



State of California
Edmund G. Brown Jr., Governor

Agenda Item 18
August 9, 2018

Review, Discuss, and Possible Action Regarding Legislation from other States

Purpose of the item

The Board will review a summary of and discuss recently enacted legislation from Louisiana and Missouri.

Action(s) requested

N/A

Background

At the June 5, 2018 Board meeting, Mr. Ruffino requested the following bills be added to the agenda for this meeting:

Louisiana HB 748 (Emerson) - Licensing: Establishes the Occupational Licensing Review Act

This law requires the governor to review, on an annual basis, not less than 20 percent of agencies engaged in regulatory and licensing activities. Further, it requires that such agencies are reviewed by the governor within five years. The law requires information collected from annual reviews to be made available to the public in a timely manner.

Louisiana HB 372 (Connick) - Establishes the Occupational Board Compliance Act

This law creates the Occupational Board Compliance Act to ensure that occupational licensing boards avoid liability under federal antitrust laws. This law requires that such boards submit proposed administrative regulations to the Occupational Licensing Review Commission (commission established in this Act) prior to promulgation. The commission is responsible for reviewing and providing occupational licensing boards with written approval or disapproval of proposed regulations prior to their final adoption of the proposed regulation. This law also specifies that it does not limit any occupational licensing boards from granting or recognizing reciprocity or mobility in the licensing, registration or certification of occupations.



State of California
Edmund G. Brown Jr., Governor

Missouri HB 1500 (Dogan) - Reduction in Regulation of Certain Occupations

This law established guidelines for the future regulation of occupations and specifies that the state shall adopt the least restrictive type of occupational regulations consistent with the public interest to be protected. This law requires that the Department of Insurance, Financial Institutions and Professional Registration, or any relevant agency, report and submit information to the General Assembly upon the filing of any bill that proposes a new or additional regulation of an occupation or profession.

Recommendation(s)

N/A

Next Step

N/A

Attachment(s)

- HB 372 (Connick)
- HB 748 (Emerson)
- HB 1500 (Dogan)

2018 Regular Session

ACT No. 693

HOUSE BILL NO. 748 (Substitute for House Bill No. 562 by Representative Emerson)

BY REPRESENTATIVE EMERSON

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AN ACT

To amend and reenact R.S. 49:903, relative to agencies engaged in regulatory and licensing activities; to provide relative to reports of the governor; to provide for a review by the governor on an annual basis; to provide certain terms and conditions; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 49:903 is hereby amended and reenacted to read as follows:

§903. Authority of the governor to require information

A. The governor of the State of Louisiana is hereby authorized to request and receive, in such manner and at such time as he may direct, information relating to the activities of any agency to which this Chapter applies. The request for information may include, but not necessarily be limited to the following: All rules, regulations and procedures employed by the agency; all examination requirements, standards, criteria and qualifications as conditions precedent for admission to the appropriate trade, occupation or profession; annual reports on the number of applications and the names of those admitted to practice; an accounting and report on the amount of examination, admissions and annual fees exacted for the privilege of maintaining the individual's status as one in official good standing in his trade, occupation or profession; any provisions for disciplinary actions, fines and forfeiture; and, generally, any and all written information and reports that may be of legitimate interest to the executive branch of the state government in determining whether the authority vested in such agencies by law is being exercised with proper judgment, discretion and restraint.

1 B. Pursuant to the authority in this Chapter, the governor shall review on an
2 annual basis not less than twenty percent of the agencies engaged in regulatory and
3 licensing activities. Within five years, the governor shall have reviewed all such
4 agencies. Pursuant to the provisions of this Section, the information obtained from
5 the annual reviews shall be made available to the public in a timely manner.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____

ACT No. 623

2018 Regular Session

HOUSE BILL NO. 372

BY REPRESENTATIVE CONNICK

AN ACT

To enact Chapter 1-D of Title 37 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 37:41 through 47, relative to creating the Occupational Board Compliance Act; to provide definitions; to provide policy concerning occupational regulations and respective boards; to create the Occupational Licensing Review Commission; to require the commission to provide active supervision of occupational licensing boards; to provide for review of rules and regulations; to provide for certain exceptions; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Chapter 1-D of Title 37 of the Louisiana Revised Statutes of 1950, comprised of R.S. 37:41 through 47, is hereby enacted to read as follows:

CHAPTER 1-D. OCCUPATIONAL BOARD COMPLIANCE ACT

§41. Short title

This Chapter shall be known and may be cited as the "Occupational Board Compliance Act".

§42. Legislative policy

By establishing and executing the policies provided in this Chapter, the state intends to ensure that occupational licensing boards and board members will avoid liability under federal antitrust laws.

§43. Definitions

For purposes of this Chapter, the following words have the meaning herein ascribed to them, unless the context clearly indicates otherwise:

(1) "Active market participant" means an individual or entity that is any of the following:

- 1 (a) Licensed by an occupational licensing board.
- 2 (b) A provider of any service subject to the regulatory authority of an
3 occupational licensing board.
- 4 (c) Subject to the jurisdiction of an occupational licensing board.
- 5 (2) "Active supervision" includes but is not limited to the Occupational
6 Licensing Review Commission's responsibilities to do all of the following:
- 7 (a) Review the substance of an occupational regulation proposed by any
8 occupational licensing board.
- 9 (b) Approve or disapprove with suggested amendments, or allow an
10 occupational licensing board to withdraw for revision an occupational regulation to
11 ensure compliance with state policy.
- 12 (3) "Commission" means the Occupational Licensing Review Commission
13 as provided for in R.S. 37:45.
- 14 (4) "Least restrictive regulation" means, from least to most restrictive, all of
15 the following:
- 16 (a) Market competition.
- 17 (b) Third-party or consumer-created ratings and reviews.
- 18 (c) Specific private civil cause of action to remedy consumer harm as
19 provided in the Unfair Trade Practices and Consumer Protection Law, R.S. 51:1401
20 et seq.
- 21 (d) Regulation of the process of providing the specific goods or services to
22 consumers.
- 23 (e) Inspection.
- 24 (f) Bonding or insurance.
- 25 (g) Registration.
- 26 (h) Occupational license.
- 27 (5) "Occupational license" means a nontransferable authorization granted by
28 an occupational licensing board for an individual or entity meeting certain
29 qualifications or personal qualifications. In an occupation for which a license is

1 required, it is unlawful for an individual or entity that does not possess a valid
2 occupational license to perform the occupation for compensation.

3 (6) "Occupational licensing board" means any state executive branch board,
4 commission, department, or other agency that is all of the following:

5 (a) Regulates the entry of persons into, or regulating the conduct of persons
6 within, a particular profession or occupation.

7 (b) Authorized to issue and revoke occupational licenses or registrations.

8 (c) Controlled by active market participants.

9 (7) "Occupational regulation" means a rule, regulation, restraint, practice, or
10 policy allowing an individual to use an occupational title or work in a lawful
11 occupation, including but not limited to registrations and occupational licenses.
12 "Occupational regulation" excludes any license, permit, or regulation established by
13 a parish or municipality.

14 (8) "Personal qualifications" means the criteria related to an individual's
15 personal background and characteristics, including completion of an approved
16 educational program, satisfactory performance on an examination or other
17 assessment, work experience, other evidence of attainment of requisite skills or
18 knowledge, moral standing, criminal history, and completion of continuing
19 education.

20 (9) "Qualifications" means the criteria related to an entity's background and
21 characteristics, including but not limited to the personal qualifications of certain
22 persons associated with the entity, including but not limited to that or those of an
23 individual's personal background and characteristics, including completion of an
24 approved educational program, satisfactory performance on an examination or
25 assessment, work experience, other evidence of attainment of requisite skills or
26 knowledge, moral standing, criminal history, and completion of continuing
27 education.

28 (10) "Registration" means a requirement to give notice to the state that may
29 include the individual's or entity's name and address, the individual's or entity's agent
30 for service of process, the location of the activity to be performed, and a description

1 of the service the individual or entity provides. "Registration" does not include
2 qualifications or personal qualifications but may require a bond or insurance. Upon
3 the state's receipt of notice, the individual or entity may use "registered" as a
4 designated title. "Registration" is not transferable.

5 (11) "State policy" means the policy described in R.S. 37:44.

6 §44. State policy for promulgated occupational regulations

7 For occupational regulations promulgated by occupational licensing boards,
8 each of the following apply as policy of this state:

9 (1) The increase of economic opportunities for all of its citizens by
10 promoting competition and thereby encouraging innovation and job growth to the
11 extent those values can be achieved without harm or threat of significant harm to
12 public health, safety, or welfare.

