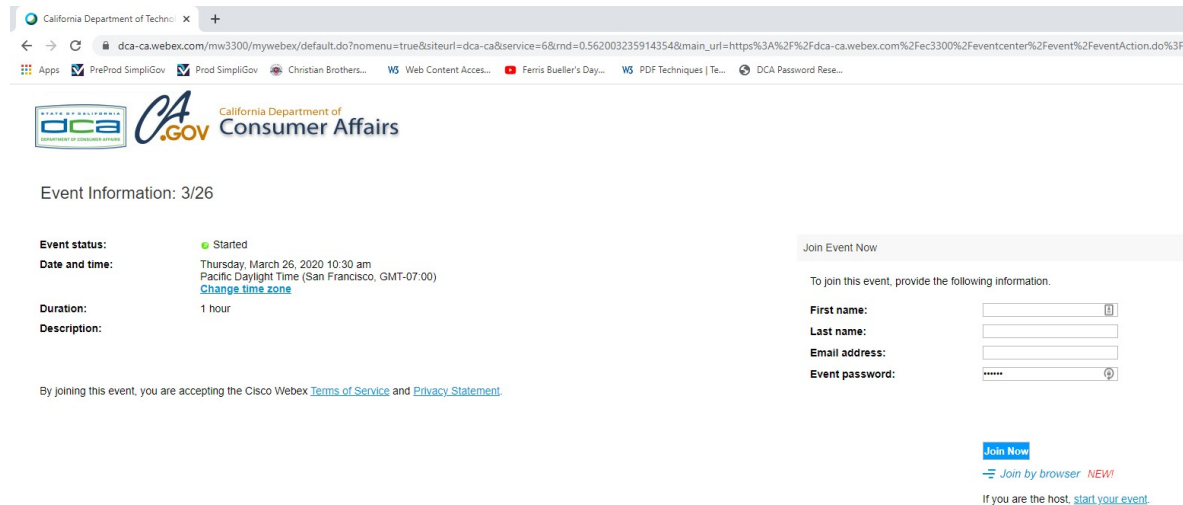
The following contains instructions to join a WebEx event hosted by the Department of Consumer Affairs (DCA).

NOTE: The preferred audio connection to our event is via telephone conference and not the microphone and speakers on your computer. Further guidance relevant to the audio connection will be outlined below.

1. Navigate to the WebEx event link provided by the DCA entity (an example link is provided below for reference) via an internet browser.

Example link:

<https://dca-ca.webex.com/dca-ca/onstage/g.php?MTID=eb0a73a251f0201d9d5ef3aaa9e978bb5>



The screenshot shows a web browser window with the URL <https://dca-ca.webex.com/dca-ca/onstage/g.php?MTID=eb0a73a251f0201d9d5ef3aaa9e978bb5>. The page header includes the California Department of Consumer Affairs logo and the text "California Department of Consumer Affairs".

Event Information: 3/26

Event status: Started

Date and time: Thursday, March 26, 2020 10:30 am Pacific Daylight Time (San Francisco, GMT-07:00) [Change time zone](#)

Duration: 1 hour

Description:

By joining this event, you are accepting the Cisco Webex [Terms of Service](#) and [Privacy Statement](#).

Join Event Now

To join this event, provide the following information.

First name:

Last name:

Email address:

Event password:

