

INITIAL STATEMENT OF REASONS

PROBLEM STATEMENT

The Legislature adopted the Astrologers' Registration Act (Business Code sections 7000-7008) because it found that some astrologers were providing the public with substandard astrological predictions and other services due to a limited knowledge of the principles of astrology and subjecting the public to unethical and illegal practices, in part due to a lack of understanding of the laws which apply to the practice of astrology and ethical considerations related to its practice. The Legislature also found that requiring registered astrologers to attend continuing education courses as a condition for renewal of a registration would protect the public welfare.

Section 7006 of the Business Code requires an astrologer to complete three units of continuing education satisfactory to the board as a condition for the renewal of a registration to practice astrology. The section, however, does not define a unit of continuing education and does not specify the subject matter that is to be covered for continuing education purposes. Rather, the section leaves that to the discretion of the Board. Finally, the section does not specify the procedures for approval of courses that will count toward the continuing education requirement and the procedures for documentation of satisfactory course completion.

BENEFITS

One impact of the regulations will be to improve the quality of astrological services and thereby improve the image and public perception of astrologers, increase the public's trust in astrology and, as a result, bring more business to each small astrologer. The benefits of continuing education also will likely reveal themselves in various cost savings, as registrants will learn of new techniques earlier and, by taking advantage of these advances, be able to improve and streamline their services. The Board also anticipates that consumers of astrological services will experience fewer instances of substandard astrological services and will be subjected to fewer instances of unethical or illegal behavior as a result of these regulations.

PURPOSE

Section 250, subdivisions (a) and (b): To protect consumers of astrological services by ensuring that registered astrologers remain competent in the practice of

astrology and ensuring that registered astrologers are familiar with ethical and legal issues related to the practice of astrology.

Section 250, subdivisions (c), (d), (e) and (f): To specify procedures that are needed so that the Board can efficiently and effectively enforce and administer the continuing education requirement.

NECESSITY

Section 250, subdivisions (a) and (b): These regulations may be the first of their kind. The Board looked for, but was unable to find any continuing education requirements established for astrologers by any other jurisdiction in the United States. The Board was also unable to find any recommendation on continuing education requirements from any professional organization dedicated to the improvement and enhancement of the practice of astrology. The Board did, however, find the following continuing education requirements set by the Legislature for some other professions licensed by the State of California (section citations are to the California Business and Professions Code):

- Clinical Social Worker, 36 hours every 2 years, section 4996.22
- Psychologist, 18 hours a year, section 2915
- Marriage and Family Therapist, 36 hours in 2 years
- Educational Psychologist, 36 hours in 2 years
- Licensed Professional Clinical Counselor, 18 hours a year

After considering continuing education requirements set by the Legislature for some other professions regulated by the State of California and the alternatives discussed below, the Board determined that eighteen hours annually, twelve hours of study on preparation and delivery of horoscopes and three hours each on ethical and legal issues in the field of astrology, would provide enough exposure time to adequately cover each topic and significantly increase an astrologer's familiarity with this material.

The proposed regulation requires 2/3 of the continuing education time to be in the preparation and delivery of horoscope. This is necessary because there is much more information that needs to be covered on this topic than on illegal business practices and ethics combined. Three hours each on ethics and illegal business practices is necessary because it is an adequate amount of time on an annual basis to keep registered astrologers familiar with these topics.

Section 250, subdivisions (c) and (d): Requiring that continuing education courses be approved by the Board is necessary to ensure that the courses are up to date and contain the information that will be more likely to ensure competent astrologers.

Section 250, subdivision (e) and (f): Requiring a provider to issue, and a registrant to keep, and to make available to the board upon request, a certificate of completion of continuing education credits is the least burdensome, effective way of ensuring that a registrant has satisfied his or her continuing education requirements. See discussion of alternatives below.

A registrant is required to keep a certificate of completion for the lesser of two years or until the registrant is no longer registered with the Board. This is necessary to ensure that the Board will have a one year opportunity to audit compliance for the previous year's continuing education.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS.

The Board relied on a memo prepared by the Business Economic Impact Group: titled "Defining Units of Continuing Education for Registered Astrologers by Number of Classroom Hours," December 15, 2011.

ECONOMIC IMPACT ASSESSMENT/ANALYSIS

According to Board records, as of April 1, 2012, there are 978 astrologers in California currently registered with the Board. This number has been relatively stable for a number of years. The Board does not anticipate that the number will change significantly as a result of these proposed regulations.

These regulations will require astrologers to take 18 hours a year of continuing education programming that has been approved by the Board. A review of educational classes in astrology now offered on the internet reveals that many classes are offered for a fee ranging from \$10 to \$30 per hour of training. The \$10 fee is often for a class that lasts for four to five hours. While these classes have not been approved by the Board, they present a reasonable starting point for estimating the cost of the continuing education required by this proposal.

The Board anticipates that the fees for approved classes will be \$10 to \$30 per hour of training, the same range as existing class offerings. The reasonable range of direct costs that a representative private person or business will necessarily incur in reasonable compliance with the proposed action is \$180 to \$540 per year-per astrologer. The average astrologer makes \$27,000 annually from providing astrological services.

