



BOARD OF BARBERING AND COSMETOLOGY
CALIFORNIA DEPARTMENT OF CONSUMER AFFAIRS
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**Board of Barbering and Cosmetology
Doubletree Hotel
2050 Gateway Place
San Jose, CA 95110**

MEETING OF THE BOARD OF BARBERING AND COSMETOLOGY

MINUTES OF JUNE 26, 2006

BOARD MEMBERS PRESENT:

Jerry Tyler, President
Richard Hedges, Vice President
Marlene Gadinis
Angela Reddock

BOARD MEMBERS ABSENT:

Dr. Della Condon
Joe Gonzalez
Frank Lloyd
Jerri Ann Walters
Bonnie LaChappa

STAFF MEMBERS PRESENT:

Kristy Underwood, Executive Officer
Denise Johnson, Assistant Executive Officer
Laure Freedman, Staff Counsel
Heather Berg, Manager, Licensing Unit
Theresa Rister, Board Analyst

1. Agenda Item #1, CALL TO ORDER/ROLL CALL

Mr. Tyler called the meeting to order at 9:00 a.m. Mr. Tyler welcomed the audience. The board members introduced themselves and gave a brief background. Ms. Underwood introduced her staff who were in attendance at the meeting. Representatives from the Department of Consumer Affairs (DCA) attending the meeting, introduced themselves. (It was noted later in the meeting that Dr. Condon is absent due to medical leave of absence.) A quorum was not present.

2. Agenda Item #2 – PRESIDENT'S REPORT

Mr. Tyler reported he spent two days with Ms. Underwood and headquarters staff to see the day-to-day workings of the Department. He was impressed with the energy and passion the staff had in their support of the board. He identified his passions/focuses: education (teaching proper ways to do things), outreach (local and national), industry advisory council. Due to the fact that there was no quorum, Mr. Hedges recommended a phone conference to avoid any delay in moving items forward.

3. Agenda Item #3, EXECUTIVE OFFICER'S REPORT

Workload Statistics: Ms. Underwood presented the workload statistics as of May 31, 2006. Exams were being processed from April, a tremendous improvement. She commended Heather Berg, Licensing Manager and her staff for all of their hard continuous work. She also is looking into pass & fail rates, which would include areas where the student is failing. Enforcement stats are being revised to provide a more detailed report. There are 496 appeals to be heard by the Disciplinary Review Committee. The backlog of appeals is decreasing. Mr. Hedges and Mr. Lloyd both noted the committee's goal would be to hear appeals within 60 to 90 days. Mr. Hedges stated he would like to see the licensee take classes instead of paying a fine. The number of no shows at exam sites was discussed. Ms. Gadinis asked if a confirmation call could be conducted to the examinees. It was agreed this would overtax the staff.

Public Comment:

Nadene Bruders, Industry member, asked where the delay is in retaking the written portion. Ms. Underwood stated it was within our board and was being looked into.

Jeffi Girgenti, licensee/salon owner, discussed the failure rate on the written exam and offered recommendations.

Raymond Gumbs, East Bay & South County Apprenticeship Program, recommended applying specific staff to the barbering aspect. Ms. Underwood noted they recently did make that change, assigning dedicated staff to barbering, cosmetology, pre-app barbering and pre-app cosmetology. This should help the timing.

Jaime Schrabek from Precision Nails asked about the absentee rate of exams, and possible standby examinees. Ms. Underwood noted this is being looked into.

Mark Doda, barber, asked how long has the standard test has been given. Staff was unsure, at least 7 years. He was concerned the test has not been updated. He noted this could possibly be a contributor to the failure rate. He was concerned that not many new graduating students know how to cut hair properly. 'They're not being tested on this level.' Ms. Underwood noted all exams are being updated.

Katie Riordan, Regis Corp., asked about the number of testing centers - there are two. She felt it could be a hardship of new graduates to get to the testing centers. She recommended offering more testing centers throughout the state. She expressed her concern about the delay from graduating to testing.