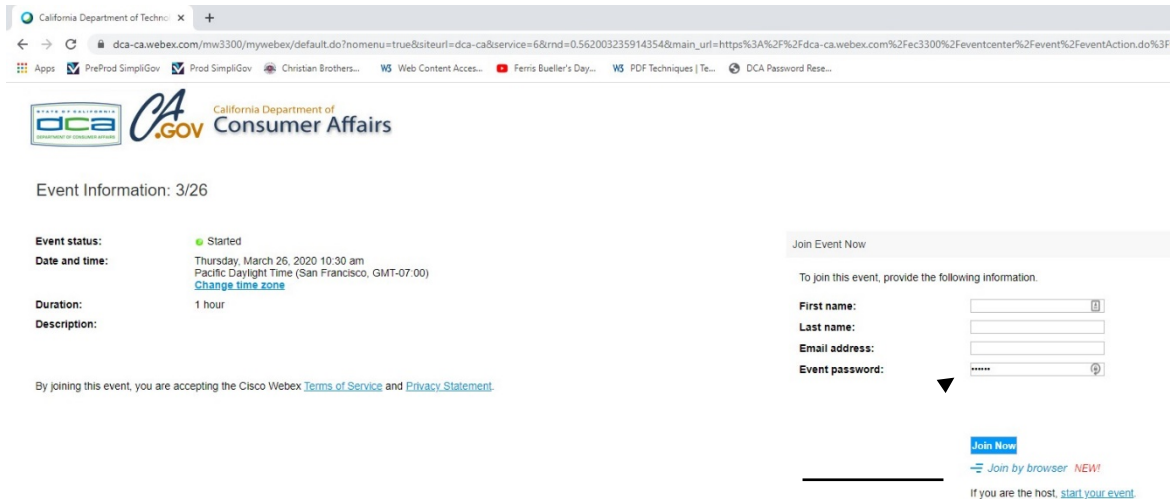
[Join Now](#)

[Join by browser](#) **NEW!**

If you are the host, [start your event](#).

2. The details of the event are presented on the left of the screen and the required information for you to complete is on the right.
NOTE: If there is a potential that you will participate in this event during a Public Comment period, you must identify yourself in a manner that the event Host can then identify your line and unmute it so the event participants can hear your public comment. The 'First name', 'Last name' and 'Email address' fields do not need to reflect your identity. The department will use the name or moniker you provide here to identify your communication line should you participate during public comment.

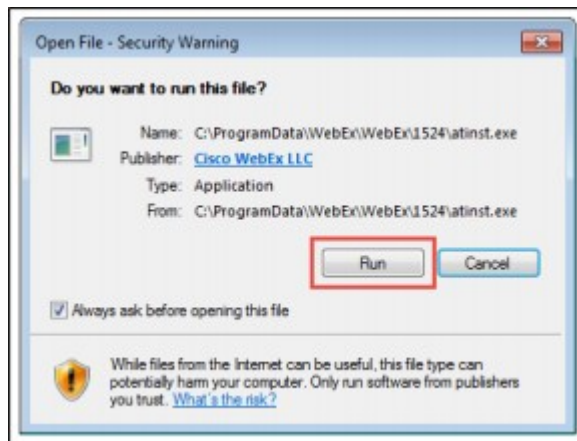
HOW TO – Join – DCA WebEx Event



3. Click the 'Join Now' button.

NOTE: The event password will be entered automatically. If you alter the password by accident, close the browser and click the event link provided again.

4. If you do not have the WebEx applet installed for your browser, a new window may open, so make sure your pop-up blocker is disabled. You may see a window asking you to open or run new software. Click 'Run'.



Depending on your computer's settings, you may be blocked from running the necessary software. If this is the case, click 'Cancel' and return to the browser tab that looks like the window below. You can bypass the above process.

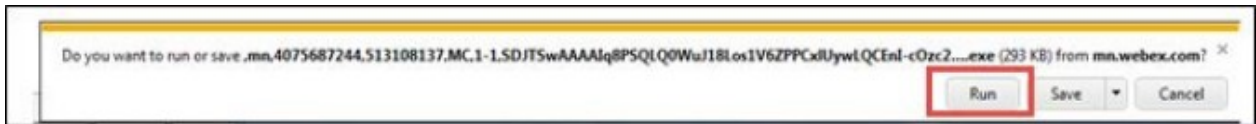
HOW TO – Join – DCA WebEx Event

Starting Webex...



