

**CALIFORNIA
BOARD OF BARBERING AND COSMETOLOGY**



SEPTEMBER 11, 2023

LICENSING AND EXAMINATIONS 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**

Steve Weeks, Chair
Tonya Fairley
Yolanda Jimenez
Colette Kavanaugh
Jacob Rostovsky

**LICENSING AND EXAMINATIONS
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.*

**9:00 a.m. – 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 Renters Within Licensed Establishments
4. Review and Discussion of Establishment Ownership Types
5. Discussion and Possible Recommendation Regarding Implementing a 90-day Retention Schedule for Out of State License Certifications
6. 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))
7. Suggestions for Future Agenda Items
8. 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**

LICENSING AND EXAMINATIONS COMMITTEE MEETING

MINUTES OF MARCH 13, 2023

COMMITTEE MEMBERS PRESENT

Tonya Fairley
Yolanda Jimenez
Colette Kavanaugh
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

Kristy Underwood called the meeting to order at approximately 9:00 a.m. and confirmed the presence of a quorum.

2. AGENDA ITEM #2, ELECTION OF COMMITTEE CHAIRPERSON

Motion: Yolanda Jimenez nominated Steve Weeks as Committee Chair. Tonya Fairley seconded. Mr. Weeks accepted the nomination.

No comments were received from the public.

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

The following committee members voted "Yes": Tonya Fairley, Yolanda Jimenez, Colette Kavanaugh, Jacob Rostovsky, and Steve Weeks.

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

Chair Weeks commented that the minutes are usually accurate and typically require no changes. They are also good and comprehensive for other Board members and general public who do not attend the Committee meetings. Mr. Rostovsky agreed, adding that he was not at the last meeting, and the minutes helped prepare him for this meeting.

Motion: Yolanda Jimenez moved to approve the January 9, 2023, Committee meeting minutes. Tonya Fairley seconded.

No comments were received from the public.

Motion to approve the January 9, 2023, Committee meeting minutes carried; 4 yes, 0 no, and 1 abstain, per roll call vote as follows:

The following committee members voted "Yes": Steve Weeks, Tonya Fairley, Yolanda Jimenez, and Colette Kavanaugh.

The following Committee Members abstained: Jacob Rostovsky.

4. AGENDA ITEM #4, REVIEW AND DISCUSSION OF THE EXAM PASS RATES

Ms. Underwood mentioned that the exam pass rates are slowly climbing. The Committee was provided with data showing the pass rates for quarters one, two, and the current quarter three. She indicated that she had met with the Chief of the Bureau of Private Postsecondary Education (BPPE) last week. They scheduled several meetings to look at historically low passing schools that have not had an acceptable pass rate in quite some time.

Ms. Underwood further mentioned that staff had reviewed bell curve data of the exam pass rates. The data would be presented at the next Board meeting. She stated that there are many moving parts on the pass rates. She has scheduled monthly calls with the exam vendor to discuss the exams. The Board has also recently launched the ability for schools to look at content areas where their students are doing poorly. It will be rolled out in about a month.

Chair Weeks asked if the additional data on exam pass rates was done in consultation with the BPPE. He also asked about any specific ideas the BPPE might have on dealing with the pass rates. Ms. Underwood stated that schools have been asking for the information for a long time, but the Board has yet to have the ability to give it to them. It is being done because the current exam vendor, PSI, can provide that information. With regard to conversations with the BPPE, Ms. Underwood stated that neither the Board nor the BPPE has any set pass rates in their statutes. There is a pass rate for accredited schools, however, this is a concern because several of the accredited schools are well below the threshold of pass rates.

Ms. Underwood stated that the BPPE does not look at pass rates. They look at the quality of education, and this is one of the things that will be the focus of their scheduled meetings - to look into the schools and see what can be done about the schools that have had very low pass rates for a long time.

Mr. Rostovsky asked if there was any information on the dip in electrolysis and the areas students are having difficulty passing. Ms. Underwood mentioned that there are only three schools in electrology. There are some concerns with one of those schools, which the staff is looking into. She added that the problem had been identified, but it was not something that she could discuss publicly.

