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MEMBERS OF THE COMMITTEE
Joseph Federico (Chairperson)
Jacquelyn Crabtree
Lisa Thong
Steve Weeks

**ENFORCEMENT AND INSPECTIONS
COMMITTEE MEETING
January 22, 2018**

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

**Department of Consumer Affairs
1747 North Market Blvd.
HQ2 Hearing Room 186, 1st Floor
Sacramento, CA 95834**

AGENDA

10:00 AM –Until Completion of Business

OPEN SESSION:

1. Call to Order/ Roll Call/ Establishment of Quorum
2. Public Comment on Items Not on the Agenda
The Board may not discuss or take any action on any item raised during this public comment section, except to decide whether to place the matter on the agenda of a future meeting (Government Code Sections 11125, 1125.7(a))
3. Approval of Committee Minutes
July 16, 2017
4. Update on Inspector Language Access Protocol
5. Report on How to Address Inspection's Workload with Limited Staff
6. Agenda Items for the Next Meeting
7. Adjournment

Action may be taken on any item on the agenda. The time and order of agenda items are subject to change at the discretion of the Committee Chairperson and may be taken out of order. In accordance with the Bagley-Keene Open Meeting Act, all meetings of the Board are open to the public.

**Government Code section 11125.7 provides the opportunity for the public to address each agenda item during discussion or consideration by the Board prior to the Board taking any action on said item. Members of the public will be provided appropriate opportunities to comment on any issue before the Board, but the Board President may, at his or her discretion, apportion available time among those who wish to speak. Individuals may appear before the Board to discuss items not on the agenda; however, the Board can neither discuss nor take official action on these items at the time of the same meeting (Government Code sections 11125, 11125.7(a)).*

The meeting is accessible to the physically disabled. A person who needs disability-related accommodation or modification in order to participate in the meeting may make a request by contacting: Marcene Melliza at (916) 575-7121, email: marcene.melliza@dca.ca.gov, or send a written request to the Board of Barbering and Cosmetology, PO Box 944226, Sacramento, CA 94244. Providing your request is a least five (5) business days before the meeting will help to ensure availability of the requested accommodations. TDD Line: (916) 322-1700.

DRAFT
CALIFORNIA STATE BOARD
OF
BARBERING AND COSMETOLOGY

ENFORCEMENT AND INSPECTIONS COMMITTEE MEETING
MINUTES OF JULY 16, 2017

California Board of Barbering and Cosmetology
2420 Del Paso Road
Sequoia Room, 1st Floor
Sacramento, CA 95834

COMMITTEE MEMBERS PRESENT

Joseph Federico, Chair
Jacquelyn Crabtree
Richard Hedges
Lisa Thong

STAFF MEMBERS PRESENT

Kristy Underwood, Executive Officer
Tami Guess, Board Project Manager
Kurt Heppler, Supervising Counsel
Marcene Melliza, Board Analyst

1. Agenda Item #1, CALL TO ORDER/ ROLL CALL/ ESTABLISHMENT OF QUORUM

Mr. Hedges 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

MOTION: Mr. Hedges made a motion, seconded by Ms. Thong, to elect Joseph Federico as chairperson of the Enforcement and Inspections Committee for 2017. Motion carried 4 yes, 0 no, and 0 abstain, per roll call vote as follows:

The following Committee members voted "Yes": Federico, Crabtree, Hedges, and Thong.

3. Agenda Item #3, PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA

Jaime Schrabek, of Precision Nails, suggested putting out press releases to inform the public when cases go to fining or revoking a license in order to communicate what went wrong and what the consequences could be. She suggested taking five of the largest areas of concern, finding cases that represent noncompliance in those areas, and letting licensees and members of the public know what the Board is willing to do for consumer safety. She stated one of the responsibilities of the Board is to protect consumers and licensees from unlicensed practitioners.