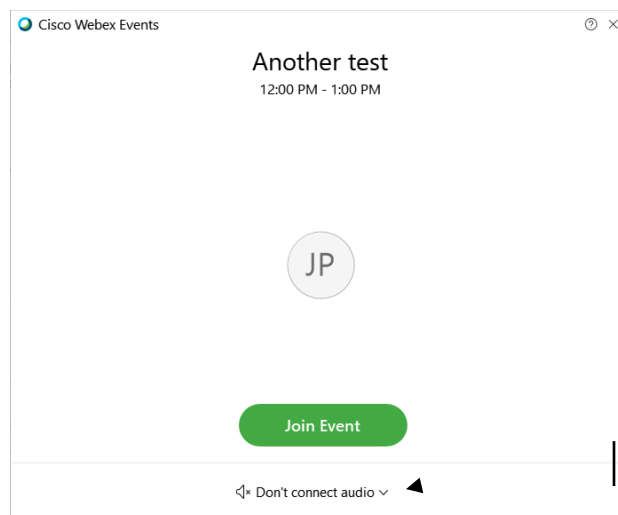
Still having trouble? [Run a temporary application](#) to join this meeting immediately.

5. To bypass step 4, click 'Run a temporary application'.
6. A dialog box will appear at the bottom of the page, click 'Run'.



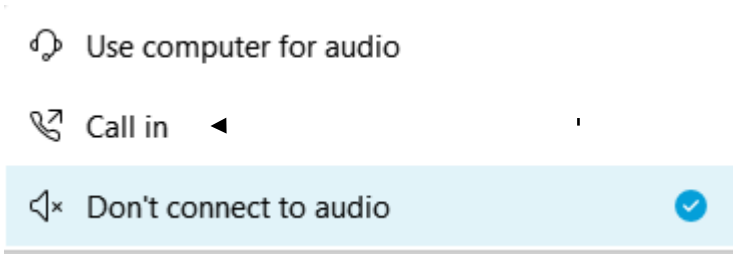
The temporary software will run, and the meeting window will open.

