

**PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

**Communications Division  
Carrier Oversight & Programs Branch**

**RESOLUTION T-17464  
January 15, 2015**

**RESOLUTION**

**Resolution T-17464. Amending Resolution T-15630 authorizing the Executive Director to order disconnection of telephone numbers appearing in advertisements by unlicensed professional and vocational practitioners in compliance with Business and Professions Code Section 149.**

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**SUMMARY**

The Commission by Resolution T-15630 authorizes the Executive Director to order carriers to disconnect telephone numbers listed in alphabetical and classified directories by unlicensed professional and vocational practitioners in response to requests from the specified sixteen (16) boards, bureaus, committees, commissions or programs listed in Business and Professions (B&P) Code Section (§) 149. In 2014, state legislation revised B&P Code § 149 to expand the list of boards, bureaus, committees, commissions or programs from 16 to those agencies listed in Section 101 of the B&P Code (Stats. 2014, Ch. 395, Effective January 1, 2015) and to remove the requirement that the advertising appear in a telephone directory. This resolution:

- expands the authority granted in Resolution T-15630 and authorizes the Executive Director to order telephone corporations to disconnect telephone numbers upon request of any boards, bureaus, committees, commissions or programs listed in B&P Code § 101 without listing the boards, bureaus, committees, commissions, or programs to avoid the need to update this resolution in the event of changes in the B&P Code.
- deletes the requirement that the advertising appear in a telephone directory, and
- adopts a revised template of the Order to Disconnect.

**BACKGROUND**

On October 12, 1994, the Commission by Resolution T-15630 authorized the Executive Director of the California Public Utilities Commission (CPUC) to order telephone corporations to disconnect from service any telephone number listed in telephone

directories by an unlicensed professional or vocational practitioner, upon receiving proper written notification from the Executive of **any** of the sixteen agencies that were then designated in B&P Code § 149. The notice from the agency must state:

- 1) That it completed an investigation in compliance with B&P Code § 149(a);
- 2) That proper legal notice and opportunity for hearing was provided in compliance with B&P Code § 149(b);
- 3) That its citation informed the respondent that telephone service to numbers listed in the citation would be disconnected unless the respondent voluntarily disconnects the service or successfully appeals the citation pursuant to B&P Code § 149(c);
- 4) That the citation has become final either after a hearing or because it was not appealed; and
- 5) That the telephone service has not been voluntarily disconnected.

Resolution T-15630 identified the following sixteen agencies that could request a disconnection order:

- 1) Board of Barbering and Cosmetology,
- 2) Board of Funeral Directors and Embalmers,
- 3) Board of Examiners in Veterinary Medicine,
- 4) Hearing Aid Dispenser Board,
- 5) Board of Landscape Architects,
- 6) Board of Podiatric Medicine,
- 7) Respiratory Care Examining Committee,
- 8) Bureau of Home Furnishing and Thermal Insulation,
- 9) Bureau of Collections and Investigative Services,
- 10) Bureau of Electronic and Appliance Repair,
- 11) Bureau of Automotive Repair,
- 12) Tax Preparers Program,
- 13) Board of Architectural Examiners,
- 14) Speech-Language Pathology and Audiology Examining Committees,
- 15) Board of Registration for Professional Engineers and Land Surveyors,
- 16) Board of Behavioral Science Examiners

The Commission issued Resolution T-15630 to implement B&P Code § 149<sup>1</sup>, which authorized the Executive Director to order the disconnection of telephone numbers listed in the telephone directories by unlicensed professional and vocational

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<sup>1</sup> SB 2044 was approved by the Governor on September 28, 1992, and became effective January 1, 1993. B&P Section 149 is included in Section 2 of SB 2044.

practitioners. B&P Code § 149 was enacted as part of Senate Bill (SB) 2044, which prescribed procedures for controlling unlicensed activity in the regulated vocations and professions. B&P Code § 149 provides for the issuance of infraction notices, payment of a minimum fine of \$250, and/or appearance of the defendant in court. Further, it also provides a system for the issuance of administrative citations for unlicensed activities as well as the disconnection of telephone numbers that are unlawfully advertised in telephone directories. It requires the CPUC, upon receiving notification from the Executive of any agency specified in B&P Code § 149, to order telephone utilities to disconnect service to any telephone number listed in an unlawful advertisement in a telephone directory. As specified in B&P Code § 149, the request to the CPUC to order a disconnection is intended to be used when all other attempts to gain compliance have failed. The good faith compliance by a telephone corporation with an order of the CPUC to terminate service constitutes a complete defense to any action brought against the telephone corporation arising from the disconnection of service.

