

**CALIFORNIA
BOARD OF BARBERING AND COSMETOLOGY**



JANUARY 22, 2024

LICENSING AND EXAMINATIONS COMMITTEE

**Department of Consumer Affairs
HQ2 Hearing Room #186
1747 North Market Blvd
Sacramento, CA 95834**

and

Public Teleconference



CALIFORNIA BOARD OF BARBERING AND COSMETOLOGY



MEMBERS OF THE COMMITTEE

Steve Weeks, Chair
Tonya Fairley
Yolanda Jimenez
Colette Kavanaugh
Jacob Rostovsky

LICENSING AND EXAMINATIONS COMMITTEE MEETING NOTICE AND AGENDA

January 22, 2024

**Department of Consumer Affairs
HQ2 Hearing Room #186
1747 North Market Blvd
Sacramento, CA 95834**

*Action may be taken on
any item listed on the
agenda.*

**9:00 a.m. – Until Completion of
Business**

Committee members will participate remotely from private, non-public sites. The public may participate in-person or remotely. To participate in the WebEx Events meeting, please log on to this website the day of the meeting:

<https://dca-meetings.webex.com/dca-meetings/j.php?MTID=mcfc79d538aa407cc5ddb9a06105dc004>

Webinar number: 2486 727 6348

Webinar password: BBC122

Instructions to connect to the meeting can be found at:

https://www.barbercosmo.ca.gov/about_us/meetings/how_to_join_webex_event.pdf

Members of the public may but are not obligated to provide their names or personal information as a condition of observing or participating in the meeting. When signing into the WebEx platform, participants may be asked for their name and email address. Participants who choose not to provide their names will be required to provide a unique identifier such as their initials or another alternative, so that the meeting moderator can identify individuals who wish to make public comment; participants who choose not to provide their email address may utilize a fictitious email address in the following sample format:
XXXXX@mailinator.com.

In order to ensure all public members have an opportunity to speak and in the interest of time, public comments will be limited to two minutes unless, in the discretion of the committee, circumstances require a shorter period or longer period; members of the public will not be permitted to “yield” their allotted time to other members of the public to make comments.

As an alternative, members of the public who wish to observe the meeting without making public comment can do so (provided no unforeseen technical difficulties) at

<https://thedcapage.wordpress.com/webcasts/>.

AGENDA

1. Call to Order/ Roll Call/ Establishment of Quorum
2. Discussion and Possible Approval of the September 11, 2023, Committee Meeting Minutes
3. Discussion and Possible Recommendation of Establishment Ownership Types
4. Discussion and Possible Recommendation Regarding Implementing a 90-day Retention Schedule for Out of State License Certifications
5. Public Comment on Items Not on the Agenda
Note: The Committee may not discuss or take any action on any item 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))
6. Suggestions for Future Agenda Items
7. Adjournment

The time and order of agenda items are subject to change at the discretion of the Committee Chair and may be taken out of order. In accordance with the Bagley-Keene Open Meeting Act, all meetings of the Committee are open to the public.

*Government Code section 11125.7 provides the opportunity for the public to address each agenda item during discussion or consideration by the Committee prior to the Committee taking any action on said item. Members of the public will be provided appropriate opportunities to comment on any issue before the Committee, but the Committee Chair may, at his or her discretion, apportion available time among those who wish to speak. Individuals may appear before the Committee to discuss items not on the agenda; however, the Committee can neither discuss nor take official action on these items at the time of the same meeting (Government Code sections 11125, 11125.7(a)).

The meeting is accessible to the physically disabled. A person who needs disability-related accommodation or modification in order to participate in the meeting may make a request by contacting: Natalie Mitchell at (916) 244-6644, email: natalie.mitchell@dca.ca.gov, or send a written request to the Board of Barbering and Cosmetology, PO Box 944226, Sacramento, CA 94244. Providing your request is a least five (5) business days before the meeting will help to ensure availability of the requested accommodations. TDD Line: (916) 322-1700.

Agenda Item
No. 1
No Attachment

DRAFT
CALIFORNIA STATE BOARD
OF
BARBERING AND COSMETOLOGY

LICENSING AND EXAMINATIONS COMMITTEE MEETING

MINUTES OF SEPTEMBER 11, 2023

COMMITTEE MEMBERS PRESENT

Steve Weeks, Chair
Tonya Fairley
Yolanda Jimenez
Colette Kavanaugh

STAFF MEMBERS PRESENT

Kristy Underwood, Executive Officer
Carrie Harris, Deputy Executive Officer
Sabina Knight, Board Legal Counsel
Allison Lee, Board Project Manager
Natalie Mitchell, Board Analyst

COMMITTEE MEMBER ABSENT

Jacob Rostovsky

1. AGENDA ITEM #1, CALL TO ORDER/ROLL CALL/ESTABLISHMENT OF QUORUM

Steve Weeks called the meeting to order at approximately 9:00 a.m. and confirmed the presence of a quorum.

