

**CALIFORNIA STATE BOARD  
OF  
BARBERING AND COSMETOLOGY**

**BOARD MEETING**

**MINUTES OF JULY 25, 2022**

**BOARD MEMBERS PRESENT**

Steve Weeks, President  
Calimay Pham, Vice President  
Megan Ellis  
Tonya Fairley  
Yolanda Jimenez  
Derick Matos  
Danielle Munoz

**STAFF MEMBERS PRESENT**

Kristy Underwood, Executive Officer  
Carrie Harris, Deputy Executive Officer  
Sabina Knight, Board Attorney  
Kristy Schieldge, Board Regulations Attorney  
Allison Lee, Board Project Manager  
Marcene Melliza, Board Analyst

**OPEN SESSION**

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

Steve Weeks, Board President, called the meeting to order at approximately 10:00 a.m. and confirmed the presence of a quorum.

**2. AGENDA ITEM #2, PETITION FOR REINSTATEMENT HEARING**

- Robert Sumler, Petition for Reinstatement of License, Barber License #B68079

**CLOSED SESSION**

**a. Pursuant to Government Code Section 11126 (c) (3), the Board will meet in Closed Session to Deliberate on Disciplinary Matters.**

The Board met in closed session as permitted by law to deliberate on disciplinary matters.

**b. Adjourn Closed Session and Reconvene Open Session.**

Mr. Weeks reconvened the meeting. He welcomed the Board members back and confirmed the presence of a quorum.

### **3. AGENDA ITEM #3, BOARD PRESIDENT’S OPENING REMARKS (STEVE WEEKS)**

Mr. Weeks announced the resignation of Jacquelyn Crabtree. He appreciated the opportunity to have served with her for four years, mentioning that she had been an active Board member and outspoken in her advocacy for the Board rules and regulations. Ms. Crabtree had also given the Board unique insights as an establishment owner. Mr. Weeks wished her well.

Mr. Weeks also welcomed the new public Board member Danielle Munoz of Sacramento. The Governor recently appointed Ms. Munoz. She holds a master's degree in marriage, family, and child counseling and is currently a director of the CARES Office at California State University, Sacramento.

Mr. Weeks mentioned that as the Board is currently constituted, talent is abundant and that the backgrounds of each Board member match the responsibility of the Board. As new Board members are welcomed aboard, Mr. Weeks stated that the current Board members should take the time to reflect on their responsibilities to the public, the licensees, and staff. He further challenged the Board members to individually take on an issue where they can improve Board services to the public and become experts on that issue. He also noted that the task of the Board is to take the long-term view, and its role is to protect.

### **4. AGENDA ITEM #4, BOARD MEMBER REMARKS – INFORMATIONAL**

Mr. Isbell inquired about the number of Board openings remaining to be filled. Ms. Underwood stated that there are five vacancies. With Ms. Crabtree leaving, there was a need for another cosmetologist or owner, but Ms. Fairley could cover either seat. The other vacancies are an electrologist, an esthetician, a manicurist, and a public Board member. They will all be Governor-appointed.

### **5. AGENDA ITEM #5, DISCUSSION AND POSSIBLE APPROVAL OF THE APRIL 25, 2022, BOARD MEETING MINUTES**

Ms. Pham proposed an amendment to the minutes. She quoted a line in the first paragraph on page eight of the minutes stating, "Ms. Underwood stated that currently, the Governor’s wage fee was still in effect." Ms. Underwood clarified that it should be a 'waiver of fees', not a 'wage fee.'

**MOTION:** Ms. Pham moved to approve April 25, 2022, Board Meeting minutes as amended. Ms. Ellis seconded. Motion was opened up for public comment. No public comments were received. Motion carried 8 yes, 0 no, and 0 abstain, per roll call vote as follows: The following Board Members voted “Yes”: Steve Weeks, Calimay Pham, Megan Ellis, Tonya Fairley, Reese Isbell, Yolanda Jimenez, Derick Matos, and Danielle Munoz.

### **6. AGENDA ITEM #6, EXECUTIVE MANAGEMENT REPORTS (KRISTY UNDERWOOD)**

- **Administration and Operations**

Ms. Underwood providing an update on staffing. There is a new staff person who will be taking over the school's desk and handling anything school-related, such as new applications, enforcement cases, et cetera. Several vacancies remain unfilled. Staff is currently recruiting

for a regulations and contracts analyst. This is the third time the position will be posted. Many state offices have been facing hiring challenges. Hopefully, soon there will be good news. On new fleet procedures, staff is currently in the process of ordering new vehicles for inspectors. In this process, older vehicles or those with the most miles are surveyed, and new ones are brought in. One Tesla and some Honda Accord hybrids will be added to the fleet. This is based on a contract with the Department of General Services.