Since the issuance of Resolution T-15630, the Executive Director has issued numerous Orders to Disconnect to telephone corporations that have issued telephone numbers to unlicensed professional and vocational practitioners advertising in telephone directories. Of the 16 boards, bureaus, committees, commissions, or programs listed in Resolution T-15630, only the Bureau of Electronic and Appliance Repair, Home Furnishings and Thermal Insulation (BEARHFTI) has submitted requests for Orders to Disconnect to the CPUC.<sup>2</sup>

On September 17, 2014, the Governor approved Senate Bill 1243 amending certain sections of the B&P Code, which included an amendment to § 149 (Stats. 2014, Ch. 395 effective January 1, 2015). Significant amendments include

- the deletion of B&P code 149 (e) and instead amending B&P Code 149 (a) citing Section 101 of the B&P Code with respect to the agencies under the Department of Consumer Affairs which may issue a citation. Section 101 specifies 40 agencies and any other boards, offices, or officers subject to its jurisdiction by law, and
- the deletion of the requirement that the advertising appear in a telephone directory.

Since the issuance of Resolution T-15630, the list of agencies under the Department of Consumer Affairs had first been amended from 16 to 21 in Senate Bill 269 (Stats. 2013, Ch. 436, Sec. 1. Effective January 1, 2014), and then from 21 to 40 agencies listed in Section 101 of the B&P Code Stats. 2014, Ch.395, Effective January 1, 2015). It should be noted that while B&P Code Section 101 has specifically named 40 specific agencies, number 41 in the B&P Code §101 list refers to **any other boards, offices, or officers**

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<sup>2</sup> Formerly listed in Resolution T-15630 as two agencies: Bureau of Home Furnishing and Thermal Insulation and Bureau of Electronic and Appliance Repair.

**subject to its jurisdiction by law.** Thus, the agencies that may request CPUC to issue Orders to Disconnect may exceed the 40 specific agencies listed.

From comparing the 16 agencies listed in Resolution T-15630 with the current B&P Code, the list expansion involved: 1) renaming of some of the 16 agencies such as the Board of Examiners in Veterinary Medicine to The Veterinary Medical Board, 2) consolidation of some agencies such as the Bureau of Electronic and Appliance Repair and the Bureau of Automotive Repair to The Bureau of Electronic and Appliance Repair, Home Furnishings, and Thermal Insulation, and 3) the addition of new agencies such as The Acupuncture Board, The Structural Pest Control Board, and The Bureau for Private Postsecondary Education, The Bureau of Real Estate Appraisers, The Naturopathic Medicine Committee, The State Athletic Commission, among others.

## **DISCUSSION**

The number of boards, bureaus, committees, commissions, or programs listed in Resolution T-15630 and B&P Code § 149 has changed from 16 (in 1994) to more than 40 (based on the current B&P Code §101). By listing agencies in Resolution T-15630, the Commission may have limited its authority to order disconnects to those specified agencies and consequently, questions have arisen about whether carriers can refuse to implement disconnect orders based on requests of agencies not listed in Resolution T-15630. Thus, there is a need to amend Resolution T-15630 to make it consistent with the current B&P Code § 149 and to ensure that delegated authority covers all agencies listed in the B&P Code.

Further, the deletion of the requirement that limited the advertisement to that appearing in the a telephone directory also requires the revision of Resolution T-15630 not only to make it consistent with the current B&P Code but also to ensure that carriers implement the Orders of Disconnect that address unlawful advertising in whatever media it appears.

Finally, the Communications Division (CD), which prepares the Orders to Disconnect and monitors the compliance of the Executive Director's Orders to Disconnect issued to carriers, has discovered that there is a need to revise the current sample template attached to Resolution T-15630 for additional clarity in order to reflect information on where the unlawful advertisement was published. Although such information would help implement the disconnection order, it is not presently included.

## **RECOMMENDATION**

Accordingly, CD recommends three changes to the procedure governing disconnect orders:

- 1) The revised resolution should expand the list of agencies that can seek Orders to Disconnect from the Commission to conform to the current B&P Code and to amended list of agencies in B&P Code adopted in future legislation;
- 2) The revised resolution should delete the reference to advertising in telephone directory to conform to the current B&P Code; and
- 3) The Order to Disconnect letter should be revised for clarity to include information showing where the unlawful advertisement was published, as shown in the Attachment.

### **NOTICE AND PROTESTS**

In compliance with Public Utilities Code § 311 (g), the Commission on December 10, 2014 provided notice to all telephone carriers and the Department of Consumer Affairs informing them that this draft Resolution is available at the Commission's website <http://www.cpuc.ca.gov/> and is available for public comment. Additionally, CD informed these parties of the availability of the conformed resolution at the same website. No comments were received.

