

**CALIFORNIA
BOARD OF BARBERING AND COSMETOLOGY**



JANUARY 9, 2023

ENFORCEMENT AND INSPECTIONS COMMITTEE

**PUBLIC
TELECONFERENCE**



**CALIFORNIA BOARD
OF
BARBERING AND COSMETOLOGY**



**MEMBERS OF THE
COMMITTEE**

Tonya Fairley
Kellie Funk
Danielle Munoz
Steve Weeks

**ENFORCEMENT AND
INSPECTIONS MEETING**

**PUBLIC TELECONFERENCE
MEETING**

January 9, 2023

**11:30 A.M. or upon Adjournment
of the Education and Outreach
Committee Meeting - Until
Completion of Business**

*Action may be taken on
any item listed on the
agenda.*

**The Board may take action on any
agenda item.**

NOTE: Pursuant to Government Code section 11133, neither a public location nor teleconference locations are provided. Public participation may be through teleconferencing as provided below.

Important Notices to the Public: The Board of Barbering and Cosmetology will hold a public meeting via a WebEx Events. To participate in the WebEx Events meeting, please log on to this website the day of the meeting:

<https://dca-meetings.webex.com/dca-meetings/j.php?MTID=m6b0e07c08e70b2acc99ab53cd1b38b10>

Webinar number: 2497 860 8961

Webinar password: BBC01092023

Instructions to connect to the meeting can be found at:

https://www.barbercosmo.ca.gov/about_us/meetings/how_to_join_webex_event.pdf

Members of the public may but are not obligated to provide their names or personal information as a condition of observing or participating in the meeting. When signing into the WebEx platform, participants may be asked for their name and email address. Participants who choose not to provide their names will be required to provide a unique identifier such as their initials or another alternative, so that the meeting moderator can identify individuals who wish to make public comment; participants who choose not to provide their email address may utilize a fictitious email address in the following sample format: XXXXX@mailinator.com.

In order to ensure all public members have an opportunity to speak and in the interest of time, public comments will be limited to two minutes unless, in the discretion of the committee, circumstances require a shorter period or longer period; members of the public will not be permitted to "yield" their allotted time to other members of the public to make comments.

As an alternative, members of the public who wish to observe the meeting without making public comment can do so (provided no unforeseen technical difficulties) at

<https://thedcapage.wordpress.com/webcasts/>

AGENDA

1. Call to Order/ Roll Call/ Establishment of Quorum
2. Discussion and Possible Approval of the October 10, 2022, Committee Meeting Minutes
3. Discussion and Possible Recommendation Regarding Remedial Education to Reduce or Remove Administrative Fines
4. Public Comment on Items Not on the Agenda
Note: The Committee may not discuss or take any action on any item raised during this public comment section, except to decide whether to place the matter on the agenda of a future meeting (Government Code Sections 11125, 11125.7(a))
5. Agenda Items for the Next Meeting
6. Adjournment

The time and order of agenda items are subject to change at the discretion of the Committee Chair and may be taken out of order. In accordance with the Bagley-Keene Open Meeting Act, all meetings of the Committee are open to the public.

*Government Code section 11125.7 provides the opportunity for the public to address each agenda item during discussion or consideration by the Committee prior to the Committee taking any action on said item. Members of the public will be provided appropriate opportunities to comment on any issue before the Committee, but the Committee Chair may, at his or her discretion, apportion available time among those who wish to speak. Individuals may appear before the Committee to discuss items not on the agenda; however, the Committee can neither discuss nor take official action on these items at the time of the same meeting (Government Code sections 11125, 11125.7(a)).

The meeting is being held via WebEx Events. The meeting is accessible to the physically disabled. A person who needs disability-related accommodation or modification in order to participate in the meeting may make a request by contacting: Natalie Mitchell at (916) 244-6644, email: natalie.mitchell@dca.ca.gov or send a written request to the Board of Barbering and Cosmetology, PO Box 944226, Sacramento, CA 94244. Providing your request is a least five (5) business days before the meeting will help to ensure availability of the requested accommodations. TDD Line: (916) 322-1700.