13 (2) Use of the least restrictive regulation necessary to protect consumers
14 from present or potential harm that threatens public health, welfare, or safety.

15 (3) Nothing in this Chapter shall be construed to restrict an occupational
16 licensing board from requiring, as a condition of licensure or registration, that an
17 individual's personal qualifications or entity's qualifications include obtaining or
18 maintaining certification from an organization that credentials individuals in the
19 relevant occupation, field, or industry.

20 §45. Occupational Licensing Review Commission

21 A.(1) There is hereby created the Occupational Licensing Review
22 Commission to be composed of the governor or his designee, the secretary of state
23 or his designee, the commissioner of agriculture or his designee, the commissioner
24 of insurance or his designee, and the state treasurer or his designee. The governor
25 shall be the chairman of the commission and the secretary of state shall be the
26 secretary. The commission shall meet as needed or as called by the chair and such
27 meetings shall be subject to the Open Meetings Law. A majority of the members
28 constitutes a quorum at any meeting. Any final action taken by the commission
29 requires the affirmative vote of a majority of the members.

1 (2) The office of the governor shall provide such support of the commission
2 necessary to accomplish the purposes of this Chapter, including but not limited to
3 research and clerical assistance. Any department, division, board, bureau,
4 commission, or agency of the state shall provide, at the request of the chair of the
5 commission, such assistance and data as will enable the commission to carry out its
6 duties.

7 B. Beginning January 1, 2019, the commission is responsible for the active
8 supervision of state executive branch occupational licensing boards controlled by
9 active market participants to ensure compliance with state policy in the adoption of
10 occupational regulations promulgated by an occupational licensing board. The
11 required active supervision described in this Chapter does not extend to individual
12 disciplinary actions taken or imposed by an occupational licensing board as to any
13 active market participant subject to the jurisdiction of the occupational licensing
14 board.

15 C.(1) An occupational licensing board shall submit any occupational
16 regulation it seeks to promulgate to the commission prior to the board submitting a
17 notice of intent to the office of the state register if the occupational regulation is
18 subject to the Administrative Procedure Act.

19 (2) The commission shall review each occupational regulation submitted to
20 ensure compliance with the state policy as provided in R.S. 37:44. This review may
21 include any Federal Trade Commission Guideline adopted by the commission.

22 (3) Following the review, the commission shall do either of the following:

23 (a) Approve the occupational regulation and authorize the occupational
24 licensing board to initiate promulgation of the regulation in accordance with the
25 Administrative Procedure Act. This approval shall be in writing and explain the
26 rationale for the action.

27 (b)(i) Disapprove the occupational regulation with any recommended
28 amendments and require the occupational licensing board to resubmit the
29 occupational regulation for approval prior to promulgating the regulation in
30 accordance with the Administrative Procedure Act.

1 (ii) Any recommended amendments shall be provided to the occupational
2 licensing board for its further consideration within thirty days of the date the
3 occupational licensing board provides the proposed regulation to the commission for
4 review.

5 (iii) The disapproval shall be in writing and explain the rationale for the
6 action.

7 (iv) In the event the commission elects to disapprove the regulation with
8 suggested amendments, the occupational licensing board shall not go forward with
9 promulgation of the proposed regulation until such time as the occupational
10 regulation is approved by the commission.

11 D. Prior to submitting the notice of final regulation to the proper legislative
12 oversight committees, the occupational licensing board shall submit such notice to
13 the commission with a summary of any changes made to the proposed regulation or
14 indicate that no changes were made to the proposed regulation. The submission shall
15 include any comments received during the comment period or a recording or the
16 minutes of any proceeding.

17 (1) If there are changes to the proposed regulation, the commission shall
18 review the changes to the proposed regulation and take any action provided in
19 Subsection C of this Section.

20 (2) If there are no changes to the proposed regulation or the commission
21 approves the proposed regulation with submitted changes, the occupational licensing
22 board shall submit the notice of final regulation to the proper legislative oversight
23 committees.

24 E. If the proposed occupational regulation is not subject to promulgation and
25 adoption in accordance with the Administrative Procedure Act, an occupational
26 licensing board shall submit such proposed regulation to the commission for
27 approval prior to enforcement.

28 F.(1) Emergency rules adopted by a occupational licensing board shall not
29 be subject to the active supervision of the commission as provided in this Section.

1 (2) However, the occupational licensing board shall submit such emergency
2 rule to the commission on the same day the rule is submitted to the office of the state
3 register.

4 G. The commission shall issue resolutions necessary to effectuate the
5 provisions of this Chapter, including the process, procedures, and timelines that will
6 govern any submission filed in accordance with this Chapter.

7 H. Nothing in this Chapter shall be interpreted to subject the commission to
8 any of the administrative procedures of the Administrative Procedure Act.

9 §46. Nonapplicability

10 The provisions of this Chapter are not applicable to occupational licensing
11 boards that are not controlled by active market participants.

12 §47. Interpretation

13 Nothing in this Chapter shall be construed to prevent or limit any
14 occupational licensing board from granting or recognizing reciprocity or mobility in
15 the licensing, registration, or certification of occupations or professions where an
16 occupational licensing board has established or seeks to establish occupational
17 regulations providing for reciprocity or mobility of licensed, registered, or certified
18 occupations or professions as authorized by state law.

19 Section 2. The Act shall become effective upon signature by the governor or, if not
20 signed by the governor, upon expiration of the time for bills to become law without signature
21 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
22 vetoed by the governor and subsequently approved by the legislature, this Act shall become
23 effective on the day following such approval.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____

SECOND REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
SENATE SUBSTITUTE NO. 2 FOR
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1500
99TH GENERAL ASSEMBLY

5205S.12T

2018

AN ACT

To repeal sections 328.080, 328.100, 329.010, 329.040, 329.050, 329.060, 329.070, 329.080, 329.085, and 329.130, RSMo, and to enact in lieu thereof fourteen new sections relating to reduction in regulation of certain occupations.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 328.080, 328.100, 329.010, 329.040, 329.050, 329.060, 329.070, 2 329.080, 329.085, and 329.130, RSMo, are repealed and fourteen new sections enacted in lieu 3 thereof, to be known as sections 324.047, 328.025, 328.080, 329.010, 329.032, 329.033, 4 329.040, 329.050, 329.060, 329.070, 329.080, 329.085, 329.130, and 329.275, to read as 5 follows:

324.047. 1. The purpose of this section is to promote general welfare by 2 establishing guidelines for the regulation of occupations and professions not regulated 3 prior to January 1, 2019, and guidelines for combining any additional occupations or 4 professions under a single license regulated by the state prior to January 1, 2019.

2. For purposes of this section, the following terms mean:

(1) "Applicant group", any occupational or professional group or organization, any 6 individual, or any other interested party that seeks to be licensed or further regulated or 7 supports any bill that proposes to combine any additional occupations or professions under 8 a single license regulated by the state prior to January 1, 2019;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

SECOND REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
SENATE SUBSTITUTE NO. 2 FOR
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1500
99TH GENERAL ASSEMBLY

52055.12T

2018

AN ACT

To repeal sections 328.080, 328.100, 329.010, 329.040, 329.050, 329.060, 329.070, 329.080, 329.085, and 329.130, RSMo, and to enact in lieu thereof fourteen new sections relating to reduction in regulation of certain occupations.

Be it enacted by the General Assembly of the state of Missouri, as follows:

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5 2. For purposes of this section, the following terms mean:

6 (1) "Applicant group", any occupational or professional group or organization, any 7 individual, or any other interested party that seeks to be licensed or further regulated or 8 supports any bill that proposes to combine any additional occupations or professions under 9 a single license regulated by the state prior to January 1, 2019;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

10 (2) "Certification", a program in which the government grants nontransferable
11 recognition to an individual who meets personal qualifications established by a regulatory
12 entity. Upon approval, the individual may use "certified" as a designated title. This term
13 shall not be synonymous with an occupational license;

14 (3) "Department", the department of insurance, financial institutions and
15 professional registration;

16 (4) "Director", the director of the division of professional registration;

17 (5) "Division", the division of professional registration;

18 (6) "General welfare", the concern of the government for the health, peace,
19 morality, and safety of its residents;

20 (7) "Lawful occupation", a course of conduct, pursuit, or profession that includes
21 the sale of goods or services that are not themselves illegal to sell irrespective of whether
22 the individual selling them is subject to an occupational regulation;

23 (8) "Least restrictive type of occupational regulation", the regulation that is least
24 restrictive, in which the following list of regulations in order from least to most restrictive
25 is used to make such determination:

26 (a) Bonding or insurance;

27 (b) Registration;

28 (c) Certification;

29 (d) Occupational license;

30 (9) "Occupational license", a nontransferable authorization in law for an
31 individual to perform a lawful occupation for compensation based on meeting personal
32 qualifications established by a regulatory entity and that, if not possessed, prohibits the
33 individual from performing the occupation for compensation;

34 (10) "Occupational regulation", a statute, ordinance, rule, practice, policy, or other
35 law requiring an individual to possess certain personal qualifications to work in a lawful
36 occupation;

37 (11) "Personal qualifications", criteria related to an individual's personal
38 background, including completion of an approved educational program, satisfactory
39 performance on an examination, work experience, criminal history, and completion of
40 continuing education;

41 (12) "Practitioner", an individual who has achieved knowledge and skill by
42 practice and is actively engaged in a specified occupation or profession;

43 (13) "Registration", a requirement established by the general assembly in which
44 an individual:

45 (a) Submits notification to a state agency; and

46 (b) May use "registered" as a designated title.

