

**CALIFORNIA
BOARD OF BARBERING AND COSMETOLOGY**



SEPTEMBER 11, 2023

ENFORCEMENT AND INSPECTIONS COMMITTEE

**Department of Consumer Affairs
1625 North Market Boulevard
HQ1 Hearing Room #102
Sacramento, CA 95834**



**CALIFORNIA BOARD
OF
BARBERING AND COSMETOLOGY**



**MEMBERS OF THE
COMMITTEE**

Danielle Munoz, Chair
Tonya Fairley
Kellie Funk
Jacob Rostovsky
Steve Weeks

**ENFORCEMENT AND
INSPECTIONS COMMITTEE
MEETING NOTICE AND AGENDA**

**September 11, 2023
Department of Consumer Affairs
1625 North Market Boulevard
HQ1 Hearing Room #102
Sacramento, CA 95834**

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

**11:00 A.M. or upon Adjournment
of the Education and Outreach
Committee Meeting - Until
Completion of Business**

AGENDA

1. Call to Order/ Roll Call/ Establishment of Quorum
2. Discussion and Possible Approval of the March 13, 2023, Committee Meeting Minutes
3. Discussion and Possible Recommendation Regarding Criteria for Citing Practice of Medicine
4. Review and Discussion of New School Enforcement Webpage
5. 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))
6. Suggestions for Future Agenda Items
7. 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.

Note: This meeting will be Webcast, provided there are no unforeseen technical difficulties or limitations. To view the Webcast, please visit <https://thedcapage.wordpress.com/webcasts/>. If you wish to participate or to have a guaranteed opportunity to observe, please plan to attend at a physical location. Adjournment, if it is the only item that occurs after a closed session, may not be webcast.

*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 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 MARCH 13, 2023

COMMITTEE MEMBERS PRESENT

Danielle Munoz, Chair
Tonya Fairley
Kellie Funk
Jacob Rostovsky
Steve Weeks

STAFF MEMBERS PRESENT

Kristy Underwood, Executive Officer
Carrie Harris, Deputy Executive Officer
Alex Torkelson, Licensing and Operations Chief
Sabina Knight, Board Legal Counsel
Allison Lee, Board Project Manager
Natalie Mitchell, Board Analyst
Shelby Edmiston, HR Liaison/Presenter

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

Danielle Munoz, Committee Chair, called the meeting to order at approximately 10:15 a.m. and confirmed the presence of a quorum.

2. AGENDA ITEM #2, ELECTION OF COMMITTEE CHAIR

Motion: Ms. Fairley moved to nominate Danielle Munoz as Committee Chair. Ms. Funk seconded. Ms. Munoz accepted the nomination.

No comments were received from the public.

Motion to nominate Danielle Munoz as Committee Chair carried; 5 yes, 0 no, and 0 abstain, per roll call vote as follows:

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

3. AGENDA ITEM #3, DISCUSSION AND POSSIBLE APPROVAL OF THE JANUARY 9, 2023, COMMITTEE MEETING MINUTES.

Ms. Funk appreciated the detailed minutes, adding that they helped her understand the discussions at the last meeting that she could not attend.

Motion: Ms. Funk moved to approve January 9, 2023, Committee Meeting Minutes. Ms. Fairley seconded.

No comments were received from the public.

Motion to approve January 9, 2023, Committee Meeting Minutes carried; 4 yes, 0 no, and one abstain, per roll call vote as follows:

The following Committee Members voted “Yes”: Danielle Munoz, Tonya Fairley, Kellie Funk, and Steve Weeks.

The following Committee Members abstained: Jacob Rostovsky.

4. AGENDA ITEM #4, REVIEW AND DISCUSSION OF CURRENT INSPECTION PROCESS FOR SUITE OWNERS.

Ms. Underwood started the report by stating that salon suites are many salons in one large office building. These are popular nationwide, and many major companies opt for this business plan. An individual licensee can rent a suite, and then each suite gets its establishment license.

