



## **CALIFORNIA STATE BOARD OF BARBERING AND COSMETOLOGY**

### **MINUTES OF JANUARY 24, 2010**

**Embassy Suites Hotel  
2885 Lakeside Drive  
Santa Clara, CA 95054**

**An additional meeting location has been established at:  
2405 Kalaniana'ole Avenue PH-11  
Hilo, HI 96720**

#### **BOARD MEMBERS PRESENT**

Richard Hedges, President (via phone)  
Ken Williams, Vice President  
Deedee Crossett  
Frank Lloyd  
Christie Tran

#### **STAFF MEMBERS PRESENT**

Kristy Underwood, Executive Director  
Gary Duke, Staff Counsel  
Theresa Rister, Board Analyst

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

Mr. Hedges called the meeting to order at 10:00 a.m. The board members and staff members present introduced themselves. Mr. Hedges turned the meeting over to Mr. Williams. The Board welcomed Ms. Tran, who was just currently appointed. She gave a brief background of her experience.

#### **2. Agenda Item #6, ANNUAL ELECTION OF OFFICERS (out of order)**

Mr. Williams nominated Richard Hedges for president. Frank Lloyd seconded the nomination. Mr. Hedges accepted the nomination and it was approved by a 5-0 vote. Mr. Hedges outlined his priorities for the coming year including protecting the consumer, be fair to licensees, and pass no regulations that are burdensome to establishment owners, allowing speaking during meetings and move meetings along quickly.

Mr. Hedges nominated Ken Williams for vice president. Frank Lloyd seconded the motion. Mr. Williams accepted the nomination and it was approved by a 5-0 vote. After the vote, the meeting was turned over to Mr. Williams. Mr. Williams stated the board needs to continue to be proactive and not reactive. Education is the key.

Mr. Lloyd commended outgoing president Mr. Tyler for his positive direction of the board. The board agreed. Mr. Hedges asked staff to look into a plaque. He also welcomed Ms. Tran to the board.

**3. Agenda Item, #2, BOARD MEMBERS' REPORTS**

Mr. Hedges reported he has participated in inspection ride-alongs. He noted the salons appear to have lost business due to the economy.

Mr. Williams reported he has visited salons and schools on a regular basis. He advocated additional education to help salons through the economy. Outreach needs to continue to keep everyone aware of the regulations.

Mr. Lloyd attended a ride-along in December. He believed the inspectors were making a good impact on education about health and safety.

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

Ms. Underwood updated the board on recent activities. The regulations in Spanish have been printed and will be available soon. The Vietnamese version is currently being printed.

The board packet items are now being placed on the website for public review.

Ms. Underwood presented a few minutes of the "How to Clean Your Footspa" video. It is 15 minutes long in total and has been placed on the website. Voiceovers for various languages are planned for the future.

**5. Agenda Item #4, DCA DIRECTOR'S REPORT**

Kimberly Kirschmeyer, Deputy Director of Board and Bureau Support of the DCA, reported the DCA desired to become involved in the boards and their meetings to provide support where needed. She commended Ms. Underwood for making items available online. She discussed the Consumer Protection Enforcement Initiative. She noted the time delay in disciplining all licensees has come under close scrutiny. It currently takes 3 years from the time a complaint is received to the time of disciplinary action. The initiative was developed to decrease this time to 12-18 months. She noted this was currently focused on the healing arts boards but other boards will soon follow. It is hoped the process can be streamlined by identifying best practices in all entities. Additional staffing will be sought for all boards. Ms. Kirschmeyer requested the board write a letter in support of the initiative. She asked staff to review their current enforcement procedures.

Mr. Hedges noted the department has experienced a cut in staffing, which has hampered their desire to speed up the disciplinary process. He asked about future decreases. Ms. Kirschmeyer confirmed future decreases would occur but hoped legislation would provide more staffing with the Budget Change Proposal (BCP) process in 2011-2012. Mr. Hedges noted there were 20 inspectors in the field and 400,000 new licenses. Increased staffing was imperative.

Ms. Kirschmeyer noted more information on the legislation will be available for the April meeting.

Mr. Williams encouraged ongoing communication between Ms. Underwood and the DCA.

**6. Agenda Item #5, APPROVAL OF BOARD MEETING MINUTES**

- **October 4, 2009**
- **October 5, 2009**
- **November 2, 2009**

Upon a motion by Mr. Lloyd, seconded by Mr. Williams, the above minutes were approved by a 5-0 vote.