Wendy Jacobs, of California Aesthetic Alliance (CAA), agreed and stated unlicensed practitioners work out of a spare room, have mobile spas, go into clients' homes, and

put out inadequate training. She stated their impression is that there are only 21 inspectors and they will not be caught. She stated unlicensed individuals taunt licensees in Facebook groups by dropping prices for customers and then overcharging for training sessions. Publishing anonymous case results sends messages that the Board is out there and doing something to correct noncompliance.

4. Agenda Item #4, APPROVAL OF COMMITTEE MINUTES

- October 19, 2015

MOTION: Ms. Crabtree made a motion, seconded by Mr. Federico, that the Committee approves the October 19, 2015, Meeting Minutes as presented. Motion carried 4 yes, 0 no, and 0 abstain, per roll call vote as follows:

The following Committee members voted "Yes": Federico, Crabtree, Hedges, and Thong.

5. Agenda Item #5, DISCUSS AND MAKE RECOMMENDATIONS TO THE BOARD REGARDING PROPOSED AMENDMENTS TO TITLE 16, CCR SECTION 974.1 TO REVISE THE MEMBERSHIP REQUIREMENTS FOR SERVING ON THE DISCIPLINARY REVIEW COMMITTEE

Mr. Federico asked if the Disciplinary Review Committee (DRC) is an offshoot of the Enforcement Committee. Kristy Underwood, the Executive Officer, stated the DRC is its own Committee but the Board referred the regulation to the Enforcement Committee since, historically, the DRC does not meet as a Committee.

Ms. Underwood stated the need for a change in the regulations because, if a DRC hearing decision is appealed, the members of the DRC Committee cannot vote on the appeal decision. She reviewed the proposed regulation changes, which were included in the meeting packet.

Kurt Heppler, Board's Legal Counsel, suggested that the DRC constitution not include a Board Member to avoid conflict.

Mr. Hedges stated the need for at least one Board Member to be part of the DRC due to the uncertainty of non-Board DRC members' conflicts of interest and level of experience and to maintain some control over the disciplinary review process. He also stated it is good for Board Members to see the "ugly" side of the industry and why the Board exists.

Mr. Federico stated the DRC is where the Board interfaces with licensees. He suggested making a report from the DRC a standing item on regular Board agendas by the Board Member or Members who attend the DRC hearings on pressing cases and what is happening inside the DRC.

Mr. Federico asked about the DRC selection process. Mr. Heppler stated the Board will decide in open session who comprises the DRC. He noted that there could be multiple Committees of three individuals.

Mr. Hedges suggested Frank Lloyd as a DRC public member.

Ms. Thong suggested approving a pool of five to six members for each of the multiple DRCs.

Mr. Heppler suggested keeping the old language that states the Board President can appoint members to the DRC as necessary.

Mr. Hedges suggested that each DRC locality be comprised of three members who may serve, when necessary, in another locality. He suggested adding "who may serve in time of need on any other DRC" at the end of the sentence in 974.1(a).

Public Comment

Andrew Drabkin, Board Vice President, speaking as a member of the public, stated his concern that the minimum quorum of the DRC is two and that if those two are industry or public members, it defeats the diversity. He suggested creating a pool of members and asked the Executive Officer to assign a diverse group for each hearing. He stated experience does not matter; all Committee Members will be inexperienced at DRC hearings at first.

Ms. Underwood stated her concern that having a DRC rotation pool will be difficult for staff to orchestrate. Individuals who volunteer to be on the DRC will have committed to it.

Ms. Crabtree asked how often the DRC meets. Ms. Underwood stated they meet monthly with Southern California meeting more frequently than Northern California.

Ms. Thong suggested keeping 974.1(a) as three members, but appointing multiple DRCs of three members each for each region: two Northern California DRCs and three Southern California DRCs with the same Board Member assigned to all DRCs in their region.

Public Comment

Ms. Schrabek stated her concern about the DRC appointment process and the intended DRC composition. She suggested that 974.1(b) should read "at least one member who is a licensee of the Board of Cosmetology in good standing" as opposed to a member of the industry.

