



**CALIFORNIA STATE BOARD OF
BARBERING AND COSMETOLOGY
MINUTES OF JULY 15, 2013**

**Department of Consumer Affairs
1625 North Market Boulevard
Hearing Room S-120, 1st Floor
Sacramento, CA 95834**

Additional Meeting Location
2305 South Beretenia Street
Honolulu, HI 96826

BOARD MEMBERS PRESENT

Joseph Federico, President
Andrew Drabkin
Dr. Kari Williams
Mary Lou Amaro
Bobbie Anderson
Christie Tran

STAFF MEMBERS PRESENT

Kristy Underwood, Executive Officer
Gary Duke, Legal Counsel
Tami Guess, Board Policy Analyst

TELECONFERENCED IN:

Rich Hedges

ABSENT:

Wen Ling Cheng, Vice President

1. Agenda Item #1, Call to Order/Roll Call

Mr. Joseph Federico called the meeting to order at 11:00 a.m. The Board members introduced themselves.

2. Agenda Item, #2, Public Comment on Items Not on the Agenda

There were no public comments.

Note: The Board may not discuss or take action on any matter raised during this public comment section except to decide whether to place the matter on the agenda of a future meeting. [Government Code Sections 11125, 11125.7(a)]

3. Agenda Item #3, Board President's Report

Mr. Joseph Federico did not have anything to report.

4. Agenda Item 4, Executive Officer Report

Ms. Kristy Underwood, Executive Officer, reported. The Board is promoting safe sandal season. Four local TV spots promoting safe sandal season and how to be safe when getting a pedicure have been aired and planning is underway to produce television spots in Bakersfield and in the in Los Angeles area, targeting the Boards' Spanish speaking population. The new Breeze database has not been implemented. On June 13th and June 18th, the Board conducted examinations in state correctional facilities down in Chowchilla. They administered nine exams and eight individuals passed and received licenses. The Board has recently produced a video with the help of DCA and Federico's Beauty Institue pertaining to what to expect when you are being inspected and the video is in the process of being posted on the website.

Statistics are included in the packets. A question was posed from Mr. Richard Hedges regarding outreach. Ms. Kristy Underwood stated the Executive Order on travel still stands and travel is limited, but she is hoping that in the future they will be able to do more outreach. Mr. Hedges suggested meeting with DCA to emphasize the success and importance of such outreach.

5. Agenda Item 5, Approval of Board Meeting Minutes [April 8, 2013 and May 6, 2013]

Upon motion by Mr. Richard Hedges and second by Mr. Joseph Federico to approve the Minutes from the April 8, 2013, and May 6, 2013, meetings, the Minutes were approved by a vote of 7-0.

6. Agenda Item 6, Committee Reports

A. Legislative and Budget Committee (Mr. Joseph Federico, Chair)

Ms. Kristy Underwood, reported. The Legislative and Budget Committee met on June 3rd, 2013. The Committee looked at two bills that impact the Board. The first is AB1153 which the Board has previously taken a watch position on. This is the advanced skin care bill. There have not been any changes to the bill. The sponsor is working on additional language to address some of the Board's concerns relating to scope of practice. Language should be available to review at the next Board meeting.

The second bill is SB308 which is the Sunset Bill. The Board has previously taken a support position on. There are no recommendations to change that position.

The Legislation Committee has approved the regulation changes in the apprenticeship program. The Committee is also bringing forward to the Board a recommendation to update regulations for the apprentice program.

Proposed recommendations for regulation changes:

- Clarify that an individual who has completed qualification and can sit for the examination is not eligible for the apprenticeship program. The apprenticeship program is a pathway to licensure. If a person has been approved by schooling or has completed the apprenticeship program already, he/she cannot go back and participate in the apprenticeship program.
- Clarifying that an apprentice has to inform the Board of disenrollment from the program in order to be allowed back in the program.

- Committee agreed to require only two apprentices to be supervised by a single trainer.
- Update of curriculum.

Public Comment

Mr. Fred Jones, Professional Beauty Federation of California (PBFC), posed a question regarding the apprenticeship. If a student completes the apprenticeship program and applies to take the exam, what happens if they fail the exam? The student would want to retake the exam but also would want to continue working as an apprentice. These proposed regulations do not address that directly. Is there some cutoff where an apprentice, while they are in that limbo state, can only be working so long? The license is for two years. The apprentice has to complete the two years and then take the exam. Will the Board extend a license if there is a backlog in the exam? We don't want somebody to be out of work while they're waiting to take the exam. There is no provision addressing the issue if an apprentice fails the exam. Mr. Jones believes this will be an issue.

