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BUSINESS AND PROFESSIONS CODE - BPC

DIVISION 3. PROFESSIONS AND VOCATIONS GENERALLY [5000 - 9998.11] (*Heading of Division 3 added by Stats. 1939, Ch. 30.)*

CHAPTER 10. Barbering and Cosmetology [7301 - 7426.5] (*Chapter 10 repealed and added by Stats. 1990, Ch. 1672, Sec. 3.)*

ARTICLE 12. Administrative Fines and Citations [7406 - 7414] (*Article 12 added by Stats. 1990, Ch. 1672, Sec. 3.)*

7406. In addition to the authority to conduct disciplinary proceedings under this chapter, the board, through its duly authorized representatives, shall have authority to assess administrative fines for the violation of any section of this chapter or the violation of any rules and regulations adopted by the board under this chapter.

(*Amended by Stats. 2003, Ch. 788, Sec. 64. Effective January 1, 2004.*)

7407. The board shall establish by regulation a schedule of administrative fines for violations of this chapter that directly impact consumer safety. All moneys collected under this section shall be deposited in the board's contingent fund.

The schedule shall indicate for each type of violation whether, in the board's discretion, the violation can be corrected. The board shall ensure that it and the Bureau for Private Postsecondary Education do not issue citations for the same violation.

(*Amended by Stats. 2021, Ch. 648, Sec. 28. (SB 803) Effective January 1, 2022.*)

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

(b) (1) The board shall establish by regulation a board-offered remedial education program, in lieu of a first offense of a health and safety violation.

(2) The board may impose a fee to cover the reasonable regulatory cost of administering the program described in paragraph (1).

(*Amended by Stats. 2023, Ch. 603, Sec. 1. (SB 384) Effective January 1, 2024.*)

7408. The board, through its duly authorized representatives, shall issue a citation with respect to any violation for which an administrative fine may be assessed. Each citation shall be in writing and shall describe with particularity the nature of the violation, including a reference to the specific provision alleged to have been violated. The administrative fine, if any, shall attach at the time the citation is written. The citation shall include an order to correct any condition or violation which lends itself to correction, as determined by the board pursuant to Section 7406.

(*Amended by Stats. 2003, Ch. 788, Sec. 66. Effective January 1, 2004.*)

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

(*Added by Stats. 2016, Ch. 233, Sec. 2. (SB 1044) Effective January 1, 2017.*)

7409. Any licensee served with a citation may avoid the payment of the associated administrative fine by presentation of written proof satisfactory to the board, or its executive officer, that the violation has been corrected. This provision applies only to a licensee's first violation in any three-year period of any single provision of this chapter or the rules and regulations adopted pursuant

to this chapter. Proof of correction shall be presented to the board, through its executive officer, in a time and manner prescribed by the board. The board may, in its discretion, extend for a reasonable period the time within which to correct the violation upon the showing of good cause. Notices of correction filed after the prescribed date shall not be acceptable and the administrative fine shall be paid.

(Amended by Stats. 2003, Ch. 788, Sec. 67. Effective January 1, 2004.)

7410. Persons to whom a notice of violation or a citation is issued and an administrative fine assessed may appeal the citation to a disciplinary review committee established by the board. All appeals shall be submitted in writing to the program within 30 days of the date the citation was issued. Appeals of citations that are not submitted in a timely manner shall be rejected.

After a timely appeal has been filed with the program, the administrative fine, if any, shall be stayed until the appeal has been adjudicated.

Persons appealing a citation, or their appointed representatives, may appear in person before the disciplinary review committee. The appellant may present written or oral evidence relating to the facts and circumstances relating to the citation that was issued. Following an appeal to a disciplinary review committee, the disciplinary review committee shall issue a decision, based on findings of fact, which may affirm, reduce, dismiss, or alter any charges filed in the citation. In no event shall the administrative fine be increased. The appellant shall be provided with a written copy of the disciplinary review committee's decision relating to the appeal.

(Amended by Stats. 2010, Ch. 415, Sec. 28. (SB 1491) Effective January 1, 2011.)

7411. Persons receiving a decision from a disciplinary review committee may appeal the decision by filing a written request, within 30 days after receipt of the decision, to the program administrator. Following a hearing to appeal the decision of a disciplinary review committee, the director shall thereafter issue a decision, based on findings of fact, affirming, modifying or vacating the citation or penalty, or directing other appropriate relief. In no event shall the administrative fine be increased. The hearing to contest the decision of a disciplinary review committee shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the director shall have all powers granted therein.

(Amended by Stats. 1998, Ch. 970, Sec. 15. Effective January 1, 1999.)

7413. Appeals of citations not filed in a timely manner or failure of the appellant or the appellant's representative to appear before the disciplinary review committee at the appointed time except when good cause is shown, shall cause the citation to become final and there shall be no administrative appeal except as otherwise provided by law.

(Amended by Stats. 1998, Ch. 970, Sec. 17. Effective January 1, 1999.)

7414. The issuance of a license to, or the renewal of a license of, a person who fails to pay administrative fines that were not contested or that were contested but the appeal has been adjudicated may be made contingent upon all fines being paid in addition to any application, renewal, or delinquency fees which are required.

(Amended by Stats. 2016, Ch. 233, Sec. 3. (SB 1044) Effective January 1, 2017.)