Ms. Crabtree asked for the definition of "member." Ms. Underwood stated a member is defined as an individual with any association to the Board, even if they do not have a license, such as a school.

Ms. Crabtree stated members of the DRC should be licensees who comply with the regulations on a daily basis to give greater credibility to the DRC.

Mr. Hedges stated that is good advice, but the Board is a consumer Board populated by a public majority and needs to have members of the public represented on the DRC.

Ms. Underwood agreed and stated that is the one member that is "not associated professionally or financially" with the industry.

Ms. Crabtree stated her concern about the consistency of decisions between the multiple DRCs and whether one will be deemed more lenient over time with case outcomes determined by which DRC heard them. Multiple DRCs would give the

opportunity to consumers who did not receive the outcome sought after to argue that the DRC that heard their case treated them differently than another DRC would have.

Mr. Hedges stated the DRC is an informal hearing with a friendly atmosphere. He suggested revising 974.1(b) by adding "each Committee shall include at least one member who is a licensee of the Board of Barbering and Cosmetology" to the end of the sentence, but he noted that this language will exclude individuals with expertise who have served on the Board.

Ms. Underwood stated each DRC will be made up of a representative of the public, a representative of the industry, and a Board Member. The Board ultimately approves the members of the DRCs.

Mr. Federico added that the Board also has the authority to remove individuals from DRCs. He stated DRC members must apply, go through a vetting process, be selected to potentially serve on a DRC, and be approved by the Board.

Ms. Crabtree asked how DRC members are evaluated for their effectiveness in that role. Mr. Hedges stated the Board Member on each DRC will evaluate the other members. The DRC member should be removed if they receive two strikes.

Mr. Heppler stated the DRC members can be evaluated on their attendance and the decisions they make based on the presented facts. They should not be graded on providing the "correct" decision. Their decisions can be challenged, but they should not be punished for them.

Public Comment

Ms. Jacobs stated her concern for fair, balanced representation across the licensees so estheticians, nails, electrolysis, hair, and barbering are represented.

Mr. Hedges stated 90 percent of the cases do not require individuals with expertise in each field. It does not take expertise to know that clients should not be harmed and proper disinfection should be practiced.

Ms. Jacobs stated the importance of peer review.

Mr. Hedges invited Ms. Jacobs to attend a DRC hearing and to provide her feedback to the Board to help improve the process.

Summary of Committee Suggested Revisions:

- 974.1(a) will remain the same.
- 974.1(b) will be revised to include "at least one member who is a licensee of the Board of Barbering and Cosmetology, and one Board Member" at the end of the sentence.
- 974.1(c) will remain the same.
- 974.1(d) will end after "travel expenses."

MOTION: Ms. Thong made a motion, seconded by Ms. Crabtree, to approve the Committee suggested revisions made to staff's proposed

changes, which were included in the meeting packet. Motion carried 4 yes, 0 no, and 0 abstain, per roll call vote as follows:

The following Committee members voted "Yes": Federico, Crabtree, Hedges, and Thong.

6. Agenda Item #6, AGENDA ITEMS FOR THE NEXT MEETING

Mr. Federico suggested addressing the lack of Board inspectors, especially with the potential addition of a Personal Service Permit (PSP).

Ms. Underwood stated she met with the Department of Consumer Affairs last week to discuss this issue and the fact that there are no applicants for available inspector positions due to the low wage. Staff has been working to change the job classification and increase inspector wage. The Board cannot ask for funding for more inspectors when current vacancies cannot be filled.

Mr. Hedges suggested included a housing allowance for inspectors.

Ms. Thong asked for a report on the status of new trainings, if there has been any improvement, and what needs to be addressed at the next Committee meeting.

Public Comment

Ms. Schrabec suggested an agenda item to introduce new techniques and equipment to the Committee and to the Board, such as Russian manicures.

7. Agenda Item #7, ADJOURNMENT

There being no further business, the meeting was adjourned at approximately 11:15 a.m.