Ms. Underwood reported that there was a comment on the strategic planning session that will be held tomorrow. She referenced the current expenditures, which were part of the Board packet, and noted that the budget is currently healthy, a direct result of the changes from SB 803. She mentioned that staff has been working closely with the Department of Consumer Affairs (DCA) budget office to correct the red lines to ensure that the Board is appropriately allocated. She stated that even though the Board's expenditure is standard, the allocation has to be done by the budget office.

Mr. Isbell inquired about COVID's impact on the budget, especially around travel and meetings. Ms. Underwood stated that the impact was minimal since the Board had saved on travel money by holding online meetings. The Governor had also waived the renewal fees for two years, but there were reimbursements from the general fund. She also confirmed that future budgets would not be impacted.

Mr. Weeks asked if some of the money in the 16-month reserve could be allocated to special projects that could enhance the operations of the Board. Ms. Underwood stated that there were some special projects that staff was looking into. She mentioned that the Board had been recently awarded an opportunity to have its inspectors go paperless and have an electronic inspection report. Ms. Carrie Harris was working on a project with two other boards that would potentially receive the funds for that. Ms. Harris had recently submitted a pitch to see if this Board would be eligible for those funds. Ms. Underwood stated that the project would not significantly impact the budget but would immensely impact operations. Mr. Weeks asked if other boards with similar inspector positions were utilizing electronics. Ms. Underwood stated that no one in the department was using electronics. The other two boards interested in the project are the Veterinary Medicine and Dental Boards.

Ms. Underwood stated staff is working on a fee study to check if the fees are appropriate. Ms. Underwood stated that the Board should be charging what it costs to run it. The renewal fees are meant to support enforcement. The application and licensing fees should be whatever the cost is to the Board. Ms. Underwood mentioned that the changes in SB 803 will help determine what needs to be changed. The fee study was expected to be done by September, but now staff is hoping to be done by the end of the year.

Mr. Weeks noted that this Board charges less license renewal fees than other boards. Ms. Underwood agreed that this is one of the less expensive Boards. This is because the Board has a high volume, which decreases the fee. She also mentioned that with the elimination of the practical exams, there are no longer any staffing, rent, leases, or all the utilities that go along with maintaining two examination facilities, which saves on expenses. Mr. Weeks also wondered if the reduction in expenses and the budget surplus could be used for other projects on the Board's wish list. Ms. Underwood stated that that would depend on the

project. The money could be spent on newsletters, for example, but not on hiring more people because the Board is allocated a certain amount.

Ms. Underwood reiterated that the biggest challenge was getting applicants, though there has been some improvement lately. The Board could, however, hire additional staff for limited-term positions. These positions will not be technically allocated. The additional staff could help address the email situation at the Board office. This was already approved so that the Board could use the funds for such. Mr. Weeks asked if the Board was competing against other parts of the state government which were doing better in soliciting employees. Ms. Underwood stated that most departments seemed to be experiencing the same labor challenges. COVID has sent everyone home, and some boards have shifted to teleworking full-time. Since this is a production-oriented Board, teleworking a hundred percent is impossible. Thus, most employees chose to work for the teleworking boards.

- **Licensing, Examinations, and Disciplinary Review Appeals**

Ms. Underwood reported that new staff had been hired in the licensing unit. The vacancies are not creating backlogs. Staff is continuing to recruit for all vacant positions.

Ms. Underwood mentioned that last week, staff had received over a thousand emails they could not respond to. All the staff members who had been trained to answer emails had to stop working to answer the emails, then over the weekend, about 400 new emails were received. Mr. Weeks was concerned that executive staff were sometimes being taken away from their assigned positions to answer questions that might not be related to them at all. This, according to him, was not serving the public well. Ms. Underwood mentioned that a notice would be sent to schools informing them that they would not be getting status updates on students who had only finished school two weeks ago. This is because some of the questions received at the office want to check the status of applicants who recently did their application. Some staff responsible for processing the applications usually have to stop their work to answer the emails. An automated response had therefore been created for the schools. She further mentioned that students could schedule their exams once the applications are processed. This process is going well and is perceived by the applicants to be faster.

Mr. Matos asked if there were other patterns in the emails received apart from schooling. He also asked if automating those areas once they are identified as possible. Ms. Underwood stated that the automated response was good and frequently used during COVID for the most common questions. The automated responses are reviewed and changed all the time. However, the staff is all about customer service and would like to give a personal touch to the emails. Ms. Underwood mentioned that emails were now overwhelming, they would have to be automated, but the responses would be reviewed frequently. Ms. Fairley asked if the automated responses listed facts and questions and if they had a link that could direct someone to another page should they needed more information. Ms. Underwood stated that the automated responses listed facts and questions, but they did not have links that led to other pages. People are usually just referred to the Board's website. Ms. Underwood explained that if a question is not answered in the automated response, staff will personally respond to the person. If the question is about a citation, it gets sent to the citation unit, and the person will get a response directly from someone. The only people who do not get a

response are those inquiring about exam dates when they only submitted their applications a few days ago. Other people who experience technical issues with the BreEZe system get automatic responses that tell them whom to contact.