Mr. Gary Federico, Federico Beauty Institute, questioned whether apprenticeship is a paid position. Are there provisions that an instructor can verify that the apprentice is being paid? The Board does not have that authority. Mr. Richard Hedges commented that if there is any question about whether somebody is being paid or not, the individual can file a complaint with the Labor Commissioner's office. It is his understanding that apprentices are employed under the law in the State of California and must be paid at least minimum wage and are entitled all applicable rights.

Ms. Bobbie Anderson made a motion to approve regulation changes and Dr. Kari Williams seconded the motion. The motion passed by a 7-0 vote.

1. Discussion and Recommendations for Legislative Report on the Study of Appropriate Licensing Subcategories.

The Legislation Committee discussed this topic of licensing subcategories. The Committee believes the subcategories diminish the existing scopes of practices and agree that it is not what should be supported. However, this Committee is interested in supporting the idea of an industry certificate program. The item will have a final recommendation to the full Board in October and then to the Legislature by January of 2014.

Public Comment

Mr. Manhal Mansour, Pigment Cosmetics, stated that he was very excited about the conversation at the last Board meeting and in the legislative hearing, particularly the openness of the Board to consider industry-based certification with Board guidance. This is exactly the type of approach he believes would be most efficient and would take us where we need to go. There are three critical changes in the new language of the proposed makeup artist certification. The first one is that it removes the proposal of 480 hours and it replaces it with guidance as required by the Board, essentially saying that the Board will be the entity that will determine the appropriate amount of hours for that type of program. The second addition which is really critical is a clause that pertains to working in areas that are currently exempt. This bill would make it illegal for the employer to require certification for something that was already exempt. They added a portion that says students receiving training in this area would be given credit towards cosmetology or esthetician programs should they

decide to pursue their career. Perhaps this can be incorporated in the Sunset Bill SB308.

Mr. Armand Adkins, Blush School of Makeup, would strongly encourage some action on the certificate-based educational program.

Mr. Fred Jones, Professional Beauty Federation of California, stated the Federation is in strong support of the idea of having the industry begin to recognize advanced skills for licensees beyond what the State Board tests for. The Federation would like the industry to go beyond just simply protecting consumers and start really advancing the skills and providing the formal recognition that the Board can acknowledge that licensees have received these further skills and training.

2. Update and Discussion of the Status of the BBC Budget Change Proposal to Increase Inspector Positions

Staff is working on a budget change proposal to increase the number of inspector positions. Currently, the Board has 23 positions serving the State of California.

B. Enforcement and Inspections Committee (Mr. Richard Hedges, Chair)

Mr. Richard Hedges, Chair, reported. A meeting was held on June 3, 2013. The Committee discussed recommendations on ways the Board can prevent unlicensed activity (mobile licensees). It was recommended that the Board start with an education program for consumers and licensees. The staff has already started this process. Postings have been made on the website and trade magazines are being contacted. This will be the first step in battling this problem.

The Committee also discussed lash and brow tinting. There are no federal approved products for tinting for lashes or brows. This is currently part of the cosmetology curriculum and the Committee is asking the full Board to support removing this from the regulation. The regulation change will be the first step in educating licensees and informing them that this process is not approved by the Food and Drug Administration (FDA). A motion will be needed for the change in regulation.

The Committee discussed the option of offering remedial education in lieu of a citation or fine. This item was brought to the Enforcement Committee by the staff because it was discussed in the past, but a final recommendation was never made. At this point, the Enforcement Committee does not believe the Board should move forward with remedial education in lieu of a fine. The fines have recently been updated and the Committee believes this is a valid consumer protection tool. The Board does not have staffing to take advantage of this option at this time.

Mr. Richard Hedges recommended a motion be made to the Chair for a regulation change regarding lash/brow tinting that would first stop the education of licensees and next would inform them that this process is not approved by the FDA. Motion should include removal of lash and brow tinting from the cosmetology curriculum.

Mr. Richard Hedges made a recommendation that a motion be proposed.

Public Comment

Mr. Gary Federico, Federico Beauty Institute, commented regarding lash and brown tinting. The FDA has not approved a product. Mr. Gary Federico is not aware of any

problems with particular products in the past. Mr. Gary Federico suggested the industry be more proactive and suggested approaching the manufacturers regarding their products before striking lash/brow tinting from the curriculum.