Ms. Underwood noted that the inspection process for salon suites changed with the COVID pandemic. She indicated that salon suites are different from the traditional walk-in type of service. They have a main entrance where a client walks in, and a directory listed where the client can look up the suite number of the licensee they will see. During COVID, the front doors were locked, and inspectors could not get in and do inspections. This then raised the question of how the inspections were being handled. Ms. Underwood indicated that the staff is handling them quite well. She noted that after the pandemic ended, most businesses locked their front doors for security reasons. Most clients call their licensees to come and let them in. On the other hand, the inspectors have not been able to get into some of the suites. They usually have to wait until somebody lets them in. Ms. Underwood stated that most salons are well-run, so they typically have no issues letting the inspectors in. There have been situations where the inspectors have had to call the licensee to be let in. Sometimes the inspectors have to wait longer than they would normally have before entering the building, but it works out for the most part. Ms. Underwood noted that most licensees had appreciated the process and had no problem letting in the inspectors.

Ms. Funk asked if it was possible to notify licensees that the inspectors were coming. The notice could be in the form of a letter a week ahead. She believed that this would ensure clarity in getting into the establishments. It would also allow the licensees to get their stuff in order and clean up. Ms. Underwood stated that issuing notices before inspections would not be possible because there are 55,000 salons and about 15 inspectors. If an inspectors receive a complaint for one salon, they might decide to inspect all the salons around that area in a day. For salons that are appointment-only or lock their doors due to security risks, inspectors usually call beforehand to make an appointment for inspections.

Ms. Funk loved the idea of making an appointment for inspections. She believed that inspections should be more of a check-in appointment between the government and the licensee to ensure that the licensee is doing things appropriately instead of busting them. She indicated that that would eliminate some smaller citations and show the licensee that the process is helpful and collaborative. Ms. Underwood stated that the inspection process has changed over the last ten years. Suppose an inspector goes into an establishment and finds several violations that are not necessarily connected to

consumer harm. In that case, the inspector will be sent back out to only check the violations related to consumer harm, like a dirty foot spa.

Ms. Underwood pointed out that an inspector can almost always find a violation in a salon. They try to make sure that one item, for example, a foot spa, which is a serious risk to consumers, is corrected.

Chair Munoz was concerned that giving prior notices would result in inspectors missing the natural points where there is an opportunity to educate. She added that if the inspectors do not see the violations, they would not know what areas to engage the licensees. Unlicensed practicing individuals can also decide not to go to work that day if they know that inspections will be happening.

Public Comment:

- Wendy Cochran stated that a pre-planned inspection would not be good, particularly in esthetics. She noted that prior notice would allow the licensee to eliminate all the illegal equipment they might have around the establishment. She added that the inspections need to have that element of surprise. Ms. Cochran also mentioned that she has been receiving reports from her group of estheticians about getting calls from inspectors. The estheticians wanted to know if the calls were coming from actual state employees trying to schedule an appointment or if it was an imposter or competition trying to haze them. Ms. Cochran indicated that there should be more transparency in getting the calls. She requested the Board make a public announcement on the website indicating that an inspector had visited the establishment and they would be calling to reschedule the appointment.

5. AGENDA ITEM #5, DISCUSSION AND POSSIBLE RECOMMENDATION REGARDING PLAN TO ADDRESS UNLICENSED INDIVIDUALS WORKING OUTSIDE OF ESTABLISHMENTS.

Ms. Underwood stated that since COVID, there has been an increase in the number of people working out of their homes or people advertising on Instagram. Staff had provided the Committee with data showing how much the number had increased. In the data, there was a graph that indicated the number of complaints received from people working out of their home or people advertising on Instagram. The number of complaints had risen to 378 in 2022 compared to 75 received in 2018. This rapid increase raised concerns that led staff to reach out to the Department's Division of Investigation which is the sworn peace officers that do all the investigation aspects of the DCA. Ms. Underwood indicated that the enforcement team met with the Division of Investigation to see how they could help. The Division gave staff some great pointers from the desk analyst standpoint. Ms. Underwood indicated that one of the biggest issues is identifying the people. It is difficult to determine whether the people advertising on Instagram are licensed. The licensed ones are easily located, and action is taken against them.

