



MEETING OF THE BOARD OF BARBERING AND COSMETOLOGY

MINUTES OF APRIL 18, 2010

**Department of Consumer Affairs
1625 North Market Blvd.
Hearing Room S-102, 1st Floor
Sacramento, CA 95834**

BOARD MEMBERS PRESENT

Richard Hedges, President
Ken Williams, Vice President
Deedee Crossett Theresa
Marie Lemelle
Frank LLoyd
Ted Nelson
David Rabago
Christie Tran

STAFF MEMBERS PRESENT

Kristy Underwood, Executive Officer
Gary Duke, Staff Counsel
Rister, Board Analyst

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

Mr. Hedges called the meeting to order at 10:00 a.m. Mr. Hedges requested Gary Duke, Legal Counsel to briefly speak on the Open Meetings Act to the new Board members and to the audience.

Gary Duke, legal counsel, discussed public comment procedures and Robert's Rules of Order. He discussed legal requirements and agenda development, open meetings and public comment, motions, and other meeting procedures.

2. **Agenda Item, #2, BOARD PRESIDENT'S REPORT**

Mr. Hedges requested each board member introduce themselves and provide a brief background.

Mr. Duke requested an additional item be added to the agenda under closed session, *Kevin Gordon et al v. City of Moreno Valley v Kristy Underwood, Executive Officer and other public officials*. Upon a motion by Mr. Lloyd, seconded by Mr. Williams, it was voted 8-0 to add the item to the agenda as requested.

Mr. Hedges noted the industry is being greatly affected by the economy. He also suggested all new board members should go on a ride along with an inspector.

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

- **Staffing Update:** Hilda Youngblood was hired as the Assistant Executive Officer. She has been with the Department for over 20 years.
- **Report on the Hearing of Assembly Committee on Accountability and Administrative Review:** DCA worked closely with all boards/bureaus to collect the data for the hearing. Facilities for meetings are being reviewed and alternatives being researched. The possibility of using state facilities is being looked at to reduce costs of meeting places.
- **Update on Current Projects:** Ms. Underwood gave an update on current projects including outstanding fine collections, enforcement committee timelines, and working on the current licensing backlog.

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

Kimberly Kirchmeyer, Deputy Director of Board and Bureau Relations of the DCA, further 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. The first Enforcement Academy to provide manager training was scheduled for the following week. It is hoped to improve communication between staff and the various boards. Certain budget change proposals were also being looked at to be completed timely with additional resources and staff. Legislative changes were also discussed, including SB 1111.

Ms. Kirchmeyer also discussed posting accusations and disciplinary actions on the website. The documents are public and should be posted. She noted an accusation is not a complaint. An accusation has been thoroughly investigated after a complaint, and once filed the hearing process will follow. Mr. Duke agreed accusations have always been public record.

Ms. Kirchmeyer reminded the board members to file their Form 700s if they haven't already done so. She also discussed future training for all board members.

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

- **January 24, 2010**
- **January 25, 2010**

Upon a motion by Mr. Lloyd, seconded by Ms. Crossett, the above minutes were approved by a 5-0-3 vote. Mr. Nelson, Dr. Rabago and Ms. Lemelle abstained as they were not in attendance.

(At this point a break was taken)

6. Agenda Item #6, ANNUAL APPOINTMENT OF COMMITTEE MEMBERS

Licensing & Examination Committee: Ken Williams, Ted Nelson, Frank Lloyd, and Deedee Crossett (ch).

Disciplinary Review Committee: Richard Hedges, Frank Lloyd (ch), Deedee Crossett, Christie Tran, and Ken Williams.

Legislation and Budget: Richard Hedges, Marie Lemelle, David Rabago (ch)

Enforcement and Inspection: Richard Hedges (ch), David Rabago, Ted Nelson, Christie Tran, and Deedee Crossett (alternate).

Industry Advisory Committee: Deedee Crossett (ch), Christie Tran, Richard Hedges, Ken Williams.