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48 Notification may include the individual's name and address, the individual's agent for
49 service of process, the location of the activity to be performed, and a description of the
50 service the individual provides. Registration may include a requirement to post a bond but
51 does not include education or experience requirements. If the requirement of registration
52 is not met, the individual is prohibited from performing the occupation for compensation
53 or using "registered" as a designated title. The term "registration" shall not be
54 synonymous with an occupational license;

55 (14) "Regulatory entity", any board, commission, agency, division, or other unit
56 or subunit of state government that regulates one or more professions, occupations,
57 industries, businesses, or other endeavors in this state;

58 (15) "State agency", every state office, department, board, commission, regulatory
59 entity, and agency of the state. The term "state agency" includes, if provided by law,
60 programs and activities involving less than the full responsibility of a state agency;

61 (16) "Substantial burden", a requirement in an occupational regulation that
62 imposes significant difficulty or cost on an individual seeking to enter into or continue in
63 a lawful occupation and is more than an incidental burden.

64 3. All individuals may engage in the occupation of their choice, free from
65 unreasonable government regulation. The state shall not impose a substantial burden on
66 an individual's pursuit of his or her occupation or profession unless there is a reasonable
67 interest for the state to protect the general welfare. If such an interest exists, the regulation
68 adopted by the state shall be the least restrictive type of occupational regulation consistent
69 with the public interest to be protected.

70 4. All bills introduced in the general assembly to regulate, pursuant to subsection
71 6 of this section, an occupation or profession shall be reviewed according to the following
72 criteria. An occupation or profession shall be regulated by the state if:

73 (1) Unregulated practice could cause harm and endanger the general welfare, and
74 the potential for further harm and endangerment is recognizable;

75 (2) The public can reasonably be expected to benefit from an assurance of personal
76 qualifications; and

77 (3) The general welfare cannot be sufficiently protected by other means.

78 5. After evaluating the criteria in subdivision (3) of this subsection and considering
79 governmental, economic, and societal costs and benefits, if the general assembly finds that
80 the state has a reasonable interest in regulating, pursuant to subsection 6 of this section,
81 an occupation or profession not previously regulated by law, the most efficient form of

82 regulation shall be implemented, consistent with this section and with the need to protect
83 the general welfare, as follows:

84 (1) If the threat to the general welfare resulting from the practitioner's services is
85 easily predictable, the regulation shall implement a system of insurance, bonding, or
86 registration;

87 (2) If the consumer has challenges accessing credentialing information or possesses
88 significantly less information on how to report abuses such that the practitioner puts the
89 consumer in a disadvantageous position relative to the practitioner to judge the quality of
90 the practitioner's services, the regulation shall implement a system of certification; and

91 (3) If other regulatory structures, such as bonding, insurance, registration, and
92 certification, insufficiently protect the general welfare from recognizable harm, the
93 regulation shall implement a system of licensing.

94 6. After January 1, 2019, any relevant regulatory entity shall report, and the
95 department shall make available to the general assembly, upon the filing of a bill that
96 proposes additional regulation of a profession or occupation currently regulated by the
97 regulatory entity, the following factors to the department:

98 (1) A description of the professional or occupational group proposed for expansion
99 of regulation, including the number of individuals or business entities that would be
100 subject to regulation to the extent that such information is available; the names and
101 addresses of associations, organizations, and other groups representing the practitioners;
102 and an estimate of the number of practitioners in each group;

103 (2) Whether practice of the profession or occupation proposed for expansion of
104 regulation requires such a specialized skill that the public is not qualified to select a
105 competent practitioner without assurances that minimum qualifications have been met;

106 (3) The nature and extent of potential harm to the public if the profession or
107 occupation is not regulated as described in the bill, the extent to which there is a threat to
108 the general welfare, and production of evidence of potential harm, including a description
109 of any complaints filed with state law enforcement authorities, courts, departmental
110 agencies, professional or occupational boards, and professional and occupational
111 associations that have been lodged against practitioners of the profession or occupation in
112 this state within the past five years. Notwithstanding the provisions of this section or any
113 other section, the relevant regulatory entity shall provide, and the department shall make
114 available to the general assembly, the information relating to such complaints even if the
115 information is considered a closed record or otherwise confidential; except that, the
116 regulatory entity and the department shall redact names and other personally identifiable
117 information from the information released;

118 (4) A description of the voluntary efforts made by practitioners of the profession
119 or occupation to protect the public through self-regulation, private certifications,
120 membership in professional or occupational associations, or academic credentials and a
121 statement of why these efforts are inadequate to protect the public;

122 (5) The extent to which expansion of regulation of the profession or occupation will
123 increase the cost of goods or services provided by practitioners and the overall cost-
124 effectiveness and economic impact of the proposed regulation, including the direct cost to
125 the government and the indirect costs to consumers;

126 (6) The extent to which expansion of regulation of the profession or occupation
127 would increase or decrease the availability of services to the public;

128 (7) The extent to which existing legal remedies are inadequate to prevent or redress
129 the kinds of harm potentially resulting from the lack of the requirements outlined in the
130 bill;

131 (8) Why bonding and insurance, registration, certification, occupational license to
132 practice, or another type of regulation is being proposed, why that regulatory alternative
133 was chosen, and whether the proposed method of regulation is appropriate;

134 (9) A list of other states that regulate the profession or occupation, the type of
135 regulation, copies of other states' laws, and available evidence from those states of the
136 effect of regulation on the profession or occupation in terms of a before-and-after analysis;

137 (10) The details of any previous efforts in this state to implement regulation of the
138 profession or occupation;

139 (11) Whether the proposed requirements for regulation exceed the national
140 industry standards of minimal competence, if such standards exist, and what those
141 standards are if they exist; and

142 (12) The method proposed to finance the proposed regulation and financial data
143 pertaining to whether the proposed regulation can be reasonably financed by current or
144 proposed licensees through dedicated revenue mechanisms.

145 7. If no existing regulatory entity regulates the occupation or profession to be
146 regulated in the bill, the department shall report and make available to the general
147 assembly, upon the filing of a bill after January 1, 2019, that proposes new regulation of
148 a profession or occupation, the following factors:

149 (1) A description of the professional or occupational group proposed for regulation,
150 including the number of individuals or business entities that would be subject to regulation
151 to the extent that such information is available; the names and addresses of associations,
152 organizations, and other groups representing the practitioners; and an estimate of the
153 number of practitioners in each group;

154 (2) The nature and extent of potential harm to the public if the profession or
155 occupation is not regulated, the extent to which there is a threat to the general welfare, and
156 production of evidence of potential harm, including a description of any complaints filed
157 with state law enforcement authorities, courts, departmental agencies, professional or
158 occupational boards, and professional and occupational associations that have been lodged
159 against practitioners of the profession or occupation in this state within the past five years.
160 Notwithstanding the provisions of this section or any other section, the department shall
161 release the information relating to such complaints even if the information is considered
162 a closed record or otherwise confidential; except that, the department shall redact names
163 and other personally identifiable information from the information released;

164 (3) A list of other states that regulate the profession or occupation, the type of
165 regulation, copies of other states' laws, and available evidence from those states of the
166 effect of regulation on the profession or occupation in terms of a before-and-after analysis;

167 (4) The details of any previous efforts in this state to implement regulation of the
168 profession or occupation; and

169 (5) Whether the proposed requirements for regulation exceed the national industry
170 standards of minimal competence, if such standards exist, and what those standards are
171 if they exist.

172 8. After January 1, 2019, applicant groups may report to the department, and the
173 department shall make available to the general assembly, any of the information required
174 in subsection 6 or 7 of this section and whether the profession or occupation plans to apply
175 for mandated benefits.

