

**BOARD OF BARBERING AND COSMETOLOGY**

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Board of Barbering and Cosmetology
Department of Consumer Affairs
400 R Street
Hearing Room, Suite 1030
Sacramento, CA 95814
October 27, 2003

MINUTES**BOARD MEMBERS PRESENT:**

Dr. Della Condon, President
Joe Gonzalez, Vice President
Kim P. McInnes, Professions Member
Richard Hedges, Public Member
Angela Reddock, Public Member

STAFF MEMBERS PRESENT:

Cindy Walton, Interim Executive Officer
Albert Balingit, Staff Counsel
Hallie Fisher, Policy/Licensing Manager
Marion Welch, Supervising Examiner
Jim Jacobs, Supervising Inspector
Jaime, Masuda, Staff Services Analyst

BOARD MEMBERS NOT PRESENT:

Bonnie G. LaChappa, Public Member
Mercedes Barcelona, Professions Member

◆ CALL TO ORDER/ROLL CALL

President Condon welcomed the members of the audience and introduced herself. The other board members and staff personnel also introduced themselves. President Condon announced that Ms. LaChappa and Ms. Barcelona could not be in attendance.

◆ BOARD ANNOUNCEMENTS AND REMARKS

President Condon repeated her announcement concerning the show in Long Beach that she attended along with Vice-President Gonzalez. He shared his impressions of the meeting as well.

President Condon spoke of the hearing called by the Sunset Review Committee that was held on October 22, 2003. At this meeting, she thanked the Hearing Committee present for their interest in the Board. President Condon talked about the current Board members and the history of the Board. She relayed that she felt the transition away from a Board originally to a program and a bureau had been very damaging. She spoke with them about bill SB 362. She told the Committee that a task force was going to be assembled to deal with the issues presented in SB 362. President Condon said that the number one issue needing to be addressed was the issue of timely testing. Another major issue that President Condon shared was that a testing facility was being contemplated that, in the opinion of the Board, was not in the best interest of the industry. She also brought up same-day licensing, the Exporior contract and the teacher's license. President Condon also talked about not being able to use the money the Board raises. She relayed that she has been very supportive of the staff. Another issue she discussed with the committee was the Private Post-Secondary oversight in which private schools were having a difficult time getting approved for opening. In closing, President Condon shared what she believes to be the Board's vision. There are three questions they should ask when making a

decision: 1.) Is it good for the consumer? 2.) Is it good for California business? 3.) Is it forward thinking?

President Condon announced that she would serve along with Vice-President Gonzalez, Mr. Hedges and Ms. McInnes on the Examination and Licensing Subcommittee. The Education and Outreach Subcommittee would be composed of Ms. Reddock, Vice-President Gonzalez, Ms. McInnes and Ms. LaChappa. Enforcement and Inspection Subcommittee would consist of Ms. Barcelona, Vice-President Gonzalez and Mr. Hedges. Legislative and Budget would involve Mr. Hedges, Ms. Reddock and President Condon.

Mr. Hedges encouraged the audience to participate in their meetings. President Condon also announced that when it's appropriate, they would like to have the public participate in discussions concerning important issues. Vice-President Gonzalez added that the Board would like to notify the public of their upcoming Board meetings months in advance in order to make it easier for people to plan on attending. President Condon proposed they wait until after the lunch break to determine when the future Board meetings will be held because calendars were not available at the time.

◆ TESTING – PLAN FOR EXPEDITING EXAMS

Ms. Walton, Interim Executive Officer introduced Hallie Fisher, Policy and Licensing Manager and Marion Welch, Supervising Examiner to present this board agenda item.

