

**Title 16, Division 9
California Board of Barbering and Cosmetology**

NOTICE OF PROPOSED REGULATORY ACTION CONCERNING

SB 803 Clean-Up

California Code of Regulations

NOTICE IS HEREBY GIVEN that the Board of Barbering and Cosmetology (Board) is proposing to amend California Code of Regulations (CCR), Title 16, Division 9, Sections 904, 909, 931, 932, 937, 962, and 998, and repeal Sections 928, 934, 950.1, 950.2, 950.3, and 950.4 as described in the Informative Digest below, after considering all comments, objections, and recommendations regarding the proposed action. Any person interested may present statements or arguments relevant to the action proposed in writing. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board at its office **no later than by 5:00 p.m. on Tuesday, November 28, 2023**, or must be received by the Board at the hearing, should one be scheduled.

PUBLIC HEARING

The Board has not scheduled a public hearing on this proposed action. However, the Board will hold a hearing if it receives a written request for a public hearing from any interested person, or their authorized representative, no later than 15 days prior to the close of the written comment period. A hearing may be requested by making such request in writing addressed to the individuals listed under "Contact Person" on this Notice.

WRITTEN COMMENTS

The Board may, after considering all timely and relevant comments, adopt the proposed regulations substantially as described in this notice, or may modify the proposed regulations if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as the contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by Sections 7312, 7338, 7340, 7357, 7337.5, and 7421 of the Business and Professions Code (BPC), and to implement, interpret or make

specific BPC sections 7316, 7321, 7321.5, 7322, 7324, 7326, 7330, 7331, 7334, 7337, 7338, 7340, 7345, 7355, 7357, 7362, 7362.5, 7363, 7364, 7365, 7367, 7391, 7395.1, 7415, 7417, 7418, 7420, 7423, 7424, and 7425, the Board is considering changes to Division 9 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Board licenses and regulates barbers, cosmetologists, manicurists, estheticians, hairstylists, and electrologists, and the establishments where they work in California, totaling over 50,000 establishments and over 560,000 individuals. In addition to licensing individuals and establishments, the Board approves schools. Barbering, cosmetology, and electrology schools must first be approved by the Board and meet certain requirements, including maintaining courses of practical training and technical instruction in compliance with the Board's laws and regulations (Bus. & Prof. Code, §§ 7362-7362.3). Applicants are also required to complete coursework from schools approved by the Board, including coursework in barbering, cosmetology, electrolysis, nail care, skin care, and hairstyling (Bus. & Prof. Code, §§ 7321, 7321.5, 7322, 7324, 7326, and 7330).

It is the Board's duty to enforce and administer the Barbering and Cosmetology Act (Chapter 10 (commencing with section 7300) of Division 3 of the Business and Professions Code (BPC)) (Act). The Board is authorized to make rules and regulations in aid or in furtherance of the Act in accordance with the Administrative Procedure Act. (BPC § 7312.)

In 2021, Senate Bill (SB) 803 (Chapter 648, Statutes of 2021) was enacted, which among other things, reduced the number of hours required for courses in barbering and cosmetology to 1,000 hours, codified in statute the minimum amount of instruction that must be included for various subjects in a course for barbering, cosmetology, hairstyling, skin care, and nail care, repealed the Board's preapplication program for schools and apprenticeships, added a new "hairstyling" license type, and eliminated the requirement that an applicant for licensure pass a practical examination (see Underlying data). With the enactment of Assembly Bill (AB) 2196 (Chapter 527, Statutes of 2022), effective January 1, 2023, electrolysis course curriculum requirements were similarly codified.

As a result of the foregoing, the Board's current regulations are inconsistent with the Act and have been superseded in various areas, existing regulations need to be repealed, and new regulations need to be adopted to implement those changes. In addition, upon review, the Board needs to update its current processes and procedures for processing its applications. The existing forms for the Interpreter/Model approval process and Mobile Unit application would be repealed and the Board proposes to adopt new forms for the Mobile Unit Application, Interpreter Application, and a Proof of Training Document to include other statutory and policy changes occurring since the

enactment of SB 803 and AB 2196.