328.025. If a license issued under this chapter has been destroyed, lost, mutilated
2 beyond practical usage, or was never received, the licensee shall obtain a duplicate license
3 from the board by appearing in person at the board's office or mailing, by certified mail,
4 return receipt requested, a notarized affidavit stating that the license has been destroyed,
5 lost, mutilated beyond practical usage, or was never received.

328.080. 1. Any person desiring to practice barbering in this state shall make application
2 for a license to the board and shall pay the required barber examination fee.

3 2. The board shall examine each qualified applicant and, upon successful completion of
4 the examination and payment of the required license fee, shall issue the applicant a license
5 authorizing him or her to practice the occupation of barber in this state. The board shall admit
6 an applicant to the examination, if it finds that he or she:

7 (1) Is seventeen years of age or older [~~and of good moral character~~];

8 (2) Is free of contagious or infectious diseases that are capable of being transmitted
9 during the ordinary course of business for a person licensed under this chapter;

10 (3) Has studied for at least one thousand hours in a period of not less than six months
11 in a properly appointed and conducted barber school under the direct supervision of a licensed
12 instructor; or, if the applicant is an apprentice, the applicant shall have served and completed no
13 less than two thousand hours under the direct supervision of a licensed barber apprentice
14 supervisor;

15 (4) Is possessed of requisite skill in the trade of barbering to properly perform the duties
16 thereof, including the preparation of tools, shaving, haircutting and all the duties and services
17 incident thereto; and

18 (5) Has sufficient knowledge of the common diseases of the face and skin to avoid the
19 aggravation and spread thereof in the practice of barbering.

20 3. The board shall be the judge of whether the barber school, the barber apprenticeship,
21 or college is properly appointed and conducted under proper instruction to give sufficient training
22 in the trade.

23 4. The sufficiency of the qualifications of applicants shall be determined by the board.

24 ~~[5. For the purposes of meeting the minimum requirements for examination, the~~
25 ~~apprentice training shall be recognized by the board for a period not to exceed five years.]~~

2 329.010. As used in this chapter, unless the context clearly indicates otherwise, the
2 following words and terms mean:

3 (1) "Accredited school of cosmetology or school of manicuring", an establishment
4 operated for the purpose of teaching cosmetology as defined in this section and meeting the
5 criteria set forth under 34 C.F.R. Part 600, sections 600.1 and 600.2;

6 (2) "Apprentice" or "student", a person who is engaged in training within a cosmetology
7 establishment or school, and while so training performs any of the practices of the classified
8 occupations within this chapter under the immediate direction and supervision of a licensed
9 cosmetologist or instructor;

10 (3) "Board", the state board of cosmetology and barber examiners;

11 (4) "Cosmetologist", any person who, for compensation, engages in the practice of
12 cosmetology, as defined in subdivision (5) of this section;

13 (5) "Cosmetology" includes performing or offering to engage in any acts of the classified
14 occupations of cosmetology for compensation, which shall include:

15 (a) "Class CH - hairdresser" includes arranging, dressing, curling, singeing, waving,
16 permanent waving, cleansing, cutting, bleaching, tinting, coloring or similar work upon the hair
17 of any person by any means; or removing superfluous hair from the body of any person by means
18 other than electricity, or any other means of arching or tinting eyebrows or tinting eyelashes.
19 Class CH - hairdresser also includes any person who either with the person's hands or with
20 mechanical or electrical apparatuses or appliances, or by the use of cosmetic preparations,

21 antiseptics, tonics, lotions or creams engages for compensation in any one or any combination
22 of the following: massaging, cleaning, stimulating, manipulating, exercising, beautifying or
23 similar work upon the scalp, face, neck, arms or bust;

24 (b) "Class MO - manicurist" includes cutting, trimming, polishing, coloring, tinting,
25 cleaning or otherwise beautifying a person's fingernails, applying artificial fingernails,
26 massaging, cleaning a person's hands and arms; pedicuring, which includes cutting, trimming,
27 polishing, coloring, tinting, cleaning or otherwise beautifying a person's toenails, applying
28 artificial toenails, massaging and cleaning a person's legs and feet;

29 (c) "Class CA - hairdressing and manicuring" includes all practices of cosmetology, as
30 defined in paragraphs (a) and (b) of this subdivision;

31 (d) "Class E - estheticians" includes the use of mechanical, electrical apparatuses or
32 appliances, or by the use of cosmetic preparations, antiseptics, tonics, lotions or creams, not to
33 exceed ten percent phenol, engages for compensation, either directly or indirectly, in any one,
34 or any combination, of the following practices: massaging, cleansing, stimulating, manipulating,
35 exercising, beautifying or similar work upon the scalp, face, neck, ears, arms, hands, bust, torso,
36 legs or feet and removing superfluous hair by means other than electric needle or any other
37 means of arching or tinting eyebrows or tinting eyelashes, of any person;

38 (6) "Cosmetology establishment", that part of any building wherein or whereupon any
39 of the classified occupations are practiced including any space rented within a licensed
40 establishment by a person licensed under this chapter, for the purpose of rendering cosmetology
41 services;

42 (7) "Cross-over license", a license that is issued to any person who has met the licensure
43 and examination requirements for both barbering and cosmetology;

44 (8) "Hair braider", any person who, for compensation, engages in the practice of
45 hair braiding;

46 (9) "Hair braiding", in accordance with the requirements of section 329.275, the
47 use of techniques that result in tension on hair strands or roots by twisting, wrapping,
48 waving, extending, locking, or braiding of the hair by hand or mechanical device, but does
49 not include the application of dyes, reactive chemicals, or other preparations to alter the
50 color of the hair or to straighten, curl, or alter the structure of the hair;

51 (10) "Hairdresser", any person who, for compensation, engages in the practice of
52 cosmetology as defined in paragraph (a) of subdivision (5) of this section;

53 [(9)] (11) "Instructor", any person who is licensed to teach cosmetology or any practices
54 of cosmetology pursuant to this chapter;

55 [(10)] (12) "Manicurist", any person who, for compensation, engages in any or all of the
56 practices in paragraph (b) of subdivision (5) of this section;

57 ~~[(11)]~~ (13) "Parental consent", the written informed consent of a minor's parent or legal
58 guardian that must be obtained prior to providing body waxing on or near the genitalia;

59 ~~[(12)]~~ (14) "School of cosmetology" or "school of manicuring", an establishment
60 operated for the purpose of teaching cosmetology as defined in subdivision (5) of this section.

**329.032. 1. Nothing in this chapter shall apply to hairdressing, manicuring, or
2 facial treatments given for which no charge is made.**

**3 2. Nothing in this chapter or chapter 328, except for the provisions of sections
4 329.010 and 329.275, shall apply to persons engaged in the practice of hair braiding who
5 have met the requirements in section 329.275.**

**329.033. If a license issued under this chapter has been destroyed, lost, mutilated
2 beyond practical usage, or was never received, the licensee shall obtain a duplicate license
3 from the board by appearing in person at the board's office or mailing, by certified mail,
4 return receipt requested, a notarized affidavit stating that the license has been destroyed,
5 lost, mutilated beyond practical usage, or was never received.**

**329.040. 1. Any person ~~[of]~~ in good ~~[moral-character]~~ standing with the board may
2 make application to the board for a license to own a school of cosmetology on a form provided
3 upon request by the board. Every school of cosmetology in which any of the classified
4 occupations of cosmetology are taught shall be required to obtain a license from the board prior
5 to opening. The license shall be issued upon approval of the application by the board, the
6 payment of the required fees, and the applicant meets other requirements provided in this
7 chapter. The license shall be kept posted in plain view within the school at all times.**

**8 2. A school license renewal fee shall be due on or before the renewal date of any school
9 license issued pursuant to this section. If the school license renewal fee is not paid on or before
10 the renewal date, a late fee shall be added to the regular school license fee.**

**11 3. No school of cosmetology shall be granted a license pursuant to this chapter unless
12 it:**

**13 (1) Employs and has present in the school a competent licensed instructor for every
14 twenty-five students in attendance for a given class period and one to ten additional students may
15 be in attendance with the assistance of an instructor trainee. One instructor is authorized to teach
16 up to three instructor trainees immediately after being granted an instructor's license;**

**17 (2) Requires all students to be enrolled in a course of study of no less than three hours
18 per day and no more than twelve hours per day with a weekly total that is no less than fifteen
19 hours and no more than seventy-two hours;**

**20 (3) Requires for the classified occupation of cosmetologist, the course of study shall be
21 no less than one thousand five hundred hours or, for a student in public vocational/technical
22 school no less than one thousand two hundred twenty hours; provided that, a school may elect**

23 to base the course of study on credit hours by applying the credit hour formula in Subpart A of
24 Part 668 of Section 668.8 of Title 34 of the Code of Federal Regulations, as amended. The
25 student must earn a minimum of one hundred and sixty hours or equivalent credits of classroom
26 training before the student may perform any of the acts of the classified occupation of
27 cosmetology on any patron or customer of the school of cosmetology;

28 (4) Requires for the classified occupation of manicurist, the course of study shall be no
29 less than four hundred hours or the credit hours determined by the formula in Subpart A of Part
30 668 of Section 668.8 of Title 34 of the Code of Federal Regulations, as amended. The student
31 must earn a minimum of fifty hours or equivalent credits of classroom training before the student
32 may perform any of the acts of the classified occupation of manicurist on any patron or customer
33 of the school of cosmetology;

34 (5) Requires for the classified occupation of esthetician, the course of study shall be no
35 less than seven hundred fifty hours or the credit hours determined by the formula in Subpart A
36 of Part 668 of Section 668.8 of Title 34 of the Code of Federal Regulations, as amended. The
37 student shall earn a minimum of seventy-five hours or equivalent credits of classroom training
38 before the student may perform any of the acts of the classified occupation of esthetics on any
39 patron or customer of the school of cosmetology or an esthetics school.