**7. Agenda Item #7, ANNUAL APPOINTMENT OF COMMITTEE MEMBERS**

It was agreed to keep the current committees until the new appointments can be approved and installed on the board.

**8. Agenda Item #8, REVIEW OF BOARD STATISTICS**

- **Licensing:** The process has slowed due to the furlough days taking place three days a month.
- **Examinations:** Ms. Crossett asked how many students taking the exam were pre-application students, but it was not known. She noted a problem could occur where pre-app students did not graduate but can take the test.
- **Disciplinary Review:** The delay in appeals has decreased to 5 months (from over 1 year in the past), Staff cuts have impacted this. Ms. Crossett recommended students be required to attend a DRC hearing to emphasize the seriousness. Mr. Hedges wondered if it could be included in the curriculum. Large amphitheaters could be used for mass attendance. Ms. Underwood noted this would require a change in legislation. Ms. Crossett recommended using it as an outreach until it could be done legislatively. Ms. Kirschmeyer recommended a webcast of the DRC. Discipline cases can take 1 to 3 years if investigation is required.
- **Enforcement:** Mr. Williams asked for any feedback on new system on issuing citations. Mr. Lloyd believes it is working. Has not increased amount of inspections. Goal is 5 per day.

Public Comment:

Fred Jones of PBFC, noted the curriculum already included 20 hours of technical instruction on rules and regs and the DRC attendance could be part of that.

Bruce Lazarus of Laney College asked about online licensing. Ms. Underwood gave a brief overview.

(A 10 minute break was taken at this time.)

**9. Agenda Item #9, BUDGET UPDATE**

Ms. Underwood provided an overview of the latest budget projections. On January 8, 2010, the Governor issued an executive order that required staff to develop a salary savings of 5% by March 1, 2010. Staff is working closely with the DCA budget office on a plan. Cuts need to be made in personnel services to get it into black, then an additional 5% for next year. It was projected the temporary help would eliminate: 10 employees. There were also some vacancies that would not be filled. One of the items under review is board members per diem. Monthly DRC meetings will possibly be eliminated. Mr. Hedges offered to give up his per diem for the DRC hearings. The above cuts will delay a layoff plan for permanent employees. Mr. Hedges noted the department could not do what is required with a reduced staff. Ms. Underwood noted the timeline for issuing citations and licenses will be greatly impacted. More information should be known by January 28 and the board will be kept updated. Alternatives are being explored to minimize the impact.

**10. Agenda Item #10, REPORT OF ENFORCEMENT COMMITTEE**

- **Review and Approval of Revised Administrative Fine Schedule**

Mr. Hedges and Ms. Underwood outlined the recommendations of the Enforcement Committee and staff regarding the revised administrative fine schedule. A chart was presented showing the current fine, recommended changes by staff and the Enforcement Committee and the final recommendation. If approved, the regulatory process would begin. Mr. Hedges made the motion to move the recommendations forward to the regulatory process. It was seconded by Ms. Crossett.

Public Comment

Shelly Bennett commented on the establishment license. She worked hard to follow all the rules and regulations and did not start earning money until she complied. However, she wondered why other salons who were not in compliance were given time to respond to complaints. She recommended salons not be given time. It was determined her comments should be made under the public comment section.

Fred Jones of PBFC commended the Enforcement Committee for their hard work. He encouraged the fine for unlicensed activity remain at \$1,000. The PBFC supported the graduated fine but believed unlicensed individuals should not be graduated.

Jamie Schrabek, Precision Nails, asked that the first time offense not be reduced for an unlicensed establishment.

Bruce Lazarus of Laney College, suggested some meetings should be held at community colleges to save money. An audience member noted there were 106 colleges in the state and offered the cosmetology program. It would provide more access to the students for future education.

Rashni Anora, a student at Skyline College, believed the unlicensed establishments and individuals should be fined more than \$1,000. They typically charged less and should have the money available.

Maryann Haley of Solano College noted if a person has completed their coursework, they should know they have to be working in a licensed facility. It is posted on the website and on the initial and renewal license application.

Jim Edwards of Salinas Beauty College believed the problem was establishment owners who hire unlicensed hairstylists. He believed the salon should be closed if this occurs. Mr. Lloyd encouraged people to attend the regulatory hearings.

Melissa Mellott of Santa Barbara City College was concerned that a lot of graduates were not receiving a quality education. They should know they need a license.