In accordance with the above requirements and considerations, the Board is proposing to amend Title 16, California Code of Regulations (16 CCR) section 904, which sets standards for the Board's enforcement of the Health and Safety Rules. BPC 7316 was amended to create a new hairstylist license type, section 904 is therefore being amended to be added to the language and reference, as well as to correct several capitalization typographical errors (e.g., changing "board" to "Board").

Section 909 is also being amended to correct capitalization typographical errors, but also to define the new "Proof of Training Document" Form (Form #F-BBC-05 New 07/2023), which is being incorporated by reference in this section. Existing law at BPC section 7337 requires for each type of application for licensure that, "Each application shall be accompanied by the required fee and shall contain proof of the qualifications of the applicant for examination and licensure." Section 909 is being amended to repeal existing requirements at Subsections (1)-(5), (6)(A)-(6)(D), and (7)-(9) of subdivision (b) and (c) related to the contents of that "proof" and placing those requirements in a form, incorporated by reference, Proof of Training Document" form (Form #F-BBC-05 New 10/2022), and the form would also include new disclosure requirements and instructions, as specified.

Section 928 is being repealed in its entirety, as BPC section 7337.5 regarding "school preapplications" was repealed by SB 803, so this CCR section will no longer be applicable to the Board.

Section 931 is being amended to remove mention of an "Interpreter/Model", as these models were only necessary for the practical examination, which was eliminated with the amendment of BPC section 7338. This section is also being amended to add the new hairstylist license type created by the amendment to BPC section 7316. Section 931 also seeks to repeal existing Interpreter/Model approval application forms and incorporate by reference the new "Application to Use an Interpreter" Form (Form #03A-126 New 07/2023). This new form will outline the process for a license applicant to apply for and use an interpreter during their examination as well as the requirements for the interpreter. Korean, Spanish, Vietnamese, and Simplified Chinese languages are being added to the subsection, as an interpreter can only be used if the applicant is unable to speak, read, or write in English at a 10th grade level and they are unable to take the examination in a non-English language offered by the Board (Korean, Spanish, Vietnamese, and Simplified Chinese) and complies with the other requirements of this section as specified. This Section would also be amended to revise existing interpreter requirements and disqualifying criteria for admission into an applicant's examination as specified. This section also contains grammatical and consistency changes.

Section 932 is being amended to remove the existing references to a practical demonstration requirement to reflect the amendments made to BPC section 7338, as

well as to correct capitalization errors.

Section 934 is being repealed, as BPC section 7338 was amended to remove the practical examination authority for the Board, and therefore, this regulation is being repealed as information regarding appealing a candidate's score will no longer be necessary.

Section 937 is being amended to reflect the changes made in the amendment to BPC section 7355 enacted by SB 803, which removed the geographical boundaries for a mobile unit to operate. Section 937 will also repeal the existing form and incorporate by reference the new "(1008) Application for Mobile Unit License" (Form #F-BBC-05 New 07/2023). This new form will outline the process and collect the required information for a business or individual to operate a Mobile Unit licensed by the Board. This section is also amended to remove processing times which are no longer required to be in regulation and add a new process for returning license and inspection fees to an applicant who fails to complete the application in the time specified in BPC section 7345.

Section 950.1 is being repealed to reflect the amendments made to BPC section 7362 which removed the Board's authority to determine by regulation the required subjects of instruction to be completed in all approved courses, including the minimum number of practical operations for each subject, and the authority to determine how much training is required before a student may begin performing services on paying patrons. BPC section 7362.5 was also amended to change the course requirement from 1,500 hours to 1,000 hours and specify the curriculum topics. Therefore, this regulation regarding the curriculum for a barbering course is superseded by these changes to the Act and will no longer be applicable to the Board.

Section 950.2 is being repealed to reflect the amendments made to BPC section 7362 which removed the Board's authority to determine by regulation the required subjects of instruction to be completed in all approved courses, including the minimum number of practical operations for each subject, and the authority to determine how much training is required before a student may begin performing services on paying patrons. BPC section 7362.5 was also amended to change the course requirement from 1,500 hours to 1,000 hours and specify the curriculum topics. Therefore, this regulation regarding the curriculum for a cosmetology course is superseded by these changes to the Act and will no longer be applicable to the Board.