Mr. Weeks asked if there was a commitment to the limited staff issue and the timeframe on it. Ms. Underwood stated that recruitment is ongoing, but there are no places for staff to sit. The department recently came out with a new telework agreement, so staff will be looking into "hoteling." There is also a large conference room in the Board's office that is not used. Discussions were underway with the Department of Consumer Affairs and Department of General Services to see if desks could be put in that room to act like a call center.

Mr. Weeks also asked if the limited staff positions would go against the '22/'23 budget. Ms. Underwood explained that it would if salaries were being paid. However, there had been many salary savings from vacant positions. Most of the money will come out of the allocation for other positions.

Mr. Weeks inquired how long it would take to get the temporary telephone in. Ms. Underwood stated that it would take months because they would have to be trained. Quarterly applications received increased in all areas, according to Ms. Underwood. Even the Personal Service Permit increased, and about 29 were received. Mr. Weeks asked why the PSP numbers were low. Ms. Underwood stated that most people were providing the services illegally out of their homes. Mr. Weeks also wondered if there was a way to send a directive. Ms. Underwood mentioned that Staff was working on additional outreach information to send to licensees and another one in general for consumers.

Ms. Underwood presented a document showing the examination results for April 1 through June 30. She mentioned that the exam pass rates would have gone lower at the next board meeting because a new exam had been implemented on July 1. Anytime exams are changed, the pass rates go down, but she received an update this morning indicating that the pass rates had started picking up. Ms. Fairley noted that the Spanish fail rate was significantly higher. She asked if the languages on the tests that have been changed were being analyzed to address that failure rate. Ms. Underwood stated that the data she presented had been for the prior exams. When the full quarter's worth of the new exam comes out, the Board will look at the pass rates for Spanish and then work with the testing vendor to see if they can give any recommendations. Staff hoped that the vendor would identify where those people were performing poorly and communicate to the schools.

Mr. Isbell asked how a student who speaks a language not listed among the four is handled. Ms. Underwood stated that such a student could bring their interpreter into the exam room. The requirements that the interpreter must meet includes that they can't be a licensee or a student and must not have served as an interpreter before on any exam. The interpreter program is done in a separate room. The interpreter sits next to the candidate, and they interpret the exams for them in real time. Mr. Isbell also asked how the level of need for a potential additional language is determined. Ms. Underwood stated that there are several ways. One, there's a law that requires the Board to provide information in a different language other than English if the population is 5% or more. The population in Spanish and Vietnamese is more significant than 5% but less in Korean. However, since the exam is done in Korean, the Board also thought it was appropriate to offer it in Korean. The interpreter

tracks the languages to check on the increases. For example, the health and safety regulations have been translated into Farsi, Arabic, Chinese traditional, and simplified Chinese because these languages have had the highest number of interpreters. These languages have, however, never met the level of having an exam.

Ms. Pham asked if the exam vendor changes because the practical exam was removed. Ms. Underwood stated that the Board chose to change the vendor. The exams are, however, still based on the same textbooks.

Mr. Weeks asked if the Board tracked the language students were taught at their school versus the language they choose to take their exams in. Ms. Underwood stated that data is not collected in the system, so it is not tracked. However, the Bureau of Private Post-Secondary approves schools teaching in a different language. Ms. Underwood mentioned that staff had looked at the Bureau's website and compared the schools that taught those languages to schools that did not teach them but had their students take the test in those languages. That is where the problem was identified: many students who chose to take the test in Spanish did not go to a Spanish-speaking school. Ms. Underwood further stated that both languages display the test on the computer. However, she thought that the data would improve if only students attending a Spanish-speaking school were compared to Spanish testers from the apprenticeship program.

Mr. Weeks pointed out that some schools may be approved as Spanish teaching schools but did not teach in Spanish. They would only use it as a disguise to bring more students to their school. Ms. Underwood added that some might have been approved to teach Spanish years ago and stopped doing it along the way.

Mr. Isbell asked if the exams are written at a specific grade level and if those grade levels fit with the results. Ms. Underwood stated that the law requires that the exams be 10<sup>th</sup>-grade level. As for the translations, they go through the translation process and then go through a separate process where licensees from the industry are brought in to look at the exam questions. The questions then go through adaptation. This ensures that the translations are industry specific because many different words could be mistranslated. Ms. Underwood stated that the data received from the new exam vendor will determine which area will be worked on with the schools. She also confirmed that the 10<sup>th</sup>-grade level is state-mandated. The next Board meeting might receive early data.

Ms. Underwood also presented exam results broken down by comparison to show schools, apprentice programs, and out of the country. Another document showed the comparison of the schools with the language added in. She mentioned that there are close to 260 school programs, and only about 20 teach in Spanish. Mr. Matos asked if there is a revocation process for a school to be defined as Spanish speaking, and if they don't meet that requirement, the title is revoked. Ms. Underwood stated that the Board is not authorized to handle such matters.