7. Click the audio menu below the green 'Join Event' button.

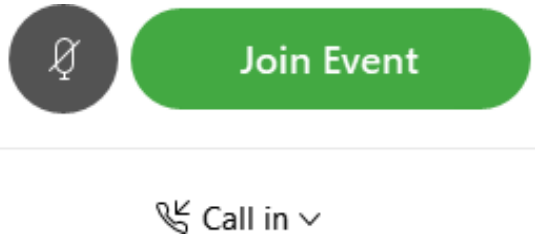


8. When the audio menu appears click 'Call in'.

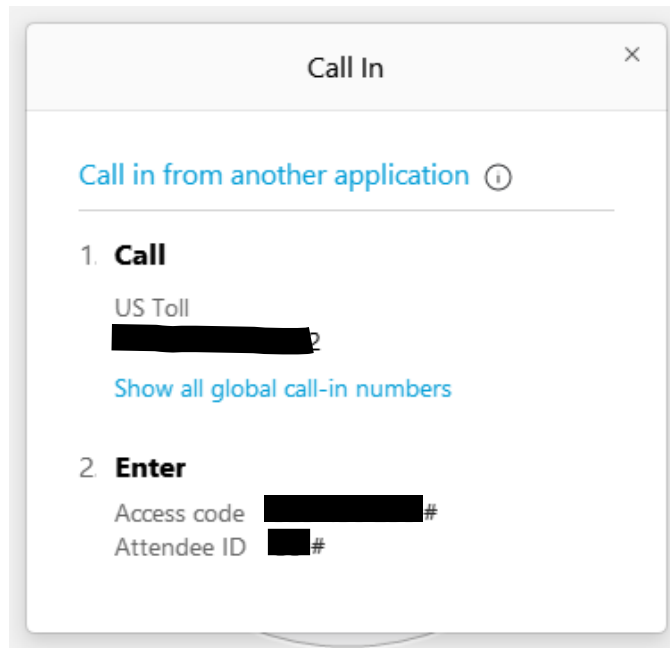
HOW TO – Join – DCA WebEx Event



9. Click 'Join Event'. The audio conference call in information will be available after you join the Event.



10. Call into the audio conference with the details provided.

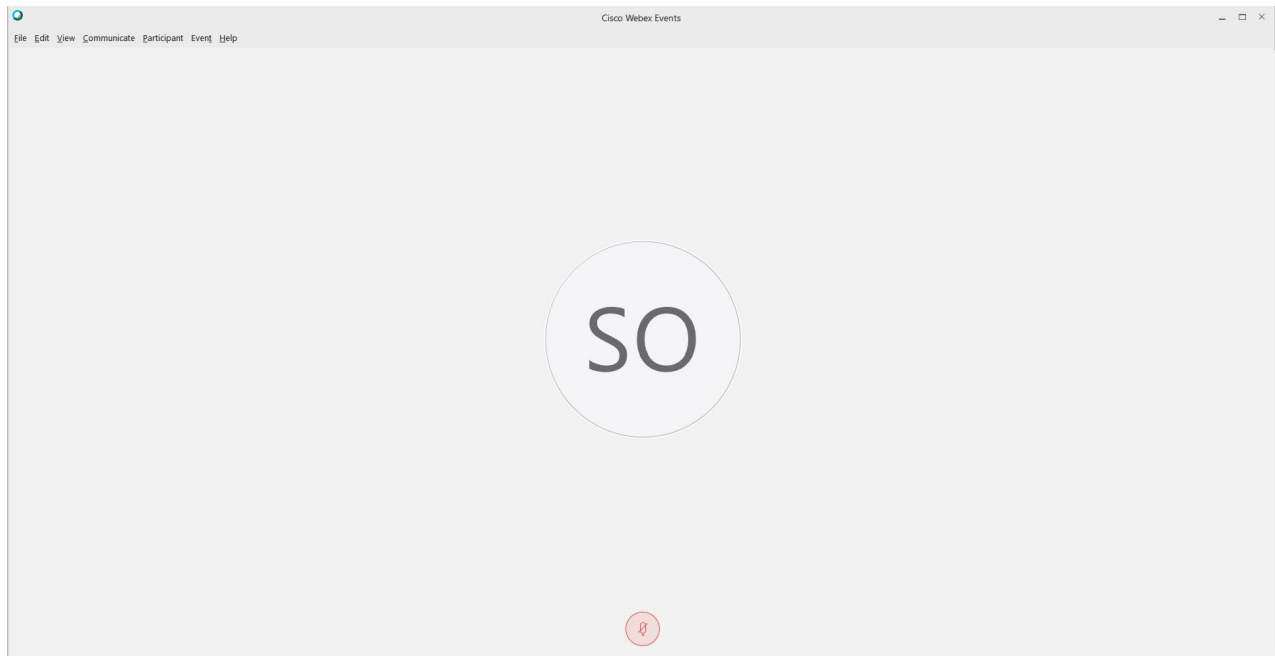


NOTE: The audio conference is the preferred method. Using your computer's microphone and speakers is not recommended.

HOW TO – Join – DCA WebEx Event

Once you successfully call into the audio conference with the information provided, your screen will look like the screen below and you have joined the event.

Congratulations!

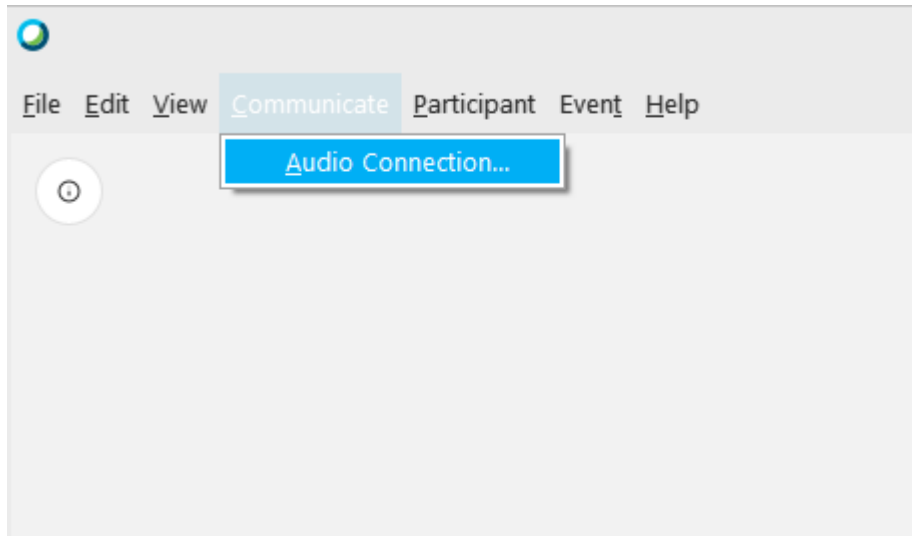


NOTE: Your audio line is muted and can only be unmuted by the event host.