Ms. Fisher introduced herself. Ms. Fisher told the Board members that the licensing and examination staff had been reduced from 17 to 8 since she began for working at the Board. She also explained the way the pre-application process works. According to Ms. Fisher, the Board receives about 2000 pre-applications a week. At one time, there was three staff members devoted to pre-scheduling all of these students but due to staffing cuts that number had been decreased to one staff member. In addition to the pre-applications the Board receives an additional 3000 applications per week for re-applicants and out-of-state applicants. The current wait time was approximately 6 months from receipt of an application before an examination date could be set. Ms. Fisher explained that even if we were able to process all those applications there would still be the issue of not having adequate space to test at the exam facilities. She explained that in the past, staff members had been reassigned to help evaluate exam applications. That was helpful for evaluating exams but detrimental to other areas of the Board. Ms. Fisher also explained that in the past the Board had been able to offer paid overtime to address the backlog but due to budgetary restraints there can no longer be paid overtime. She mentioned that overtime can be worked for extra time off but that the staff eventually likes to take that time off so it doesn't help in the end. Another factor contributing to the backlog are phone calls. Due to the amount of phone calls the Board receives she has had to assign two staff members to man a phone center for limited hours during the week. According to Ms. Fisher the only way to improve application processing time would be to hire more staff but that would require a budget change proposal and a hiring freeze exemption. Ms. Fisher suggested that one idea is to issue temporary licenses but that there are legal and enforcement ramifications that make this an unattractive option. According to SB 362 the Board can now accept reciprocity from other states so that will ease the burden but only slightly. Another option would be to upgrade the phone system to an automated phone system whereby applicants could obtain their date without actually talking to a staff member. One more option would be to do away with the pre-application process but that would require a legislative change. Ms. Fisher also suggested that eliminating one portion of the examination would decrease the backlog. According to Ms. Fisher, based upon the current staff shortages there is no way to schedule applicants any faster.

President Condon thanked Ms. Fisher for a tour provided in which she was able to see the process that the staff has to go through in order to schedule an applicant. President Condon recognized that there is a staffing issue.

Vice-President Gonzalez asked how many exams are held per month. Ms. Fisher said that we hold about 3500 a month. Vice-President Gonzalez then asked about the phrasing of "best students" in

relation to the pre-application qualifications. Ms. Fisher informed him that the original legislative intent was to reward the best students for their hard work and that the schools would be the ones who determined what the phrase “best students” meant.

Ms. Fisher explained that applicants can now take their practical examination prior to the Board processing their proof of training document. The proof of training document still needs to be processed before they can take the written examination.

Vice-President Gonzalez asked how many students were being examined a month and the testing capacity. Ms. Fisher replied that we are testing to capacity and that means we test about 84 in Los Angeles and 40 in Fairfield per day. Vice-President Gonzalez then asked if our priority for testing was for out-of-state applicants. Ms. Fisher said that all applicants are tested based upon the day we received their application.

Vice-President Gonzalez asked if we could update our phone system to an automated system. Ms. Fisher informed him that our current phone system would not allow us to do that. It would require a budget change proposal and a new phone system.

An unidentified female asked if we test on Fridays. Ms. Fisher informed the Board that they test Monday through Fridays. She also added that we do have a fairly high “Do Not Appear” rate or DNA. Because of the scheduling system, we do not have a stand-by procedure in place. Ms. Fisher was asked why we can’t have a stand-by list. She informed the Board that having a stand-by list would require extra staff attention and that it is impractical because a lot of applicants have a difficult time finding a model on such short notice. Ms. Fisher said that applicants rarely call to notify the exam sites that they won’t appear for their test.

Mr. Hedges asked if we have ever initiated a stand-by process. Ms. Marion Welch said that in Los Angeles and Fairfield she had overbooked applicants in the past and that practice worked fairly well. She stressed that it was not really “stand-by” but overbooking. She said that the DNA rate fluctuates greatly between 0-15%. She said that normally the cosmetologists have the highest DNA rate and that there are times when 6-8 cosmetology applicants fail to appear for their test. Ms. Welch was asked if it would be possible to increase the number of people overbooked to eight people but Ms. Welch responded that there is not enough room in the facilities to accommodate that many people. She said the maximum amount of people that could be accommodated would be three people. Ms. Fisher also told the Board they would need to keep in mind that the extra applicants would require extra staff which the Board does not have. Ms. Welch said that she is able to overbook more in Los Angeles than she does in Fairfield because she has a larger staff in Los Angeles. Ms. Welch was asked again what the DNA rate for cosmetologists is. She reiterated that it fluctuated between 0-15%.

