



**CALIFORNIA STATE BOARD
OF
BARBERING AND COSMETOLOGY**

**BOARD MEETING
MINUTES OF MAY 15, 2017**
Board of Barbering and Cosmetology
2420 Del Paso Road
Sequoia Room, 1st Floor
Sacramento, CA 95834

The off-site meeting location for teleconference:
Mahogany Hair Revolution
5450 W. Pico Blvd., #203
Los Angeles, CA 90019

BOARD MEMBERS PRESENT

Dr. Kari Williams, President
(Teleconference)
Andrew Drabkin, Vice President
Polly Codorniz
Jacquelyn Crabtree
Joseph Federico
Richard Hedges
Coco LaChine (Teleconference)
Lisa Thong (Teleconference)

STAFF MEMBERS PRESENT

Kristy Underwood, Executive Officer
Kurt Heppler, Supervising Counsel
Tami Guess, Board Project Manager
Marcene Melliza, Board Analyst

BOARD MEMBERS ABSENT

Bobbie Jean Anderson

1. Agenda Item #1, CALL TO ORDER/ESTABLISHMENT OF A QUORUM

Dr. Kari Williams, the Board President, deferred to Andrew Drabkin, the Board Vice President, to run the meeting. Mr. Drabkin called the meeting to order at approximately 10:00 a.m. and confirmed the presence of a quorum.

2. Agenda Item #2, APPOINTMENT OF COMMITTEE MEMBERS TO STANDING COMMITTEES FOR 2017-18

The 2017-2018 Committees are as follows:

Disciplinary Review Committee

- All Board members are part of this Committee

Education and Outreach Committee

- Jacquelyn Crabtree
- Coco LaChine
- Lisa Thong
- Dr. Kari Williams.

Enforcement and Inspections Committee

- Jacquelyn Crabtree
- Joseph Federico
- Richard Hedges
- Lisa Thong

Health and Safety Advisory Committee

- Richard Hedges
- Lisa Thong
- Dr. Kari Williams

Legislative and Budget Committee

- Bobby Jean Anderson
- Jacquelyn Crabtree
- Andrew Drabkin
- Richard Hedges

Licensing and Examination Committee

- Polly Codorniz
- Joseph Federico
- Richard Hedges
- Dr. Kari Williams

MOTION: Mr. Hedges made a motion, seconded by Mr. Federico, that the Board approves the Standing Committee makeup for 2017-2018 as assigned. Motion carried 8 yes, 0 no, and 0 abstain per roll call vote as follows:

The following Board members voted “Yes”: Codorniz, Crabtree, Drabkin, Federico, Hedges, LaChine, Thong, and Williams.

3. Agenda Item #3, REVIEW AND APPROVAL OF PROPOSED DRAFT OF THE PERSONAL SERVICE PERMIT REPORT TO BE PRESENTED TO THE CALIFORNIA LEGISLATURE

Ms. Underwood summarized the Report on the Implementation Progress of the Personal Service Permit, which was included in the meeting packet.

Public Comment

Fred Jones, Legal Counsel for the Professional Beauty Federation of California (PBFC), reminded the Board that, although the stakeholder meeting attendance was low, often individuals in attendance were representing hundreds or

thousands of constituents. He spoke against the implementation of a personal service permit (PSP). He stated the Board's responsibility is consumer protection. It is clear that, in the existing freelance environment, consumers are not protected. The establishment of the PSP will require the Board to assume much more regulatory enforcement responsibilities. It is tough enough for the 22 state inspectors to monitor the 40,000 establishments statewide, much less 500,000 PSP holders who will operate in several different locations daily.

Mr. Hedges asked if the PSP enhances the chances of recouping through civil actions.

Mr. Jones stated it is irrelevant, legally. If a client is harmed in the course of doing business, they have the same standing to sue whether licensed or not, but freelance technicians have no assets to be attached to a judgement lien, thereby making it difficult for the client to secure legal representation.

Ms. Crabtree asked about tying the PSP to a brick and mortar establishment and what happens when the employee leaves the brick and mortar yet still has the license.

Mr. Jones agreed with tying the PSP to employees of a brick and mortar establishment. A regulatory package could be designed where the PSP is no longer valid the moment they are no longer employees of the brick and mortar establishment, although the paper license could continue to be used fraudulently.

Kurt Heppler, Supervising Counsel, stated, although Mr. Jones suggested several good policy arguments to be fleshed out in the Committees, the motion is limited to the content of the report.