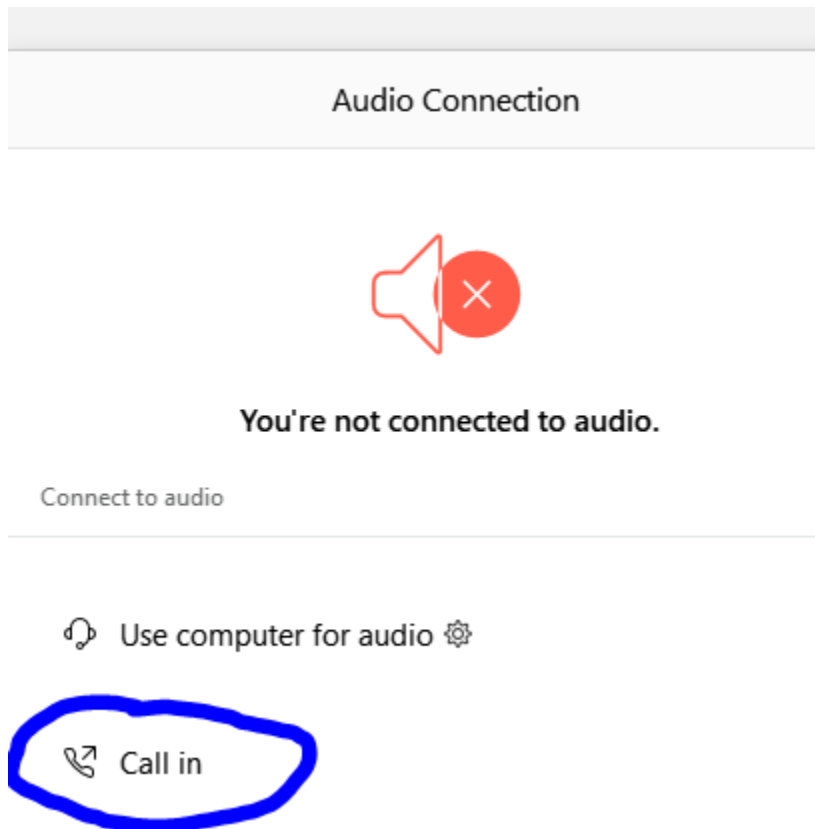
If you join the meeting using your computer's microphone and audio, or you didn't connect audio at all, you can still set that up while you are in the meeting.

Select 'Communicate' and 'Audio Connection' from top left of your screen.

HOW TO – Join – DCA WebEx Event



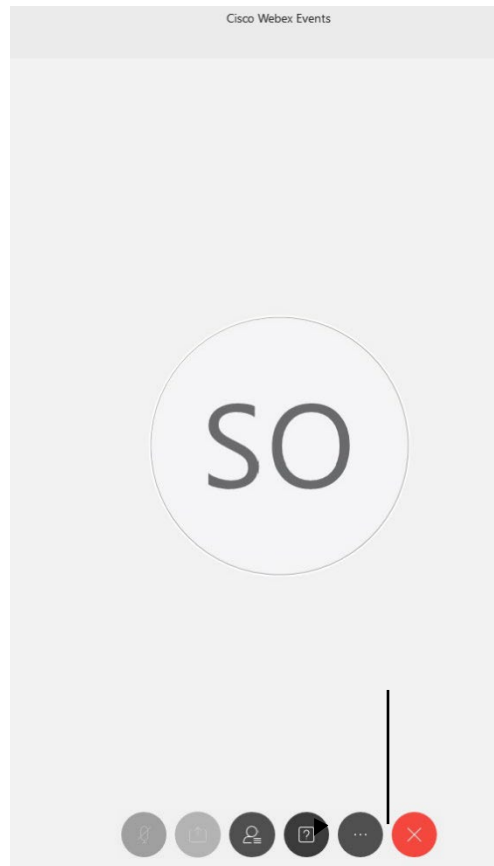
The 'Call In' information can be displayed by selecting 'Call in' then 'View'



You will then be presented the dial in information for you to call in from any phone.

