



JOINT MEETING OF THE BOARD OF BARBERING AND COSMETOLOGY AND THE BOARD'S STANDING COMMITTEES

MINUTES OF JANUARY 13, 2008

**Sheraton Suites Fairplex
601 West McKinley Avenue
Pomona, CA 91768**

BOARD MEMBERS PRESENT

Jerry Tyler, President
Richard Hedges, Vice President
DeeDee Crossett
Socorro Farias
Frank Lloyd
Marlene Gadinis

STAFF MEMBERS PRESENT

Kristy Underwood, Executive Officer
Gary Duke, Staff Counsel
Theresa Rister, Board Analyst
Janene Mayberry, Admin. Asst.

BOARD MEMBERS ABSENT:

Jerri Ann Walters
Ken Williams

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

Mr. Tyler called the meeting to order at 12:00 p.m. The board members and staff members present introduced themselves.

Mr. Tyler requested discussion regarding the National Exam be moved forward. Upon a motion by Mr. Hedges, seconded by Mr. Gadinis, it was approved 6-0 to discuss the National Exam.

Agenda Item #14

Final Report on National Exam Audit and Decision on Adopting: Ms. Underwood presented the report that was prepared by the vendor that reviewed the National Exam. The report states the National Exam is valid. The report states the National Exam contains more elements than the California exams; the California exams have not been recently updated. Staff will make a recommendation at the Board meeting in April based on the impacts to the Board if the National Exam is implemented including cost, and efforts to change. Ms. Underwood confirmed this is for the written portion.

Public comment:

Fred Jones, Professional Beauty Federation (PBFC): The PBFC supports moving to a national exam. The California exam is outdated and irrelevant to the modern

salon. He noted if the national exam is not adopted, then the California exam needs to be updated. Students are learning new techniques in school but they also need to learn how to pass the outdated exam.

Kirby Morris of NIC: Mr. Morris confirmed the exam would be tailored to California as needed. They are working with staff to decrease the pricing due to the probable state budget cuts. He noted the exam is used in 40 states and 14 countries. He explained the core exam tests minimum competencies then more can be added per the Board's request. He is looking forward to a positive response in April.

2. Agenda Item, #2, President's Report

In his last few months, Mr. Tyler noted his focus has been outreach and addressing the lack of a relationship between industries, schools and the board. He discussed various functions he attended within the last few months. He continues to write his monthly column for California Stylist. This publication is distributed to every salon and school.

3. Agenda Item #3, Executive Officers Report

Ms. Underwood reported the regulations for AB409 have been implemented. This was emergency legislation for foot spas. The first license was suspended two days ago under those regulations. (The inspector sent a photo by phone to Ms. Underwood showing a very dirty and defective spa. The license was immediately suspended. The establishment was not closed but put on probation.) Ms. Underwood explained probation requires proof of correction, quarterly inspections, and additional training on health and safety. This particular establishment was told not to use the footspas.

Mr. Hedges noted a recent meeting was held with Asian nail salon owners. He was impressed by the questions and knowledge reflecting the outreach efforts. Mr. Tyler commended Ms. Underwood for her and her staff's efforts.

4. Agenda Item, #4, Department of Consumer Affairs Report

Carrie Lopez, Director of the Department of Consumer Affairs (DCA) reported the DCA is examining the mortgage crisis and its affects on licensees and consumers. The DCA is developing outreach and education. She directed everyone to www.yourhome.ca.gov for more information. She thanked the Board for their hard work, "you have a lot to be proud of." Ms. Lopez noted the department does not expect cuts in funding due to the state budget. A hiring freeze is not in effect. Ms. Lopez discussed the recent sunseting of boards. She emphasized consumer protection will remain consistent. Urgency legislation has been submitted to prevent the sunseting. However, she asked the board to be prepared to sunset into a bureau temporarily until the legislation goes through. She emphasized it would be temporary. Staff would remain the same. Ms. Lopez also reported a joint meeting is being planned in the fall 2008 to bring all the boards together that will include various workshops.

Ms. Carlson asked for a status on the private post secondary issue. Ms. Lopez noted workshops will be held across the state to inform licensees. The DCA has requested the Board be given authority to approve and disapprove of schools. The DCA is exploring their options at this time

including overseeing funding. Ms. Lopez noted students need to be assisted prior to entering a school and making sure it is legitimate, and not afterwards, as is done now. Mr. Tyler noted continued oversight by the Board needs to be done for schools, not just initial approval of instructors and curriculum. This will result in consumer protection, student protection and well qualified licensees.