Section 950.3 is being repealed to reflect the amendments made to BPC section 7362 which removed the Board's authority to determine by regulation the required subjects of instruction to be completed in all approved courses, including the minimum number of practical operations for each subject, and the authority to determine how much training is required before a student may begin performing services on paying patrons. BPC section 7364 was also amended to specify the curriculum topics. Therefore, this

regulation regarding the curriculum for a skin care course is superseded by these changes to the Act and will no longer be applicable to the Board.

Section 950.4 is being repealed to reflect the amendments made to BPC section 7362 which removed the Board's authority to determine by regulation the required subjects of instruction to be completed in all approved courses, including the minimum number of practical operations for each subject, and the authority to determine how much training is required before a student may begin performing services on paying patrons. BPC section 7365 was also amended to specify the curriculum topics. Therefore, this regulation regarding the curriculum for a nail care course is superseded by these changes to the Act and will no longer be applicable to the Board.

Section 962 is being amended to add the additional licensing type(s) of electrology and hairstyling. This section was also amended to specify "appropriate training" required as a student extern that has completed 25% of the required minimum practical operations and minimum hours of technical instruction, so this CCR section is being amended to match that percentage. This section was also amended to reflect the changes made to BPC section 7326, which was amended to define the acts of barbering and cosmetology which the student extern may perform. It also seeks to clarify that a student extern shall not perform chemical treatments on any clients unless the extern has received appropriate training in the application of those treatments from a barbering or cosmetology school. This section will also change the definition of the term "good standing" in subsection (a)(1) from a "valid" current license to mean a current, active, and unrestricted license.

Section 998 is being amended to remove existing references to all preapplication fees in this section, since SB 803 repealed the Board's authority to administer preapplication examinations and collect such fees. Section 928 regarding the preapplication for examination is being repealed under this proposal in accordance with SB 803, and therefore, the Board no longer has authority to collect these fees. This section is also being amended to correct a capitalization typographical error by changing "board" to "Board" and to correct obsolete cross references in the Note for this section.

The Board also proposes to make technical, non-substantive, and clarifying changes throughout to change capitalization, grammar, punctuation; and ensure the use of gender-neutral language.

ANTICIPATED BENEFITS OF THE PROPOSED REGULATION

The Board has determined that this regulatory proposal will have the following benefits to the health and welfare of California residents.

The Board has determined that the regulatory proposal will provide clarity and avoid confusion among the regulated public about licensing requirements. In addition, the

proposal would provide consistency between the statutes and regulations for applicants, licensees, and schools who will benefit from these changes. The proposal will also update existing forms with corresponding instructions to assist applicants, licensees, and schools in providing the correct and required information, and allow the Board to communicate with them more effectively. This ensures that only qualified applicants obtain licensure for the benefit of the health and welfare of California residents.

This regulatory proposal does not affect worker safety or the state's environment.

CONSISTENCY AND COMPATIBILITY WITH EXISTING STATE REGULATIONS

During the process of developing this regulation, the Board has conducted a search of any similar regulations on this topic and has concluded that the proposed regulatory action is not inconsistent or incompatible with existing state regulations.

Forms Proposed to be Repealed or Incorporated by Reference in this Proposal:

- Mobile Unit Application (1994) (Old form to be repealed)
- (1008) Application for Mobile Unit License (Form #F-BBC-05 (New 7/2023)) (New form to be adopted)
- Request for Use of an Interpreter or Interpreter/Model (Form #03B-125, Form G (Rev. 8/94)) and Form #03A-126, Form H (Rev. 8/94) (Old forms to be repealed)
- Application to Use an Interpreter (Form #03A-126 (New 7/2023)) (New form to be adopted)
- Proof of Training (Form F-BBC-05 (New 07/2023)) (New form to be adopted)

DISCLOSURES REGARDING THIS PROPOSED ACTION

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

The Board will be required to update the three forms with one-time workload and costs as follows:

- Proof of Training – \$855, plus \$200 to post to website
- Application to Use an Interpreter – \$715
- Application for Mobile Unit License – \$1,077, plus \$200 to post to website

Total (one-time) costs: \$3,047

Any other workload and costs of implementation are a result of current law. The regulations do not result in costs or savings in federal funding to the state.

