

**CALIFORNIA STATE BOARD  
OF  
BARBERING AND COSMETOLOGY**

**HEALTH AND SAFETY COMMITTEE MEETING**

**MINUTES OF SEPTEMBER 26, 2022**

**COMMITTEE MEMBERS PRESENT**

Calimay Pham, Chair  
Kellie Funk  
Reese Isbell  
Paul Bryson  
Deedee Crossett  
Brandy Hamilton  
Paula Johnson  
Leslie Roste  
Yumi Youn

**STAFF MEMBERS PRESENT**

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

**COMMITTEE MEMBERS ABSENT**

Danielle Munoz  
Lorianne Burr  
Brandon Hart  
Mark Rierson

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

Kristy Underwood called the meeting to order at approximately 10:00 a.m. and confirmed the presence of a quorum.

**2. AGENDA ITEM #2, ELECTION OF COMMITTEE CHAIRPERSON**

Ms. Underwood stated that anyone on the Committee could serve as Chairperson. Ms. Pham nominated herself as the Chair. Mr. Isbell also nominated Calimay Pham.

**MOTION:** Mr. Isbell moved to nominate Ms. Pham to serve as the Chairperson of the Health & Safety Committee. Ms. Roste seconded. No comments were received from the public.

Motion to nominate Ms. Pham as the Committee Chairperson carried; 9 yes, 0 no, and 0 abstain, per roll call vote as follows:

The following Committee Members voted "Yes": Kelly Funk, Reese Isbell, Calimay Pham, Paul Bryson, Deedee Crossett, Brandy Hamilton, Paula Johnson, Leslie Roste, and Yumi Youn.

**3. AGENDA ITEM #3, EXECUTIVE OFFICER'S REMARKS (KRISTY UNDERWOOD)**

Ms. Underwood gave a brief overview of what the Committee would discuss at this meeting. She stated that the Committee had been looking to update the health and safety regulations for several years. Senate Bill (SB) 803 came into law on January 1, requiring the Committee to look at the administrative fines and if a fine could be removed because there was no risk to consumer harm for that violation.

The Committee had previously provided staff's risk assessment on each violation. Staff took the proposed regulations and inserted what the Committee wanted with each of the fines and each range based on the risk level. The Committee would discuss and agree with the fine amounts tied directly to what the regulation says.

Ms. Underwood emphasized that the legislature's intent in SB 803 was to ensure that the Board establishes, by regulation, a schedule of administrative fines for violations that directly impact consumer safety. She also mentioned that the regulation process is extensive and that the proposed regulations had not yet been presented to the full Board. The Committee would be making a recommendation to the full Board. She further urged the Committee to focus on the intent of the regulation and not so much on the actual wording because the language might change through the process.

Chair Pham mentioned that some suggestions about the changes people wanted to see in the regulations had been brought forward. She requested Ms. Underwood to briefly discuss the process of changing the language. Ms. Underwood stated that there were many future opportunities for the language to change. Once there's a consensus from the Committee, staff will start working with the legal office to get the language clarified. The regulation package would then be presented to the Board. The Board will either send it back to the Committee for further work or agree with it.

Ms. Underwood added that anytime the Board changes health and safety regulations, they must go to the Department of Public Health for review. The changes from the Department of Public Health will circle back to the Board, and the Board could go back to the Committee at that time, thus making it a long process.

#### **4. AGENDA ITEM #4, REVIEW AND POSSIBLE APPROVAL OF JUNE 6, 2022, COMMITTEE MEETING MINUTES**

**MOTION:** Mr. Isbell moved to approve the June 6, 2022, Committee meeting minutes. Ms. Roste seconded. No comments were received from the public.

Motion to approve June 6, 2022, Committee meeting minutes carried; 8 yes, 0 no, and one abstain, per roll call vote as follows:

The following Committee Members voted "Yes": Kelly Funk, Reese Isbell, Calimay Pham, Paul Bryson, Deedee Crossett, Brandy Hamilton, Leslie Roste, and Yumi Youn.

The following Committee Members voted "Abstain": Paula Johnson.