Ms. Underwood stated that dealing with the issue is ongoing. Staff will continue working with the Division of Investigations to identify the offenders since the Division has more access to information than the Board. She also noted that licensees could have a salon in their homes, but it has to be in the right way. They also need to have some additional requirements. She hoped that with the help of the Division, there would be success in addressing the issue.

Chair Munoz thanked Ms. Underwood for tackling the issue, adding that it has been an ongoing concern discussed at the Board level. She also inquired about the complaints and who they were coming from. Ms. Underwood stated that the complaints might be coming from someone unhappy with the service they received or from competitors. They could also be neighbors complaining since many cities do not allow such businesses to be done in homes. She indicated that the Board is working with every city and county and reporting the issues to them. She added that one of the biggest issues with home businesses is the disposal of chemicals. Most of them dispose of the chemicals down the drain, and that is a violation of city codes. Ms. Underwood further mentioned that there are situations where there has been consumer harm which the Board is looking into. However, most complaints came from people who paid a lot of money and got bad service.

Mr. Rostovsky wondered if the increase in home salons resulted from people not wanting to take the test because they believed it was hard. He noted that people might opt to start practicing at home because they do not want to bother with the test. He indicated that the Board should find a way to promote the test and encourage people to lower the rate of unlicensed practice. Ms. Funk agreed with Mr. Rostovsky's idea of appealing to unlicensed practitioners. She pointed out that unlicensed practicing is a huge risk to consumers, and it waters down the industry and lowers professionalism. She indicated that BarberCosmo's Instagram page would be a powerful communication tool to get out such a message.

Mr. Rostovsky stated that the other issue is how the consumers see the business. He noted that most are unaware of the dangers of unlicensed practicing and opt to do their hair or that of others at home. He added that consumers should do their due diligence about their service provider and ensure they are licensed. He further believed that if consumers stop using unlicensed practitioners because they understand the danger in that, then that would dissuade the unlicensed practitioners from practicing.

Chair Munoz echoed Mr. Rostovsky's sentiments concerning consumer awareness. Cosmetology has been the hardest-hit field since the materials are easily accessible. She acknowledged that the Instagram gig economy had blown up and that people love to do their makeup to save money. However, this is also the best time for consumers to ask their service providers if they have a license due to the risks involved. Otherwise, the consumers will have no recourse from the Board if the services they receive are unsatisfactory.

Ms. Funk proposed doing an Instagram campaign that will specifically target unlicensed practitioners. In addition to encouraging the practitioners to become licensed, the campaign should also aim to educate consumers.

Mr. Rostovsky also pointed out that the consumer's voice is powerful, particularly on social media. If consumers start talking against unlicensed practitioners, it would push them to get licensed.

Public Comment:

- Fred Jones stated that unlicensed practicing is a big issue for his association. He mentioned that people started working underground during the COVID lockdown. The word spread when they were not punished, and many people became comfortable working from home. Clients also became comfortable with it. Mr. Jones pointed out that one of the biggest issues his federation is trying to fight is an unlicensed underground activity because that threatens the industry's professionalism. He applauded staff for their efforts towards dealing with the issue. He further recommended preventive efforts, adding that since word spreads quickly, it would quickly be known that the Board is checking social media posts and taking action against the unlicensed activity.
- Ms. Sydney agreed that the prudent thing to do is to talk to the consumers. She supported the idea of doing an Instagram campaign for the consumer. She further believed that fighting unlicensed activity was the only way for the Board to protect consumers, licensees, and the students in beauty school working on getting their licenses.
- Wendy Cochran pointed out that the Personal Service Permit (PSP) only allows a few services for estheticians. For example, they can't do lashes or waxing, or hair removal services from their homes. She believed that leaning on the PSP alone would not solve the problem. Ms. Cochran also acknowledged that the market is currently saturated. She agreed that messaging consumers would be critical, adding that the Board should engage the licensees in achieving that. She also stated that the Board should urge licensees to see the importance of the licenses and professionalism. She mentioned that many people tell others to keep their eyes on their businesses and not disrupt anyone trying to make money. She, however, emphasized the need to encourage the licensed population to spread the word and protect their licenses.
- Jaime Schrabek pointed out that DCA already has the BreZE system that allows people to look up licenses that consumers are encouraged to use. She indicated all efforts would be futile since licensees are not required to advertise and do business with their licensed numbers and names. She noted that the only thing the Board can do is support legislation requiring licensees to advertise and do business with their licensed names and numbers.