Participating During a Public Comment Period

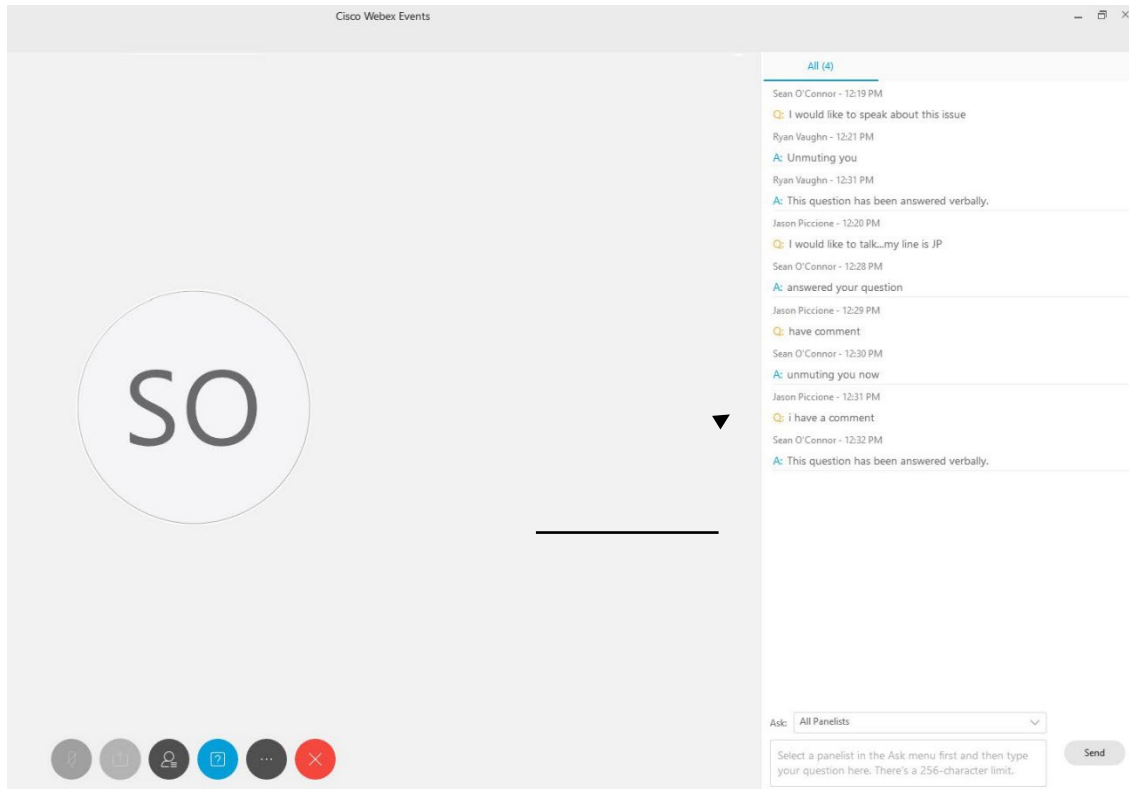
At certain times during the event, the facilitator may call for public comment. If you would like to make a public comment, click on the 'Q and A' button near the bottom, center of your WebEx session.



This will bring up the 'Q and A' chat box.

NOTE: The 'Q and A' button will only be available when the event host opens it during a public comment period.

HOW TO – Join – DCA WebEx Event



To request time to speak during a public comment period, make sure the 'Ask' menu is set to 'All panelists' and type 'I would like to make a public comment'.

Attendee lines will be unmuted in the order the requests were received, and you will be allowed to present public comment.

NOTE: Your line will be muted at the end of the allotted public comment duration. You will be notified when you have 10 seconds remaining.

