

**CALIFORNIA STATE BOARD
OF
BARBERING AND COSMETOLOGY**

LICENSING AND EXAMINATIONS COMMITTEE MEETING

MINUTES OF JANUARY 9, 2023

COMMITTEE MEMBERS PRESENT

Tonya Fairley
Yolanda Jimenez
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

Board President Steve Weeks volunteered to act as temporary chairperson for the Licensing and Examinations Committee meeting as Derick Matos left the Board.

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

Steve Weeks, called the meeting to order at approximately 9:00 a.m. and confirmed the presence of a quorum.

2. AGENDA ITEM #2, DISCUSSION AND POSSIBLE APPROVAL OF THE OCTOBER 10, 2022, COMMITTEE MEETING MINUTES

Motion: Tonya Fairley moved to approve the October 10, 2022, Committee meeting minutes. Yolanda Jimenez seconded.

No comments were received from the public.

Motion to approve October 10, 2022, Committee meeting minutes carried; 3 yes, 0 no, and 0 abstain, per roll call vote as follows:

The following Committee Members voted "Yes": Steve Weeks, Yolanda Jimenez, and Tonya Fairley.

3. AGENDA ITEM #3, REVIEW AND DISCUSSION OF THE EXAM PASS RATES

Ms. Underwood stated that there had been ongoing concerns about the Spanish pass rates. She indicated that some major changes occurred in 2022 with the reduction of the course hours and with a new exam in July. Staff, therefore, started diving deeper into looking at what could be done to improve pass rates.

She mentioned that the pass rate had changed a little in 2022, but not by much. She indicated that a decline in pass rates is usually expected when a new exam is put out. Based

on the current report, the Spanish and apprentice pass rates were very low. The new exam also indicated that the barber exam pass rates were lower than expected. Staff started looking into individual schools to see if there was a possibility to help them improve.

Staff also looked at the level of authority the Board has in improving the pass rates and determined it was minimal. In past Sunset reviews, the Board asked several times for sole oversight of schools but has yet to be successful. The Board, therefore, has minimum authority over schools in that it only approves their curriculum, which is set in statute. Ms. Underwood stated that a school can get approved easily by having a location, minimum equipment, and a curriculum. Issues only arise in what happens after the schools get approved. The Board does not have a renewal for schools, so if schools change things even ten years later, the Board has no idea.

Ms. Underwood mentioned that the Bureau for Private Postsecondary Education (BPPE) had more oversight over the schools and have a quality of education unit. One of the staff's recommendations was to refer schools to the BPPE. Ms. Underwood stated that she had already spoken to the agency about this. She further noted that some schools had had very low passage rates for years.

The data provided went back to the pre-pandemic period in 2019, showing that the schools were performing poorly even then. This raised a lot of concern that some schools never get over the 30% pass rate, and the Board has no authority to do anything about it. Ms. Underwood mentioned that the exam is verified by the Office of Professional Examination Services with the Department of Consumer Affairs. It is not something made up by the Board. The Board uses PSI, which is given in at least eight other states.

The Board must find a way to go into schools and look at their quality of education. The Board's authority lies in going and inspecting schools for health and safety because most schools have a clinic floor where consumers receive services from students. Ms. Underwood stated that even though there is a big issue in schools, the problem might only be solved with some statutory changes in the Board's oversight over the schools. She referenced the cosmetology pass rates by the school and highlighted a school with very low attendance. This raised another concern about how the schools managed to stay in business with such low numbers of attendees. Some schools had only three to five graduates in a year, while others were in the hundreds. Ms. Underwood indicated that staff would look into some schools with low attendance to determine what was happening.