BUSINESS, CONSUMER SERVICES, AND HOUSING AGENCY • GOVERNOR EDMUND G. BROWN JR.

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MEMORANDUM

DATE	December 11, 2017
TO	Enforcement and Inspection Committee Members Board of Barbering and Cosmetology
FROM	Tami Guess, Board Project Manager Board of Barbering and Cosmetology
SUBJECT	Status Update on Inspector Language Access Training

On July 17, 2016 the Board adopted a formal Inspector Language Access Protocol (protocol). A copy of the adopted protocol has been included for review.

A formal instructional class was developed using the objectives outlined within the adopted protocol. The class was used to teach Board inspectors how to take reasonable steps to provide limited English proficient individuals meaningful access to all Board services, programs and activities.

The initial instructional classes were staff-led and utilized a PowerPoint video for instruction. The video included real life dramatizations of what may occur during an inspection and how the inspector may respond to the challenges presented. After the class, Inspectors engaged in a question and answer session to clarify the Board’s standards of conduct. Certificates of completion were issued to class participants (sample included for review). Three instructional classes were held to accommodate the northern, central and southern inspectors.

- Northern – February 28, 2017
- Central – March 8, 2017
- Southern – March 15, 2017

All currently employed inspectors have received the 2016 Inspector Language Access training.

As outlined in the California Business and Professions Code, Chapter 10, Article 1, Section 7313 (b) the Board is to evaluate the protocol every two years to ensure the protocol remains current. Staff evaluation and editing of the 2016 protocol is scheduled for February 15, 2018 with presentation for adoption to the Board members at the May 20, 2018 Board meeting.

Upon adoption of the 2018 Inspector Language Access Protocol, instructional classes will be scheduled to ensure all inspectors receive the updated training.

If an inspector were to be hired in between the time of the bi-annually scheduled instructional classes, provisions have been made for the newly hired inspector (at the time of completing the hiring paperwork) to view the PowerPoint instructional video at the Board's headquarters, be provided a copy of the written protocol and ask one-on-one questions to a qualified staff member.

Staff is currently analyzing data from the Language Line Services Company to evaluate if the language line is being used more frequently and if so, what languages are being utilized.



BarberCosmo

Board of Barbering & Cosmetology



**2016
INSPECTOR
LANGUAGE
ACCESS
PROTOCOL**

Inspector Language Access Protocol

Introduction

It is the policy of the California Board of Barbering and Cosmetology (Board) to take reasonable steps to provide limited English Proficient (LEP) individuals with meaningful access to all Board services, programs and activities. It is the responsibility of the Board and not the LEP individual to take reasonable steps to ensure communication between the Board representative and the LEP individual are not impaired as a result of the limited English proficiency of the individual. Representatives of the Board shall take reasonable steps to effectively inform the public of the availability of the materials and services provided by the Board language access protocol. This protocol supports the Board's VALUES:

Consumer Protection – We make effective and informed decisions in the best interest and for the safety of Californians.

Openness (Open-mindedness) – We will actively promote the sharing of ideas and information throughout the organization and with the public, and be receptive to new ideas.

Diversity – We recognize and celebrate California's ever-changing diversity.

Accountability – We are accountable to the people of California and each other as stakeholders. We operate transparently and encourage public participation in our decision-making whenever possible.

Integrity – We are honest, fair, and respectful in our treatment of everyone.

Efficiency – We diligently identify the best ways to deliver high-quality services with the most efficient use of our resources.

Customer Service – We acknowledge all stakeholders as our customers, listen to them, and take their needs into account.

Quality – We will deliver service, information and products that reflect excellence.

Applicability

This protocol applies to all Inspector Supervisors and Inspectors employed by the California Board of Barbering and Cosmetology.

Purpose

The purpose of this protocol is to ensure compliance with Chapter 10, Article 1, Section 7313 (d) of the California Business and Professions Code.