Ms. Underwood also reported that licenses issued from April to June increased in the quarter. The license population remained around 622,000.

Regarding the Disciplinary Review Committee, Ms. Underwood thanked the Board members who had served. She mentioned that there had been a Los Angeles DRC hearing that few people had shown up to. The DRC staff had contacted everyone, and the DRC in Sacramento had been successful. The next one will be in San Diego in about two weeks, followed by one in Burbank in October. She was optimistic that DRC would be strong at the end of the year.

Ms. Fairley inquired about the average length of time the appeals had been pending to get into the DRC. Ms. Underwood stated that at the time of the DRC in Sacramento, there were only a few months old appeals. However, due to COVID, the ones scheduled in Burbank were two years old. Mr. Weeks pointed out that an extension had been given for those who wanted to appeal in person, but there had been an election not to do it as it would extend the appeals even further. Ms. Underwood explained that it doesn't impact a person's license when they have an appeal. For example, if a license that expires at the end of the month receives a citation, an appeal on that would not affect the renewal of the license. If there is no appeal, however, it would impact the renewal. This is because outstanding fees affect a renewal, but an appeal freezes a citation.

- **Enforcement, Inspections, and Cite and Fine**

Ms. Underwood reported that the enforcement unit lacks a manager and recruitment is ongoing. There is also no manager in Inspections and Cite and Fine. Staff is working with the DCA on a package to look at the pay of the inspectors. It is a slow process that has been ongoing for a while.

Ms. Underwood further reported that staff is also looking at revamping the enforcement unit to make it more productive in the field. This includes changing some positions to special investigators. Special investigators would handle more than what an inspector does. While an inspector figures out everything they can find and educates on how to fix it, a special investigator may interview a licensee who has committed some harm or interview a consumer. Ms. Underwood mentioned that most boards in the department use special investigators. Mr. Weeks asked if the same law enforcement credentials about the number of units apply to the special investigators. Ms. Underwood stated that it would be different since the special investigators are not sworn, peace officers. They would be a different pool of candidates with that educational background. She also mentioned that special investigators make more money.

Mr. Weeks also inquired about resumes for enforcement managers. Ms. Underwood stated that the position had been advertised, but no applications had yet been received. The position must be posted online for at least ten days. The Staff has also increased online outreach to try to get applicants. They have recently started posting jobs on Indeed and Handshake.

Ms. Underwood reported that five licensees completed their probation last quarter. The total number of probationers is now 144. The probation analyst left moved out of state, so recruitment is ongoing for another one. Only one person covers the position and also handles the reinstatement cases and consumer complaints.

Ms. Underwood stated that a few cases are referred to the Attorney General. These are the formal discipline cases where consumer harm happens, and there's enough evidence to go towards complete revocation with the AG's office and the administrative law judge. The Board receives many citations, so the AG cases are the general ones people would have to ask for reinstatement.

Ms. Underwood stated information on schools was added to the website. There are two hundred fifty-two schools approved schools. Before, the website had no information on how to open a school. Now there is a school page where the applications have been updated. The Board does not charge any fee for opening a school, but the BPPE charges \$5000. Since a person must get both approvals, staff first refers them to the BPPE to clear the fee.

Ms. Underwood presented a pie chart showing the different types of complaints received. In the last quarter, 1,206 complaints were received. This is up by about 200 from the prior quarter. Complaints are rising probably because people are getting back into the salons after COVID. Ms. Fairley inquired about the time it takes for inspectors to take action when a complaint is received, especially complaints about the unlicensed activity. Ms. Underwood stated that the fastest response usually takes a few weeks. She explained that when the complaint comes in, it goes to the intake unit. The intake staff then assigns it to an analyst to look at, and the analyst must review it and decide on what to do with it. An unlicensed activity complaint gets an inspection request fast. The analysts currently have a caseload of about 200, a huge number due to the two vacancies in the enforcement unit. Ms. Underwood mentioned that, given the workload, the analysts are still getting the requests out faster than expected. Consumer harm complaints get inspection requests faster.

Ms. Underwood reported that there had been one revoked person in the last quarter and one suspension. Inspections were also increasing, which might lead to increased citations.

On request for payment notices, Ms. Underwood stated that these are citations for people that have chosen not to pay. These people get three notices to pay their bills. After that, they get referred to collections or the Franchise Tax Board. This is where the money is then collected. Ms. Underwood mentioned that a new process for this had been initiated. The Board provided a report to show the work done in April and May. A report on payment plans was also provided.

- **Outreach**

Ms. Underwood stated staff is working with DCA's Public Affairs Office on increasing awareness of the Personal Service Permit. Several videos are being prepared for that. They are also assisting the Board with a Safe Sandal Season video, which is done every summer to promote consumers being careful with pedicures.