Wendy Jacobs, California Estheticians Alliance, stated many estheticians are employed by salons but are not really employees. Estheticians tend to provide service outside of a salon environment because they are not properly employed by the salon. Incidents of not following the Labor Law in esthetics is astounding. Tying the PCP to brick and mortar establishments will be difficult. She stated estheticians should be held to a higher standard to ensure public protection.

MOTION: Mr. Hedges made a motion, seconded by Mr. Federico, that the Board approves the Report on the Implementation Progress of the Personal Service Permit, with the noted statement that there was limited attendance at the public meetings. Motion carried 7 yes, 0 no, and 1 abstain per roll call vote as follows:

The following Board members voted "Yes": Codorniz, Crabtree, Drabkin, Federico, Hedges, Thong, and Williams.

The following Board member abstained: Board member LaChine.

4. Agenda Item #4, DISCUSSION AND ACTION ON PROPOSED BILLS THAT COULD IMPACT BBC:

Ms. Underwood summarized the Bill Analysis for the following bills, which was provided in the meeting packet.

a. AB 326 (Salas) – Domestic Violence/Sexual Assault Awareness Training

Mr. Federico stated the one-hour training should not be implemented in a school setting. It will not have the intended effect in the school environment where students' focus is on passing the State Board Examination. He suggested remaining neutral on this bill.

Ms. Underwood agreed and stated staff has been advised not to post information about awareness on the website because it is not within the Board's purview.

Mr. LaChine agreed with Mr. Federico. Licensees do not have the capacity or expertise to judge situations and it creates an undue burden on them.

Ms. Thong stated licensees become the recipient of personal information but are not equipped about what to do with that information. The curriculum can help licensees learn what to do, what kind of liability they may or may not have with that type of information, and point their clients to resources. The curriculum, in part, can be part of instilling awareness in licensees to better understand what they can do for themselves. She suggested exploring other options that provide access to this information.

Dr. Williams agreed with Mr. Federico. Some of the awareness discussed in the bill comes with mature licensees with established clientele. It is important that information be made available to make licensees aware. She suggested offering it as an optional resource for licensees who want to increase their awareness.

Ms. Crabtree agreed that there needs to be a sense of awareness, especially for young licensees, and a place where they can find resources.

Public Comment

Mr. Jones stated the PBFC has taken a neutral stance on this bill. He agreed with the unintended consequences of this bill brought up by the Board. He stated Illinois is based on a continuing education model. He suggested that this bill may be premature until continuing education is discussed in California. He suggested an amendment that the Board is willing to embrace Section 1, giving the Board a chance to create a curriculum and a marketing campaign before considering the other sections. He stated dropping the information in curriculum without preparation is akin to live psychological landmines. He cautioned that instructors may bring up issues in the one-hour class that students had never acknowledged in themselves before. He stated the need to look beyond the good intentions of this bill and consider the many issues that are involved. He suggested taking the position of support if amended.

Ms. Jacobs stated estheticians work in a closed-door environment and conversations are more intimate. She spoke against the bill as written. She agreed that maturity level is important. She spoke in support of continuing education and certification to make a positive change in the industry.

John Moreno, Vice President of the Bakersfield Barber College, stated his school discusses this issue to increase awareness and as part of business because it is going to happen. He agreed with watching the bill.

Mr. Federico stated guest speakers are invited multiple times per year to present this information to students. What scares him is what the next step will be.

Jaime Schragebeck, Precision Nails, agreed that continuing education cannot be ignored. She suggested that the Board support the dissemination of the information that state agencies already have through the California Department of Public Health (CDPH).

Mr. Drabkin stated the need to take action on this issue instead of waiting for the perfect bill.

MOTION: Mr. Hedges made a motion, seconded by Ms. Crabtree, that the Board supports AB 326 if amended by maintaining Section 1, which allows the Board to promote awareness, asking that the bill be given to the CDPH to collaborate with local health departments to promote awareness and provide information to salons in their jurisdictions, and noting that licensees who receive training by the CDPH are free from liability to report. Motion carried 7 yes, 1 no, and 0 abstain per roll call vote as follows:

The following Board members voted "Yes": Codorniz, Crabtree, Federico, Hedges, LaChine, Thong, and Williams.

The following Board member voted "No": Board member Drabkin.

b. AB 1099 (Gonzalez) – Compensation-Gratuities

Ms. Underwood stated the Board opposed this bill last session.

Public Comment

Mr. Jones stated the PBFC opposed this bill last session and will continue to oppose it this session.

Ms. Schragebeck spoke in opposition to this bill, which seeks to micromanage how salons are operated.

Ms. Jacobs spoke in opposition to this bill. She stated many establishments do not give estheticians a real accounting of what they have been paid because estheticians are not always employees. She stated, until the owners are more forthright with their accounting systems and what they present as their official payrolls, then this bill does not make sense.