2019-2020 LEGISLATION

Bill	Topic	Requirements	Board Position	Status	Implementation
AB 5 (Gonzalez)	Worker status: employees and independent contractors	Codifies the requirements in the Dynamex case and clarify its application. The Dynamex decision would not apply (determination shall be governed by Borello) for services provided by a licensed esthetician, licensed electrologist, licensed manicurist, licensed barber, or licensed cosmetologist provided that the individual: sets their own rates, processes their own payments, is paid directly by clients, sets their own hours and has sole discretion to decide number of clients and which clients they provide services, has their own book of business and schedules their own appointments, and maintains their own business license for the services offered to clients. Also, if the individual is performing services at the location of the hiring entity, then the individual issues a Form 1099 to the salon or business owner from which they rent their business space. This subdivision shall become inoperative, with respect to licensed manicurists, on January 1, 2022.	SUPPORT IF AMENDED to remove all language referring to BBC licenses (note: the above did not occur)	Chaptered by Secretary of State - Chapter 296, Statutes of 2019.	N/A
AB 193 (Patterson)	Professions and vocations	Requires DCA to conduct a review of all occupational licensing requirements and identify unnecessary licensing requirements. Requires each board to submit to DCA an assessment on the board's progress in implementing policies to facilitate licensure portability for active duty service members, veterans, and military spouses. DCA would then report to the Legislature. Removes shampooing and applying makeup on another person from practice of barbering and cosmetology but requires the unlicensed person to disclose verbally or in writing prior to performing service that they are not licensed.	OPPOSE	Died 01/31/2020.	N/A

AB 496 (Low)	Business and professions	Replaces gendered terms with non-gendered terms. Changes the Assembly report requirement for DCA report. Provides the appointing authority power to remove a board member from office for continued neglect of duties, incompetence, or unprofessional or dishonorable conduct. Requires the Board to meet at least twice a calendar year - once in northern California and once in southern California. Any section of any act enacted by the Legislature during the 2019 calendar year that takes effect on or before January 1, 2020, and that amends, amends and renumbers, adds, repeals and adds, or repeals a section of law that is amended by this act, shall prevail over this act, whether that act is enacted prior to, or subsequent to, the enactment of this act.	SUPPORT	Chaptered by Secretary of State - Chapter 351, Statutes of 2019.	N/A
AB 817 (Kiley)	Mobile units	Revises the definition of mobile unit to mean a self-contained, self-supporting, enclosed movable unit in which any activity licensed under this chapter is practiced. Removes the requirements that the above-described applications include copies of certain local licenses or permits and proof of compliance with applicable city, county, and state plumbing, electrical, and fire laws, and would, instead, require those applications to include a signed acknowledgment under penalty of perjury that they are in compliance with all applicable city and county requirements, including plumbing, electrical, and fire laws. Removes the requirement that the application for a state license include proof of purchase or lease of the shop equipment. Removes the geographical boundaries limitations on the license to operate a mobile unit. Revises the list of functioning systems with which a mobile unit is required to be equipped to, among other things, remove the specified container for	SUPPORT	Died 01/31/2020.	N/A

		waste materials and the specified toilet. Requires that a mobile unit be equipped with a self-contained, potable water supply contingent upon the mobile unit offering shampooing services, and removes the requirement that operation of the mobile unit cease if the supply is depleted.			
AB 1271 (Diep)	Licensing examinations: report	Requires the department, on or before January 1, 2021, to provide a report to the Assembly Committee on Business and Professions and the Senate Committee on Business, Professions and Economic Development that contains specified information regarding licensing (requirements for education, examination, and fees, wait times, passage rates) for each licensed profession under the department's jurisdiction.	WATCH	Died 01/31/2020.	N/A
AB 1607 (Boerner Horvath)	Gender discrimination: notification	Requires a city, county, or city and county that issues local business licenses to provide written notification of the above provisions to the licensee at the time the business license is issued or renewed in English, Spanish, Chinese, Tagalog, Vietnamese, and Korean commencing January 1, 2021. The bill would authorize a city, county, or city and county to increase the fee for a business license to cover the reasonable cost of providing the notice. Commencing October 1, 2020, DCA shall provide a pamphlet in English, Spanish, Chinese, Tagalog, Vietnamese, and Korean to explain that the business is prohibited from charging different prices for similar services based on the customer's gender.	SUPPORT IF AMENDED to reflect establishments instead of "barbers and hair salons" (note: the above did not occur)	Chaptered by Secretary of State - Chapter 293, Statutes of 2019.	N/A