While there will be some cost involved in applying for and receiving Board approval for a course, this should be easily offset by increased revenue to a provider because many more astrologers will be taking the courses because they will be mandatory. The Board has no information as to how many hours of continuing education are now taken voluntarily, but it is reasonable to assume that making eighteen hours per registered astrologers mandatory will substantially increase the number taken each year.

There is no indication that these regulations will result in astrologers hiring more assistants or letting any go. Also, although it is unknown whether new jobs will be created for this purpose, it is likely that some new jobs may be created to provide this new type of continuing education. Therefore, it is anticipated that these regulations will affect the creation of jobs but not the elimination of jobs within California.

The Board also anticipates that competition among providers to capture the mandatory continuing education market will provide pressure to keep fees from any significant increase. Based on the assumption that the cost for an hour of continuing education training ranges between \$10 to \$30, the total cost for eighteen hours would be \$180 to \$540 per year- per astrologer. Under this scenario, the total amount paid annually to continuing education providers by 978 registered astrologers would be \$176,000--\$528,000.

There is no reason to believe that these regulations will increase or reduce the number of astrologers doing business. However, it is possible that this will cause an increase in the number of businesses offering continuing education providers. Therefore, it is anticipated that there will be some effect on the creation of new businesses, but not likely to be any effect on the elimination of existing businesses in California due to these regulations.

The Board is not aware of any registered astrologer who has annual gross receipts in excess of \$2,000,000. Consequently we assume that all registered astrologers are operating a small business or are working for a small business. These

regulations may have a minimal affect on small business. It will cost each provider more annually, but it is also likely to increase the trust of the public in their services and potentially increase their revenues as a result.

The annual income derived from the practice of astrology varies widely among registered astrologers. While average astrologer salaries can vary greatly due to location and experience, the average salary for astrologer jobs is \$27,000.

<http://www.simplyhired.com/a/salary/search/q-astrologers> (as printed 12-15-2012)

Many astrologers practice astrology on a part-time basis and derive most of their annual income from sources other than the practice of astrology. Only 46 percent of astrologers earn 100 percent of their annual income from astrology.

In a 2008 study at Kepler College, researchers found that 37 percent of astrologists surveyed earned between 1 and 10 percent of their total annual salary from astrology-related practice. Only 46 percent of those surveyed earned 100 percent of their annual income from astrology. These results are similar to those from a 1994 study at Kepler, which found that many astrologists practice the trade on a part-time basis, or simply as a hobby, in addition to maintaining a full-time job. [http://www.ehow.com/info/8623058_salaries-astrologists.html, (as printed December 15, 2011).]

It seems unlikely that these regulations will encourage astrologers to expand their business. Also, any expansion of the number of businesses providing continuing education for this purpose will likely be minimal, if any. Therefore, the Board believes that these regulations will not affect the expansion of businesses currently doing business within California.

It is anticipated that both the public and astrologers will benefit from these regulations. One impact of the regulations will be to improve the quality of astrological services and thereby improve the image and public perception of astrologers, increase the public's trust in astrology and, as a result, bring more business to each small astrologer. Since astrologers will be more up to date in their knowledge and skilled in their provision of services, it is likely that the public will perceive them in higher regard and make use of those services. The benefits of continuing education also will likely reveal themselves in various cost savings, as registrants will learn of new techniques earlier and, by taking advantage of these advances, be able to improve and streamline their services. The Board also anticipates that consumers of astrological services will experience fewer instances of substandard astrological services and will be subjected to fewer instances of unethical or illegal behavior as a result of these regulations.

Consequently, it is likely that astrologers will attract more members of the public to seek out their services which would potentially increase their revenues.

The Board concludes that it is:

- (1) unlikely that the proposal will eliminate any jobs for astrologers or continuing education providers;
- (2) likely that the proposal will create an unknown number of jobs for providers of continuing education courses;
- (3) likely that the proposal will create an unknown number of new businesses providing continuing education for astrologers;
- (4) unlikely that the proposal will eliminate any existing businesses.
- (5) unlikely that the proposal will affect the expansion of businesses currently doing business in the state; and
- 6) the benefits to the public are for consumer protection and increased assurance that any such services will be provided professionally and accurately; and benefits to the astrological profession are that they are more likely to improve their perception in the public eye and potentially their revenues.

EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS

Although the proposed action *will* directly affect businesses statewide, including small businesses, the Board concludes that the economic impact, including the ability of California businesses to compete with businesses in other states, *will not* be significant. It is even possible that the proposal will make astrologers registered in California and providers of continuing education courses approved by the State of California more competitive with businesses in other states because of improvements to the image and public perception of California astrologers and the increased public's trust in services from astrologers who remain current in the field through continuing education.

The requirement that registered astrologers attend continuing education courses will affect small businesses because astrologers, most of whom are small businesses, will incur the expense of attending continuing education courses. However, the Board has determined that the cost for continuing education would

be minimal and insignificant in light of the low tuition charged for similar courses and the number of units required each year. Therefore, the proposed regulations will not have a significant statewide adverse economic impact directly on astrologers. See discussion above.