On the issue of the pass/fail rates, she urged the Committee to discuss further, asking for more authority to do something about the schools. Mr. Weeks stated that the first issue to be resolved is recognition of the problem of low school rates and passing that to the Board. He mentioned that the Board has been dealing with the low Spanish rates for a long time. The Board thought test composition, language difficulties, or apprentice education might have caused the problem. Now, the attendee numbers also significantly cause low pass rates. Mr. Weeks asked if all the numbers represented first-time test takers or if some represented multiple-time test takers. Ms. Underwood stated that the numbers were combined and represented both.

Ms. Underwood mentioned that the Board only approves the schools teaching in one language, however, the BPPE does. A school that is teaching in Spanish or Vietnamese has to be approved for that. She also stated that the textbooks are translated into Spanish and Vietnamese, the schools need to use those when teaching, however they prefer to use English textbooks.

Ms. Underwood stated that the Board could only make regulations with statutory authority to increase the requirements for the application process. She has already met with the Board's Regulations Counsel, who gave her ideas on what the Board could do to strengthen its authority over schools based on regulation only. Ms. Underwood emphasized that if the school is to continue, the Board must ask the legislature for a fee for schools. She also pointed out that the Board does not get a fee for applications, which is needed to support the Board's schools positions. Currently, there are two analyst positions, which take away from the enforcement unit.

Ms. Fairley stated that recognizing an issue with the schools is a big start. She noted that the Board should work with the BPPE to weed out schools that are not performing in general. She saw no point in the Board having all the data showing the non-performing schools and not doing anything about it. Ms. Fairley also believed schools should be required to renew the same way licensees are. That will ensure they pass the same information they are required to. It will also increase confidence in the schools and what's being taught. She additionally mentioned the issue of the schools that teach in Spanish, but the students take the test in English, which creates another point in the testing process. She indicated that the data unearthed more things but believed that the base of the problem is the schools not being held accountable.

Ms. Underwood agreed with Ms. Fairley, adding that some good schools had a hundred percent pass rates. She mentioned that many changes took place in 2022, including the thousand-hour course change, so the Board should look at how 2023 goes. Ms. Underwood believed the schools would improve in 2023 with the new exam. She mentioned that the barber exam improved after the barber town hall meeting. The town halls are done with the exam vendor who go over the content with the schools. A cosmetology town hall is scheduled for February also to try and get the pass rates up.

Ms. Underwood further mentioned that the staff created a new pamphlet on choosing a school. She stated that the Board does not have information on the accredited schools, but the Bureau does. Some of the schools on the list provided by staff are accredited and have low passage rates. The accreditation company is responsible for monitoring passage rates, and they have a minimum requirement that schools must maintain to retain their accreditation. Still, as the Board doesn't work with the accreditation company, the Board has no authority over that. Ms. Underwood stated that the purpose of the pamphlets is to guide students on how to pick a school and to give them a look at the pass/fail rates and accreditation of the schools.

Ms. Fairley asked if the schools are listed online with their pass/fail rates. Ms. Underwood said they were. Ms. Fairley expressed concern that some of the schools are still there with no

accountability at all. She noted that some schools with low pass rates are going lower with fewer students.

Mr. Weeks asked about Ms. Underwood's opinion on an acceptable pass rate. Ms. Underwood believed that it should be around 60 to 65. She said she would reach out to some accreditation companies to determine an appropriate number.

Ms. Underwood also pointed out that the schools fluctuate. They might perform poorly in one year and then have a hundred percent pass rate the next year. The data that staff pulled up focused on low schools, to begin with, and were getting lower.

Mr. Weeks asked if apprenticeship was taken into consideration. Ms. Underwood said no, adding that the apprentice program also had its issues.