Mr. Williams noted the amount of appeals has increased; the fines are not paid during this time. He hoped a gradual increase would result in less appeals and more compliance.

The motion was passed by a 5-0 roll call vote.

**11. Agenda Item #11, REVIEW AND APPROVAL OF FINAL REGULATORY LANGUAGE AFFECTING CALIFORNIA CODE OF REGULATIONS TITLE 16, DIVISION 9, SECTION 950.1, 950.4, 950.5, 962.3, 962.4, 962.5, AND 962.6.**

Gary Duke, legal counsel, discussed the comments made by Mr. Jones from the public comment hearing held on January 4, 2010, regarding the regulations previously approved by the board. Board staff reviewed the comments and some modifications were made in the proposed language for the full Board to review. Ms. Crossett disagreed with the comments made, which primarily focused on eliminating some language. Other board members agreed.

Upon a motion by Ms. Crossett, seconded by Mr. Williams, to direct staff to complete the rule making package and respond to and reject Mr. Jones' comments with rationale stated.

Public Comment

Ami Mankey of Skyline College asked if it was possible to change the language in the cosmetology regulations about hairstyling on all hair types as included in the barbering regulations. This would encourage schools to teach about all hair types.

Fred Jones of PBFC noted the current regulations provide more flexibility for schools.

The motion was approved by a 5-0 roll call vote.

**12. Agenda Item #12, PRESENTATION AND DISCUSSION ON NATIONAL PRACTICAL EXAM**

Representatives from NIC and Irene Wong-Chi of DCA provided further information on the proposed practical exam. Lee Schroeder of NIC discussed the benefits of the national practical exam and provided a slide presentation and an extensive handout. All tests are professionally developed and closely monitored. Currently 18-20 states have implemented this exam.

Ms. Crossett noted as a school owner she hoped to find out what areas her students scored low and high in. Right now it is only pass/fail. Mr. Schroeder noted the reports were available and it will be investigated why they were not being received. Mr. Williams asked for statistical data on passing rates since using the NIC national written exam since May 2009. Ms. Underwood noted the passing rates have decreased and attributed this to the previous exams not being updated for many years. Ms. Crossett noted there were also copies of the previous exams being circulated for students to review. She reported her students have experienced good results with the new exam. Mr. Hedges asked about the impact of implementing the national practical exam on the budget. Ms. Underwood noted the fees would have to increase by \$15 to cover the expenses, which would require a regulation package. Ms. Underwood believed if the national written exam was used, then the national practical exam should be used. She explained the regulation package process could take 9-12 months.

Ms. Crossett questioned the reciprocity with the other 18-20 states. Jackie Dahlquist of NIC noted it was rare that instructors were examiners. Some states hire test administration companies. She was aware of one state that provided the written exam in schools. Ms. Crossett believed this would help the budget. She requested a list by NIC of what states were providing the national written and practical and how the tests were conducted. Ms. Dahlquist agreed to investigate this. She believed a lot of states used a private company to administer the tests. Mr. Hedges questioned the loss of control over the testing sites.

Public Comment

Fred Jones of PBFC noted he was hesitant to support the \$15 increase in testing fees, however he believed it was worth it. It would increase reciprocity with other states. The national exam is regularly updated and would provide a connection to education.

Marsha Griego of Marinello School of Beauty believed the instructor license should be implemented. Teachers should be required to go through an instructor training program.

Mr. Williams hoped the exam would provide quicker testing thus generating more revenue. Mr. Hedges asked if the package would create layoffs (it would not-exam would be conducted by in-house staff).

Upon a motion by Mr. Williams and seconded by Mr. Hedges, it was approved by a 5-0 roll call vote to adopt the national practical exam and move forward in the regulatory process.

**13. Agenda Item #13, INDUSTRY/CONSUMER OUTREACH UPDATE**

The upcoming events were provided. However, the events were limited due to overtime.

**14. Agenda Item #14, PROPOSAL ON REMEDIAL EDUCATION FOR LICENSEES**

Staff researched this issue and provided proposed language for the requirement of remedial education. Information from other states was also provided. The change in language would require a legislator to carry a bill, which may be difficult as it had a significant fiscal impact on the board. Upon approval, the process would begin and details will be determined at a later time. Mr. Williams asked about expanding on the current requirement for remedial education. Ms. Underwood noted it was only for footspas and manicuring equipment.