Nondiscretionary Costs/Savings to Local Agencies: None

Mandate Imposed on Local Agencies or School Districts: None

Cost to Any Local Agency or School District for Which Government Code Sections 17500 - 17630 Require Reimbursement: None

Significant Effect on Housing Costs:

None

Business Impact Estimates:

The Board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. This initial determination is based on the following facts/evidence/documents/testimony or other evidence:

This proposal does not require any significant new expense or reporting, recordkeeping, or compliance measures on the part of businesses, including Board approved schools. Any costs are anticipated to be incurred within normal business operations.

Licensees and applicants are currently required to complete and submit the existing versions of the three forms, as specified, and are not anticipated to incur additional workload or costs to complete and submit the updated versions. Any other economic impacts, including costs, savings, or decreased revenues are a result of current law.

Cost Impact on Representative Private Person or Business:

The Board is not aware of any significant cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Licensees and applicants are currently required to complete and submit the existing versions of the three forms, as specified, and are not anticipated to incur additional workload or costs to complete and submit the updated versions.

Any other economic impacts, including costs, savings, or decreased revenues are a

result of current law.

EFFECT ON SMALL BUSINESS

The Board has determined that the proposed regulation will not affect small businesses because it only seeks to clarify existing requirements for licensure and standards set by the Board.

This proposal does not require any significant new expense or reporting, recordkeeping, or compliance measures on the part of businesses, including Board approved schools. Any costs are anticipated to be incurred within normal business operations.

Licensees and applicants are currently required to complete and submit the existing versions of the three forms, as specified, and are not anticipated to incur additional workload or costs to complete and submit the updated versions.

As a result, the regulations do not result in business impacts to the state. Any other economic impacts, including costs, savings, or decreased revenues are a result of current law.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS:

Impact on Jobs/Businesses:

The Board has determined that this regulatory proposal will not have any impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California because this proposal only seeks to clarify existing requirements for licensure and standards set by the Board. It does not require any significant new expense or reporting, recordkeeping, or compliance measures on the part of businesses, including schools. Licensees and applicants are currently required to complete and submit the existing versions of the three forms, as specified, and are not anticipated to incur additional workload or costs to complete and submit the updated versions.

Benefits of Regulation:

The Board has determined that this regulatory proposal will have the following benefits to the health and welfare of California residents.

The Board has determined that the regulatory proposal will avoid confusion about licensing requirements and provide consistency between the statutes and regulations for applicants, licensees, and schools who will benefit from these changes. The proposal will also update existing forms with corresponding instructions to assist applicants, licensees, and schools in providing the correct and required information, and

allow the Board to communicate with them more effectively, thereby ensuring only qualified applicants obtain licensure for the benefit of the health and welfare of California residents.

This regulatory proposal does not affect worker safety or the state's environment because it does not involve worker safety or the environment.

Business Reporting Requirements: This regulatory action does not require businesses to file a report with the Board.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Board must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposal described in this Notice, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations during the written comment period, or at the hearing if one is scheduled or requested, to the addresses listed under Contact Person below in this Notice.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Board has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, and any document incorporated by reference, and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained upon request from the Contact Person named below.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the Web site listed below.

CONTACT PERSON

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name: Jennifer Huetter
Address: 2420 Del Paso Road, Suite 100
Sacramento, CA 95834
Telephone No.: (279) 278-5089
Fax No.: (916) 575-7281
E-Mail Address: Jennifer.Huetter@dca.ca.gov

The backup contact person is:

Name: Allison Lee
Address: 2420 Del Paso Road, Suite 100
Sacramento, CA 95834
Telephone No.: (279) 278-5107
Fax No.: (916) 575-7281
E-Mail Address: Allison.Lee@dca.ca.gov

Website Access and Availability of Documents on the Internet: Materials regarding this proposal can be found at: http://www.barbercosmo.ca.gov/laws_regs/prop_regs.shtml.