Notice of Draft Resolution T-17464 was published in the Commission Daily Calendar on December 12, 2014.

### **FINDINGS**

1. The Commission by Resolution T-15630 authorized the Executive Director of the CPUC to order the disconnection of telephone service of unlicensed professional and vocational practitioners in compliance with B&P Code § 149.
2. B&P Code § 149 requires the Executive Director of the CPUC, upon receiving notification from the Executive of any agency specified in B&P Code § 149, to order telephone carriers to disconnect service to any telephone number listed in an unlawful advertisement.
3. Of the boards, bureaus, committees, commissions, or programs listed in Resolution T-15630, only the Bureau of Electronic and Appliance Repair, Home Furnishings and Thermal Insulation (BEARHFTI) has been submitting requests for orders to disconnect to the CPUC.
4. The number of boards, bureaus, committees, commissions, or programs listed in Resolution T-15630 and B&P Code § 149 has increased from 16 to 41 (Stats. 2014, Ch.395, Effective January 1, 2015).

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5. Resolution T-15630 should be amended to authorize the Executive Director to order disconnections in accordance with B&P Code § 149.
6. This Resolution should authorize the Executive to issue Orders to Disconnects based on the request of agencies reflected in the current B&P Code and amended list of agencies in Business and Professions Code § 149 resulting from future statutory changes.
7. The Order to Disconnect letter in Resolution T-15630 should be revised for clarity to include information showing where the unlawful advertisement was published.
8. There were no comments received on the Draft Resolution.

**THEREFORE, IT IS ORDERED** that:

1. This resolution amends Resolution T-15630 authorizing the Executive Director to order the disconnection of telephone numbers appearing in advertisements by any unlicensed professional and vocational practitioners pursuant to requests from agencies listed in the current Business and Professions Code § 149 and amended list of agencies in Business and Professions Code § 149 resulting from future statutory changes.
2. The revised Order to Disconnect attached to this Resolution is adopted.

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This Resolution is effective today.

I hereby certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on January 15, 2015. The following Commissioners approved it:

/s/ Timothy Sullivan

TIMOTHY SULLIVAN  
Interim, Executive Director

MICHAEL PICKER

President

MICHEL PETER FLORIO

CATHERINE J.K. SANDOVAL

CARLA J. PETERMAN

LIANE M. RANDOLPH

Commissioners

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# Attachment



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Attachment to Resolution T-17464

PUBLIC UTILITIES COMMISSION  
505 Van Ness Avenue  
San Francisco, CA 94102

Date

Inside Address (Telephone Corporation)

Subject: Order to Disconnect

Mr./Ms. \_\_\_\_\_,

In accordance with the attached letter from the INSERT AGENCY FROM B&P SEC. 149, you are hereby ordered to disconnect, without referral, the service to the following telephone number(s) **which are (were) used in an unlawful advertisement in INSERT WHERE ADVERTISEMENT APPEARED/PUBLISHED, by an unlicensed professional or vocational practitioner**, which is believed to belong to \_\_\_\_\_.

(###) ###-####

**Before disconnecting the telephone number, please verify it belongs to \_\_\_\_\_.** If the above number(s) do not belong to \_\_\_\_\_, do not disconnect it. Instead, please inform INSERT B&P SEC. 149(e) AGENCY CONTACT, ADDRESS, of the fact.

**According to B&P SEC. 149(e) AGENCY, \_\_\_\_\_, operating under the name of \_\_\_\_\_, has operated without a valid license in violation of the law. Despite numerous contacts by B&P SEC. 149(e) AGENCY investigators, \_\_\_\_\_ failed to comply. Further, despite having citations issued to cease and desist the conduct, \_\_\_\_\_ continues to operate without a license.**

Section 149(d) of the Business and Professions Code states that the good faith compliance by a telephone corporation with an order of the Public Utilities Commission to terminate service shall constitute a complete defense to any action brought against the telephone corporation arising from the termination of service.

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California Public Utilities Commission Resolution **T-17464** dated \_\_\_\_\_, directs the Executive Director to issue this order which is deemed to be the order of the Commission.

Please confirm by letter to me the date of the disconnection, with a **copy to the Agency Representative of the B&P SEC. 149(e) AGENCY** named in the attached letter. **If you have any questions about this request, please contact \_\_\_\_\_ in our Communications Division at (415) ###-####.**

Sincerely,

TIMOTHY SULLIVAN  
Interim Executive Director

Attachment