Agenda Item
No. 1
No Attachments

DRAFT
CALIFORNIA STATE BOARD
OF
BARBERING AND COSMETOLOGY

ENFORCEMENT AND INSPECTIONS COMMITTEE MEETING

MINUTES OF OCTOBER 10, 2022

COMMITTEE MEMBERS PRESENT

Tonya Fairley
Danielle Munoz
Steve Weeks

STAFF MEMBERS PRESENT

Kristy Underwood, Executive Officer
Carrie Harris, Deputy Executive Officer
Sabina Knight, Board Legal Counsel
Allison Lee, Board Project Manager
Natalie Mitchell, Board Analyst

COMMITTEE MEMBERS ABSENT

Kellie Funk

1. AGENDA ITEM #1, CALL TO ORDER/ROLL CALL/ESTABLISHMENT OF QUORUM

Kristy Underwood called the meeting to order at approximately 10:20 a.m. and confirmed the presence of a quorum.

2. AGENDA ITEM #2, ELECTION OF COMMITTEE CHAIRPERSON

Steve Weeks disqualified himself.

MOTION: Danielle Munoz moved to nominate herself as Committee Chairperson. Ms. Fairley seconded.

Public Comment;

No comments were received from the public.

Motion to nominate Danielle Munoz as Committee Chairperson carried; 3 yes, 0 no, and 0 abstain, per roll call vote as follows:

The following Committee Members voted "Yes": Tonya Fairley, Danielle Munoz, and Steve Weeks.

3. AGENDA ITEM #3, DISCUSSION OF INSPECTION AND CITE AND FINE PROCESS.

Ms. Underwood stated that since this is the first Committee meeting, staff had prepared a flowchart for the Committee to see how the process of inspections and cite and fine works. The process is summarized as follows:

- A complaint is received.
- The Board determines whether it is within the Board's jurisdiction.

- If yes, a case is opened and forwarded to an analyst in the enforcement unit. The enforcement analyst looks at past history, the complaint, and whether consumer harm was involved.
- The analyst determines whether to send an inspector out immediately. One of the most common complaints received is unlicensed activity. The enforcement analyst would then send out an inspector to prove it.
 - If the analyst's decision is a no, the enforcement analyst will work with the complainant to obtain photographs, a questionnaire, and medical records. All this information will be reviewed. If the perpetrator is determined, they will get a questionnaire. The analyst reviews all that information and then makes a decision. More information will be obtained from the salon owner.
- A directed inspection will be conducted. This is when the inspection is referred by enforcement. It is separate from the routine inspection.
- Inspection results are then mailed to Sacramento. All inspectors in California work out of home bases. They compile their information weekly and send it to staff. They upload all photographs and any additional information. The inspection reports are done on paper. There is an ongoing project that might make the process go online soon.
- The information is directed to the cite and fine unit, which determines if there are violations that need to be cited. They will look at the history to determine the number of offenses and assess a fine accordingly.
- If there are violations, the inspection report is given to a cite and fine analyst who processes the citation and issues it. If there are no violations, the staff sends a letter to the establishment. The establishment gets the inspection report and the letter confirming no violation.
- After the citation is issued, the person who receives it has 30 days to appeal. If the appeal is received, it goes to the Disciplinary Review Unit, which then schedules the appeal hearings.

Ms. Fairley and Mr. Weeks thanked Ms. Underwood for the flow chart, adding that the information was insightful, especially to new Board members. Mr. Weeks requested that the information be included in the Board packet at the next meeting.

4. AGENDA ITEM #4, DISCUSSION AND POSSIBLE ACTION REGARDING REMEDIAL EDUCATION TO REDUCE OR REMOVE ADMINISTRATION FINES.

Ms. Underwood stated that remedial education had been brought up several times in other committees. Staff provided two examples of remedial education. The Department of Motor Vehicles has a traffic school opportunity for people who receive a ticket for a moving violation (such as a speeding ticket). If they meet certain requirements, the individuals are allowed to do an eight-hour traffic school to remove the violation from their record. The Minnesota Board of Cosmetology has a four-hour compliance infection control course available to licensees referred by the Minnesota Board.