Computer Based Testing Update: Ms. Underwood reported the contract was awarded, however it has been reposted. An update will be provided at the next board meeting.

Other Items: Ms. Underwood and Mrs. Johnson met with staff from the Department of Corrections, Central California Womens' Facility (CCWF) to discuss the possibilities of conducting exams in the prison. A tour of the actual prison school was given, which they found to be very impressive.

Ms. Underwood reported she had a meeting with Sonja Reid, Manufacturer of the New Zealand Tool Belt, she has designed a new tool belt with open ends (for scissors) and wide enough to vacuum out any debris. She hopes the Board will take a look at, since licensees can be cited for this.

4. Agenda Item #4, DEPARTMENT OF CONSUMER AFFAIRS REPORT

Antonette Sorrick, of DCA, introduced herself and stated she did not have any report at this time. She will be speaking on item 6.

5. Agenda Item #5, APPROVAL OF APRIL 24, 2006 BOARD MEETING MINUTES

The Minutes were discussed. However they could not be approved due to lack of a quorum. The item was therefore tabled. Ms. Reddock requested the tapes to be reviewed for her comment on page 2.

6. Agenda Item #6, UPDATE ON FOOTSPA WORKGROUP

Approval of Proposed Regulatory Language for Cleaning and Disinfecting Footspas:
The Board was presented with the draft regulatory language for the footspa cleaning as developed by the taskforce. Once approved, the regulatory process will begin. However, this item was delayed until the next meeting due to lack of a quorum. Ms. Reddock noted she had been contacted by someone in the industry who said the language seemed to be directed toward a particular manufacturer. Mr. Tyler noted the language needs to reflect best practices and be proactive in protecting the consumer.

Ms. Gadinis questioned how the regulations would be enforced. Mr. Hedges felt the regulation would be very enforceable with the additional inspectors, and salons will be shut down if they do not comply. Ms. Gadinis also asked about the cleaning log. She wondered how valid the log would be. Mr. Hedges noted shops will be cited for not having a log. Mr. Tyler noted it goes back to three major areas: education, outreach and enforcement. Mr. Hedges made the motion to accept the language and move to the full board for adoption. Ms. Gadinis seconded the motion.

Ms. Freedman, staff counsel, clarified the rulemaking process of the regulation to the board. Once the proposed language is approved by the board, a notice will be issued and published with the Office of Administrative Law and other pertinent places. The public can request to receive the notice. After the notice goes out it begins a long process that could take up to a year, with public feedback and hearings. Mr. Tyler noted this is a very important issue and the process needs to move forward as quickly as possible. The Board agreed.

Public Comment:

Dr. William Berger, Ph.D. Sensuous Solutions, believed the proposed regulations fall short. Are the regulations established so only one manufacturer can meet the requirements? He believed the regulations should state to disinfect not only after each use but at the time of each use. This would reassure the client that disinfectant has been used. He also questioned whether a worker would spend 30 minutes at the end of their day to clean the screen or prepare the spa for overnight disinfectant soaking. He questioned the word "surfactant chelating," no one is going to know what that means. He recommended using understandable language. He questioned the use of EPA hospital disinfectant; it is encouraging the use of one product and could leave the board open to a lawsuit. He suggested a future meeting to discuss the language further and gather more input from the industry. He believes the advisory person works for the manufacturer. Mr. Hedges noted that the Department put the Footspa Working Group together. He will submit his written remarks to the board as requested.

Jeffi Girgenti, licensee/salon owner, noted it is a known practice that if a customer has an infection they should not be served. Why isn't this being enforced? She currently uses stainless steel bowls which are bacteria resistant and sanitized. Can salons afford to follow the new specific rules, in time and money? She proposed allowing salons to use spray-on disinfectant. More education is needed to educate the public on the rules, i.e., logs. She expressed her concern about trying to contact the board and not receiving any answers. She felt in order to run more efficiently the Board needs to increase their licensing fees and require further education. She proposed sending out inspectors to help salons be in compliance and educate them, not fine them the first time.