Mr. Hedges said that he thought someone would be willing to sit around in a waiting room for the possibility of taking an exam especially since it meant they might avoid a 6-8 month wait to take the exam. Ms. Welch suggested that it would be okay to give the stand-by idea a try but that it would be best to contact people closest to the exam sites. Ms. Fisher said that the Board doesn’t have the staff or the resources to identify applicants that would best fit the stand-by criteria. Mr. Hedges said he was concerned that we had such a large backlog of applicants and that it didn’t make sense to have empty seats. Mr. Hedges asked what percentage of applicants do not receive an acceptable score for the practical exam. Ms. Welch said that she did not have those numbers. Mr. Hedges asked if there were people who didn’t receive acceptable scores and Ms. Welch said that there were.

Ms. Welch said she came up with the idea of having a triple day which means having one cosmetology exam in the morning and two “specialty” exams in the afternoon. She also came up with a “mega day” which means they would have four examinations in a day. She said this was helpful in breaking down backlogs. Ms. Welch brought up the benefit of going to testing 6 days a week but that would be difficult because of the extra staff that would be needed and because there could be other things to consider such as union objections and personal or religious conflicts. Ms. Welch also suggested that we could

allow applicants to take their written examination when they had completed 75% of their schooling. An unidentified male said that this issue had been brought up at prior meetings and that the industry thinks this is a bad idea. President Condon added that she thinks we need to find ways to expedite the exams and that the Board has to put the log jam behind them. President Condon said she likes the stand-by list very much.

Ms. Fisher extended an invitation to the rest of the Board to see the rest of the office.

Mr. Hedges volunteered to meet with the union to see if there could be something worked out that would allow testing to be conducted on Saturdays. Ms. Fisher said that we would need additional staff because we have permanent-intermittent staff at the exam sites and they would need a hiring freeze exemption to hire additional staff.

President Condon recognized that several people had their hands up and she informed them that there would be a time for public comment later.

Ms. Reddock proposed that in light of the creation of the Su-committees the day before that the Licensing and Examination Su-committee should look more closely and work with staff to present a proposal to the total Board on how best to deal with these issues. Ms. Reddock's proposal was seconded without any discussion. President Condon then gave the public opportunity to comment before the vote.

Mr. Marcus Moreno complimented the staff for continuing to test. He went on to discuss where the Board's money has gone and is going. He said that his company would assist with the logistics of operating a stand-by function. Mr. Moreno said he thought the Board's money should be redirected to address the backlog.

Ms. Reddock questioned what the Board's legal obligations are to the Experior contract and the new exam site. Mr. Hedges said that he had also asked about the contract with Experior and that the Board members would like to know what the cost to enter the contract was and how long it was binding.

Ms. Walton said she only had part of the information the Board had requested. The budget office said that in general \$39 of the \$50 application fee does go to Experior. Ms. Reddock asked if there was an additional fee that the Department pays to Experior on top of the \$39. Ms. Walton referred this question to Office of Examination Resources (OER) saying that Experior also tests for other Boards and Bureaus within the Department of Consumer Affairs. Ms. Walton was asked if the Board of Barbering and Cosmetology was the largest licensing population within DCA to use Experior.

President Condon said that there is a motion on the floor and asked if there was a question. A question was called for by Mr. Hedges. All Board members voted affirmatively and the motion was carried. President Condon requested a copy of the Experior contract be submitted by the end of the day. Ms. Reddock asked what was done before the contract with Experior and she was informed by Ms. Walton that the tests were conducted with paper and pencil. Ms. Reddock then asked if there was any information available on the contract or lease obligations regarding the new testing facility. She was told that there was a lease in place.

Mr. Hedges proposed a motion that within the next 90 days that the Board of Barbering and Cosmetology return to same-day testing.

President Condon opened this issue for discussion. Ms. Reddock said that in light of the staff's report she would like to know if that proposal was possible within the time frame proposed and she asked for staff comment on that issue. In the meantime, President Condon mentioned that same-day testing was done away with in a three-week time. Mr. Balingit asked if this discussion were leading them outside the agenda topic of expediting exams. President Condon disagreed saying that she felt it fell under the agenda item topic.

Ms. Fisher gave some background about the way testing worked before Experior. She explained the difficulties in returning to that testing format. Ms. Fisher explained that the Board no longer has the staff necessary to proctor pencil and paper exams. She also said that the Board would have to reprogram its computer systems to allow for same-day scheduling and that this could actually increase the waiting time. Vice-President Gonzalez asked how long it took to change over to Experior and Ms. Fisher responded that it took about 60 days.