Effective January 1, 2016, Senate Bill AB 181, (Chapter 430, Statutes of 2015) signed by Governor Edmund G. Brown Jr. became law. This legislation amended the Business and Professions Code and requires the Board to adopt a protocol for the inspection of establishments when an inspector has difficulty understanding or communicating with the establishment owner, manager, or employees due

to a language barrier. The Board is required to evaluate the protocol every two years to ensure the protocol remains current.

Authority

- Department of Consumer Affairs Bilingual Services Program Policy (EEO 04-02);
- Dymally-Alatorre Bilingual Services Act (Government Code Sections 7290-7299.80); and
- Chapter 10, Article 1, Section 7313 (d) of the California Business and Professions Code.

Definitions

Interpretation – The act of listening to a communication in one language and orally converting it to another language while retaining the same meaning.

Limited English Proficient (LEP) - Individuals whose primary language is not English and who have limited ability to write, read, speak or understand English.

Meaningful Access – Language assistance that results in accurate, timely, and effective communication at no cost to the LEP individual. For LEP individuals, meaningful access indicates access that is not significantly restricted, delayed or reduced in quality as compared to programs or activities provided to English proficient individuals.

Primary Language – The language in which an individual most effectively communicates.

Translation – The replacement of written text from one language into an equivalent written text in another language.

Vital Documents – Paper or electronic material that is critical for access to the Board's services, programs or activities.

Customer Service Standards for Non-English Speaking (LEP) Individuals

- All LEP individuals shall be treated with kindness, courtesy and respect.
- LEP individuals will be identified as early as possible during the initial contact.
- LEP individuals will be offered an opportunity to utilize an interpreter via the Language Line Services.
- Translated written materials will be provided to the LEP individual if available.

Responsibilities

The Board will establish and maintain an Inspector Language Protocol Working Group (Working Group) that is representative of the Board's services, programs and activities as appropriate. The working group will be responsible for implementing and the regular review of the Inspector Language Access Protocol for its continued relevancy. The Working Group shall be responsible for the development of training materials that will address information specific to the Inspector Language Access Protocol. The Working

Group will be composed of the Board's Project Manager (Specialist), an Inspector Supervisor, an Inspector, a representative from the Cite and Fine unit and/or Inspections Unit and the Board's outreach analyst. The Specialist will establish a schedule to periodically evaluate and update the Board's LEP services and LEP protocol. The Specialist will lead this working group and report key issues and information to the Board's Executive Officer or designee.

Procedures and Requirements

The following procedures and requirements are to be followed by Inspector Supervisors and Inspectors of the California Board of Barbering and Cosmetology.

- A. Inspectors who interact with the public will be trained on language access protocol and procedures, including how to access language assistance services and how to identify and work with LEP individuals and translators. This training shall be completed on a bi-yearly basis and upon accepting employment with the California Board of Barbering and Cosmetology.
- B. Upon determining the need for language assistance, Board inspectors will take reasonable steps to ensure that all communication is conducted with the use of a bilingual staff member, or when necessary through telephonic interpretation.
- C. Inspectors will take reasonable steps to ensure that vital documents related to the Board's inspection program are provided to the LEP individual, in the language of their choice, if available.
- D. Inspectors who encounter and identify LEP individuals shall maintain a record of their contact with the LEP individual and the primary language spoken on the Inspection Report and the establishment record card.
- E. Inspectors shall at all times reflect the objectives, values and standards of the Board.

Revisions

In compliance with Section 7313 (d) of the California Business and Professions Code this protocol shall be reviewed every two years to ensure the protocol remains current.

The Inspector language access protocol is intended to improve the Board's internal management of the Department of Consumer Affairs language access policy, and does not create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the Department of Consumer Affairs, its agencies, its officers or employees, or any person.



State and Consumer Services Agency – Governor Edmund G. Brown Jr
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DATE: January 22, 2018

TO: **Members, Enforcement and Inspections Committee
 Board of Barbering and Cosmetology**

FROM: Kristy Underwood
 Executive Officer

SUBJECT: ADDRESSING WORKLOAD WITH LIMITED STAFF

The purpose of this memo is to provide members with an overview of how the workload of the inspections program is being addressed given the number of vacant inspector positions.