Ms. Lopez reported the DCA has been asked to be the lead on the fire and emergency recovery rebuild. Public outreach and education is being developed, including information on the DCA website. Ms. Lopez asked for the Board's guidance in communicating to the licensees.

Public Comment

Fred Jones of the PBFC noted dual oversight of the schools has been very problematic. The PBFC supports the board taking over sole oversight of the schools. He commented on sunsetting. The PBFC supports the state board structure. The board has been very communicative to the industry members. The PBFC has been asked by the DCA to participate in press conferences on unlicensed activity. It will educate the consumer to check on their providers license. The PBFC 7th Annual Welcome to Our World Event will be held on April 21, 2008 in Sacramento. He noted the Board's meeting was changed to Sacramento on April 20.

Mary Ann Light, former inspector for the Board, commented that focusing on unlicensed activity is very important. She noted all inspectors need to work on Saturdays, Sundays and after 5:00.

5. Agenda Item #5, Approval of Board Meeting Minutes for October 14-15, 2007:

Upon a motion by Mr. Hedges, seconded by Ms. Gadinis, the minutes were approved by a 6-0 vote.

6. Agenda Item #6, Annual Election of Board Officers

Mr. Hedges nominated Mr. Tyler for president. Ms. Gadinis seconded the motion and it was approved by a 6-0 vote. Mr. Tyler nominated Mr. Hedges for Vice President. Ms. Carlson seconded the motion and it was approved by a 6-0 vote.

7. Agenda Item #7, Appointment of Committee Members

Mr. Tyler made the recommended to keep the committee assignments as is to keep moving forward prior to the potential sunsetting on July 1, 2007. All agreed. Ms. Underwood noted the Disciplinary Review Committee will continue during the interim period while the Board operates as a Bureau.

The Board took a 10-minute break at this time.

8. Agenda Item #8, LICENSING & EXAMINATION COMMITTEE

- a) Call to Order/Roll Call

Members include Marlene Gadinis (Chair), Jerry Tyler, Richard Hedges, Frank Lloyd. All members were in attendance.

b) Approval of October 14, 2007 Committee Meeting Minutes

Upon a motion by Mr. Tyler, seconded by Mr. Hedges, the minutes were approved by a 4-0 vote.

c) Review of Licensing Statistics.

Staff reviewed the licensing statistics. There is a 4 week processing time.

d) Final Report on National Exam Audit and Decision on Adopting

See discussion under Item 14.

e) Comparison of Pass/Fail Rates

Ms. Underwood presented different pass/fail rates of other boards in DCA as researched and obtained by staff. The Board of Barbering and Cosmetology's pass rate was higher than most boards.

f) Discussion on Demonstrators Permit

Ms. Underwood presented a listing of other states that regulate demonstrators permits, 8 out of 50 states regulate this activity. Demonstrators are people straightening hair and applying makeup in kiosks and malls for the purpose of selling a product. California law allows this without a license. This area is untouched but can threaten the consumer with reusing and redipping equipment. Mr. Tyler stated he sees the demonstrators permit as a certification where the board would create the criteria. Mr. Hedges stated he has observed double-dipping at the makeup counters at major department stores. Ms. Underwood stated it would take legislation to formally move this topic forward. The topic will remain on the agenda for the committee and become an active topic when the board is reconstituted.

Public Comment:

Jan Ryan, from Paul Mitchell School, indicated their school has implemented a makeup certification curriculum.

Jamie Morales agreed this topic is very important.

Rosa Linda Lamb from Redondo Beach Beauty College, noted this topic has been a long term concern. She did not believe an 8 hour certification course is long enough. She believed 40-50 hours would be more appropriate. Health and safety, skin diseases and sanitization of tools need to be stressed.

g) Approval of Final Regulatory Language on Interpreter/Interpreter Model

Ms. Underwood noted the regulation package has been moving forward. At the previous meeting the committee and final board approved the removal of the section that states "male models may only be used for the barber, manicurist and electrolysis examination." No public comment was received at the public hearing. Mr. Lloyd made the motion to approve the final regulatory language. Mr. Tyler seconded the motion. It was approved by a 4-0 vote and moved to the full board for approval.

h) Approval of Final Regulatory Language for Cosmetology Curriculum

Ms. Underwood presented the final statement of reasons for the regulatory language to the cosmetology curriculum. The public hearing has been conducted and 425 comments were received, 408 were in favor and 17 were not in favor. Ms. Gadinis made the motion to approve the proposed amendment to Title 16 California Code of Regulations Section 950.2, as written and provided in the Board's previously published official notice. There was no public comment. Mr. Tyler seconded the motion and it was approved by a 4-0 vote.