**5. AGENDA ITEM #5, DISCUSSION AND POSSIBLE RECOMMENDATION REGARDING POSSIBLE AMENDMENTS TO HEALTH AND SAFETY REGULATIONS (CCR SECTIONS 977-995) AND SCHEDULE OF ADMINISTRATIVE FINES.**

Ms. Underwood stated that a table was inserted for each section, including the risk level and what the Committee had discussed at the last meeting for fines for the first, second, and third offense. The fines had been made consistent for each risk level.

- **Section 978 (a) (1-5) – Minimum equipment and supplies.**

This section lists all the requirements that an establishment must have. A school and licensees must ensure that they have this minimum equipment and supplies.

1. Covered waste containers for establishments for the disposal of hair.
2. At least one covered container labeled 'dirty' to hold used lined.
3. Store all clean electrical tools and lines in a separate closed clean container.
4. Have containers for the disinfectant solution labeled and containing sufficient disinfectant for complete immersion.
5. Label disinfected tools 'clean' and all the tools in the establishment labeled 'dirty.'

Each of the above violations has a \$50 fine for the first offense, \$75 for the second offense, and \$100 for the third offense. The Committee at the last meeting agreed that all the above violations are low risk.

6. Electrolysis - Identified as high risk because it is an invasive procedure. Electrologists have to use single-use pre-sterilized filaments.
7. 978A – 7 & 8. - The disinfectant solution should be mixed and ready to go. You must have your manufactured, labeled container for the disinfectant you used. Both violations were identified as high risk.

- **Section 978 (b)**

This is where all licensees shall maintain chemical safety in the following matter:

1. All containers shall be distinctly labeled to disclose their contents.
2. Safety data sheets for all hazardous chemicals shall be readily available.
3. All chemicals shall be stored according to the manufacturer's label.
4. All chemicals shall be disposed of according to the manufacturer's directions.

Ms. Crossett mentioned that the SDS sheets are now available online, so manufacturers don't send them out anymore with the products. She asked if it would be necessary to have them in print or if having them readily available online would be enough. Ms. Underwood stated that the language would be clarified, but having them online should be enough.

Ms. Roste mentioned that SDS are typically used in an emergency, so they must be readily available. Sometimes, only the manager of an establishment has access to the software, and when they are away, there's nobody with access in case of an emergency if they are only available online. She pointed out that that should be considered in the language.

Ms. Roste also mentioned that Section 978 (a) (5) should be made a high risk instead of a low risk. The section states, 'label disinfected tools 'clean' and all the tools in the establishment labeled 'dirty.'" She noted that the regulation only requires the tools to be labeled but not telling people to disinfect the tools. Ms. Funk agreed with Ms. Roste's sentiments, adding that having disinfected tools ready for use will ensure that the next customer does not have to wait 15 minutes.

Chair Pham mentioned that the requirement to have tools clean and disinfected is not mentioned anywhere else in the regulations apart from section 978 (a) (5) and that on its own, it is an important high-risk requirement. She stated that the second half of the sentence of not allowing all tools to be labeled dirty was a staff request because they found that establishments would label all tools dirty so that they don't get cited when inspectors find dirty tools. Ms. Underwood agreed that the two parts of that sentence should be separated. The Committee agreed to separate the sentence and make the first part of having disinfected tools labeled as clean and ready for use a high risk.

- **Section 979 - Disinfecting and storing all non-electrical tools**

All the steps required to disinfect tools are listed in the section properly. It is a high risk with a fine of \$250 for a first offense. The same applies to electrical tools.

- **Section 980.1 – Disinfecting a foot basin.**

This regulation has drastically changed from what is currently in regulation. Currently, the regulation is separated into four sections, confusing for staff and licensees, but this proposal combines them all.

The violation is cited as a high-risk per-foot spa chair that has not been disinfected. If an establishment has five chairs that are not cleaned correctly, each Chair will be cited separately and will attract a fine of \$250 per Chair. The logs were identified as low risk. Chair Pham mentioned that the chart is listed incorrectly because it said that a and b, the cleaning and the logs, are listed as high risk, while c, the disposable liners, are low risk. She felt that a and c should be a high risk, then b is a low risk. Ms. Allison Lee, the Board Project Manager, stated that it was up to the Committee to identify each one as either low or high risk. Chair Pham stated that part c, the disposable liners, should be high risk because it discusses cleaning and disinfecting. Mr. Isbell echoed Chair Pham's sentiments that the two should be switched to make b the low risk and c the high risk. Ms. Funk also agreed that the logging should be low-risk, if fine. Ms. Brandy Hamilton felt that the logging should be low to medium risk because it is the only way an inspector can determine if something has been cleaned.