REASONABLE ALTERNATIVES TO THE REGULATION AND THE AGENCY'S REASONS FOR REJECTING THOSE ALTERNATIVES

[If no reasonable alternatives were proposed or considered and these regulations are not prescriptive, then state this for the record.]

Number of Hours Alternative 1 (selected/preferred alternative): Define one unit as six hours of continuing education.

Analysis: This alternative would require 18 hours of continuing education each year. This option would maximize the protection of the public resulting from continuing education it would require astrologers consider more information than option 2. This option also corresponds to the number of hours of annual continuing education set by the Legislature for a variety of regulated counseling type professions. Assuming that an hour of continuing education costs between \$10 to \$30 per hour, this option would cost a registrant between \$180--\$540 per year and would require 18 hours of time to be dedicated to continuing education. This option would create more of an economic burden for small businesses than *Number of Hours* Alternative 2. This option would also provide the most revenue to providers of continuing education and would result in more work for teachers of continuing education.

Number of Hours Alternative 2: Define one unit of continuing education as three hours of continuing education.

Analysis: This alternative would expose registrants to 9 hours of continuing education each year. This option would minimize the protection of the public resulting from continuing education because under this option registered astrologers would be exposed to less information than under *Number of Hours* Alternative 1. This option is half of the number of hours of annual continuing education set by the Legislature for a variety of regulated counseling type professions. Assuming that an hour of continuing education costs between \$10 to \$30 per hour, this option would cost a registrant between \$90--\$270 per year and would require 9 hours of time to be dedicated to continuing education. This option would have the lesser cost impact on small businesses. This option would also

provide the least revenue to providers of continuing education.

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Course Content Alternative 1 (selected/preferred alternative): Require a registrant to take a half unit in ethics, a half unit in avoiding illegal business practices, and two units in preparation and delivery of horoscopes.

Analysis: This alternative ensures that an astrologer takes courses in each of the three subject matter areas and takes a balanced approach to ensuring that each aspect of identified public interest is covered. It requires 2/3 of the continuing education time to be in the preparation and delivery of horoscope, which has much more information that needs to be covered than illegal business practices and ethics combined. There are no cost differences between course content alternatives. There is no difference in small business impact between course content alternatives.

Course Content Alternative 2: Allow a registrant to choose any approved course to satisfy all continuing education requirements.

Analysis: This alternative provides a registered astrologer with maximum flexibility in selecting courses he or she wishes to take. This alternative, however, would not ensure that an astrologer would take courses in each of the three subject matter areas that serve to protect different aspects of the public interest. There are no cost differences between course content alternatives. There is no difference in small business impact between course content alternatives.

Course Content Alternative 3: Require a registrant to take an equal number of hours in three subject matter areas: (1) preparation and delivery of horoscopes, (2) illegal business practices, (3) ethics.

Analysis: This alternative ensures that an astrologer takes courses in each of the three subject matter areas so that each aspect of identified public interest is covered. The amount of time required to be spent on each subject matter by this option is equal, but unbalanced because the preparation and delivery of horoscopes has far greater depth than illegal business practices and ethics combined. This option would require too much time to be spent on illegal business practices and ethics, and too little time to be spent on preparation and delivery of horoscopes. There are no cost differences between course content alternatives. There is no difference in small business impact between course content alternatives.

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Documentation Alternative 1 (selected/preferred alternative): Require a registrant to keep, and to make available to the board upon request, a certificate of completion of continuing education credits issued by a provider of a continuing education which documents the completion of an approved continuing education course. This approach satisfies both purposes of a documentation requirement and is less burdensome than the reporting requirement that Documentation Alternative 1 would establish.

Documentation Alternative 2: As part of the process for registration renewal, the applicant reports to the board which approved continuing education courses the applicant has completed and when each was completed. The purpose of the documentation requirement is to motivate an applicant for renewal to comply with the continuing education requirements and to provide the board with a means of checking on whether an applicant has actually satisfied the requirements. This universal reporting requirement is not necessary to achieve these purposes. A less burdensome, equally effective alternative is available.

Documentation Alternative 3: Require a registrant to certify as part of the application for renewal that he or she has completed the required continuing education courses. This alternative is the least burdensome approach, but it does nothing to encourage compliance and it fails to provide the Board with a way of checking on whether an applicant has actually satisfied the requirements.

DUPLICATION OR CONFLICT WITH FEDERAL REGULATIONS

[AGENCY IS A DEPARTMENT, BOARD, OR COMMISSION WITHIN THE ENVIRONMENTAL PROTECTION AGENCY, THE RESOURCES AGENCY, OR THE OFFICE OF THE STATE FIRE MARSHAL.

If the agency falls within one of the categories of agencies listed above, then the agency must describe its efforts, in connection with a proposed rulemaking action, to avoid unnecessary duplication or conflicts with federal regulations contained in the Code of Federal Regulations addressing the same issues. See Government Code section 11346.2, subdivision (b)(7).]