Ms. Underwood stated that any remedial education requirement would need a statutory change. It will need a bill to be carried and will not happen quickly since there will be

much discussion around it. Ms. Underwood stated that the Committee would decide on the remedial education content later as experts will be called in to determine what content would be useful.

Ms. Underwood stated that determining what to do with remedial education was the most important thing. For instance, should it be allowed in a citation, and would it take the citation away from the record or take the fine away?

Ms. Fairley was excited about the prospects of remedial education. She indicated that when a licensee is fined or suspended, they are told to do a certain number of hours to have their licenses reinstated. These people, however, usually do not have anywhere concrete to go and educate themselves. She added that the Committee should evaluate what the offering would solve because it was clear from the DRC hearings that many people lacked additional education. She also felt that remedial education should be required for all violations regardless of the risk, depending on the number of violations. A person with a second violation would indicate that they had not learned from the first one, so any additional remedial education would not be helpful. Ms. Fairley felt that there has to be a cutoff on the number of times a person can take remedial education before the next consequence is decided.

Mr. Weeks also voiced support for remedial education. He felt that education should be available only for health and safety violations and only if a fine is assessed. It should also be available only if it's their first offense. Mr. Weeks also asked if the remedial education would raise staffing concerns. Ms. Underwood stated that staffing concerns would be there, but that was still a long way off since the Board would have to get a bill to give it authority. If the Committee favored remedial education, Ms. Underwood stated they would need to develop a firm plan. The plan would be reviewed and brought before the Committee again, after which the Committee could refer it to the Legislation Committee. The Legislation Committee would then obtain an author for a bill. Whatever each Committee decides would be to recommend it to the full Board eventually. Ms. Fairley stated that it would be good to start the process now because more violations were happening, and many licensees were being asked about any additional education they might have gotten when asking for reinstatement.

Chair Munoz also agreed with the idea of remedial education. She stated that capacity and cost should be considered and that the process should start with a pilot and see if it's worth building on. Chair Munoz also mentioned that education and comprehension should be considered to ensure that the education will be effective.

It was agreed that the next step would be for staff to come back with a more defined model that the Committee can work with. Mr. Weeks recognized and appreciated the way the Committee was dealing with issues and helping the Board.

Public Comment:

Jamie Schrabek of Precision Nails expressed gratitude that the Committee was addressing the topic and urged them to consider being the provider of whatever

education was approved. This would be the best way to control quality and ensure that education is available in multiple languages and is focused on the worst cases of health and safety rules that need to be addressed.

5. AGENDA ITEM #5, PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA

Jamie Schrabek of Precision Nails suggested that there should be more education for licensees and consumers about the complaint process and whether consumer harm must have taken place for a complaint to be filed. She stated that many licensed and unlicensed individuals were advertising their services on social media. She felt this was a concern because there was no actual establishment to inspect.

There were no additional comments from the public.

6. AGENDA ITEM #6, AGENDA ITEMS FOR THE NEXT MEETING

Chair Munoz requested a quick overview of what currently gets out to the licensees and the public about enforcement. Ms. Underwood mentioned that the same had been done for the Education and Outreach Committee. She suggested incorporating it into the Board meeting so that everyone will have a chance to get the same information. Ms. Fairley agreed, adding that at the next Board meeting, all committees should cover what went on at the meetings.

7. AGENDA ITEM #7, ADJOURNMENT

There being no further business to discuss, the meeting adjourned at approximately 10:48 a.m.



MEMORANDUM

DATE January 9, 2023

TO: Members, Enforcement and Inspections Committee

FROM: Kristy Underwood, Executive Officer

SUBJECT: Discussion and Possible Action Regarding Legislative Language for Remedial Education to Reduce or Remove Administrative Fines

On October 10, 2022, the Enforcement and Inspections Committee decided to proceed with discussions of the Board offering remedial education to remove an administrative fine for first offenses of health and safety violations. Since this would require a statutory change, below is proposed legislative language. If approved, the Committee may make a recommendation to bring the language before the full Board.

Section 7407.1 of the Business and Professions Code is amended to read:

- (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) The Board shall establish by regulation a remedial education program in lieu of a first offense of a health and safety violation, which may include a fee to cover the cost of administering the program.*

Agenda Items

No. 4-6

No Attachments