Mr. Lloyd made the motion, seconded by Mr. Williams to move forward with the remedial education requirement.

Public Comment:

Jamie Schrabek of Precision Nails wondered if the requirement for continuing education would cover the remedial education. It was agreed the language was broad.

The motion was approved by a 5-0 roll call vote.

**15. Agenda Item #15, PROPOSAL ON ESTABLISHMENT OWNER CERTIFICATION**

Staff researched the establishment owner certification. The NIC exam did not appear to be appropriate and did not adequately cover the health and safety portion of owning a salon. Legislation would be required and proposed language was provided. It would have a significant impact to the board and may jeopardize the legislation for remedial education. Ms. Underwood suggested that the Board could approve today and put at a future goal to move forward on.

Mr. Williams hoped a meeting could be held with DCA to identify the stumbling blocks to the legislation. The above proposals would also increase revenue. Ms. Crossett noted the fine revenue may decrease but the impact on the DRC would also decrease. Mr. Hedges believed they were one of the few boards that allow non industry licensees to own establishments. He noted the building industry required shop owners to be licensed. He recommended the process move forward.

Mr. Williams made the motion to go forward with the proposal as a goal for the establishment owner certification. It was seconded by Mr. Hedges. There was no public comment. The motion was approved by a 5-0 roll call vote.

**16. Agenda Item #16, DISCUSSION ON PRACTICAL EXAMS HELD IN SCHOOLS**

Staff performed research on this issue and their findings were presented for discussion purposes. Mr. Williams stated it was preferable to cut down the waiting time for graduates to take the exam. It would also help the budget. It would not require legislation if the exam was completed upon graduation. Ms. Crossett believed it may

help if students were allowed to take the written test after 1200 hours. If they don't pass it would allow further study and reduce nervousness. Conducting the tests in schools would also help the proctors inspect the schools regularly. Mr. Lloyd questioned about travel time for the proctors. Mr. Hedges expressed his concern about the integrity of the test. He recommended a pilot project. Ms. Underwood did not know if requiring statewide travel for the proctors would be allowed in their contract.

Mr. Williams made the motion to table the issue until the next board meeting when staff can present processing time data during the next three months. A typical test had 8 students per examiner. Staff will keep abreast knowing the board's desire.

#### Public Comment

Mary Ann Haley from Solano College noted there were 5 cosmetology schools within a 10 mile radius. Proper scheduling could reduce travel time and expenses.

(The meeting was adjourned and reopened after a 10 minute break)

#### **17. Agenda Item #17, PUBLIC COMMENT**

Leah Johnson asked about the process to become a board member. She hoped for equal representation from the barbering and cosmetology communities. (Mr. Williams and the other board members explained the process to be appointed.) She also hoped to see the instructors license be implemented. Mr. Williams agreed and encouraged her to write to her legislator and make comments on the website. Mr. Lloyd noted the current administration wanted it to be left up to the schools. Ms. Johnson hoped the board could get things moving and plan to work with the next administration to get this requirement passed. The board noted they did not have any control over the schools. Ms. Johnson requested the board be proactive. They agreed.

A female audience member asked about the status of licenses for schools. Ms. Underwood reported the new BPPE has just posted emergency regulations, the OAL has 30 days to respond, and more information will be known at the end of the month. No new schools will be approved until then. The process will remove the same.

Fred Jones of PBFC announced the 2-day Welcome to Our World Event is scheduled for April 26 at the State Capitol. It was hoped staff could attend.

Melissa Mellott of Santa Barbara State College agreed with the instructors license. She noted despite the economy the spa industry is fast growing. It consisted of a lot of second career women who are typically well educated. She has observed the struggle of teachers who have been in the industry but did not know how to teach. She hoped teacher training certification could be reviewed.

Ami Hiu from Skyline College commented about testing on mannequins versus a model. She preferred live models.

**18. Agenda Item #18, AGENDA ITEMS FOR NEXT MEETING**

- ◆ Annual Appointment of Committee Members
- ◆ DCA Directors Report

At this time the board went into closed session.

**19. Agenda Item #19, CLOSED SESSION TO DISCUSS ENFORCEMENT CASE**

- Discussion on Reconsideration and Disciplinary Cases (Closed Pursuant to Government Code Section 11126(c)(3)).

**20. Agenda Item #20, ADJOURNMENT**

The meeting was reopened to public session.

With no further business, the meeting was adjourned.