Ms. Underwood stated that point c is for single-use disposable liners, which indicated that the liners should be disposed of immediately after use, and the basin shall be cleaned and disinfected. She pointed out that for liners, the feet never come in contact with the water going through the plumbing, which is the risk associated with the foot spas. She asked if the risk is truly as high as someone not using a liner as someone using a liner.

Ms. Funk suggested splitting c into two, adding that the high offense would be that the liner is disposed of and not reused. Disinfecting it afterward should be the lower risk since a liner was used. Ms. Roste agreed.

Mr. Isbell agreed that splitting part c and putting b as the low risk would be ideal. He also agreed that there had been much confusion about the different types of foot spa cleaning issues.

Ms. Hamilton added that when discussing the liner, the language 'properly use' should be added. She mentioned that some salons puncture the liners with a jet cap, and the water is still circulating. This could potentially make it a high risk.

- **Section 981 – Disposal of single-use tools.**

This section includes any single-use tools, such as sharps, that come into direct contact with a client and should be disposed of immediately. It is identified as a high risk.

- **Section 982 - Sterilizing tools**

Identified as a high risk. Electrology tools must be sterilized.

- **Section 983 - Hand hygiene**

Deemed a high risk.

- **Section 984 - Communicable illnesses.**

This is when someone has a communicable illness and performs services or works on a person with a known communicable illness—deemed high risk and a violation.

Ms. Crossett noted that this regulation only covers what can be visually seen on the client. She asked if language could be added to indicate that a client should have a signed consultation card that confirms that they don't have the illness. According to her, however, such occurrences were very rare. Ms. Underwood was unsure whether the Board could make recommendations in actual regulations.

### **Public Comment**

No comments were received from the public.

- **Section 986 - Brushes**

This section was deemed as a high risk. If a dirty brush is used on someone's face or hair, that could lead to consumer harm. Ms. Crossett noted that number three stated, 'lay brushes flat on a towel to dry.' Number four stated that all brushes should be in a clean, covered container. She asked if the brushes should be left out. Ms. Underwood clarified that the brushes would be left out to dry.

- **Section 987 – Linens**

This section was deemed a low risk.

- **Section 988 - Multi-use Cosmetics**

This section was deemed a high-risk violation. It requires that all cosmetic products be kept in a clean, closed container. When only a portion of a cosmetic product is to be used, it shall be removed from the bottle not to contaminate the remaining portion. For example, leaving a wax stick in a pot shall be considered double dipping.

- **Section 989 – Prohibited substances, equipment, tools, and supplies.**

This section was deemed high risk. Prohibited substances and tools include methylene chloride, credo blades, and ultraviolet light boxes. Ms. Underwood mentioned that many states were banning the oven-looking devices and that California should follow suit. Right now, they can be used as storage boxes, but she suggested that the Board should get rid of them. Other prohibited supplies include sterilization pouches, roll-on wax applicators that cannot be disinfected, neck or nail dusters, glue, or adhesive around the eye unless they are specifically manufactured for the eye.

Section B – licensees shall not advertise or provide any injection regardless of whether the device uses a needle. Any hair removal from the nose or ear canal, removal of ingrown toenails, removal of moles or skin tags, emptying of the intestines utilizing fluids of a lower portion of the gastrointestinal tract, medical claims such as weight loss or detoxification, and any service using a live animal, such as fish pedicures, are all extremely high-risk violations.

Ms. Crossett noted that many estheticians were doing piercings and tattooing, although they were not supposed to. She asked if there should be language in there to check on that. Ms. Underwood stated that they shouldn't be prevented from doing it, but there should be a standard for how they should do it.

Ms. Crossett also mentioned that makeup brushes use ultraviolet light boxes to dry after cleaning them. It is a closed container, marked clean, and says storage only. She asked if the regulation meant it was okay to have the equipment in a spa or school, but it cannot be used for disinfection or sterilizing. Ms. Underwood stated that the regulation banned the equipment completely.