i) Public Comment

Jaime Schrabek, a licensee and salon owner, shared some statistics with the board. The purpose of her survey was to determine how many businesses in Monterey County that advertise beauty service have a valid establishment license. Using the yellow pages, Ms. Schrabek noted there were 468 such businesses in Monterey County in 2007 listed under "Barbers, Beauty Salons and Services, Day Spas, Electrologists, Nail Salons and/or Skin Care." The list was cross-referenced with the list of licensees as of December 2007. The results revealed 282 businesses had clear establishment licenses. Of those 282 businesses, 75 that listed names in the yellow pages that differed from their license. 17 businesses had cosmetology licenses but not establishment license. 115 businesses had no license at all (21 cancelled, 14 delinquent and 14 fines due, and others were questionable). Ms. Schrabek stated unlicensed activity is going on everywhere. Ms. Underwood noted the inspectors are finding similar statistics. Staff will be meeting with Mr. Duke to see what authority staff has regarding license versus establishment license name. She noted the board does not have any requirements regarding dba's. They are required to obtain a city license but the board does not have the authority to enforce it. Mr. Duke stated if a business is operating without a license it would be considered a misdemeanor and may not be a priority for the local DA.

j) Agenda Items for Next Committee Meeting

Weave and braiding

k) Adjournment

There being no further business, the meeting of the Licensing and Examination Committee was adjourned.

9. Agenda Item #9, DISCIPLINARY REVIEW COMMITTEE

a) Call to Order/Roll Call

Members include Frank Lloyd (Chair), Richard Hedges, Ken Williams, (Marlene Gadinis, Jerry Tyler and Deedee Carlson, Alternates). Mr. Williams was absent.

b) Approval of October 14, 2007 Committee Meeting Minutes

Upon a motion by Mr. Tyler. Lloyd, seconded by Ms. Hedges, the minutes were approved by a 5-0 vote.

c) Review of DRC Statistics and Schedule

DRC statistics were reviewed. Appeals pending: 1,101 total. Ms. Underwood noted the statistics fluctuate. Ms. Carlson noted the Excel spreadsheet helped move the reviews along. Mr. Tyler suggested students and school owners attend the DRC meetings. The next DRC meetings are scheduled for January 15, 16 and 17; February 25, 26 and 27; March 24, 25 and 26; April 22, 23, 24; May; June 16, 17, and 18.

d) Public Comment

Mary Ann Light expressed her concern about notice of hearing to appellants. She emailed the board on August 31 to point out what she believed are errors in the letter. The board agreed to make the corrections but subsequent letters do not reflect the corrections or what the regulations say. I.e., The letter states the appellant is required to appear and may bring an authorized representative. However the regulations state the appellant does not have to appear and can send an appointed representative. Neither the letter nor the regulation state a letter must be brought authorizing/appointing the representative. She asked the board to clean up the letter; the board and legal counsel agreed.

Ms. Gadinis wondered if visual samples would be helpful to see at the DRC meetings to make the citations more clear. Ms. Underwood stated staff is working on that and will also post pictures on the website.

Lenh Tsan of the Asian Law Caucus asked the board if they would be interested in providing interpreters during DRC meetings. She also recommended the citations be translated. Mr. Lloyd did not believe there was a problem with interpreting. Mr. Tyler noted there could be 250 languages represented. All agreed it could be a challenge. The visuals will help. Mr. Lloyd noted 9 main languages have been determined.

e) Agenda Items for Next Committee Meeting

None presented.

f) Adjournment

There being no further business, the Discipline Review Committee was adjourned.

10. Agenda Item #10, LEGISLATION AND BUDGET COMMITTEE

a) Call to Order/Roll Call:

Members include Jerry Tyler, Richard Hedges, and Marlene Gadinis. All members were in attendance.

b) Approval of October 14, 2007 Committee Meeting Minutes

Upon a motion by Mr. Hedges, seconded by Ms. Gadinis, the minutes were approved by a 3-0 vote.

c) Budget Update

Ms. Underwood provided the budget update. The projected year end balance is \$356,000. She noted the budget situation needs to be evaluated prior to taking on any new examinations.