MOTION: Mr. Drabkin made a motion, seconded by Mr. Hedges, that the Board supports AB 1099. Motion failed 4 yes, 4 no, and 0 abstain per roll call vote as follows:

The following Board members voted "Yes": Crabtree, Drabkin, Hedges, and Thong.

The following Board members voted "No": Board members Codorniz, Federico, LaChine, and Williams.

MOTION: Mr. Hedges made a motion, seconded by Ms. Crabtree, that the Board watch AB 1099. Motion carried 6 yes, 0 no, and 2 abstain per roll call vote as follows:

The following Board members voted “Yes”: Codorniz, Crabtree, Drabkin, Federico, Hedges, and Thong.

The following Board members voted “Abstain”: Board members LaChine and Williams.

c. SB 247 (Moorlach) – Deregulation of the Barbering License and Removal of Application of Makeup from the Specialty Branch of Skincare

Public Comment

Mr. Jones spoke in opposition to this bill. He encouraged the Board to consider the unintended consequences of micromanaging. The more the law micromanages, the less efficacy the laws and licenses will hold.

Mr. Moreno spoke in opposition to this bill.

Ms. Jacobs spoke in opposition to this bill.

Mr. Federico stated this issue will come back in different forms in the future. It is important to define what the Board stands for and its core principles.

MOTION: Mr. Drabkin made a motion, seconded by Mr. Hedges, that the Board oppose SB 247. Motion carried 8 yes, 0 no, and 0 abstain per roll call vote as follows:

The following Board members voted “Yes”: Codorniz, Crabtree, Drabkin, Federico, Hedges, LaChine, Thong, and Williams.

d. SB 296 (Nguyen) – Manicure Scope of Practice (Addition of Waxing)

Ms. Underwood stated Senators Hill and Nguyen plan to ask the Board to develop a task force to look at the manicure license curriculum to determine the number of additional hours required to add waxing services. She stated waxing certificates in other states require about 100 to 120 hours.

Mr. Hedges asked about the concerns of this bill. Ms. Underwood stated concern about the regulation of schools and that information is being added that the Board has no control over. It is not the expansion of the scope but the execution of it that is a concern.

Mr. Federico stated the additional hours required to add waxing to the manicure license curriculum may make it a course that is available for federal financial aid.

Mr. Hedges suggested adding health and safety instruction back into this with the increased hours.

Mr. Federico suggested creating a certificate program for manicurists who are interested in expanding their scope to fill this need. It does not necessarily need to be handled through statute, but can be addressed as a part of continuing education. He stated concern that creating a different license erodes the esthetics license and that it will be difficult to ensure that only the allotted areas are waxed.

Mr. LaChine stated a large percentage of manicurists may not have an interest in adding waxing to their scope of practice. He stated concern that this addition to the manicurist license overlaps another type of license and creates confusion for customers.

Public Comment

Ms. Schrabecck agreed with Mr. LaChine. She spoke in opposition to this bill and to any move that tries to legitimize unlicensed activity. It is the wrong starting point and goes beyond the scope of practice. She suggested creating a hair-only license and creating specialty licenses where it makes sense.

Ms. Jacobs spoke in opposition to this bill. The bill does not mention estheticians and downplays the importance of manufacturers' training. She stated her members are mixed on the topic of specialty licenses but they would love to see estheticians as specialists in skin.

MOTION: Mr. Hedges made a motion, seconded by Ms. Crabtree, that the Board oppose SB 296. Motion carried 7 yes, 0 no, and 1 abstain per roll call vote as follows:

The following Board members voted "Yes": Codorniz, Crabtree, Federico, Hedges, LaChine, Thong, and Williams.

The following Board member voted "Abstain": Board member Drabkin.

e. SB 547 (Hill) – Apprentice Supervision

Public Comment

Mr. Moreno agreed that apprenticeship programs need to be under supervision, but cautioned that barbershop owners may not know that they must first meet all requirements to offer an apprenticeship program. He stated he is unaware of an approved apprenticeship course in his area.

MOTION: Mr. Hedges made a motion, seconded by Ms. Codorniz, that the Board approve SB 547. Motion carried 8 yes, 0 no, and 0 abstain per roll call vote as follows:

The following Board members voted "Yes": Codorniz, Crabtree, Drabkin, Federico, Hedges, LaChine, Thong, and Williams.