40 4. The subjects to be taught for the classified occupation of cosmetology shall be as
41 follows and the hours required for each subject shall be not less than those contained in this
42 subsection or the credit hours determined by the formula in Subpart A of Part 668 of Section
43 668.8 of Title 34 of the Code of Federal Regulations, as amended:

- 44 (1) Shampooing of all kinds, forty hours;
- 45 (2) Hair coloring, bleaches and rinses, one hundred thirty hours;
- 46 (3) Hair cutting and shaping, one hundred thirty hours;
- 47 (4) Permanent waving and relaxing, one hundred twenty-five hours;
- 48 (5) Hairsetting, pin curls, fingerwaves, thermal curling, two hundred twenty-five hours;
- 49 (6) Combouts and hair styling techniques, one hundred five hours;
- 50 (7) Scalp treatments and scalp diseases, thirty hours;
- 51 (8) Facials, eyebrows and arches, forty hours;
- 52 (9) Manicuring, hand and arm massage and treatment of nails, one hundred ten hours;
- 53 (10) Cosmetic chemistry, twenty-five hours;
- 54 (11) Salesmanship and shop management, ten hours;
- 55 (12) Sanitation and sterilization, thirty hours;
- 56 (13) Anatomy, twenty hours;
- 57 (14) State law, ten hours;
- 58 (15) Curriculum to be defined by school, not less than four hundred seventy hours.

59 5. The subjects to be taught for the classified occupation of manicurist shall be as
60 follows and the hours required for each subject shall be not less than those contained in this
61 subsection or the credit hours determined by the formula in Subpart A of Part 668 of Section
62 668.8 of Title 34 of the Code of Federal Regulations, as amended:

63 (1) Manicuring, hand and arm massage and treatment of nails, two hundred twenty
64 hours;

65 (2) Salesmanship and shop management, twenty hours;

66 (3) Sanitation and sterilization, twenty hours;

67 (4) Anatomy, ten hours;

68 (5) State law, ten hours;

69 (6) Study of the use and application of certain chemicals, forty hours; and

70 (7) Curriculum to be defined by school, not less than eighty hours.

71 6. The subjects to be taught for the classified occupation of esthetician shall be as
72 follows, and the hours required for each subject shall not be less than those contained in this
73 subsection or the credit hours determined by the formula in Subpart A of Part 668 of Section
74 668.8 of Title 34 of the Code of Federal Regulations, as amended:

75 (1) Facials, cleansing, toning, massaging, one hundred twenty hours;

76 (2) Makeup application, all phases, one hundred hours;

77 (3) Hair removal, thirty hours;

78 (4) Body treatments, aromatherapy, wraps, one hundred twenty hours;

79 (5) Reflexology, thirty-five hours;

80 (6) Cosmetic sciences, structure, condition, disorder, eighty-five hours;

81 (7) Cosmetic chemistry, products and ingredients, seventy-five hours;

82 (8) Salon management and salesmanship, fifty-five hours;

83 (9) Sanitation and sterilization, safety, forty-five hours;

84 (10) State law, ten hours; and

85 (11) Curriculum to be defined by school, not less than seventy-five hours.

86 7. Training for all classified occupations shall include practical demonstrations, written
87 and/or oral tests, and practical instruction in sanitation, sterilization and the use of antiseptics,
88 cosmetics and electrical appliances consistent with the practical and theoretical requirements as
89 applicable to the classified occupations as provided in this chapter.

90 8. No school of cosmetology shall operate within this state unless a proper license
91 pursuant to this chapter has first been obtained.

92 9. Nothing contained in this chapter shall prohibit a licensee within a cosmetology
93 establishment from teaching any of the practices of the classified occupations for which the
94 licensee has been licensed for not less than two years in the licensee's regular course of business,

95 if the owner or manager of the business does not hold himself or herself out as a school and does
96 not hire or employ or personally teach regularly at any one and the same time, more than one
97 apprentice to each licensee regularly employed within the owner's business, not to exceed one
98 apprentice per establishment, and the owner, manager, or trainer does not accept any fee for
99 instruction.

100 10. Each licensed school of cosmetology shall provide a minimum of two thousand
101 square feet of floor space, adequate rooms and equipment, including lecture and demonstration
102 rooms, lockers, an adequate library and two restrooms. The minimum equipment requirements
103 shall be: six shampoo bowls, ten hair dryers, two master dustproof and sanitary cabinets, wet
104 sterilizers, and adequate working facilities for twenty students.

105 11. Each licensed school of cosmetology for manicuring only shall provide a minimum
106 of one thousand square feet of floor space, adequate room for theory instruction, adequate
107 equipment, lockers, an adequate library, two restrooms and a clinical working area for ten
108 students. Minimum floor space requirement proportionately increases with student enrollment
109 of over ten students.

110 12. Each licensed school of cosmetology for esthetics only shall provide a minimum of
111 one thousand square feet of floor space, adequate room for theory instruction, adequate
112 equipment, lockers, an adequate library, two restrooms and a clinical working area for ten
113 students. Minimum floor space requirement increases fifty square feet per student with student
114 enrollment of over ten.

115 13. No school of cosmetology may have a greater number of students enrolled and
116 scheduled to be in attendance for a given class period than the total floor space of that school will
117 accommodate. Floor space required per student shall be no less than fifty square feet per
118 additional student beyond twenty students for a school of cosmetology, beyond ten students for
119 a school of manicuring and beyond ten students for a school of esthetics.

120 14. Each applicant for a new school shall file a written application with the board upon
121 a form approved and furnished upon request by the board. The applicant shall include a list of
122 equipment, the proposed curriculum, and the name and qualifications of any and all of the
123 instructors.

124 15. Each school shall display in a conspicuous place, visible upon entry to the school,
125 a sign stating that all cosmetology services in this school are performed by students who are in
126 training.

127 16. Any student who wishes to remain in school longer than the required training period
128 may make application for an additional training license and remain in school. A fee is required
129 for such additional training license.

130 17. All contractual fees that a student owes to any cosmetology school shall be paid
131 before such student may be allowed to apply for any examination required to be taken by an
132 applicant applying for a license pursuant to the provisions of this chapter.

 329.050. 1. Applicants for examination or licensure pursuant to this chapter shall
2 possess the following qualifications:

3 (1) They [~~must be persons of good moral character,~~] **shall provide documentation of**
4 **successful completion of courses approved by the board**, have an education equivalent to the
5 successful completion of the tenth grade, and be at least seventeen years of age;

6 (2) If the applicants are apprentices, they shall have served and completed, as an
7 apprentice under the supervision of a licensed cosmetologist, the time and studies required by
8 the board which shall be no less than three thousand hours for cosmetologists, and no less than
9 eight hundred hours for manicurists and no less than fifteen hundred hours for esthetics.
10 However, when the classified occupation of manicurist is apprenticed in conjunction with the
11 classified occupation of cosmetologist, the apprentice shall be required to successfully complete
12 an apprenticeship of no less than a total of three thousand hours;

13 (3) If the applicants are students, they shall have had the required time in a licensed
14 school of no less than one thousand five hundred hours training or the credit hours determined
15 by the formula in Subpart A of Part 668 of Section 668.8 of Title 34 of the Code of Federal
16 Regulations, as amended, for the classification of cosmetologist, with the exception of public
17 vocational technical schools in which a student shall complete no less than one thousand two
18 hundred twenty hours training. All students shall complete no less than four hundred hours or
19 the credit hours determined by the formula in Subpart A of Part 668 of Section 668.8 of Title 34
20 of the Code of Federal Regulations, as amended, for the classification of manicurist. All students
21 shall complete no less than seven hundred fifty hours or the credit hours determined by the
22 formula in Subpart A of Part 668 of Section 668.8 of Title 34 of the Code of Federal
23 Regulations, as amended, for the classification of esthetician. However, when the classified
24 occupation of manicurist is taken in conjunction with the classified occupation of cosmetologist,
25 the student shall not be required to serve the extra four hundred hours or the credit hours
26 determined by the formula in Subpart A of Part 668 of Section 668.8 of Title 34 of the Code of
27 Federal Regulations, as amended, otherwise required to include manicuring of nails; and

28 (4) They shall have passed an examination to the satisfaction of the board.