Ms. Underwood provided a summary of recent outreach events. There were two successful town hall meetings with schools to discuss the new tests that went into effect in July. They received lots of attendance and good questions. The Board also attended a SoCal Beauty and Barber event for professionals and students. The Board attended a Virtual Senior Rally to provide consumer publications and information. Ms. Underwood was interviewed on a podcast, the Hair Game. She was asked to discuss changes on the Board, SB 803, among

other things. The International Salon & Spa Expo was held in Long Beach and Ms. Underwood thanked Ms. Harris, Ms. Torkelson, and Ms. Melliza for attending.

Ms. Underwood stated staff was preparing for the upcoming Face and Body Skin Care and NailPro Nail Show in San Jose next month.

Mr. Weeks requested Ms. Underwood to alert the Board the next time there's an outreach event and staff are interviewed on a podcast. Ms. Underwood stated that her podcast episode had been pre-done and was not posted yet.

- **SB 803 (Roth) Implementation Plan**

Ms. Underwood highlighted points on the SB 803 Implementation Plan Outline. Staff are still working on the hairstylist license. The occupational analysis is with the examination development team in DCA. Subject Matter Experts have been recruited that are working on it. Most schools that have submitted their curriculum to move to a thousand hours have been approved. Staff is finalizing some coordination between the Board and the Bureau of Private Postsecondary because the courses must be approved by both. Some language in AB 2196 is currently pending and would assist with the externs. Staff are still working on fines with the Health and Safety Committee. Everything else has been implemented on SB 803.

#### **7. AGENDA ITEM #7, APPOINTMENT OF COMMITTEE MEMBERS TO STANDING COMMITTEES FOR 2022 FOR NEWLY APPOINTED BOARD MEMBER**

Mr. Weeks stated Ms. Crabtree was chairperson of the Health and Safety Advisory Committee and there was now a vacancy. Mr. Weeks suggested having at least three Board members on each Committee. Ms. Munoz volunteered to join any committee that needed folks. Mr. Weeks suggested the Enforcement and Inspections and the Disciplinary Review Committees. Mr. Weeks also suggested having a licensee on the Enforcement and Inspections Committee. Ms. Fairley volunteered. Ms. Munoz also volunteered to join Health and Safety Committee. Mr. Weeks thanked the Board members for serving on the committees. He noted that a lot more committee work will get done with everyone getting involved.

#### **8. AGENDA ITEM #8, REPORT ON THE JUNE 6, 2022, HEALTH AND SAFETY ADVISORY COMMITTEE (KRISTY UNDERWOOD)**

Ms. Underwood stated the Committee met on June 6, 2022. The Committee consists of three Board members, members of each of the licensing categories, industry experts, and some outside people from different agencies. It is currently looking at the citations and violations and determining the risk level and impact of consumer harm, as per SB 803. The Committee had also looked at health and safety regulations before SB 803 happened. At the next Committee meeting, the revised regulations and the report on the violations will be compared and meshed to make a recommendation.

Mr. Weeks asked if there was any suggestion to have \$250 as the maximum fine on any violation. Ms. Underwood said 'no' and added that the Committee had discussed certain risk levels for violations and making the fines uniform. Violations that are all high risk should have the same amount of fine. Responding to Mr. Weeks, Ms. Pham explained that the fines for first offenses would be as low as \$250. Second and third offense fines would increase.

Ms. Underwood mentioned that some similar violations might have the same acceptable amount. The Committee would be looking at that consistency. Tentative date for next meeting set for September.

**9. AGENDA ITEM #9, REPORT ON THE JUNE 13, 2022, LEGISLATIVE AND BUDGET COMMITTEE MEETING AND LEGISLATION UPDATE (REESE ISBELL, CHAIRPERSON)**

Mr. Isbell stated the Committee last met on June 13, 2022. The bills that are currently being tracked are as follows.

- a) **AB 646 (Low) Department of Consumer Affairs: Board: Expunged Convictions**
- b) **AB 1604 (Holden) The Upward Mobility Act of 2022: Boards and Commissions: Civil Service: Examinations: Classifications**
- c) **AB 1661 (Davies) Human Trafficking: Notice**
- d) **AB 1771 (Quirk) State Bodies: Open Meetings**
- e) **AB 2196 (Maienschein) Barbering and Cosmetology: Instructional Hours**

AB 1661 was signed by the Governor, which means that as of January 1, 2023, all licensed establishments will have to post information on human trafficking. Senate Bill 189, related to virtual meetings passed. The next Committee meeting is scheduled for August to focus on the budget.

**10. AGENDA ITEM #10, REPORT ON THE JUNE 13, 2022, LICENSING AND EXAMINATION COMMITTEE MEETING (DERICK MATOS, CHAIRPERSON)**

Ms. Matos stated the Committee met on June 13, 2022. The Committee discussed Spanish pass rates, which will continue to be monitored, especially with the upcoming July 1 changes. Ms. Underwood met with the Division of Apprenticeship Standards (DAS) and BPPE. She will share the information on that with the Committee. The Committee also reviewed the externship program. The number of schools and establishments utilizing the program has increased. More schools are providing externship agreements with nail salons that do not provide hair services. However, the Board does not require schools to track external hours. At the next meeting, the Committee will review staff recommendations regarding proposed changes to the program. Staff is working on a regulation package to update the requirements but has difficulties because the Board shares oversight and can only do what is within their statutory authority.