6. AGENDA ITEM #6, PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA

No comments were received from the public.

7. AGENDA ITEM #7, SUGGESTIONS FOR FUTURE AGENDA ITEMS

Chair Munoz requested an update on the legislative language forwarded to the Board. Ms. Underwood stated that the update would be provided at the Board meeting. Ms. Underwood noted that the discussion regarding unlicensed practitioners and the Instagram campaign would be kept on the agenda.

8. AGENDA ITEM #8, ADJOURNMENT

There being no further business to discuss, the meeting adjourned at approximately 11:02 a.m.



MEMORANDUM

DATE	September 11, 2023
TO	Committee Members, Enforcement and Inspections Committee
FROM	Kristy Underwood, Executive Officer
SUBJECT	Agenda Item 3 – Discussion and Possible Recommendation Regarding Criteria for Citing Practice of Medicine

Issue:

The Board regularly issues citations for the practice of medicine for various services. Often, licensees state that they were not aware the procedure is considered the practice of medicine because it is being marketed as non-invasive.

Background:

Business and Professions Code Section 7320 states:

- (a) This chapter confers no authority to practice medicine or surgery. The practice of medicine shall not be performed by, or offered by, a licensee under this chapter without being authorized and licensed to perform that act pursuant to a license obtained in accordance with some other provision of law.

California Code of Regulations Section 991 states:

- (a) No licensee or student may use a product, device, machine, or other technique or combination of the same, which results in the removal, destruction, incision, or piercing of a client's skin beyond the epidermis. Any such act shall be considered an invasive procedure.
- (b) Invasive procedures include, but are not limited to, the following:
 - (1) Application of electricity which visibly contracts the muscle.
 - (2) Application of topical lotions, creams, serums or other substances which require a medical license to purchase.
 - (3) Penetration of the skin by metal needles, except electrolysis needles/wire filaments.
 - (4) Abrasion and/or exfoliation of the skin below the epidermal layers.
 - (5) Removal of skin by means of a razor-edged tool or similar device.

Staff Activity:

Board staff reached out to various other boards to discuss the types of services that are being offered. This meeting included representatives from:

- Medical Board of California
- Osteopathic Medical Board of California
- California Board of Registered Nursing
- Dental Board of California
- Physician Assistant Board
- The Department of Consumer Affairs (DCA) Executive Office
- DCA's Division of Investigation

During this meeting, various services were discussed and options on how to address the growing barbering and cosmetology services that appear to cross the line into the medical field. This group has another meeting scheduled where specific services and machines will be reviewed.