Ms. Crossett stated that the ultraviolet light boxes provide a better way to dry the brushes than leaving them on a counter since the boxes are clean and closed. She felt there should be language prohibiting their use for disinfection or sterilization instead of

banning them altogether. Ms. Roste agreed, adding that most towel warmers have a light feature built in these days. Banning all UV light equipment would also be banning the towel warmers.

Ms. Yumi Youn mentioned that with the passing of SB 803, many schools were preparing to start teaching lash tinting and extension. She indicated that many students were buying lash glue and other products from Amazon or online and wondered which agency would check on the safety of the products, whether it was FDA or the Board. Ms. Underwood stated that the Board does not have any oversight of the products. The Board can, therefore, not approve any specific products. It can only ensure that the product used is specifically manufactured for that purpose. For instance, many cases have been of eyelashes being attached using glue that should not be put on the eyes. Ms. Youn reiterated that some products, like nail glue, should be specified. Otherwise, they will confuse. Ms. Crossett stated that it would be safe if the glue said it was for the eyes. That's how specific it can go.

About the UV light boxes, Ms. Roste stated that most people were buying them online, and the boxes say sterilize on them. Therefore, most people, including the consumers, thought the boxes were being used correctly. She indicated that if the Board wanted to say they cannot be used for disinfection, they must demonstrate how the disinfection should be done before putting brushes in the UV boxes. She added that most states were banning the boxes from the people who thought they were using them properly, but they were not. Mr. Paul Bryson pointed out that some people might misinterpret the banning of UV light boxes. They might think that UV nail lamps are also being banned. He added that the language should specify that it is UV boxes used as sterilizers and disinfectants.

Ms. Crossett suggested adding teeth whitening and jewels to the prohibition list. She mentioned that some people that shouldn't be performing the procedures were even doing it at shows. Ms. Underwood felt that delving into that area would raise issues with the Dental Board.

- **Section 990 – Shampoo bowls and treatment tables.**

This section was listed as low risk. The Committee did not have any additional comments.

- **Section 991 – Invasive procedure**

This section was listed as very high risk. It includes an application of electricity that visibly contracts the muscle, application of a topical substance that requires a physician's prescription, penetration of the skin by metal needles or filaments unless it's electrology, abrasion or exfoliation of the skin below the epidermis, removal of any calluses, and any action that results in thermal, chemical, or electrical burn of the skin.

Regarding the visible contraction of the muscle, Ms. Funk stated that the microcurrent that she has been learning about is a sensory reaction that is not visible. Ms. Funk suggested changing the part which said 'visibly contracts the muscle' because it is a

loophole that she had seen many estheticians getting through. Ms. Crossett pointed out that if it's not visible and does not contract the muscle, it should be allowed for a penetrating product. She mentioned that some microcurrent could be used with massage to loosen up the wrinkles around the eyes, and none of that contracts the muscle, which should be okay to use. Ms. Funk mentioned that she also would like some clarification on the language as she had a microcurrent device that she wanted to bring into the treatment room, but it was not allowed.

Mr. Isbell stated that the language referred to using a product, but the Committee was referring to simply having the product in the room as the violation. He suggested clarifying that language, adding that there had been cases of people having it in the room but claiming that they were not using them.

Ms. Underwood stated that Ms. Funk is a new Board member who is also a licensed esthetician, and Ms. Crossett is an esthetician and a school owner. She requested them to clarify whether all esthetic procedures contract the muscles.

Ms. Funk confirmed that all the esthetic procedures contract the muscle, even the facial massage. She reiterated that aestheticians are already manipulating the muscles in the skin, but microcurrent is a low-level stimulant used on Bell's Palsy or stroke victims. She reiterated that she has been training on micro-current for about a year. She attended the skincare convention in June in Las Vegas and had taken two seminars on it. She stated that from what she had learned, there was a very specific difference in the current allowed in a spa treatment room as opposed to a medical administration. She had therefore purchased an acceptable device.

Ms. Crossett stated that the safest way is to check if the procedure does not result in bruising or swelling or if the face does not twitch while working. She mentioned that in her case, they use microcurrent to penetrate the product or relax the face. She voiced concern with the current language, which indicated that microcurrent should not be used because that would take away a big tool.

