



**CALIFORNIA STATE BOARD
OF
BARBERING AND COSMETOLOGY**

**BOARD MEETING
MINUTES OF JULY 17, 2017**
Department of Consumer Affairs
1747 North Market Blvd.
HQ2 Hearing Room 186, 1st Floor
Sacramento, CA 95834

BOARD MEMBERS PRESENT

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

STAFF MEMBERS PRESENT

Kristy Underwood, Executive Officer
Salwa Bojack, Board Legal Representative
Rebecca Bon, Board Legal Representative
Tami Guess, Board Project Manager
Marcene Melliza, Board Analyst

BOARD MEMBER ABSENT

Bobbie Jean Anderson

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

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

2. Agenda Item #2, BOARD PRESIDENT'S OPENING REMARKS

Dr. Williams acknowledged Dean Grafilo, the Director of the California Department of Consumer Affairs (DCA), who was in attendance at today's meeting.

Dr. Williams presented Mr. Hedges with a resolution in appreciation for his years of service with the Board.

Rebecca Bon, Board Legal Representative, introduced Salwa Bojack, who will be substituting in her place for a period of time.

3. Agenda Item #3, PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA

Fred Jones, Legal Counsel for the Professional Beauty Federation of California (PBFC), thanked Mr. Hedges for his service and for helping make the Board one of the best-run Boards in the DCA.

Jean Ogren, Electrologists' Association of California, thanked Mr. Hedges for his service and for improving the professionalism of the Board.

Jaime Schrabec, Precision Nails, stated her appreciation for Mr. Hedges's contributions to the industry. She suggested that the Board create a task force to regularly report on new trends, techniques, education, devices and equipment, and business practices to keep the Board up to date.

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

- a. Licensing Statistics**
- b. Examination Statistics**
- c. Disciplinary Review Committee Statistics**
- d. Enforcement Statistics**
- e. Budget Updates**
- f. Outreach Updates**

Kristy Underwood, the Executive Officer, stated staff will present a multiyear report on examination pass/fail rates at the next Board meeting. She stated the statistics and update reports were included in the meeting packet.

Ms. Underwood stated the Disciplinary Review Committee will meet in Riverside on August 21 through August 23. She asked Board Members to consider volunteering to be on the DRC Committee in place of Mr. Hedges.

Mr. Hedges referred to the Examination Results statistics for April 1 through June 30, 2017, and stated the Korean pass rate should be changed from 0% to 33.333%. He noted that Spanish Cosmetologist pass rates have gone up. He stated it is difficult to learn a new written language if grammar is poor. He suggested including a grammar course in schools to help students pass the examination.

Mr. LaChine referred to the Licenses Issued Last 5 Years statistics and noted that the total licenses have dropped considerably in Fiscal Year (FY) 16/17. Ms. Underwood speculated that the decrease in licenses might be due to the closing of the Marinello Schools of Beauty.

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

- January 22, 2017
- April 24, 2017
- May 15, 2017

Public Comment

Wendy Jacobs, Founder, California Aesthetic Alliance (CAA), asked to change "keratin lash/lips" to "keratin lash lift" on page 2 of the January 22nd minutes.

MOTION: Mr. Hedges made a motion, seconded by Mr. Federico, that the Board approves the January 22, 2017, April 24, 2017, and May 15, 2017, Meeting Minutes as revised. Motion carried 8 yes, 0 no, 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, ESTABLISHING THE MANICURIST/HAIR REMOVAL TASK FORCE

Ms. Underwood stated Senate Bill (SB) 296 mandated the Board to establish a task force to research increasing the manicurist scope of practice to include waxing.

Mr. Federico and Ms. Crabtree volunteered to be part of the task force.

Mr. Drabkin suggested including a public member or Board Member Emeritus on the task force.

Public Comment

Ms. Jacobs spoke against SB 296 and stated waxing is a large threat to public health. She stated a public petition was sent to the Board and is posted on change.org with 1,500 signatures from licensees who overwhelmingly feel this bill does not protect the public. She stated this bill is dangerous and legitimizes illegal activity.

MOTION: Mr. Hedges made a motion, seconded by Mr. Federico, that the Board accepts the recommendations from staff by including two Board Members and adding a public member to the task force composition. 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.