AB 1928 (Kiley and Melendez)	Employment standards: independent contractors and employees	Repeals existing provisions and requires determination of whether a person is an employee or an independent contractor to be based on the specific multifactor test set forth in Borello, including whether the person to whom service is rendered has the right to control the manner and means of accomplishing the result desired, and other identified factors.	WATCH	Failed 02/27/2020.	N/A
AB 2113 (Low)	Refugees, asylees, and special immigrant visa holders: initial licensure process	Requires DCA boards to expedite and assist the initial licensure process for an applicant who supplies satisfactory evidence that they are a refugee, have been granted asylum, or have a special immigrant visa, as specified. The bill would authorize programs to adopt regulations necessary to administer these provisions.	N/A	Chaptered by Secretary of State - Chapter 186, Statutes of 2020.	DCA will assist with implementation of new forms and application language.
AB 2465 (Gonzalez)	Worker status: independent contractors: barbering and cosmetology	Requires the Board to adopt (by July 1, 2022) regulations for the development of a booth renter permit and a biennial fee (not to exceed \$50) for a licensed esthetician, electrologist, manicurist, barber, or cosmetologist. The booth renter permit shall become operative 6 months after the effective date of regulations adopted by the Board. Until the booth renter permit becomes operative, the employment relationship between a hiring entity and worker shall be governed by Borello.	WATCH	Hearing postponed by committee 03/17/2020.	N/A
SB 188 (Mitchell)	Discrimination: hairstyles	Provides that the definition of race regarding discrimination for the workplace and educational institutions also include traits historically associated with race, including, but not limited to, hair texture and protective hairstyles. Protective hairstyles includes, but is not limited to, such hairstyles as braids, locks, and twists.	SUPPORT	Chaptered by Secretary of State. Chapter 58, Statutes of 2019.	N/A

<p>SB 238 (Grove)</p>	<p>Worker status: factors for determination of employee status</p>	<p>Allows for an analysis of whether a worker is economically dependent upon the hiring entity to determine whether that worker is an employee. This analysis shall be based upon the economic reality of the worker's relationship with the hiring entity by considering only the following six factors:</p> <ul style="list-style-type: none"> (a) The nature and degree of control by the principal. (b) The worker's opportunities for profit and loss. (c) The amount of the worker's investment in facilities and equipment. (d) The permanency of the relationship. (e) The required skill necessary for success. (f) The extent to which the services rendered are an integral part of the principal's business. 	<p>WATCH</p>	<p>Failed 04/24/2019.</p>	<p>N/A</p>
<p>SB 806 (Grove)</p>	<p>Worker status: employees: independent contractors</p>	<p>Repeals the "ABC" (Dynamex) test and establishes a new test for governing the relationship of employer and employees. A person providing labor or services for payment is considered an employee rather than an independent contractor unless the hiring entity demonstrates that the person is: 1) free from control and direction AND either that 2) the person performs work outside the usual course of the hiring entity's business, or the work performed is outside the place of business, or the worker is responsible for the costs of the place of business where the work is performed, OR 3) the person is customarily engaged in an independently established trade, occupation, or business of the same nature as that involved in the work performed. This would take effect immediately as an urgency statute.</p>	<p>N/A</p>	<p>Failed 05/18/2020.</p>	<p>N/A</p>

SB 878 (Jones)	Department of Consumer Affairs: license: application: processing timeframes	Beginning July 1, 2021, this bill would require each board and bureau within DCA that issues licenses to prominently display on their websites, and update on a quarterly basis, either (1) the current average timeframe for processing initial and renewal license applications, or (2) the combined current average timeframe for processing both initial and renewal license applications. This bill would also require each board or bureau to post on their websites, and update on a quarterly basis, either (1) the current average processing timeframe for each licensing type administered by the program, or (2) the combined current average timeframe for processing all licensing types administered by the program.	N/A	Approved by the Governor. Chaptered by Secretary of State. Chapter 131, Statutes of 2020.	DCA will make this information available quarterly through the online Open Data Portal, which we will link to on our website.
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