5. Agenda Item #5, PROPOSED REGULATIONS – DISCUSSION/REVIEW AND APPROVAL OF PROPOSED CHANGES

Ms. Underwood summarized the proposed changes to the regulations, which were included in the meeting packet.

a. Review and Adoption of Amendments to Title 16, CCR Sections 904 and 905, Regarding the Health and Safety Poster.

Public Comment

Ms. Schrabecck suggested keeping the language from the old poster that made clear the type of complaints the Board can address. Without that language, it sounds like consumers can file any complaint. The poster should be more informative to consumers and state what the Board has oversight of.

Mr. Heppler suggested keeping the updated poster language and addressing only the jurisdictional complaints.

Ms. Underwood stated the hope that the poster increases the awareness of the Board's existence.

Mr. Hedges stated many individuals do not read the fine print.

MOTION: Mr. Hedges made a motion, seconded by Mr. Drabkin, that the Board:

1. Adopt the second modified text language and the document added to the rulemaking file (the poster), and
2. Delegate to the executive officer the authority to make any technical or non-substantive changes that may be required in completing the rulemaking file.

Motion carried 8 yes, 0 no, and 0 abstain per roll call vote as follows:

The following Board members voted "Yes": Codorniz, Crabtree, Drabkin, Federico, Hedges, LaChine, Thong, and Williams.

b. Review and Approval of Proposed Amendments to Title 16, CCR Section 950.10, Regarding the Transfer of Credit or Training.

Public Comment

Ms. Jacobs asked how to quantify what training is similar enough to transfer.

Ms. Underwood stated it is up to schools to set the exact curriculum and operations within each area.

MOTION: Mr. Hedges made a motion, seconded by Ms. Codorniz, that the Board authorize the executive officer to prepare the necessary documents to commence the rulemaking function. Motion carried 8 yes, 0 no, and 0 abstain per roll call vote as follows:

The following Board members voted "Yes": Codorniz, Crabtree, Drabkin, Federico, Hedges, LaChine, Thong, and Williams.

c. Review and Approval of Proposed Regulation to Add Title 16, CCR Section 974.3, to Establish when a Fine will be Issued to an Owner and an Individual Licensee and Title 16, CCR Section 974.4, to Establish an Installment Payment Plan for Fines.

Mr. Drabkin asked if an individual is allowed to have multiple concurrent payment plans if cited and fined for the same type of infraction. Ms. Underwood stated they need to complete the terms of the first payment plan before they would be eligible to participate in a payment plan for future citations.

MOTION: Mr. Federico made a motion, seconded by Mr. Hedges, that the Board authorize the executive officer to prepare the necessary documents to commence the rulemaking function. Motion carried 8 yes, 0 no, and 0 abstain per roll call vote as follows:

The following Board members voted "Yes": Codorniz, Crabtree, Drabkin, Federico, Hedges, LaChine, Thong, and Williams.

d. Review and Approval of Proposed Amendments to Title 16, CCR Section 961, to include the National Interstate Council (NIC) Translation Guides.

Public Comment

Ms. Schrage asked if electronic access is defined as providing a password or login code.

Ms. Underwood stated it is public information on the website. No password is necessary.

MOTION: Mr. Hedges made a motion, seconded by Mr. Federico, that the Board authorize the executive officer to prepare the necessary documents to commence the rulemaking function. Motion carried 8 yes, 0 no, and 0 abstain per roll call vote as follows:

The following Board members voted "Yes": Codorniz, Crabtree, Drabkin, Federico, Hedges, LaChine, Thong, and Williams.

6. Agenda Item #6, PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA

Mr. Jones suggested that the Board watch SB 490, a bill that addresses the AB 1513 crisis dealing with piece rate legislation versus commission wages. He stated it is a good effort, although the threshold to qualify is twice the minimum wage, not including tips. The PBFC's position is support if amended – it supports providing a carveout exception for the industry to allow commission wages, but opposes making the wage requirement so high that no one benefits from it.

Ms. Crabtree stated there are other wage options such as hourly wages.

Ms. Underwood stated staff is following this bill internally.

Mr. Jones reported that the PBFC's recent annual Welcome to Our World event was successful. Legislators and their staff attended the event to learn about the beauty industry.

Ms. Jacobs stated a device called Rezenate is a microchip that delivers nutrients to the skin. It looks similar to a tattoo machine but is fixed-height, does not penetrate, and does not cause pinpoint bleeding. Several estheticians have been fined for using this device. She asked the Board to approve the device.

Mr. Heppler stated this product is the basis of citations that have been issued. He suggested that concerns are best directed to the executive officer and her staff and not to the Board members who will adjudicate those citations.

7. Agenda Item #7, ADJOURNMENT

With no further business, the meeting was adjourned.