7. Agenda Item #7, ENFORCEMENT COMMITTEE REPORT – CONSIDERATION OF COMMITTEE RECOMMENDATION AND POSSIBLE ACTIONS

Proposed Amendments to Title 16, CCR Section 974.1, Relating to the Requirements for Serving on the Disciplinary Review Committee

Mr. Federico stated the Enforcement Committee focused on restructuring the Disciplinary Review Committee (DRC) due to administrative difficulties.

Ms. Underwood stated the Committee recommended the following:

- Create multiple DRCs.
- Each DRC will be made up of one Board Member, an industry member, and an individual who is not associated professionally or financially with the industry.
- A member of the DRC may be removed before the end of his/her term by a majority vote of the Board.
- Each Committee shall meet as deemed necessary by the Board.
- Each Committee Member shall be paid a per diem pursuant to Section 103 of the BPC and shall be reimbursed for any travel expenses.

Ms. Underwood stated approval by the Board today will allow staff to begin the regulatory process.

MOTION: Mr. Hedges made a motion, seconded by Dr. Williams, that the Board approves staff's proposed actions as outlined in the meeting packet and the changes discussed in yesterday's Enforcement Committee meeting. 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: LaChine.

**8. Agenda Item #8, LEGISLATIVE AND BUDGET COMMITTEE REPORT –
CONSIDERATION OF COMMITTEE RECOMMENDATION AND POSSIBLE ACTIONS**

**a. Proposed Amendments to Title 16, CCR Sections 910, 919, 931, and 937,
Relating to Application Forms**

Mr. Drabkin stated the Legislative and Budget Committee recommended that the Board approve the staff changes to the regulatory language to reflect form updates.

MOTION: Mr. Drabkin made a motion, seconded by Ms. Crabtree, that the Board approves the proposed changes to the regulatory language to reflect form updates as presented. 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. Proposed Amendments to Title 16, CCR Section 904, Enforcement, to
Define Certain Terms**

Mr. Drabkin stated the Legislative and Budget Committee recommended that the Board approve the staff updates to the regulatory language to define terms with two Committee changes as follows:

Change the term "ability of the executive officer" to "authority of the executive officer" in Section 904(e).

Remove the term "but not limited to" in Section 904(e), so it would read "including all rooms, drawers, cabinets, roll-abouts, and closets."

Public Comment

Mr. Jones stated concern that the term "inspect all areas" in Section 904(e) is too all-encompassing. He suggested adding "where such services are being performed," so it would read "inspect all areas within the establishment where such services are being performed."

Mr. Drabkin stated his concern that illegal items may be hidden in areas where services are not performed, such as bathrooms.

Mr. Jones agreed and stated there is a regulation that the bathroom cannot be used for storage of products and other items. He suggested adding “or believed to be related to services, products, or equipment” to the end of his proposed sentence, so it would read “inspect all areas within the establishment where such services are being performed or believed to be related to services, products, or equipment.”

Mr. Hedges stated if individuals chose to use illegal items, they would be hidden in areas where inspectors are not allowed to go.

Ms. Underwood stated no additional areas of inspection are being added. The proposed change is only to define access and to clarify that access includes drawers, which is the largest complaint from licensees.

Ms. Jacobs asked if the Board can access clients records or online scheduling data.

Ms. Underwood stated the regulations do not address that. Personal client information is not relevant, but inspectors do look at appointment books.

Ms. Thong suggested adding “to inspect with the intention of consumer protection.”

Ms. Bon stated the first sentence of subsection (e) addresses that and achieves the clarification that is being alluded to.

MOTION: Mr. Hedges made a motion, seconded by Dr. Williams, that the Board approves the proposed revised changes to the regulatory language to include a definition of “access” as presented. 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.

9. Agenda Item #9, LICENSING AND EXAMINATION COMMITTEE REPORT – CONSIDERATION OF COMMITTEE RECOMMENDATION AND POSSIBLE ACTIONS

Regulatory Proposal Relating to the Issuance of a Personal Service Permit

Mr. Federico stated the Licensing and Examination Committee focused on staff’s proposed regulatory language for implementation of a Personal Service Permit (PSP). The discussion devolved into issues with some of the requirements and with the PSP overall, such as how to add the new segment of PSP holders to inspectors’ already overburdened inspection base.

Mr. Federico stated the Committee suggested that PSP holders be required to complete additional educational requirements, such as a bloodborne pathogens certificate. He stated the Committee also considered limiting the PSP to a specific license type, such as estheticians, but noted that waxing becomes an issue when done at home.