Education and Outreach: Ken Williams (ch), Ted Nelson, Deedee Crossett, and Marie Lemelle (co-ch)

7. Agenda Item #7, REVIEW OF BOARD STATISTICS

- **Licensing:** Applications received were decreased in March, this is likely due to a cause by a delay in inputting into the system.
- **Examinations:** Reviewed for January-March 2010.
- **Disciplinary Review:** The delay in appeals has continued to decrease. The future DRC meetings in July were discussed.
- **Enforcement:** No discussion.

8. Agenda Item #8, BUDGET UPDATE

Ms. Underwood provided an overview of the latest budget projections. The current budget is fine at this point. The Board is currently able to pay for itself. Revenue and expenditures were discussed and clarified for new board members. Ms. Kirchmeyer of DCA recommended the new members attend the new board member orientation which discusses the budget in depth. She discussed the budget process briefly. Mr. Nelson asked if the Board could see revenues and expenditure. Ms. Underwood will provide at next Board meeting.

9. Agenda Item #9, INDUSTRY/CONSUMER OUTREACH UPDATE

Mr. Williams reported he recently attended trade shows including the SIBE Hair Show in March 2010. It was well attended and very informative. He encouraged more board presence at these types of events. Ms. Lemelle agreed. Future shows were also discussed. The amount of travel may affect board attendance. Mr. Williams also encouraged promoting volunteerism at the shows. Ms. Crossett wondered if inspectors could attend certain shows but it was a concern that they would have to be taken out of the field to do so. Office staff typically attended the shows if possible.

10. Agenda Item #10, LEGISLATIVE UPDATE

- a. Review of Proposed Legislation: **Essential bills were discussed.**
- **AB 978 State Chief Information Officer Duties:**
 - **AB 1659 Joint Sunset Review Committee**
 - **AB 1787 Administrative Procedure: Regulations: Narrative Description**
 - **AB 1889 Private Postsecondary Education: CA Private Postsecondary Act of 2009**
 - **AB 1899 State Agencies: Information on Web Site**
 - **AB 1957 Administrative Procedure Act: Notice of Proposed Actions: Local Government**
 - **AB 1993 State Government Reports: Declarations**
 - **AB 2091 Public Records: Information Security**
 - **AB 2130 Professions and Vocations: Sunset Review**
 - **AB 2603 Regulations: Reductions**
 - **AB 2738 Regulations: Statement of Reasons**
 - **AB 2783 Professions and Vocations: Military Personnel**
 - **ABx8 8 Franchise Tax Boards: Administration:** Not moving.
 - **SB 942 State Auditor: Analysis of Regulations**
 - **SB 1111 Health Boards: Enforcement:** Important to watch as will be carried over to non health boards. Requires information be posted on the web, allows boards to recover costs for investigations, use of collection agencies, etc.
 - **SB 1171 Sunset Review**
 - **SB 1351 OAL: Regulation Review**
 - **SB 1491 Department of Consumer Affairs Omnibus:** Should support. Has specific clarification to the Boards law.
 - **SBx8 8 Franchise Tax Board: State Board of Equalization Administration:** Unsure of status. FTB can suspend a license for failure to pay taxes.

Discussion on four bills were taken into consideration since it would impact the Board directly. Ms. Underwood gave a brief description of the four bills. Upon a motion by Mr. Hedges, seconded by Ms. Tran to support bills SB 1111, SB 1491, ABx 8 8, and SBx 8 8.

Public Comment:

Fred Jones from PBFC, commented on SBx 8 8. He did not believe it should be in the hands of the FTB. He urged the board not to support this bill. Mr. Duke agreed this bill took away the board's authority.

Mr. Hedges withdrew his original motion and requested an amendment. Mr. Nelson suggested to support Ms. Underwood's recommendations. Mr. Nelson made a new motion to support bills SB 1111 and SB 1491, and take a "watch position" on ABx8 8 and SBx8 8. It was seconded by Ms. Tran and approved by an 8-0 vote.

b. Overview of Spot Bills Introduced in 2010:

Three spot bills are currently being tracked that would affect the board.