Ms. Munoz stated the low pass rates could possibly be caused by literacy issues. Ms. Underwood stated the new exam will provide data on which content areas students perform poorly in. Board will then provide outreach on instructional strategies and guidance to those instructors and students. Ms. Munoz suggested disaggregating the data of Spanish-speaking people taking the test to learn more about literacy levels or how many were passing the practical. Ms. Underwood stated that the Spanish-speaking people were doing better in the practical than the written, but they had to pass both to be licensed. Ms. Munoz also asked if there was another way for ESL speakers to take the test other than the written one. Ms. Underwood answered "No." Ms. Munoz reiterated that disaggregating the data to know how many people are citizens and how many are from other countries would help with that. Ms. Underwood explained that the only way to get that data is if the students request their exams

in a specific language. Only those who have gone to a school in California have to provide proof of training. Otherwise, they are not required to say if they were taught in Spanish. Ms. Munoz further inquired if literacy levels are ascertained such that a person who does not meet that level will have to take their test in another way. Ms. Underwood said “No.”

Mr. Isbell referred to his earlier questions about exams offered at the 10<sup>th</sup>-grade level. He asked if lowering that level has ever been considered. Ms. Underwood said “No.”

Ms. Underwood also mentioned that a joint letter discussed at the Committee meeting was developed among the DAS, BPPE, and the Board. The letter related to some apprenticeship programs charging too much to an apprentice. The joint letter informed the programs that BPPE has a law that says if the charge is over \$2500, then the apprenticeship program will be considered a school and have to abide by the requirements of other private schools. It was sent out this morning. A copy will be sent to the Board. Ms. Fairley commended Ms. Underwood on the joint letter project, acknowledging that it had been a difficult task since the three bodies were not working together. She also asked how the enforcement was being tracked. Ms. Underwood appreciated the comments and stated that staff would be doing the tracking.

#### **11. AGENDA ITEM #11, REPORT ON THE JUNE 13, 2022, EDUCATION AND OUTREACH COMMITTEE MEETING (TONYA FAIRLEY, CHAIRPERSON)**

Ms. Fairley stated the Committee met on June 13, 2022, and reviewed different documents the Board sends out during various steps in the licensing and enforcement processes. The Committee discussed ways of increasing outreach. Staff will provide an update on plans to increase outreach on both the consumer side and licensees at the next Committee meeting. The Committee made recommendations on materials regarding language access and suggested staff to look into new technologies such as sending automatic text messaging, creating an app, and making TikTok videos to promote consumer awareness. The Committee will review staff's future plans for outreach and education at the next meeting.

The agenda item was opened up for public comment. No comments were received from the public.

#### **12. AGENDA ITEM #12, DISCUSSION ON HOW FUTURE BOARD MEETINGS WILL BE HELD DUE TO THE PASSAGE OF SENATE BILL 189**

Ms. Underwood stated that the Board could now hold online meetings without having to post their private addresses. This would allow both in-person and online meetings at the same time. She mentioned that the online meetings are a cost benefit because of the savings on travel. She proposed a discussion on hybrid meetings, adding that they worked well with other Boards.

Ms. Fairley voiced her support for in-person meetings, adding that one can generate the energy of the others in the room. Mr. Weeks echoed Ms. Fairley's sentiments and stated that Board meetings should be in-person and live, with an added call-in feature to encourage public participation.

Mr. Isbell referenced the San Francisco Board meeting and mentioned that the fact that it was hybrid did not take away the vote of a member who attended through Zoom. He further

mentioned some stakeholders' recommendations, including the fact that in-person meetings were missed and that Zoom meetings were not well received. Though he voiced support for in-person meetings, he urged the Board to embrace hybrid to accommodate those who might not be able to make it to in-person meetings.

Mr. Weeks stated that three types of meetings had to be considered; options for the Board meeting, committee meetings, and DRC meetings. He mentioned that DRC meetings had not worked well over the phone as people were not adequately given the consideration they could have been given had they been in person. He also stated that appellants would have to be always in person because it would be challenging to coordinate 180 people on Zoom. He asked if the committee meetings should be in person as well.

Mr. Isbell stated that committee meetings should be hybrid since it would be hard to get a quorum in case people cannot travel. He also proposed having an established location where the committee members can meet and travel. Mr. Weeks suggested restricting the hybrid meetings so that if the people that make up the quorum are in person, the other people beyond the quorum could Zoom in as an option.