Mr. Federico stated he asked staff to complete a risk assessment between license types and the kind of services that would most benefit under a PSP and to report their findings at the next Committee meeting. The Committee will then begin working on regulatory language.

Mr. Federico stated he suggested that the state Board look ahead in regards to license types and take this information into the strategic planning meeting tomorrow because of the current trend of legislators creating bills that force the Board to react to them. He stated the need for the Board to be ahead of the curve on current issues.

Mr. Hedges emphasized the inability to control this whether it is licensed or not. Apps are already available. Digital technology is disrupting industries and the regulations within those industries. He suggested the first step for consumer protection is to limit the PSP to offices or workplaces, not consumers' homes.

Ms. Codorniz agreed and stated limiting the PSP to offices and workplaces increases consumer safety due to the more public environment.

Ms. Crabtree agreed and stated the PSP opens up liability issues and potential underground activity. Limiting the PSP as to location and number of permit holders per establishment will decrease consumer safety issues.

Mr. LaChine referred to PCP Application Requirement (c), maintain employment at a licensed establishment that does not have any outstanding administrative fines or disciplinary actions. He stated the concern that it punishes the applicant for the establishment's noncompliance.

Dr. Williams agreed and stated she voiced the same concern in yesterday's meeting. That, among other concerns, is the reason why the Committee did not bring recommendations to the Board today.

Mr. Hedges stated his concern that the Board has been mandated to complete a task that is almost impossible to oversee. The Board is funded for 22 inspector positions. There are currently seven openings, but they are difficult to fill due to wage issues.

Ms. Thong stated the Enforcement Manager addressed the Committee in yesterday's meeting. The attorney general's office is currently not making decisions on certain cases related to this. This situation is problematic. The Board needs to figure this out because certain situations that would apply have no enforcement were a PSP to be made available. She suggested contacting businesses in California that have moved forward with the PSP without waiting for Board regulations.

Dr. Williams stated the Enforcement Manager stated she has attempted to reach out to some of the current apps. Those businesses feel they are only facilitating the arrangement between the licensee and the consumer. They are less likely to provide enforcement because they feel it is the responsibility of the licensee to understand those issues. Dr. Williams stated the Enforcement Manager reported that she is in the process of identifying licensees on the apps but the apps only list who is currently available so it has been a difficult process.

10. Agenda Item #10, 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

Ms. Underwood stated the Board took the position of Support if Amended at the May meeting. She stated Assembly Bill (AB) 326 has been amended to restructure the Board Health and Safety Advisory Committee to include this bill as part of the Committee charge, update the Health and Safety curriculum, and do a pilot testing program for instructors. The current iteration of this bill significantly impacts the Board. The Board would be required to provide training, regulation packages, and an update of the Health and Safety curriculum that was just completed a month ago. The fiscal analysis cost is approximately \$20,000 for implementation.

Mr. Hedges stated legislators are considering attaching human trafficking to this bill, as well. He stated his concern that licensees will be treated like nurses and school teachers in the future, where they will be required to notify authorities and lose their licenses if they do not.

Ms. Crabtree stated the funding would be better used to hire additional inspectors.

Ms. Underwood stated her concern that there is no mention that this training would include the apprentice program.

Tami Guess, the Board Project Manager, stated the California Department of Public Health (CDPH) already has a program in place and receive funds to provide training in this area. Ms. Underwood stated the CDPH should be the lead on this, not the Board.

Mr. LaChine agreed that it is not in the Board's scope. He stated establishment owners are required by law to provide employees with sexual harassment pamphlets. He suggested contacting the organization that provides that pamphlet to see if they can provide sexual abuse information in that same pamphlet.

Ms. Underwood stated the statute allows the Board to promote awareness of these issues on the website.

The Board agreed to maintain its current position of Support if Amended.

b. AB 1099 (Gonzalez) – Compensation-Gratuities

Ms. Underwood stated the Board took a "Watch" position at the May meeting. She stated the bill was amended to include a definition of "entity" and amended out the portion that named the Board of Barbering and Cosmetology.

The Board agreed to maintain its current "Watch" position.

c. AB 1516 (Cunningham) – Healthy Nail Salon Recognition; Compliance with Article 12 commencing with Section 977 of Division 9 of the California Code of Regulations

Ms. Underwood stated the Board position on AB 1516 is yet to be determined. She stated the bill is a technical cleanup for the language that was presented last year.

d. AB 1575 (Kalra) – Cosmetic Ingredients Label

Ms. Underwood stated the Board position on AB 1575 is yet to be determined. AB 1575 does not impact the Board; it impacts licensees. She stated the bill inadvertently left off Electrology licensees in the definition of professional.