29 2. A person may apply to take the examination required by subsection 1 of this section
30 if the person is a graduate of a school of cosmetology or apprentice program in another state or
31 territory of the United States which has substantially the same requirements as an educational
32 establishment licensed pursuant to this chapter. A person may apply to take the examination
33 required by subsection 1 of this section if the person is a graduate of an educational

34 establishment in a foreign country that provides training for a classified occupation of
35 cosmetology, as defined by section 329.010, and has educational requirements that are
36 substantially the same requirements as an educational establishment licensed under this chapter.
37 The board has sole discretion to determine the substantial equivalency of such educational
38 requirements. The board may require that transcripts from foreign schools be submitted for its
39 review, and the board may require that the applicant provide an approved English translation of
40 such transcripts.

41 3. Each application shall contain a statement that, subject to the penalties of making a
42 false affidavit or declaration, the application is made under oath or affirmation and that its
43 representations are true and correct to the best knowledge and belief of the person signing the
44 application.

45 4. The sufficiency of the qualifications of applicants shall be determined by the board,
46 but the board may delegate this authority to its executive director subject to such provisions as
47 the board may adopt.

48 5. ~~[For the purpose of meeting the minimum requirements for examination, training~~
49 ~~completed by a student or apprentice shall be recognized by the board for a period of no more~~
50 ~~than five years from the date it is received.] **Applications for examination or licensure may**
51 **be denied if the applicant has pleaded guilty to, entered a plea of nolo contendere to, or**
52 **been found guilty of any of the following offenses or offenses of a similar nature established**
53 **under the laws of this state, any other state, the United States, or any other country,**
54 **notwithstanding whether sentence is imposed:**~~

55 (1) Any dangerous felony as defined under section 556.061 or murder in the first
56 degree;

57 (2) Any of the following sexual offenses: rape in the first degree, forcible rape,
58 rape, statutory rape in the first degree, statutory rape in the second degree, rape in the
59 second degree, sexual assault, sodomy in the first degree, forcible sodomy, statutory
60 sodomy in the first degree, statutory sodomy in the second degree, child molestation in the
61 first degree, child molestation in the second degree, sodomy in the second degree, deviate
62 sexual assault, sexual misconduct involving a child, sexual misconduct in the first degree
63 under section 566.090 as it existed prior to August 28, 2013, sexual abuse under section
64 566.100 as it existed prior to August 28, 2013, sexual abuse in the first or second degree,
65 enticement of a child, or attempting to entice a child;

66 (3) Any of the following offenses against the family and related offenses: incest,
67 abandonment of a child in the first degree, abandonment of a child in the second degree,
68 endangering the welfare of a child in the first degree, abuse of a child, using a child in a

69 **sexual performance, promoting sexual performance by a child, or trafficking in children;**
70 **and**

71 **(4) Any of the following offenses involving child pornography and related offenses:**
72 **promoting obscenity in the first degree, promoting obscenity in the second degree when the**
73 **penalty is enhanced to a class E felony, promoting child pornography in the first degree,**
74 **promoting child pornography in the second degree, possession of child pornography in the**
75 **first degree, possession of child pornography in the second degree, furnishing child**
76 **pornography to a minor, furnishing pornographic materials to minors, or coercing**
77 **acceptance of obscene material.**

329.060. 1. Every person desiring to sit for the examination for any of the occupations
2 provided for in this chapter shall file with the board a written application on a form supplied to
3 the applicant, and shall submit proof of the required age~~[;]~~ **and** educational qualifications, ~~[and~~
4 ~~of good moral character]~~ together with the required cosmetology examination fee. Each
5 application shall contain a statement that it is made under oath or affirmation and that its
6 representations are true and correct to the best knowledge and belief of the person signing same,
7 subject to the penalties of making a false affidavit or declaration.

8 2. Upon the filing of the application and the payment of the fee, the board shall, upon
9 request, issue to the applicant, if the applicant is qualified to sit for the examination, a temporary
10 license for the practicing of the occupations as provided in this chapter. Any person receiving
11 a temporary license shall be entitled to practice the occupations designated on the temporary
12 license, under the supervision of a person licensed in ~~[cosmetology]~~ **the occupation**, until the
13 expiration of the temporary license. Any person continuing to practice the occupation beyond
14 the expiration of the temporary license without being licensed in ~~[cosmetology]~~ **that** as provided
15 in this chapter is guilty of an infraction.

329.070. 1. Apprentices or students shall be ~~[licensed]~~ **registered** with the board and
2 shall pay a student fee or an apprentice fee prior to beginning their course, and shall ~~[be of good~~
3 ~~moral character and]~~ have an education equivalent to the successful completion of the tenth
4 grade.

5 2. An apprentice or student shall not be enrolled in a course of study that shall exceed
6 twelve hours per day or that is less than three hours per day. The course of study shall be no
7 more than seventy-two hours per week and no less than fifteen hours per week.

8 3. Every person desiring to act as an apprentice in any of the classified occupations
9 within this chapter shall file with the board a written application on a form supplied to the
10 applicant, together with the required apprentice fee.

329.080. 1. An instructor trainee shall be a licensed cosmetologist, esthetician or
2 manicurist and shall hold a license as an instructor trainee in cosmetology, esthetics or

3 manicuring. An applicant for a license to practice as an instructor trainee shall submit to the
4 board the required fee and a written application on a form supplied by the board upon request
5 that the applicant ~~[is of good moral character, in good physical and mental health,]~~ has
6 successfully completed at least a four-year high school course of study or the equivalent, and
7 holds a Missouri license to practice as a cosmetologist, esthetician or manicurist. Each
8 application shall contain a statement that it is made under oath or affirmation and that its
9 representations are true and correct to the best knowledge and belief of the person signing the
10 application, subject to the penalties of making a false affidavit or declaration.

11 2. An applicant approved by the board shall be issued an instructor trainee license. The
12 license shall be issued for a definite period needed to complete training requirements to become
13 eligible for taking the examinations. An applicant shall be approved for an instructor trainee
14 license only for those classified occupations ~~[of cosmetology]~~ for which the applicant is licensed
15 at the time the instructor trainee application is submitted to the board.

16 3. The instructor trainee shall be required to complete six hundred hours of instructor
17 training within a Missouri licensed school of cosmetology consisting of a curriculum including
18 both theory and practical training to include the following:

19 (1) Two hundred hours to be devoted to basic principles of student teaching to include
20 teaching principles, lesson planning, curriculum planning and class outlines, teaching methods,
21 teaching aids, testing and evaluation;

22 (2) Fifty hours of psychology as applied to cosmetology, personality and teaching,
23 teacher evaluation, counseling, theories of learning, and speech;

24 (3) Fifty hours of business experience or management including classroom management,
25 record keeping, buying and inventorying supplies, and state law; and

26 (4) Three hundred hours of practice teaching in both theory and practical application.

27 4. ~~[For the purpose of meeting the minimum requirements for examination, training~~
28 ~~completed within a school of cosmetology by an instructor trainee shall be recognized by the~~
29 ~~board for a period of no more than five years from the date it is received.~~

30 ~~———5.]~~ The six hundred hours required pursuant to subsection 3 of this section may be
31 reduced as follows:

32 (1) Three years of experience as a ~~[practicing]~~ **licensed cosmetologist, esthetician, or**
33 **manicurist** may be substituted for three hundred hours of training. The three hundred hours will
34 be partially reduced in proportion to experience **as a licensee** greater than six months but less
35 than three; or

36 (2) Four and one-half college credit hours in teaching methodology, as defined by rule,
37 may be substituted for three hundred hours of training. Applicants requesting credit shall submit
38 to the board a certified transcript together with a course description certified by the

39 administrating education institution as being primarily directed to teaching methodology. The
40 three hundred hours will be partially reduced in proportion to college credit hours in teaching
41 methodology of less than four and one-half hours; or

42 (3) Applicants who apply from states where the requirements are not substantially equal
43 to those in force in Missouri at the time of application, may be eligible for the examination if
44 they provide[:

45 ~~——(a)] an affidavit verifying a current, valid instructor license in another state, territory of~~
46 ~~the United States, District of Columbia, or foreign country, state or province[; and~~

47 ~~——(b) Proof of full-time work experience of not less than one year as a cosmetology~~
48 ~~instructor within the three-year period immediately preceding the application for examination].~~

2 329.085. 1. Any person desiring an instructor license shall submit to the board a written
2 application on a form supplied by the board showing that the applicant has met the requirements
3 set forth in section 329.080. An applicant who has met all requirements as determined by the
4 board shall be allowed to take the instructor examination, including any person who has been
5 licensed three or more years as a cosmetologist, manicurist or esthetician. If the applicant passes
6 the examination to the satisfaction of the board, the board shall issue to the applicant an
7 instructor license.