- **AB 2481 Board of Barbering and Cosmetology**
- **AB 2667 Department of Consumer Affairs**
- **AB 2707 Regulatory Boards**

Public Comment:

Fred Jones of PBFC agreed that schools should not be under the Bureau. He recommended the board continue to monitor the activities of the Bureau of Private and Postsecondary on behalf of schools. He believed the board should have sole oversight over the schools.

Mr. Williams also agreed, another entity was not needed to oversee the schools. It should be in the hands of the board.

Ms. Crossett believes if a school is accredited it should not have to go through the BBPE process. There is so much that goes into being accredited by the Department of Education and asked if specific language could be added to that effect. Upon a motion by Mr. Nelson, seconded by Ms. Crossett that schools that have been accredited by the Department of Education, should be exempt from the BPPE. Mr. Hedges recommended two people be assigned to a working group to draft language.

Public Comment:

Fred Jones of PBFC clarified the motion. He discussed the current oversight. He believed if the board had the sole oversight they could charge the fees and hire the staff needed. The PBFC believed the board had the expertise to be the sole oversight.

The motion was approved by an 8-0 vote. It was agreed the item would be referred to Ms. Crossett and Ms. Lemelle to draft language.

11. Agenda Item #11, REGULATIONS UPDATE:

- **Curriculum for Barbering, Electrology and Manicurist:** Currently being reviewed by DCA and moving through the process.
- **Administrative Fine Schedule:** Currently going through the process. The first public hearing has been noticed and will be held on June 7, 2010. It should be finalized within a year. Ms. Underwood provided a background of the process to date.

12. Agenda Item #12, REVIEW AND APPROVAL OF THE REGULATORY LANGUAGE: SCHEDULE OF FEES AFFECTING CALIFORNIA CODE OF REGULATIONS TITLE 16, DIVISION 9, SECTION 998:

The fees will be increased by \$15 with the implementation of the practical exam. With today's approval, the regulatory process will begin to move forward. Ms. Underwood gave a brief background for the new members.

Upon a motion by Mr. Williams, seconded by Ms. Crossett to approve the proposed language by an 8-0 vote.

13. Agenda Item #13, PUBLIC COMMENT

Carlene Grady, CCA believes our attendance at trade show is greatly needed. She invited the Board to attend a couple of upcoming CCA events.

Fred Jones, PBFC invited the board members to an upcoming WOW event at the State Capitol.

May Lee from Skyline Community College spoke in favor of the instructor's license.

Jaime Schrabek of Precision Nails believed body wraps, scrubs, masks and strip waxes should be regulated. She also suggested publicizing unlicensed individual names as a deterrent for unlicensed activity.

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

Legislative updates, information on proposed bill and possible author, expired hours (nothing currently in regulations), revised version budget.

Ms. Crossett suggested going green with our Board agenda materials. Ms. Kirchmeyer stated that DCA is currently working on installing readers in the hearing room. This would allow board members an opportunity to upload the board meeting materials if they wanted to.

At this time the board went into closed session.

15. Agenda Item #15, CLOSED SESSION TO DISCUSS ENFORCEMENT CASE

- Discussion on Reconsideration and Disciplinary Cases (Closed Pursuant to Government Code Section 11126(c)(3)).
- Discussion of Pending Litigation: *Dakar v. Department of Consumer Affairs, State Board of Barbering and Cosmetology*, Los Angeles Superior Court, Case No. BS123049 (Closed Pursuant to Government Code Section 11126(e) (2) (A)).
- Discussion of Pending Litigation: *Kevin Gordon et al v. City of Moreno Valley v Kristy Underwood, Executive Officer and other public officials*, Case No. EDCE0900688.

16. Agenda Item #16, ADJOURNMENT

The meeting was reopened to public session.

With no further business, the meeting was adjourned.