The issue was then opened up for public comment again by President Condon.

Mr. Marcus Moreno was the first public speaker. He said that “the industry” asked the Bureau not to proceed with the switch to Experior until the Board had been put in place. He claims the Bureau made a rush to action by switching to Experior. He said that the Bureau placed Experior into place on April 11th but shouldn’t have because Experior was not ready to test until mid-June. Mr. Moreno served on two advisory councils and stated that those councils had been ignored by the Bureau. He claimed that the applicants are suffering. Mr. Moreno claimed that 9,000 applicants could have been tested and that once in the workforce they could have generated 21 million dollars of revenue for California. Mr. Moreno also said that other states had come forward against using Experior. He also said that Experior had not reduced the backlog as planned because staff still had to do too much work to schedule applicants. Mr. Moreno said the handbook that Experior provided contained errors and these errors caused problems for applicants taking tests in languages other than English. Mr. Moreno said that for the majority of the applicants the new testing program does not work. Mr. Moreno said that four proctors would cost California \$66,000 a year while Experior receives \$760,000.

Mr. Jerry Tyler was the next speaker. Mr. Tyler wanted to encourage the Board to undo the past wrongs that Mr. Moreno referred to. He claimed that the switch to Experior had cost the state’s economy millions of dollars in lost wages and taxes. Mr. Tyler said that applicants not only lose wages they lose positions by not being employable in a timely manner. He also claimed that the long wait times for a test increases the amount of workers working illegally.

Ms. Cheryl McDonald spoke next. She also served on the advisory committees and was present for the Sunset Review. She said she had opposed the switch to Experior. She asked the Department of Consumer Affairs to work with the board to move forward.

Mr. Gary Federico was the next to speak. He said that computer-based testing and photographic license had been talked about for the last 10 years. However, he claimed, there was very little contact between the Bureau and different organizations when it came down to making the decision to move to Experior. Mr. Federico spoke of the legal opinion that the Bureau of Barbering and Cosmetology did not have to test both sections of the test on the same day.

President Condon asked for further public comments. There were no further comments.

President Condon then asked for comments from the Board. Mr. Hedges asked the staff if they believed they could resolve this within 90 days. Ms. Fisher answered no. Mr. Hedges asked how long it would take. Ms. Fisher replied that staff would have to research all the issues involved before she could give a time frame. Ms. Walton agreed with Ms. Fisher and reiterated that staff would have to discuss any possible obstacles with other agencies. She also said she needs to speak with OER about the contract with Experior.

Mr. Moreno stated that Dr. Ferrell had once claimed that it would take four months to switch back to the same-day paper and pencil testing.

Ms. Reddock asked if Mr. Hedges would accept a friendly amendment to the motion. She proposed that with all due expediency, diligence and effort that the Board would reestablish same-day licensing within 90 days depending upon further input from staff. Mr. Hedges said he would accept the amendment if he could rephrase it so that it would reflect that staff would, with all due diligence, initiate

same-day testing within 90 days but under no circumstances more than 120 days. Ms. Reddock said that would be acceptable and so Mr. Hedges accepted the amendment. President Condon asked for further comments on the motion. There were no further comments. President Condon then asked if there was a call for question. It was questioned. All the Board members present voted to approve the motion.

◆ LEGISLATIVE AGENDA FOR 2004

President Condon provided a document with several possible legislative issues. She then read through the list. She reminded the Board that SB 362 dealt with a lot of these issues and then opened the meeting for discussion. There were no comments from the Board.

President Condon said that one issue they would have to carry for 2005 was the teacher's license issue. She stated that the Board was still in the process of understanding what the legislative issues will be. She asked about a massage bill being passed. Ms. Walton said she believed it was a two-year bill and that she didn't believe that it had moved forward yet. President Condon agreed.

Ms. Reddock moved that the Legislative and Budget Subcommittee look more closely at the issues and come back with proposals for the whole board. The motion was seconded by Mr. Hedges. Ms. Walton informed the Board that the last date to submit legislation is January 31, 2004. There was no further discussion on the motion. The motion was questioned. All Board members voted to approve the motion.