Current Staffing:

Below are the current number of positions in the inspections program and the number of vacancies sorted by territory:

Position	Territory	Status
Inspector III, Supervisor	North	Employee retiring January 2018
Inspector III, Supervisor	Central	Employee on leave, anticipated retirement early 2018
Inspector	South	Vacant
Inspector	South	Vacant
Inspector	South	Vacant
Inspector	South	Vacant
Inspector	North	Vacant
Inspector	North	Vacant

Inspection Priorities:

Inspectors daily workload is based on the following priority listing:

- Consumer Complaints
- Follow Up to Previous Inspections
- Inspection of Establishments not inspected in over 5 years

- Inspection of Establishments not inspected in more than 2 years

INTERNAL CHANGES

The following changes have been implemented to ensure inspections are being conducted to the best of the Board's ability:

New "Blue List"

In 2017, utilizing the BreEZe system, board staff was able to obtain data on establishments most recent inspection date. Staff were able to generate reports (referred to as the "Blue List") that were provided to each inspector to indicate establishments within their territory and the last date they were inspected. This has allowed inspectors to focus on inspecting establishments that may have not seen an inspector in many years.

Revised Directed Inspections

Directed inspections are inspections that are requested by the Board's enforcement unit. These inspections are the result of either a consumer complaint or as a follow-up to a recent inspection. Directed inspections are the top priority for inspectors and are to be done immediately and no later than 30 days. A new process was recently implemented for the issuance of directed inspections. Requesting a directed inspection is now done via e-mail as opposed to a paper request that was mailed to each inspector. E-mailing allows for instant delivery of the directed request eliminating mailing time and allowing the inspector to often complete the directed within 1-2 days.

Compliance Inspections

Compliance inspections have been implemented to allow for an inspector to go into an establishment with the purpose of verifying that a specific violation has been corrected. For example, if an establishment was found to have a foot spa that was not disinfected properly but had little to no other violations, a compliance inspection will be requested for the inspector to go in and only verify that the foot spa violation has been corrected. These types of inspections are only requested by the Board's Enforcement Unit and allow for a shorter inspection leaving more time in the day for inspectors to perform additional inspections.

Redefined Territories

In a review of existing territories, it was found that some inspectors were having to drive through another inspectors' territory to get to their assigned territory. To solve this issue, we re-mapped territories to reduce the distance each inspector must drive to conduct establishments. Allowing for less traveling time and increased time conducting inspections.

Inspectors Taking on Additional Territories

There are several areas in California that the Board has been unable to fill vacancies in due to the high cost of living and the low pay for the inspector classification (for example, San Francisco,

Carmel, Santa Barbara). With the creation of the Blue List (discussed above) we have had several inspectors complete their territories by conducting inspections of all the establishments within their territory. After being current in their own territory, several of our inspectors have offered to take on additional assignments and travel to cover some of the vacant territories. For example, three of our Northern Inspectors make regular trips to the San Francisco area to conduct inspections, two of our Central inspectors have been making trips to the central coast to conduct inspections and many other inspectors are traveling outside of their territory to conduct inspections. This has made a significant impact in the workload for the inspections unit.

CONCLUSION

This memo indicates several steps that have been taken to address the current situation and while we have made significant improvements there is still much to be done. We will continue to meet with the Department to indicate that the current salary for the inspector classification (noted below) is not sufficient.

Salary:

Inspector 1 \$3,144 to 3,854

Inspector 2 \$3,571 to 4,426

The Inspector classification pay scale has been an issue of concern for many years and the Board has been supportive of a pay increase to this classification for many years. However, an increase to the pay scale is not within the authority of the Board and is usually negotiated between CalHR and the bargaining units.

We will continue to monitor the workload of the inspections unit and are happy to continuously update this committee on our issues as well as our success.