8 2. The instructor examination fee and the instructor license fee for an instructor license
9 shall be nonrefundable.

10 3. The instructor license renewal fee shall be in addition to the regular cosmetologist,
11 esthetician or manicurist license renewal fee. For each renewal the instructor shall submit proof
12 of having attended a teacher training seminar or workshop at least once every two years,
13 sponsored by any university, or Missouri vocational association, or bona fide state cosmetology
14 association specifically approved by the board to satisfy the requirement for continued training
15 of this subsection. Renewal fees shall be due and payable on or before the renewal date and, if
16 the fee remains unpaid thereafter in such license period, there shall be a late fee in addition to
17 the regular fee.

18 4. Instructors duly licensed as physicians or attorneys or lecturers on subjects not directly
19 pertaining to the practice pursuant to this chapter need not be holders of licenses provided for
20 in this chapter.

21 5. The board shall grant instructor licensure upon application and payment of a fee
22 equivalent to the sum of the instructor examination fee and the instructor license fee, provided
23 the applicant establishes compliance with the [e~~o~~s~~m~~e~~t~~o~~l~~o~~g~~y] instructor requirements of another
24 state, territory of the United States, or District of Columbia [~~wherein the requirements are~~
25 ~~substantially equal or superior to those in force in Missouri at the time the application for~~

26 ~~licensure is filed]~~ and the applicant holds a current instructor license in the other jurisdiction at
27 the time of making application.

28 6. Any person licensed as a cosmetology instructor prior to the training requirements
29 which became effective January 1, 1979, may continue to be licensed as such, provided such
30 license is maintained and the licensee complies with the continued training requirements as
31 provided in subsection 3 of this section. Any person with an expired instructor license that is not
32 restored to current status within two years of the date of expiration shall be required to meet the
33 training and examination requirements as provided in this section and section 329.080.

329.130. ~~[4-]~~ The board shall grant without examination a license to practice
2 cosmetology to any applicant who holds a current license that is issued by another state, territory
3 of the United States, or the District of Columbia whose requirements for licensure are
4 ~~[substantially equal]~~ **similar** to the licensing requirements in Missouri at the time the application
5 is filed or who has practiced cosmetology for at least two consecutive years in another state,
6 territory of the United States, or the District of Columbia. The applicant under this ~~[subsection]~~
7 **section** shall pay the appropriate application and licensure fees at the time of making application.
8 A licensee who is currently under disciplinary action with another board of cosmetology shall
9 not be licensed by reciprocity under the provisions of this chapter.

10 ~~[2- Any person who lawfully practiced or received training in another state who does not~~
11 ~~qualify for licensure without examination may apply to the board for licensure by examination.~~
12 ~~Upon application to the board, the board shall evaluate the applicant's experience and training~~
13 ~~to determine the extent to which the applicant's training and experience satisfies current Missouri~~
14 ~~licensing requirements and shall notify the applicant regarding his or her deficiencies and inform~~
15 ~~the applicant of the action that he or she must take to qualify to take the examination. The~~
16 ~~applicant for licensure under this subsection shall pay the appropriate examination and licensure~~
17 ~~fees.]~~

329.275. 1. The practices of cosmetology and barbering shall not include hair
2 braiding, except that, nothing in this section shall be construed as prohibiting a licensed
3 cosmetologist or barber from performing the service of hair braiding.

4 2. No person shall engage in hair braiding for compensation in the state of Missouri
5 without first registering with the board. Applicants for a certificate of registration to
6 engage in hair braiding shall submit to the board an application and a required fee, as set
7 by the board. Such fee shall not exceed twenty dollars. Prior to receiving a certificate,
8 each applicant shall also watch an instructional video prepared by the board in accordance
9 with subsection 4 of this section. An applicant for a certificate of registration may be
10 denied such certificate if the applicant has pleaded guilty to, entered a plea of nolo

11 contendere to, or been found guilty of any of the offenses set forth in subsection 6 of section
12 329.050.

13 **3. Registered hair braiders shall keep their information that the board requires for**
14 **initial registration current and up to date with the board.**

15 **4. The board shall develop and prepare an instructional video, at least four hours**
16 **but no more than six hours in length, that contains information about infection control**
17 **techniques and diseases of the scalp that are appropriate for hair braiding in or outside of**
18 **a salon setting and any other information to be determined by the board. The instructional**
19 **video shall be made available to applicants through the division of professional**
20 **registration's website. The board shall also develop and prepare a brochure that contains**
21 **a summary of the information contained in the instructional video. The brochure shall be**
22 **made available through the division of professional registration's website, or by mail, upon**
23 **request, for a fee to cover the board's mailing costs.**

24 **5. Any person who registers as a hair braider under this section shall post a copy**
25 **of his or her certificate of registration in a conspicuous place at his or her place of business.**
26 **If the person is operating outside his or her place of business he or she shall provide to the**
27 **client or customer a copy of his or her certificate of registration upon the client's or**
28 **customer's request.**

29 **6. (1) The board may inspect hair braiding establishments or facilities where hair**
30 **braiding occurs one time per year during business hours to ensure:**

31 **(a) Persons registered as hair braiders are not operating outside the scope of**
32 **practice of hair braiding; and**

33 **(b) Compliance with this section and rules promulgated thereunder.**

34 **(2) Additionally, if a customer or client submits a complaint to the board about a**
35 **hair braider, the board may inspect such hair braider's establishment during regular**
36 **business hours. This inspection shall not count toward the one time inspection limit set**
37 **forth in subdivision (1) of this subsection.**

38 **(3) In addition to the causes listed in section 329.140, the board may also suspend**
39 **or revoke a certificate of registration if a person registered as a hair braider is found to be**
40 **operating outside the scope of practice of hair braiding.**

41 **7. Nothing in this section shall apply to any cosmetologists licensed to practice in**
42 **this state in their respective classifications.**

2 ~~[328.100. The board may at any time require any barber to whom a~~
3 ~~certificate of registration is issued to be examined at the licensee's expense by a~~
 ~~licensed physician to ascertain if such barber is free of infectious or contagious~~

4 ~~diseases and is not afflicted with any physical or mental ailment which would~~
5 ~~render him unfit to practice the occupation of barbering.]~~

✓



State of California
Edmund G. Brown Jr., Governor

Agenda Item 20
August 9, 2018

**Review, Discuss, and Possible Action Regarding the Use of Cannabidiol (CBD) by
Doctors of Chiropractic to Treat Patients**

Purpose of the item

The Board will have an opportunity to discuss the use of Cannabidiol (CBD) by Doctors of Chiropractic.

Action(s) requested

N/A

Background

Last year, California legalized the recreational use of cannabis for those 21 and over. As a result, the Board has received numerous inquiries to “chiroinfo” on the Boards’ position on CBD. The second most asked question is that, “Since recreational use of Marijuana is legal, can a doctor of chiropractic furnish CBD in their practice?” The Board has not taken a position on these questions and state law governing the practice of chiropractic do not directly address the use of CBD.

Although California passed Proposition 64 (2017), which permits the recreational use of cannabis, cannabis or any product derived from it remains illegal under federal law. According to Drug Enforcement Agency (DEA) guidance from 2016, marijuana remains a schedule I controlled substance because it does not meet the criteria for currently accepted medical use in treatment in the United States, there is a lack of accepted safety for its use under medical supervision, and it has a high potential for abuse.

Recommendation(s)

N/A

Next Step

N/A

Attachment(s)

N/A



State of California
Edmund G. Brown Jr., Governor

Agenda Item 21
August 9, 2018

Review, Discuss, and Possible Action Regarding Telehealth

Purpose of the item

The Board will discuss use of telehealth by Doctors of Chiropractic.