Kirby Morris, of NIC, stated disinfection standards on a national level are available as well as the National Health and Safety Committee, who would be able to work with the Boards taskforce to set more national standards.

Robert Weaver, owner of Pinkies Nail Salons, reported his salons have had no complaints of infections. The regulations in place are not being followed or enforced by some salons. His shops follow the regulations stringently, but he is competing against shops who don't. He questioned if surveys could be done to see what successful shops with no incidents are actually doing. Enforce the existing regulations and higher more inspectors.

(10 minute break)

Mr. Tyler encouraged the public to continue to bring their suggestions to the Board as they are very insightful and helpful. Again, Mr. Hedges made the motion to accept the language and move to the full board for adoption. Ms. Gadinis seconded the motion. It was 3-1 (Gadinis) but there was not a quorum so this item will be addressed at the next meeting.

7. Agenda Item #7, LEGISLATION AND PROPOSED REGULATIONS

Staff is tracking the following bills and provided information to the board in their packets.

AB 861 (Probationary License): No activity since last board meeting.

AB 1561 (Board Member Attendance): No activity. The bill would require the board to notify the appointing authority if a member misses more than 3 meetings.

AB 1793 (Threading): The Board had previously decided to support the bill if amended to remove "incidental trimming of eyebrow hair". This was passed on to the author of the bill.

AB 2927 (Amendments to Public Records Act): Ms. Freedman, staff counsel reported the bill was recently amended. The significance of this bill is that it amends the Public Records Act to include internet request through the website. Which would include posting of economic interest forms, consulting contracts and legislation issues. All records would be subject to inspection by the public upon request. There are a minimum amount of exceptions. Of administrative concern is the requirement of posting information on the board's website. Extra staff, training and expansion of computer servers will be needed to comply with this. There is no provision for extra funding. Mr. Hedges believed the bill may effect people's willingness to serve on boards if their personal information will become available; security issues may arise. Mr. Tyler made the motion to watch the bill with privacy concerns. Ms. Reddock seconded the motion. All voted in favor but there was not a quorum so this item will be addressed at the next meeting.

AB 2591 (Report of Delinquent Accounts) Requires the board to report any delinquent accounts.

SB 1474 (Board Member Terms/Lasers): Requires the board to annually elect officers from among its members and sets the limitations of the terms/ use of lasers by a licensee would be a misdemeanor. No activity since last board meeting.

SB 1848 (Reciprocity/Immediate Sunset): Requires the board to grant a license to an applicant from another state or foreign country/ immediately reconstitute the Board. Will be heard next week in committee.

Status of Proposed Regulations: Multi-Location Apprentice, Fee Increase and Administrative Fine Schedule: A public hearing is scheduled on July 10, 2006, to hear and receive input from the public for the three proposed regulations.

8. Agenda Item #8, UPDATE ON THE SUNSET REVIEW

Ms. Underwood gave an overview and stated she went back and looked and the last 3 reviews, 1996, 2003, & 2006 and noted that some issues have been brought up in one or more of the sunset reviews. She recommended to discuss at the strategic plan meeting which is scheduled for August.

Public Comment:

Raymond Gumbs, East Bay & South County Apprenticeship Program, asked what specific items were addressed in the sunset review. He was directed to retrieve a board packet available to the public and read the information under the agenda item.

Jeffi Girgenti, licensee/salon owner, asked if the hours required were changing. She believed the amount of hours now required is too much for a cosmetologist but not enough for an aesthetician or electrologist. She felt the hours and requirements should be more specific. She wondered if this was covered in the sunset review.

Kirby Morris of NIC provided clarification. The infection control and safety and sanitation training is equal in all areas. California is leading the standard. He believed it is not the board's job to make sure everyone is getting the proper education. The Board's job is to protect the citizens of the state. He offered his support on a national level.