Public Comment

Fred Jones noted the Board needs to evaluate the licenses to possibly raise revenue, i.e., the demonstrators permit. The board needs to be proactive in better regulation and financing operations.

d) Proposed Regulations Update

The following proposed regulations and their status were reviewed by staff and discussed by the committee: Summary of Suspension (AB409) (finalizing the rule making package after emergency package), Schedule of Fees (Fee increase for initial application implemented 1/1/08, Fee increase for renewal license implemented 3/1/08), Schedule of Administrative Fines (fines that were missed in last admin. fine increase including 2 footspa fees – pending at Department of Finance), Cosmetology Curriculum (completed and will be submitted), Esthetician Curriculum (public hearing held 1/7/08, 2 comments received), Manicuring Curriculum (hearing to be held 3/3/08), Electrology Curriculum (staff is working on), Barbering Curriculum (staff is working on), Externship Curriculum (drafting notice), Interpreter and Interpreter Model (preparing final package once approved by full board).

e) Proposed Legislation Update

Updates were provided for the following Legislation. The committee was encouraged to take a position on these bills and forward to the full board:

SB 797 – Professions and Vocations: This bill will be changing.

SB 963 – Operations of Regulatory Boards: Restructures the sunset review process. Mr. Duke stated it is a far-reaching bill that also creates an Office of Consumer Advocate.

f) Public Comment

Mary Ann Light brought her concerns about curriculum to the board. She was concerned about microcurrent and CPR. She stated instructors must be certified by OSHA in CPR.

Fred Jones of PBFC encouraged people to contact their legislators to express their support of the board overseeing beauty colleges. Alex Irving from Esche and Alexander Public Relations offered to put a sample letter on the PBFC website.

g) Agenda Items for Next Committee Meeting

Continue to watch progress in the legislation including threading.

h) Adjournment

There being no further business, the meeting of the Legislation and Budget Committee was adjourned.

11. Agenda Item #11, EDUCATION AND OUTREACH

a) Call to Order/Roll Call

Committee members include Deedee Carlson (Chair), Jerri Walters, Socorro Farias (Marlene Gadinis: Alternate). Ms. Walters was not present.

b) Approval of October 14, 2007 Committee Meeting Minutes

Upon a motion by Ms. Gadinis, seconded by Ms. Farias, the minutes were approved by a 3-0 vote.

c) Consumer Outreach Campaign Update

Ms. Underwood reported staff is developing the 2008 consumer outreach events. It has not yet been finalized and will be available at the next committee meeting in March.

d) Industry Outreach Campaign Update

Ms. Underwood presented the list of trade shows staff will be attending in 2008.

e) Review of Fact Sheets Provided at Trade Shows and Consumer Events

Ms. Underwood provided the fact sheets that are distributed at trade shows and consumer events. They have all been translated to Spanish and Vietnamese. They also hope to include some information with renewal notices. Ms. Underwood asked committee members to email her their comments.

f) Update on Translation of Laws and Regulations

All the health and safety laws were recently translated into Spanish and Vietnamese. They are taken to events and DRC hearings. Booklets are being prepared and translated. They will be available and distributed but not mailed due to cost. Ms. Underwood agreed a timeline should be set for translation of materials to get them done timely.

g) Public Comment

Jaime Schrabecck was concerned that two publications, Nails and Nail Pro, do not send representatives to the meetings. She asked the committee to reach out to them and ask them to be supportive like California Stylist. Ms. Underwood reported she met representatives from Viet Salon who will publish the board's information from Stylist every month.

George Miller, contributing editor to Hair Style, a national publication, reported he will make the recommendation to his publication to include information about the board in their publication.

h) Agenda Items for Next Committee Meeting

None at this time.

i) Adjournment

There being no further business the meeting of the Education and Outreach Committee was adjourned.

12. Agenda Item #12, ENFORCEMENT AND INSPECTION COMMITTEE

a) Call to Order/Roll Call

Members include Richard Hedges (Chair), Frank Lloyd, DeeDee Carlson, Ken Williams. Mr. Williams was not in attendance.

b) Approval of October 14, 2007 Committee Meeting Minutes

Upon a motion by Mr. Lloyd, seconded by Mr. Hedges, the minutes were approved by a 3-0 vote.

c) Review of Enforcement Statistics

Enforcement statistics were reviewed by Ms. Underwood reflecting the second quarter of 07/08 fiscal year. She reported staff is not able to breakdown of complaints by license type as requested by Mr. Williams. They however were able to provide the breakdown by citations issued. The total number of complaints pending was 1,202, compared to 1,915 the prior quarter. Staff has been working to streamline the enforcement processes. They are cleaning up duplicate work by internal staff. Mr. Hedges thanked staff for keeping the committee informed of changes and being responsive to their comments.