It is Mr. Richard Hedges' understanding that there are no manufacturers of dyes for lash and brow tinting in the United States and all products are imported and are not approved by the FDA. Staff did reach out to the manufacturers and they were not cooperative.

Mr. Fred Jones, PBFC, would like a clarification of the motion. Ms. Kristy Underwood clarified: the motion was to remove lash and brow tinting from the cosmetology curriculum. Mr. Fred Jones asked if there would be accompanying clarification that is not an allowed practice. Ms. Kristy Underwood stated there would be. Given the fact that there are approximately 43 states that allow this and given the fact that he thinks this may be a little bit of a shock to individual licensees to learn that they can't tint lashes, the Board may want to take a little bit more methodical approach. He suggested a trigger in the language that if a product is approved by the FDA then lash and brow tinting will again fall under the scope of a licensed practice.

Ms. Jamie Schrabek, Precision Nails, stated that her concern is that we can remove lash and brow tinting protocol out of the curriculum, but when the scope of practice is very broad and relates to any hair of any person and doesn't specify where that hair is on a person's body, unless we specify that a particular area of the body is off limits, then the scope of practice would allow that to take place.

Mr. Richard Hedges questioned staff regarding Mr. Fred Jones's comment about a trigger and if that is a consideration. Ms. Kristy Underwood stated that right now we have a section in the curriculum and we have received information and we have spoken to the FDA, we have spoken to the manufacturers, and the FDA has said there is no approved product. What the Board has in front of it today is that the FDA has given it written documentation that there is no approved product for the tinting and dyeing of lashes and brows. Mr. Richard Hedges suggested that other boards are looking to California for leadership on this and is concerned that members could be legally charged since they know it is not safe but are allowing it to be part of the curriculum. Ms. Kristy Underwood stated they have contacted other states.

Mr. Richard Hedges asked if they have some responsibility under civil law if they find something not to be safe or is not approved to remove that from our curriculum or face possible legal action if someone is harmed. Mr. Gary Duke stated he would have to do some research. He suspects not and believes the concept of sovereign immunity would apply.

Dr. Kari Williams asked if anyone had heard of anyone being harmed from eyebrow/eyelash tinting? Ms. Kristy Underwood stated, there is a record of blindness but no complaints have been received at our Board.

A roll call vote was held on the motion to remove lash and brow tinting from the cosmetology curriculum. The motion carried with a vote of 6-1. (Nay – Mr. Joseph Federico)

Mr. Richard Hedges reported that the Disciplinary Review Committee (DRC) staff has been working very hard to prepare cases but is moving very slowly to reduce the backlog.

7. Agenda Item 7, Proposed Regulations - Review and Approval of Proposed Changes to Health and Safety Regulations and Revised Equipment for Schools

Both regulation packages are going through the process. Public hearings are scheduled.

8. Agenda Item 8, Proposed Board Meeting Dates for 2014

Proposed Board meeting dates are listed in section 8 of the packets.

Mr. Joseph Federico made a motion to approve the meeting dates, seconded by Mr. Andrew Drabkin. Motion passed with a vote of 7-0.

9. Agenda Item 9, Discussion and Review of Regulations Pertaining to Cross-Over Courses

Ms. Kristy Underwood, stated the curriculum for the cross-over course was included in the meeting materials. If you are transferring from one program to another, such as a cosmetologist to an esthetician or a cosmetologist to a manicurist, this regulation addresses how much of your credit would be able to transfer. Cosmetology to barber or barber to cosmetology is not addressed. Mr. Joseph Federico suggested creating an additional item that would be for a barber to a cosmetologist and a cosmetologist to a barber. This would open up more options to students who are interested in crossing over. Mr. Richard Hedges is in support. Ms. Kristy Underwood suggested a motion that staff bring back language.

Mr. Joseph Federico made the motion to have the staff bring back some recommended language for this to the next Board meeting. Mr. Richard Hedges seconded. The motion passed with a vote of 7-0.

10. Agenda Item 10, Agenda Items for Next Meeting

Dr. Kari Williams would like to start a discussion on natural hair styling.

11. Agenda Item 11, Public Comment

Note: The Board may not discuss or take action on any matter raised during this public comment section except to decide whether to place the matter on the agenda for a future meeting. [Government Code Sections 11125, 11125.7(a)]

No public comment.

12. Agenda Item 12, Adjournment

With no further business, the meeting was adjourned.