Ms. Reddock asked staff what the process is now. How does the board assure it addresses each item timely. Ms. Underwood recommended strategic planning and that the items be discussed in specific committee meetings to be held in August.

9. Agenda Item #9, REVIEW AND APPROVAL OF BOARD MEMBER POLICIES

Mr. Tyler noted the Board needs to operate under a set of policies/rules like other boards. Mr. Tyler, Mr. Hedges, Mr. Gonzalez and Ms. Walters formed a working group to review other board's policies. Mr. Hedges pointed out a mistake in the Travel area. The language agreed upon was 'No member of the board shall attend a function in which the member represents the board without approval from the board president...' add '...and notification of the executive officer.' With this change, Mr. Hedges made the motion to defer this item to the next board meeting since there was no quorum. The motion was approved.

10. Agenda Item #10, ASSIGNMENT OF COMMITTEE MEMBERS

Mr. Tyler made the following committee assignments:

Legislation and Budget	Tyler, Hedges, Reddock, Gadinis
Examination and Licensing	Tyler, Hedges, Gadinis, Lloyd
Enforcement and Inspections	Condon, Hedges, Walters, Lloyd
Education and Outreach	Walters, Gonzalez, Reddock, LaChappa
Disciplinary Review	Tyler, Hedges, Lloyd, Gadinis

Mr. Hedges made a motion to defer this item to the next board meeting since there was no quorum. It was seconded and approved 4-0.

11. Agenda Item #11, FUTURE BOARD AND COMMITTEE MEETING DATES; ESTABLISH QUARTERLY MEETINGS

The Sunset Review has recommended the Board meet quarterly. Staff presented a proposed schedule. Mr. Tyler proposed two day meetings be held quarterly. On Sunday, the committees will meet and bring their recommendations to the full board on Monday. Mr. Hedges recommended the Disciplinary Review Committee meet every six weeks until the appeals backlog is down. Locations are being secured for 2007. Mr. Tyler noted the committee meetings are open to the public.

Public Comment:

Jaime Schrabek, Precision Nails, asked the board to consider the industry calendar when scheduling the meetings so they don't conflict with one another.

Jeffi Girgenti, licensee/salon owner, suggested the board attend an industry event, i.e., Las Vegas. Ms. Underwood indicated it could be done with a lot of planning ahead.

Ted Nelson, Professional Beauty Federation of California, indicated he would assist with an event for the board.

12. Agenda Item #12, ESTABLISHMENT OF INDUSTRY ADVISORY COMMITTEE

Mr. Tyler indicated the industry needs to have a voice, and the industry advisory committee will accomplish this goal. He proposed the makeup of the committee. The committee will consist of two board members and industry members. The two Board members will be Mr. Tyler and Ms. Reddock. The committee will also include educational and business/shop representatives, representatives from public/private schools, apprenticeship programs, advanced education, independent and booth renters, members from public relations/trade publications, manufacturers and distributors and representatives from all licenses including barbers, cosmetologists, aesthetician, electrologist, etc. He asked that anyone interested should contact Ms. Underwood.

Public Comment:

A male member of the audience asked about Pandemic planning. Ms. Johnson stated the Department is currently looking into this.

Mr. Hedges made the motion to establish the industrial advisory committee. It was seconded and approved 4-0.

13. Agenda Item #13, REVIEW OF INDUSTRY TRENDS

Mr. Tyler drafted a paper on industry trends and presented it to the board. He noted changes in technologies and techniques. Also changes in establishment compensation, employee/employer relationship, licensing categories, continuing education. He will pass the research on to the Industry Advisory Committee.

Public Comment

Kirby Morris of NIC noted the Board has access to an adopted list of knowledge, skills and abilities, and role delineation surveys, on the national level. Studies on national trends are available.

Jeffi Girgenti, licensee/salon owner, asked the Board about applying permanent makeup, and licensing. Ms. Underwood stated it should be kept in a separate area of the establishment since it's not under the board's jurisdiction.