Mr. Weeks stated that since the Board had some oversight over the curriculum, they could broadly define the curriculum and ensure that the schools follow it. If the schools were not showing competency, their failure rates would demonstrate that they are not teaching a curriculum that has been tested for many years and proven successful. Mr. Weeks indicated that if students were not getting a vocational license through their education, the Board could assume that they were not getting the proper curriculum and use that as an inroad into the schools. Ms. Underwood stated that the curriculum used to be in regulation prior to January 1, 2022, when SB 803 went into effect. The curriculum was moved into statute, but Ms. Underwood indicated that the Board could still make regulations on expanding more of an educational plan that schools look at. She further mentioned that the Bureau looks at a school's entire educational program, not just the curriculum. She also stated that staff had met with the BPPE and looked at some applications submitted in the past, which looked perfect. However, these schools might have hired a consultant to put their applications together, but they must execute what they put on paper. She also mentioned that the BPPE asked for a list of schools with low pass rates that the Board would like to have them look into.

Ms. Fairley reiterated that schools should be held accountable for the low pass rates. She added that schools should also be held responsible for ensuring students attend. She suggested that the data collected to be taken back to the schools in question to make them aware of the problems with their school.

Mr. Weeks asked if the Board could use its authority to put the schools with low pass rates under some probation. He indicated that the Board could only accept testing students from that school once the school teaches the curriculum. Ms. Underwood stated that the Board needs to have the authority to do that. Mr. Weeks also asked if the schools make additional money from students who don't pass when the students go back for extra classes again. Ms. Underwood stated they could, though she was unaware of such cases. Ms. Fairley stated that many schools allow students to go back and do tests without charge.

Mr. Weeks inquired about the next steps for the Committee. Ms. Underwood stated that the Committee could do several things:

- Pursue a statutory change to require schools to renew and to require an application fee and a renewal fee.
- Staff could develop regulations to strengthen the school program and bring them back to this Committee to discuss.
- Direct Ms. Underwood to set up a task force and bring in experts to work with some schools on setting up the regulations.

Ms. Underwood stated that the fee would allow staff to do more with the schools. Ms. Fairley agreed that there should be a fee and a renewal process. She indicated that the renewal process should look at the pass/fail rates and things that make a school what it should be. Mr. Weeks asked how quickly the staff could act on new regulations. Ms. Underwood stated they had already started looking into rules internally. They will then meet with the Board's legal counsel and the regulations legal counsel to get the regulations language. By spring, a report will be ready for the Committee.

Ms. Jimenez stated that in addition to looking at experts in the field of cosmetology, the task force could also comprise teachers that are experts in teaching.

Mr. Weeks stated that the next step is to get the process rolling and get the Board involved by informing them of the discussion. Ms. Fairley stated that the process should have a timeline because testing is done daily, and the issues will continue mounting. She believed that accountability should start sooner rather than later. Ms. Underwood mentioned that regulations take time to get through. On the bright side, the staff got a new regulations analyst so that things might move faster.

Mr. Weeks asked if the Board could do something on an emergency basis to try and get involved in the problem of low passes other than waiting on regulations and statutes. Ms. Underwood stated that the only way would be to work with BPPE; she had already talked to their chief about the subject.

Mr. Weeks wondered if the Board's legal counsel could look into other alternatives. Ms. Sabina Knight stated that the Board could only do little if it violated the law. Working with BPPE was the best alternative. Ms. Underwood mentioned that the staff is getting back to doing joint inspections with the BPPE. They can also work together on targeting some of the low-performing schools.

Mr. Weeks pointed out that since the Board has a joint Committee with the BPPE, the BPPE must know some of the Board's difficulties with the schools. He asked about the BPPE's position on changing some of the regulations. Ms. Underwood stated that there had been no discussions with the BPPE about the Board's sole oversight, but there were ongoing discussions about the other issues.

Ms. Jimenez mentioned that there's always a bell curve on any given exam where some people pass highly while others fail. She stated that if this data falls along a bell curve, it would be considered normal, and there's nothing the Board can do about it. On the accreditation issue, Ms. Jimenez pointed out that public schools also get accredited and still

have many students that don't pass and others who still need to graduate. According to her, all these things are considered normal in education.