Sabina Knight, the Board Legal Representative, pointed out that there are currently only two locations where hybrid meetings are possible. San Diego and Burbank cannot host a hybrid just yet. Mr. Weeks inquired if the hybrid meetings would impact Board expenses. Ms. Knight stated that the Board would be saving on travel costs. She also suggested that the Board direct staff play it by ear.

In response to Mr. Weeks, Ms. Underwood stated that hybrid meetings would be done through WebEx. The Board would be able to see the videos of those who would be attending online. Ms. Underwood explained that with the committees, staff usually goes first to the chair to get that set and then check in with the other members.

Mr. Weeks inquired about the feedback of other boards on hybrid meetings. Ms. Underwood stated that the feedback was positive, though she recommended in-person meetings.

Ms. Pham mentioned that hybrids should be adopted for committee meetings. This is because each Board member is on at least two or three different committees, so scheduling is getting harder, and traveling for all meetings would be cumbersome.

It was agreed that having live Board meetings would enable one to participate from home without notification. The committees would have an option to meet in person or have a hybrid meeting. DRCs would strictly be in-person.

### **13. AGENDA ITEM #13, STATUS UPDATES REGARDING RULEMAKING PROPOSALS:**

- a. Rulemaking Proposal to Amend Title 16, California Code of Regulations (CCR) sections 904, 909, 917, 928, 931, 932, 934, 937, 950.1, 950.2, 950.3, 950.4, 962 (SB Clean Up).**
- b. Rulemaking Proposal to amend Title 16, CCR sections 913, 913.1, 914.1, 914.2, 915, 917, 918, 918.1, 919, 919.1, 920, 921, 921.1, 921.2, 922, 924, 924.1, 925, 926, 927, (Apprenticeship).**

- c. **Rulemaking Proposal to Amend Title 16, CCR section 950.10 (Transfer of credit).**
- d. **Rulemaking Proposal to Amend Title 16, CCR section 961 (Instructional Materials).**
- e. **Rulemaking Proposal to Amend Title 16, CCR 962, 962.1, and 962.2 (Externs).**
- f. **Rulemaking Proposal to Amend Title 16, CCR section 972 (Disciplinary Guidelines).**
- g. **Rulemaking Proposal to Amend Title 16, CCR section 974.1 (Disciplinary Review Committee).**

Ms. Underwood invited the Board's Regulations Attorney, Kristy Schieldge, to introduce herself to the Board. Ms. Schieldge reviews regulatory text for all boards and bureaus in the Department of Consumer Affairs and assists the Board of Barbering and Cosmetology (Board) with preparation and review of proposed text and regulatory packages.

### **Transfer of Credit (Title 16, CCR section 950.10)**

Ms. Underwood explained that the Board originally approved proposed amendments and authorized initiation of a rulemaking to amend Title 16, CCR section 950.10 at its January 24, 2022 meeting. Upon further review of the package, Ms. Schieldge requested additional changes. The changes included adding the title of the regulation section "Transfer of Credit", replacing "may" to "shall" in subsections (b)-(e), and replacing "shall include" with "means" in subsection (f). These changes were requested due to recent issues with clarity raised by the Office of Administrative Law (OAL) for other boards' rulemaking packages when "may" and "includes" are used in proposed text.

Mr. Weeks motioned to rescind the Board's prior January 24, 2022 motion and approve the proposed regulatory text for Section 950.10 as provided in the meeting materials, direct staff to submit the text to the Director of the Department of Consumer Affairs and the Business, Consumer Services, and Housing Agency for review and if no adverse comments are received, authorize the Executive Officer to take all steps necessary to initiate the rulemaking process, make any non-substantive changes to the package, and set the matter for a hearing if requested. If no adverse comments are received during the 45-day comment period and no hearing is requested, authorize the Executive Officer to take all steps necessary to complete the rulemaking process and adopt the proposed regulations at Section 950.10 as noticed. Mr. Isbell seconded.

Mr. Weeks opened the motion for public comment. Ms. Colette Kavanaugh, electrologist, stated the text needs to specifically state that no licensee can transfer hours to the electrology profession. She explained that the functions electrologists perform are different than other license types and the education is not comparable. She believes lack of education would lead to consumer harm.

Ms. Schieldge clarified for the Board that Business and Professions Code section 7367 requires the Board to grant credit for training that is identical and the Board has no discretion to not accept coursework credit for prior instruction that is identical. Ms. Fairley asked if there are guidelines which define "identical." Ms. Schieldge explained that the proposal was to use the commonly understood meaning of the word identical to mean "the same" with respect to

the course content and duration. She directed board members to subdivision (a) of the text, which defines identical, and further explained that it would be a case-by-case assessment by schools about whether to grant credit based upon the standard of same duration and same content. Mr. Isbell asked if concerns have been raised about what does not crossover. Ms. Underwood stated that the requirement to accept transfer credit when the prior coursework is “identical” has been in the law for a long time and is not changed by this proposal. Senate Bill 803 rewrote the curriculum to be identical for barbering, cosmetology, manicuring, and esthetics, but instruction can vary between schools. Ms. Schiedge stated the proposed language lists and clarifies what would transfer by subject matter of the course or program and license type. Ms. Underwood stated that electrology is not in this regulation package because electrology was not included in Senate Bill 803. There is currently language in Assembly Bill 2196 about electrology curriculum, but that has not been signed.