d) Review of Self Inspection Sheet

The draft of the revised self inspection sheet was provided. Ms. Underwood welcomed comments and additions from the committee as soon as possible so it could be finalized prior to the next meeting. Ms. Carlson requested the form be made clearer with fewer words. Ms. Underwood noted it could be made longer if need be. Mr. Hedges noted salon owners and schools could download the checklist from the website to guide them.

e) Public Comment

William Berger with Sensuous Solutions noted his product meets the standards of the board's regulations for footspas. He read the full label of the product, which was not fully available when the footspa issue was being discussed. He also read the pertinent regulations. He stated his product meets bactericidal, fungicidal and virusidal requirements. He hopes the inspectors will be aware of this compliance. The salon owners should have the full pamphlet available for inspectors. Mr. Berger noted a number of salons he visits use the plastic liners in the footspas and he wondered if it was in compliance. He typically comes across a non-chalant attitude when he goes out to salons to sell his product. Ms. Carlson recommended he report illegal activity through a complaint on the website. Mr. Hedges thanked Mr. Berger for being thorough. He noted the liners were discussed in the footspa committee. The decision was made to clean the basin.

Jaime Schrabecck encouraged the board to be very concise in the self inspection sheets. She advised against using the term employee. Ms. Schrabecck noted on a recent trip to Korea that live fish are being used in pedicures. She warned the inspectors to watch for this trend. Ms. Schrabecck asked if someone is required to wash a liner if they are throwing it away. Ms. Carlson noted the liner does not need to be washed if it is thrown away, but the basin does after every treatment. Ms. Schrabecck noted this issue should have been discussed prior to the footspa regulations being adopted. Ms. Underwood stated it was discussed.

Mary Ann Light made comments on the self inspection sheet. She was a former inspector and used the self inspection sheet. She offered comments that people in the field have expressed to her. They're confused about the yes-no answer. They want to be told what to do. She provided a sample that she developed. She offered to email her comments and the sample.

Rosa Linda Lamb discussed footspas and sanitation. She recommended a book called "Playing it Safe." Some disinfectants do not work depending on the hardness of water. She recommended checking with the manufacturers. The filter system may not be sufficient.

f) Agenda Items for Next Committee Meeting

None at this time.

g) Adjournment

There being no further business the meeting of the Enforcement and Inspection Committee was adjourned.

13. Agenda Item #13, FULL BOARD RECONVENES

Mr. Tyler called the meeting of the full board to order.

14. Agenda Item #14, REPORT OF ACTION ITEMS FROM THE COMMITTEES

LEGISLATION AND BUDGET COMMITTEE

Proposed Legislation Update:

SB 797 - Professions and Vocations: No action was taken.

SB 963 – Operation of Regulatory Boards: No action was taken.

LICENSING AND EXAMINATION COMMITTEE

Approval of Final Regulatory Language on Interpreter/Interpreter Model:

The final regulatory language was approved by the Licensing and Examination Committee and forwarded to the full board for approval. The language removes the section that states “male models may only be used for the barber, manicurist and electrolysis examination.” Mr. Hedges made the motion to approve the final regulation language on interpreter/interpreter model. It was seconded by Mr. Tyler and approved by 6-0 vote.

Approval of Final Regulatory Language for Cosmetology Curriculum:

The final regulatory language for the cosmetology curriculum was approved by the Licensing and Examination Committee and forwarded to the full board for approval. Ms. Gadinis made the motion to approve the proposed amendment to Title XIII California Code of Regulation Section 950.2, as written and provided in the Board’s previously published official notice. There was no public comment. Mr. Lloyd seconded the motion and it was approved by a 6-0 vote.

15. Agenda Item #15, UPDATE ON CITE AND FINE

Ms. Underwood updated the board on the internal work of the staff to get ready for cite and fine. The in-house cite and fine unit is practicing their functions with real paperwork to get comfortable with their job duties. Daily meetings are being held and forms are being finalized. The process will be implemented February 1, 2008. Mr. Hedges made the motion to accept and approve current cite and fine program. Mr. Lloyd seconded the motion and it was approved by a 6-0 vote.

Public Comment:

Mary Ann Light discussed the Notice to Owner. She stated when an inspector inspects a facility; they give the owner a Notice to Owner. The owner does not get a list of violations that day. They may get a citation months later. Ms. Hedges indicated this will change with the new process being implemented. She also stated individuals are not typically being cited in investigative reports, only owners. Mr. Hedges noted many individuals have been cited. However, only people who are present are cited.

16. Agenda Item #16, PUBLIC COMMENT

A male member of the audience commented he has received feedback that the DRC has done a good job. He has been told the resolutions have been very fair.

17. Agenda Item #17, ADJOURNMENT

With no further business, the meeting was adjourned.