Ms. Fairley agreed with Ms. Jimenez's sentiments, adding that the major concern is schools that constantly put out low passing rates. Ms. Jimenez argued that the issue would continue because the Board needs more authority to pull their teaching program. She stated that the Board should focus on where it has authority.

Mr. Weeks reiterated that the report to the Board would state that the Committee is discussing this topic and that the staff is working on regulation suggestions. Ms. Underwood stated that one thing that could help speed up things is if the Board votes for asking for any statutory authority, either on the renewal process or the fees. This could be discussed at the next meeting when presenting the Committee's report.

Public Comment:

- Fred Jones, Professional Beauty Federation, stated that the schools should be guided by looking at the best interests of the students. He believed that the best interest of the students would be best served by sole oversight of the State Board over the schools. Mr. Jones stated that many things need to be fixed regarding regulation and statutory authority between the Board and BPPE. He added that there should be one overall authority and given that students go to the Board first before they go to BPPE, he believed the authority should be the Board.
- Wendy Cochran stated that the California Aesthetic Alliance has always supported the sole oversight of the Board. She pointed out that the problem is no longer the course hours or COVID. She also mentioned that BPPE must take the responsibility of attending and examining schools and ensuring that students pass. There are also no requirements for instructors. Many of them are just folks that graduated from the program. There's no license requirement for them. Ms. Cochran stated that this is something that the Board and the BPPE could look into. Ms. Cochran also echoed Ms. Jimenez's comments that it is normal for some students not to graduate. She reiterated that the responsibility lies with the BPPE to ensure that they are managing the schools.

4. AGENDA ITEM #4, UPDATE FROM THE DECEMBER 5, 2022, BARBER TOWNHALL MEETING

Ms. Underwood reported that on December 5, 2022, staff held a barber town hall meeting for schools. The exam vendors gave an interactive review of the barber exam. The same will be done with the cosmetology exam in the first week of February. Over a hundred people attended the meeting, which was done in person and virtually. Many people have not shown up in person, so cosmetology will be done virtually. Ms. Underwood believed that people were receptive and appreciative as the barber scores had been going up already. She hoped that the meeting provided some assistance to the schools as well.

5. AGENDA ITEM #5, REVIEW AND DISCUSSION OF HIGH SCHOOL EDUCATIONAL REQUIREMENTS FOR LICENSURE

Ms. Underwood stated that this item was discussed in another meeting, but it was brought to this Committee since it falls under licensing and examination requirements. The discussion was regarding the possibility of lowering the 10th-grade education requirement to facilitate more people to test into the industry.

Ms. Jimenez stated that lowering the requirement will not lead to more people passing the exams. She was concerned that reducing the need to eighth grade would result in a drop in the passage rates because of critical thinking skills and the readability level of the licensing tests.

Ms. Fairley agreed with Ms. Jimenez. She added that lowering the requirements will also require a change in the educational teachings, which might hurt the overall test score. Ms. Jimenez also noted that in the United States, students must attend compulsory school through 12th grade. There are, however, other countries where that is different from the standard. According to her, the only caveat to lowering the education level is that there might be people from out of the U.S. who want to get their licensing, and in their countries, they may not have to have gone to school through 12th grade.

Mr. Weeks stated that it would be prudent to keep the educational requirements the same.

Public Comment:

- Wendy Cochran agreed that lowering the education requirements would raise comprehension issues. This will be problematic, especially in esthetics, where one needs to read the instructions correctly and understand what chemistry to apply to what situation.

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

There were no comments from the public.

7. AGENDA ITEM #7, AGENDA ITEMS FOR THE NEXT MEETING

Mr. Weeks proposed continuing the discussion of exam pass/fail rate. Ms. Fairley suggested mapping out a plan as far as regulation is concerned on the pass/fail rates and how the Board can be involved in that.

8. AGENDA ITEM #8, ADJOURNMENT

There being no further business to discuss, the meeting adjourned at approximately 10:15 a.m.