Ms. Funk mentioned that the only contraindications she knew of were epilepsy, pacemaker, arrhythmia, and heart palpitations. She suggested having a form that clients would sign to denote if they have any medical contraindications. Ms. Underwood indicated that the language would be clarified.

Ms. Lee mentioned that the language had been added in response to an industry bulletin on electrical muscle stimulators. Licensees should not do anything that causes body toning, muscle firming, or tightening, but low-level galvanic and microcurrent could be used for product penetration. Ms. Underwood stated that more research would be done on the section and the wording to make it understandable. Ms. Crossett pointed out a level of devices that could be used to clarify the language. She mentioned that some devices, such as the cool sculpting, fall into the class two category and can only be used under medical supervision.



Ms. Youn mentioned that she had been an esthetician and a nurse for many years, so she understood both sides well. She stated that she had microcurrents a lot on herself and some of her customers and thus agreed that the language should specify that the high current microcurrent can be used since it causes low stimulation for facial muscles.

Ms. Funk proposed sending some of her research on the different levels of electrical current that can be used to Ms. Underwood to help with the wording. Ms. Underwood informed the Committee that she was in current talks with the Medical Board and would meet them tomorrow. They would be looking into some things that estheticians were expanding their scopes into. An internal Department of Consumer Affairs Med Spa task force would be formed to look into that.

Ms. Paula Johnson added that the electrical currents in that section should be quantified numerically. It would also help translate into other languages as everyone would understand the numbers.

- **Section 994 – Cleanliness and Repair**

This section requires establishments to keep the floor, walls, ceilings, furniture, furnishings, and fixtures in equipment clean and in good repair and not allow waste, hair clippings, or refuse to accumulate or overflow in their containers. First offense fine is set at \$100 and it was deemed a medium risk.

- **Section 995 – Building standards**

This section was listed as medium risk. It requires hot and cold running water and potable drinking water.

Ms. Crossett asked if there were regulations around people doing their laundry internally on their own. She mentioned that she had learned in school that degrees on washing machines should be marked. Ms. Underwood stated that a section says that linens shall be laundered either by commercial laundering or by non-commercial laundering process. The proposed language states 160 degrees, but inspectors cannot enforce this. Non-commercial laundering requires using a washer on the hot water setting and a dryer until the linens are hot to touch.

Ms. Crossett asked if a building standard should have hot water on their washing machines and a dryer that gets hot if the laundry is done internally. Ms. Underwood stated that that is not a requirement.

Ms. Johnson inquired if the building standards had considered adding anything about ventilation requirements. Ms. Underwood stated that the section stated a system of adequate ventilation following part two, section 1203 of the California Code of regulations, which are building standards.

## **Public Comment**

Jaime Schrabeck from Precision Nails stated that some things listed in Sections 989 and 991 as very high risk were not high risk. She wondered if any of the risk levels were legally defensible. She also mentioned that the regulations were being discussed regarding what the inspector can observe and cite. She asked if the law limits the Board's authority to assess administrative fines for Article 12 to health and safety only. She added that as an expert witness, she had observed many occasions where a client might have experienced something, but just because an inspector wasn't there, no action was taken. She thus felt that the Board should hold a person responsible even when an inspector is not there to observe and cite. That would be grounds for disciplinary action listed under 7404.

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

Jaime Schrabeck stated that the Personal Service Permit did not clearly define what it means to be incapacitated, allowing someone licensed to go somewhere other than working in an establishment to provide services. She requested that there be a way of establishing what it means to be incapacitated in the future because it regards health and safety.

### **7. AGENDA ITEM #7, SUGGESTIONS ON FUTURE AGENDA ITEMS**

Mr. Isbell requested Ms. Underwood to provide feedback on her meeting with the other boards.

Chair Pham asked about the next time the Committee discusses the regulations. Ms. Underwood stated that the Committee meets twice yearly since it is a large committee. She indicated that staff would clean up the language and bring it back to the Committee. The next meeting might be in early 2023.

Ms. Funk proposed adding in Section 989 of prohibited substances products that estheticians or hairstylists have made themselves, such as self-made concoctions. She pointed out that these are not regulated and might be used professionally.

### **8. AGENDA ITEM #8, ADJOURNMENT**

There being no further business to discuss, the meeting adjourned at approximately 11:32 a.m.