A male member of the audience asked for clarification on the salon assistant. Mr. Tyler noted in New Jersey a salon assistant license exists with the provision that they are supervised by a licensee, and are attending school. This allows them to work in the field while finishing school. It is also a good way to learn hands-on procedures.

14. Agenda Item #14, AGENDA ITEMS FOR NEXT MEETING

Mr. Hedges recommended all the action items from this meeting be placed on the agenda for appropriate action for the full board and that a teleconference be set up immediately; legislation monitoring, sunset review updates, update on footspa working group, strategic planning. Mr. Tyler asked that the presentation from NIC regarding health and safety be scheduled right after the break.

Public Comments

Ramona Gamache, industry member, would like to see eye lash tinting implemented under the esthetician license.

Kirby Morris, NIC, indicated the website for the national level is nictesting.org. The website includes the scope of practice report, as well as all legislative updates.

(Break for 45 minutes)

(Items 15-17 were postponed due to the lack of a board quorum)

18. Item #18, PRESENTATION BY NATIONAL INTERSTATE COUNCIL ON NATIONAL EXAMINATION

Kirby Morris, of NIC, addressed the board. The NIC has 17 different committees to help streamline regulations and facilitate communication between regulatory boards. They conduct the necessary research to update the examination. They support computer based as well as paper and pencil testing. Security is a major issue. He presented the national examination program that the other 32 states and 7 countries are participating in. He presented a history and timeline of NIC. He described the written and practical exams available. There are core areas plus optional areas unique to each state. Candidate information bulletin including teacher lessons plans are available. He explained the grading. NIC requires each state to certify their examiners annually. School overviews can be provided to keep schools updated.

Matt Winger of NIC (Test Development) discussed the process employed to develop the National Examination. He discussed the industry standards and how they relate to the exam. Numerous studies are done and input gathered from experts in the field. A job analysis was completed along with exam specifications. In California 29 locations are available for testing. Mr. Winger then discussed the California review of the NIC program which occurred in 2005. He believed the California review was based on an outdated study. He discussed the negative aspects of the California response and his resolutions, including security.

Mr. Kirby reiterated the benefits of the NIC: adhere to the standards so no student can contest the exam; if they do legal counsel is provided; comprehensive reporting on schools and students; can provide individual state statistics, assist in making decisions regarding licensure, etc.

Ms. Manna of NIC also discussed some of the benefits. She noted Nevada implemented a reciprocity fee to supplement the renewal fee. Scoring is received quickly, to enable graduates to get into the work force.

Mr. Hedges asked if NIC would be contacting the Office of Exams. Mr. Morris stated the board would need to get them in there. He also asked about ADA. Mr. Morris stated NIC meets all ADA standards. They do not allow translators/readers. Mr. Morris clarified the locations in California are for the written portion. Each state can decide on their practical exam. NIC is the only company that provides the national examination. California is a part of NIC, but does not participate in the examination. Mr. Morris would like a chance for NIC to respond to the California objections. Mr. Tyler asked for a more comprehensive review of the exam and the process by the board before moving forward. The Office of Exams/DCA would also have to review. Ms. Gadinis felt a more thorough economic analysis should be conducted for comparison.

Mr. Hedges asked the item to be included in the conference call for discussion.

Public Comment

Nadene Bruders, CHDA, asked if the practical test could change too. It was unknown at this time.

Alex Irving, Esche & Alexander Public Relations, asked if the test could be administered in a school or hotel? Mr. Morris said it would be up to the board.

19. Item #19, PUBLIC COMMENT

Nadene Bruders, CHDA, commented on seeing this Board in action. Progress has been made with the new Board.

Antonette Sorrick, DCA, referred to an earlier question about Pandemic. The Office of Emergency Services (oes.ca.gov) has information about emergency preparedness.

Katie Riordan, Regis Corp., thanked the board for being open to new ideas and being proactive. She noted wonderful careers are waiting for beauty school graduates.

20. Item #20, ADJOURNMENT

There being no further business, the meeting was adjourned.