Action Needed:

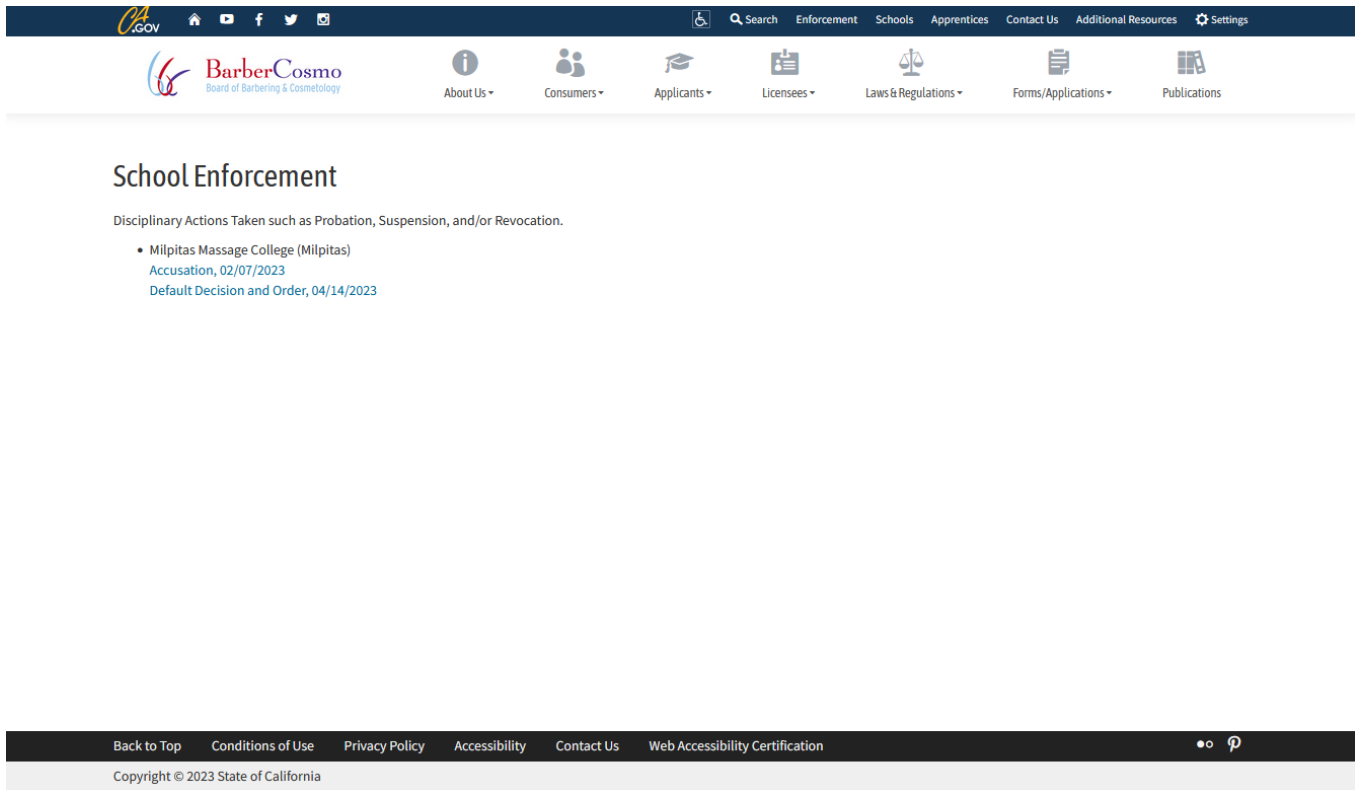
Board staff are not recommending any action at this time however, it should be noted that staff are reviewing inspection reports in detail to determine when a citation with a fine should be issued.



MEMORANDUM

DATE	September 11, 2023
TO	Committee Members, Enforcement and Inspections Committee
FROM	Kristy Underwood, Executive Officer
SUBJECT	Agenda Item 4 – Review and Discussion of New School Enforcement Webpage

Effective June 7, 2023, the Board of Barbering and Cosmetology (Board) created a new School Enforcement webpage at https://barbercosmo.ca.gov/schools/school_enforcement.shtml. This is where disciplinary actions taken against schools will be listed, along with copies of the Accusation and Decision and Order. Below is a screenshot of the new webpage:



The listed disciplinary action is the Board’s first formal action taken against a school.

No action is required.

Agenda Items

No. 5-7

No Attachments