Mr. Federico asked how the bill defines a professional cosmetic manufacturer and if salons that manufacture their own cosmetic blends are required to follow the statute. Ms. Guess stated the bill states it is intended to apply to professionals only.

The Board agreed to take a Support if Amended position.

Public Comment

Ms. Schrage stated AB 1575 does not take into account that many products are in containers so small they would not fit a detailed label or are purchased in bulk quantities and transferred to small containers. She stated the need for the information to be available on a tear sheet.

Ms. Jacobs stated many esthetician products do not contain an ingredient list. They are generic-looking with simplified language, such as “2% lactic,” on the front. Many estheticians private-label their bottles for their own use and for retail.

MOTION: Mr. Hedges made a motion, seconded by Ms. Crabtree, that the Board would support AB 1575, if it was amended to include all professionals licensed by the Board, including Electrologists. Motion carried 6 yes, 0 no, and 2 abstain per roll call vote as follows:

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

The following Board Members abstained: Federico and LaChine.

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

Ms. Underwood stated the Board took the position to oppose SB 247 at the May meeting. She stated this two-year bill has stalled but staff will continue to monitor it.

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

Ms. Underwood stated the Board took the position to oppose SB 296 at the May meeting.

The Board agreed to maintain its position to oppose SB 296.

g. SB 490 (Bradford) – Commission Wages for Employees Licensed Under the Barbering and Cosmetology Act

Ms. Underwood stated the Board position on SB 490 is yet to be determined. She stated this bill does not impact the Board other than updating the training course.

The Board did not take a position on this bill.

h. SB 547 (Hill) – Apprentice Supervision

Ms. Underwood stated the Board took the position of Support at the May meeting. She stated it was amended to clarify apprentice supervision language.

The Board agreed to maintain its current position to support SB 547.

i. SB 715 (Newman) – Removal of Board Members from Office

Ms. Underwood stated the Board position on SB 715 is yet to be determined.

The Board did not take a position on this bill.

11. Agenda Item #11, PROPOSED REGULATIONS – STATUS UPDATES

- a. Title 16, CCR Sections 904 and 905 (Health and Safety Poster)**
- b. Title 16, CCR Section 950.10 (Transfer of Credit or Training)**
- c. Title 16, CCR Section 961 (National Interstate Council (NIC) Translation Guides)**
- d. Title 16, CCR Section 974 (Administrative Fine Schedule)**
- e. Title 16, CCR Section 974.3 (Citation of Establishments, Individuals for Same Violation)**
- f. Title 16, CCR Section 974.4 (Installment Payment Plan for Fines)**
- g. Title 16, CCR Section 978, 979, 980, 980.4, 981, 982, 984, and 989 (Health and Safety Regulations)**

Ms. Underwood updated the Board on the regulation update process for Sections 904 and 905. No comments were received during the 15-day public comment period on the second modified text. The final rulemaking file is now under review by the Department of Consumer Affairs (DCA). The remainder regulation packages are under DCA's preliminary review.

12. Agenda Item #12, AGENDA ITEMS FOR THE NEXT MEETING

Mr. LaChine suggested adding an ongoing agenda item for Board Member comments that are not on the agenda.

Ms. Thong asked for a report at the next meeting on how consumer complaints compare historically and how enforcement has changed so new members can better understand how the Board has improved over time.

Mr. Federico asked for a report at the next meeting on the number of inspection reports that are generated broken down by inspector, the number of those reports that are appealed, and the number of appeals that are affirmed versus the number of appeals that went on to the next step.

Ms. Codorniz asked if the examination can be offered via headphones so students can hear the questions to help with the Spanish pass rates. Ms. Underwood stated it is not available because the examination is offered in different languages.

13. Agenda Item #13, PUBLIC COMMENT

Ms. Schrabec asked that the Board look at what other organizations are coming up with, including changing licensing categories and looking at the possibility of creating a 1,000-hour hairstyling-only license or a waxing-only license, for example. This is a way to reconcile what SB 296 is trying to achieve without creating the confusion of mixing licensing types. She also stated concern about students who pay for hours and about the lack of Board authority to oversee schools.

14. Agenda Item #14, ADJOURNMENT

There being no further business, the meeting was adjourned at approximately 12:00 p.m.