Motion to rescind the Board’s prior January 24, 2022 motion and approve the proposed regulatory text for Section 950.10 as provided in the meeting materials, direct staff to submit the text to the Director of the Department of Consumer Affairs and the Business, Consumer Services, and Housing Agency for review and if no adverse comments are received, authorize the Executive Officer to take all steps necessary to initiate the rulemaking process, make any non-substantive changes to the package, and set the matter for a hearing if requested. If no adverse comments are received during the 45-day comment period and no hearing is requested, authorize the Executive Officer to take all steps necessary to complete the rulemaking process and adopt the proposed regulations at Section 950.10 as noticed passed. Motion carried 8 yes, 0 no, and 0 abstain, per roll call votes as follows: The following Board Members voted “Yes”: Steve Weeks, Calimay Pham, Megan Ellis, Tonya Fairley, Reese Isbell, Yolanda Jimenez, Derick Matos, Danielle Munoz.

### **Instructional Materials (Title 16, CCR Section 961)**

Ms. Underwood stated this final package was filed with OAL on March 3, 2022, however the Board withdrew the package on April 14, 2022, because OAL required the Board to modify the text to receive approval. Staff added “Within the first week of instruction” to subdivision (a) to provide when schools are required to provide the instructional materials. Staff deleted “The appropriate” and replaced it with “A current version of any” before “licensing examination guide” and inserted “prepared by the licensing exam vendor to assist exam candidates in the language in which the student intends to take the examination” in subdivision (a)(4) for clarity regarding the licensing examination translation guides.

Ms. Pham motioned to direct staff to take all steps necessary to complete the rulemaking process, including preparing modified text for an additional 15-day comment period, which includes amendments discussed at this meeting. If after the 15-day public comment period, no adverse comments are received, authorize the Executive Officer to make any non-substantive changes to the proposed regulations before completing the rulemaking process, and adopt Section 961 of the proposed regulations with the modified text. Ms. Ellis seconded.

Mr. Weeks opened the motion for public comment. No public comments were received.

Motion carried 8 yes, 0 no, and 0 abstain, per roll call votes as follows:

The following Board Members voted “Yes”: Steve Weeks, Calimay Pham, Megan Ellis, Tonya Fairley, Reese Isbell, Yolanda Jimenez, Derick Matos, Danielle Munoz.

Ms. Underwood provided brief updates on the remaining regulation packages. SB 803 clean-up language is currently being reviewed at DCA. Staff are continuing to work on the apprenticeship language. Extern package is on hold as the Board is waiting for the AB 2196 to be approved. The Disciplinary Review Committee package is on hold as the Board needs to discuss whether to add non-members to the Committee at the next Board meeting. Staff are continuing to work on the Disciplinary Guidelines.

Mr. Weeks inquired if Ms. Schiedge works with other boards on the regulatory packages. Ms. Schiedge stated that she works with 37 boards. This is an advantage to all boards as issues can be easily identified and addressed.

#### **14. AGENDA ITEM #14, PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA**

Wendy Cochran, California Aesthetic Alliance, thanked the Board for working on the tinting issue. On allowing schools to determine the number of hours that can be transferred, Ms. Cochran stated that she's had several conversations with aestheticians, and most had indicated that, pending recession, they want to expand what they can do. Most are thinking of going back to cosmetology. However, the popular response from cosmetology schools is that none of their hours as estheticians will be transferred over to cosmetology because it's only a thousand hours now. Ms. Cochran read a text sent to an esthetician licensed for over 20 years stating the school's refusal to accept the transfer of hours into the cosmetology program. Ms. Cochran stated that the school refused the transfer because it had the discretion to do so. She further pointed out that allowing schools to determine the number of transferable hours will be a barrier to entry.

#### **15. AGENDA ITEM #15, SUGGESTIONS FOR FUTURE AGENDA ITEMS**

Mr. Weeks proposed DRC regulations. Ms. Schiedge stated that if AB 2196 goes through, the Board will need regulations for the pre-apprenticeship training hours.

##### **Public Comment:**

- Wendy Cochran stated that in the future, there might be a need for Safety Data Sheets (SDS) on all materials in treatment rooms, including the color rooms. She stated that they had asked people in their group to do a best practice exercise and ask their manufacturers for SDS on the products used. The response from the manufacturers is that people do not need them, so they will not provide them. Ms. Cochran requested the Board to assist the manufacturers to ensure that they provide the SDS.

#### **16. AGENDA ITEM #16, ADJOURNMENT**

There being no further business to discuss, the meeting adjourned at approximately 1:56 p.m.