Action(s) requested

N/A

Background

Telehealth is another question frequently addressed by the Board. Although, the Board's law does not directly address the question of telehealth, Division 2 of the Business and Professions Code, Section 2290.5 does authorize healthcare providers to provide these services.

2290.(a)(6)

Telehealth is defined as the mode of delivering health care services and public health via information and communication technologies to facilitate the diagnosis, consultation, treatment, education, care management, and self-management of a patient's health care while the patient is at the originating site and the health care provider is at a distant site.

2290.5(b)

Prior to the delivery of health care via telehealth, the health care provider initiating the use of telehealth shall inform the patient about the use of telehealth and obtain verbal or written consent from the patient for the use of telehealth as an acceptable mode of delivering health care services and public health. The consent shall be documented.

Recommendation(s)

N/A

Next Step

N/A

Attachment(s)

- Business and Professions Code, Section 2290.5

Code Section

 leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml

2290.5.

(a) For purposes of this division, the following definitions shall apply:

- (1) "Asynchronous store and forward" means the transmission of a patient's medical information from an originating site to the health care provider at a distant site without the presence of the patient.
- (2) "Distant site" means a site where a health care provider who provides health care services is located while providing these services via a telecommunications system.
- (3) "Health care provider" means either of the following:
 - (A) A person who is licensed under this division.
 - (B) A marriage and family therapist intern or trainee functioning pursuant to Section 4980.43.
- (4) "Originating site" means a site where a patient is located at the time health care services are provided via a telecommunications system or where the asynchronous store and forward service originates.
- (5) "Synchronous interaction" means a real-time interaction between a patient and a health care provider located at a distant site.
- (6) "Telehealth" means the mode of delivering health care services and public health via information and communication technologies to facilitate the diagnosis, consultation, treatment, education, care management, and self-management of a patient's health care while the patient is at the originating site and the health care provider is at a distant site. Telehealth facilitates patient self-management and caregiver support for patients and includes synchronous interactions and asynchronous store and forward transfers.

(b) Prior to the delivery of health care via telehealth, the health care provider initiating the use of telehealth shall inform the patient about the use of telehealth and obtain verbal or written consent from the patient for the use of telehealth as an acceptable mode of delivering health care services and public health. The consent shall be documented.

(c) Nothing in this section shall preclude a patient from receiving in-person health care delivery services during a specified course of health care and treatment after agreeing to receive services via telehealth.

(d) The failure of a health care provider to comply with this section shall constitute unprofessional conduct. Section 2314 shall not apply to this section.

(e) This section shall not be construed to alter the scope of practice of any health care provider or authorize the delivery of health care services in a setting, or in a manner, not otherwise authorized by law.

(f) All laws regarding the confidentiality of health care information and a patient's rights to his or her medical information shall apply to telehealth interactions.

(g) This section shall not apply to a patient under the jurisdiction of the Department of Corrections and Rehabilitation or any other correctional facility.

(h) (1) Notwithstanding any other provision of law and for purposes of this section, the governing body of the hospital whose patients are receiving the telehealth services may grant privileges to, and verify and approve credentials for, providers of telehealth services based on its medical staff recommendations that rely on information provided by the distant-site hospital or telehealth entity, as described in Sections 482.12, 482.22, and 485.616 of Title 42 of the Code of Federal Regulations.

(2) By enacting this subdivision, it is the intent of the Legislature to authorize a hospital to grant privileges to, and verify and approve credentials for, providers of telehealth services as described in paragraph (1).

(3) For the purposes of this subdivision, "telehealth" shall include "telemedicine" as the term is referenced in Sections 482.12, 482.22, and 485.616 of Title 42 of the Code of Federal Regulations.

(Amended by Stats. 2015, Ch. 50, Sec. 1. (AB 250) Effective January 1, 2016.)



State of California
Edmund G. Brown Jr., Governor

Agenda Item 28
August 9, 2018

Update, Discussion and Possible Action on Pending Rulemaking

Purpose of the item

The Board will receive a status update on pending regulatory proposals.

Action(s) requested

No action requested at this time.

Background

The Board currently has eight regulatory proposals in various stages of completion.

June 7th, 2018, the Board's Application and CE regulation was approved by the Office of Administrative Law. The changes are effective October 1, 2018.

Staff is actively working on changes to the CE, Curriculum, and the Uniform Standards and Disciplinary Guidelines regulations. Following the approval of the Application and CE regulation, legal counsel has been informed to resume review of the Delegation of Authority and Consumer Protection Enforcement Initiative (CPEI) regulation packages.

Recommendation(s)

No recommendations at this time.

Next Step

N/A

Attachment(s)

1. BCE regulation tracking sheet
2. BCE regulation summary sheet

BCE List of Prioritized Proposed Regulatory Changes

Group A – Legislatively Mandated

Status

1	Application for Licensure (CCR Section 321) and Exemptions and Reduction of Requirement (CCR Section 364)	Regulation was approved by OAL on 6/7/18. Effective 10/1/2018
2	Consumer Protection Enforcement Initiative	Rulemaking was submitted to DCA for initial review on 9/7/17. Package is currently with legal.
3	Revisions to BCE Disciplinary Guidelines & Uniform Standards for Substance Abusing Licensees	Package under development at the Board.

Group B

Status

1	Delegation of Authority to the Assistant Executive Officer	Rulemaking was submitted to DCA for initial review on 9/7/17. Package is currently with legal.
3	Mandatory Cardiopulmonary Resuscitation (CPR) Certification for all licensees	Package under development at the Board.
4	Comprehensive Revisions/Updates to CCR Article 4 (Sections 330 – 331.16) – Approved Schools & Qualifications of Applicants (Curriculum Requirements)	Licensing Committee is working with stakeholders to develop this package. Chiropractic Colleges have submitted recommended changes regarding this regulatory proposal.

Group C

Status

1	Chiropractic Records Retention/Disposition of Patient Records Upon Closure of Practice or Death/Incapacity of Licensee	Approved rulemaking process 4/16/15
2	Continuing Education Requirements (CE Provider and Course Approval)	Package under development at the Board. Committee is currently working through policy issues regarding this regulatory proposal.
3	Amend or Repeal CCR Section 354 - Successful Examination (Obsolete provision)	Rulemaking not yet started

BCE List of Prioritized Proposed Regulatory Changes

<u>Proposed Regulation</u>	<u>Proposed Change(s)</u>
Application for Licensure (CCR Section 321) Exemptions and Reduction of Requirement (CCR Section 364)	The BCE will amend the application for licensure to comply with new legislation which will assist agencies in identifying past or present members of the military and their spouses in order to expedite the licensure process for these individuals. Additionally, the regulation would amend the CE regulations for consistency with the provisions of BPC section 114.3 to waive renewal fees, continuing education requirements, and other requirements for active duty members of the U.S. military. Also, the regulation proposes to allow the Board to award up to 16 hours of CE credit to licensees who participate in the review and revision of the California Law and Professional Practices Examination.
Consumer Protection Enforcement Initiative	The proposed changes would add or amend 12 sections within the California Code of Regulations that would establish stricter reporting and disclosure requirements by licensees and applicants and increase the board's enforcement authority and access to critical information for use in investigations.
Uniform Standards for Substance Abusing Licensees	The BCE will need to review and possibly amended the SB 1441 Uniform Standards for Substance Abusing Licensees. Ultimately, the Uniform Standards will be incorporated by reference into the Board's Disciplinary Guidelines.
Delegation of Authority to the Assistant Executive Officer	The proposed regulation would delegate to the Board's Assistant Executive Officer the authority to approve settlement agreements for revocation, surrender, and interim suspension of a license, or allow the Executive Officer to delegate this function to another designee.
Revisions to BCE Disciplinary Guidelines	The BCE's Disciplinary Guidelines are being revised to streamline the enforcement process and provide greater protection to consumers.
Mandatory Cardiopulmonary Resuscitation (CPR) Certification for all licensees	The regulation will add a new section CCR 371.1 which would require as a condition of licensure and license renewal all licensees maintain current CPR certification or basic life support from specified entities approved by the Board. Also, a licensee may earn 2 hours of CE for completion of CPR/BLS course. The regulation would also make technical and clarifying amendments for consistency and clarity.
Comprehensive Revisions/Updates to CCR Article 4 (Sections 330 – 331.16) – Approved Schools & Qualifications of Applicants (Curriculum Requirements)	
Chiropractic Records Retention/Disposition of Patient Records Upon Closure of Practice or Death/Incapacity of Licensee (Amendment to CCR Sections 312.2 and 318)	
CE Requirements (CE Provider and Course Approval)	
Amend or Repeal CCR Section 354 - Successful Examination (Obsolete provision)	