There was a brief break.

◆ SCHEDULING FUTURE MEETINGS

There was some discussion about when to have the next Board meeting. Vice-President Gonzalez suggested that the next meeting be held on December 15, 2003 in San Diego. Ms. Walton reminded the Board that the task force for aggregate scoring also needed to meet. President Condon wanted to schedule the task force meeting in November. The Board determined that November 18, 2003 would be the best day for the task force to meet. Ms. Walton asked the Board if they would like to proceed with this date if the other members of the task force would not be available. The Board agreed that staff should proceed with scheduling for that date regardless. President Condon asked that someone from the Board's staff check the availability of a State building for that date.

The Board then discussed Board meetings for 2004. The meeting scheduled for February 16, 2004 was rescheduled to February 23, 2004. The meeting originally scheduled for January 21, 2004 was rescheduled to be held on January 26, 2004. The meeting scheduled for April 18, 2004 was rescheduled for April 19, 2004.

◆ PUBLIC COMMENTS

Mr. Jerry Tyler spoke first. He spoke about the issue of reciprocity between states, especially the lack of reciprocity in the past. He claimed that this lack of reciprocity cost the state millions of dollars. He said that 85% of the states are within 100 hours of the California's 1600 required hours. The remaining 15% of the states mostly exceed California's required hours. He said all states take into consideration work history when considering reciprocity. Most states demand that the licensee is in good standing with their state. Most states charge a fee for reciprocity. Mr. Tyler proposed the Board charge a fee of \$100 for reciprocity rather than testing. He said that speedy implementation of SB 362 was critical.

Mr. Gary Federico said he had several issues to speak on. He said that the Board of Barbering and Cosmetology should oversee massage licensing and inspection. Mr. Federico said that historically there has been other examples of exam backlogs even before the pre-application process. Mr. Federico pleaded that the Board bring aggregate scoring back.

Ms. Ellen Mary Castaneda, a student from Solana Community College spoke next. She said that, based upon the wait time ahead of her, she is considering staying in corporate America so she could remain employed. She said that she disagreed with leasing a new building when there isn't enough staff to schedule applicants to fill the new building.

Ms. Julie Rohrs said that she had to wait 5 months to re-take her written test. President Condon directed Ms. Walton to follow up with Ms. Rohrs regarding her test date.

President Condon wanted to know what methodologies are being used. Ms. Walton suggested that Dr. Ferrell should come speak to the Board to help them understand what OER does.

Ms. Patricia Wright, student said that she did not want to wait so long to get her license and felt it wasn't right or practical for a student to have to wait so long. She said any help would be greatly appreciated.

Ms. Tracy Brazi, student said she wanted to know why the Board of Barbering and Cosmetology couldn't issue a temporary license the way the DMV does.

Ms. Sarah Payne asked why the exam was changed to being conducted on separate days.

Mr. Marcus Moreno said that an applicant scored 93% on her practical exam but missed passing the written exam by one point.

Ms. Aruni Blount said her school had several courses including instructor courses. She said there is a problem with the process of crossing over from a cosmetologist to a barber.

President Condon asked if there were any further comments from the public and from Board members. There were none.

◆ **AGENDA ITEMS FOR THE NEXT MEETING**

Ms. Reddock suggested that in future meetings there should be reports from Subcommittees.

Mr. Hedges asked for a report on past failure rates on exams. President Condon said she would like to see numbers on people who had scored well on the practical, but failed the written and vice versa.

Ms. Reddock asked if there could also be a presentation/progress report on testing. President Condon added that she would like a progress report on same-day licensing and Vice-President asked if the Board could look at survey results.

President Condon asked the legal staff if aggregate scoring should be listed as a separate agenda item. Mr. Balingit said that they should indeed give notice that aggregate scoring was going to be discussed.

President Condon also suggested that the Board receive a report on the testing facility issue. Ms. Walton said she would follow up with the Department of General Services on this issue.

President Condon wants to see occupational analysis as an agenda item.

Ms. Walton recommended that the Board also address the Disciplinary Review Committee at their next meeting. She also recommended that the Board take a look at Exam Appeals.

President Condon adjourned the meeting at 12:20.