Mr. Rostovsky also asked if the low pass rates revolved around areas related to consumer protection, such as health and safety. He believed the low rates might be a

good thing initially because it helps identify ways to improve consumer protection. Ms. Underwood agreed that Mr. Rostovsky's sentiments were especially true for electrology. She indicated that the scope of electrology would be discussed at the Board meeting to ensure that all the Board members understand what electrology entails and how it is growing. She also noted that there are a lot of sensitive situations for electrology where people might get harmed and might not want to report. The Board, therefore, wants to ensure that only well-qualified electrologists are allowed in the industry.

No comments were received from the public.

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

No comments were received from the public.

6. AGENDA ITEM #6, SUGGESTIONS FOR FUTURE AGENDA ITEMS.

Mr. Rostovsky raised the topic of accessibility and training. Accessibility during education to teach materials or have materials be processed for individuals who might have different ways of learning or come from diverse backgrounds. He noted that teaching materials should be more approachable, particularly for non-traditional schooling. Chair Weeks agreed that accessibility is important to education and pass rates.

7. AGENDA ITEM #7, ADJOURNMENT

There was no further business to discuss, so the meeting adjourned at approximately 9:21 a.m.



MEMORANDUM

DATE	September 11, 2023
TO	Committee Members, Licensing and Examination Committee
FROM	Kristy Underwood, Executive Officer
SUBJECT	Agenda Item 3 – Discussion of Renters Within Licensed Establishments

Currently, only one establishment license can be issued to an address, and it is based on the mailing address. So, if mail can be sent directly to that address, then an establishment license can be issued. This often raises issues and concerns for establishments that rent room(s) to licensee(s) as they typically operate as separate businesses. The establishment often becomes responsible for any health and safety violations found or if the room door is locked during an inspection because the renter is not working.

Action Needed: The Committee shall discuss whether the Board should allow licensees that rent a room within a licensed establishment to obtain their own establishment license, how this would be possible, and whether the Committee thinks this is a necessary change.



MEMORANDUM

DATE	September 11, 2023
TO	Committee Members, Licensing and Examination Committee
FROM	Kristy Underwood, Executive Officer
SUBJECT	Agenda Item 4 – Review and Discussion of Establishment Ownership Types

Pursuant to Business and Professions Code section 7347(a), “Any person, firm, or corporation desiring to operate an establishment shall make an application to the board for a license accompanied by the fee prescribed by this chapter.”

Historically, the Board of Barbering and Cosmetology has allowed the following ownership types:

- Sole proprietorship/individual owner
- Married Couple or Registered Domestic Partners
- Partnership
- Corporation
- Limited Liability Company (LLC)

Recently, however, the Board has become aware that Corporations Code section 17701.04 forbids LLCs from offering professional services in this State unless specifically authorized by law. There is no authority in the Board of Barbering and Cosmetology practice act to interpret “firm” to mean LLC, only corporation or partnership. It is also the Attorney General’s opinion that when testing, training and education are pre-requisites, it is a professional license, and cannot be held by an LLC. “We conclude that a business that provides services requiring a license, certification, or registration pursuant to the Business and Professions Code may conduct its activities as an LLC if the services rendered require only a nonprofessional, occupational license” [87 Ops.Cal.Atty.Gen. 109, (2004)].

In approximately 2006, Board staff discussed the issue with legal counsel and were advised that the term “firm” in section 7347(a) could include LLCs, however, recently legal counsel has clarified that the Board should seek to obtain an amendment to this section to allow for LLCs. It should be noted that the Board has been issuing establishment licenses to LLCs for at least 17 years.

Action Needed:

The committee shall discuss the issue of allowing an LLC to hold an establishment license.



MEMORANDUM

DATE	September 11, 2023
TO	Committee Members, Licensing and Examination Committee
FROM	Kristy Underwood, Executive Officer
SUBJECT	Agenda Item 5 – Discussion and Possible Action Regarding Implementing a 90-Day Retention Schedule for Out of State License Certifications

Board staff would like the Committee to discuss establishing a 90-day retention schedule for out-of-state licensing certifications.

Licensure by endorsement (also known as reciprocity) applicants are instructed to request their licensing state to send a license certification to the Board prior to submitting their application to the California Board of Barbering and Cosmetology (Board). Often, the Board receives a license certification, but never receives an application. The Board then must retain this certification on file.

Establishing a 90-day retention schedule would streamline Board processes as there would be less certifications to sort through and maintain. This would also ensure that the Board approves applications that have a current license certification.

Action Needed: The Committee shall discuss if Board staff should pursue a retention for certification letters and develop proposed regulations that would establish this requirement.

Agenda Items

No. 6-8

No Attachments