2. AGENDA ITEM #2, DISCUSSION AND POSSIBLE APPROVAL OF THE MARCH 13, 2023, COMMITTEE MEETING MINUTES

Motion: Ms. Jimenez moved to approve the March 13, 2023, Committee Meeting Minutes. Ms. Kavanaugh seconded.

No comments were received from the public.

Motion to approve March 13, 2023, Committee Meeting Minutes carried; 4 yes, 0 no, and 0 abstain, per roll call vote as follows:

The Committee Members voted "Yes": Steve Weeks, Tanya Fairley, Yolanda Jimenez, and Colette Kavanaugh.

3. AGENDA ITEM #3, DISCUSSION AND POSSIBLE RECOMMENDATIONS REGARDING RENTERS WITHIN LICENSED ESTABLISHMENTS

Executive Officer, Kristy Underwood, explained that more establishments are renting out single rooms such as a hair salon renting to an esthetician. The esthetician takes on an extra room within the establishment, obtains a business license, and completely operates as their own. When a salon contains multiple suites, every suite has an established license issued to it and the post office can recognize it as its own address. When it comes to establishments that are just renting a room, the address is the same as the entire establishment. Ms. Underwood believes something can be done in regulation if the Committee makes the recommendation and the Committee should discuss this topic as individuals are operating as their own sole business. Booth renters

and independent contractors are as well, but often share beauty products with other contractors in the establishment. This issue has been mentioned in previous meetings and booth renting licensing or certification was requested for those stations. A majority of other states do provide such certification since those boards have established common areas. This has been attempted in the past but was unsuccessful through the legislature to be able to do so. Ms. Underwood shared that she believes it is a different model now and is becoming more common for individuals to rent a room in the back of an establishment as a truly separate business.

This subject has been brought to the Committee to consider pursuing this further and come up with regulations. This has not been fully discussed with the regulations counsel and it needs to be determined if the Committee has the authority to do so. Should the Committee decide to go in that direction, the subject will be further examined, and a formal recommendation will be presented to the Board.

Tonya Fairley shared that she owns her own salon that does have this scenario where she requires others to have their own business license. Ms. Fairley explained that she finds it good that it would be in line with the individual's own establishment and that she wonders if the liability would shift from the overall establishment or to the individual establishment. In this case, if the State Board were to come in and request access to the room, access would not be granted due to it being the individual's own entity. Tonya Fairley stated that she believes it is a good idea as they are treated as their own business anyway and the liability should be solely on the esthetician that has that space.

Ms. Underwood explained that she does not find it fair to hold the business responsible if access to the esthetician's room is not granted. Liability is addressed in this process. Statute changes have improved in regards to the person who committed the violation being more responsible than the owner. If someone were to enter the salon and the esthetician is not working, it is a violation for the owner. Ms. Fairley shared that she finds this unfair because of requirements around sanitation purposes. With everybody being classified as their own business, it takes some ownership away from the overall establishment owner. Ms. Fairley explained that the renters she previously had all had their own business licenses and the responsibility of having personal property insurance for liability purposes. This requires the individual to carry the same things as the overall establishment and Ms. Fairley is in favor of this idea.

Steve Weeks asked how many new establishments this would create. Ms. Underwood stated that there would be a lot. Ms. Fairley explained that one salon can have 25 booth renters, but the salon inside of the 25 booth renters can probably have one, two, or three separate rooms. It may not create an abundance in the cosmetology side, but more on the esthetician side depending on the scope of practice. Ms. Fairley believes this is creating more independence and is taking away some of the barriers that room renters and salon owners run into of being fined for a room being locked.

Colette Kavanaugh asked if the liability would be kept on the esthetician and not the owner if the esthetician is doing something out of the scope of practice. Ms. Underwood confirmed.

Staff will review the information, talk to regulatory counsel, and bring back proposed language to the Committee.

Public Comment:

Fred Jones, Professional Beauty Federation, shared that the Federation has consistently supported the idea of separation. The Federation's sole mission is to raise the professionalism of beauty. Mr. Jones has previously come to the Committee to discuss a code section that defines an establishment as a part of a building and made the argument for booth renters to obtain their own establishment license. When discussing physical separation as a demarcation for needing an establishment license or not, a booth renter would not qualify. Mr. Jones asked if this is sending an unintended message to the more traditional approach of booth renting not being truly independent. Mr. Jones also mentioned the issue with the establishment owner mistakenly acting as an employer over booth renters and believes the last thing the Committee should do is muddy the water further by saying the booth renters do not need the license. Mr. Jones shared that the Federation will be available to help and that he believes the intentions are great.

4. AGENDA ITEM #4, REVIEW AND DISCUSSION OF ESTABLISHMENT OWNERSHIP TYPES

Ms. Underwood explained that many years ago, a decision was made for the written statute to include the ownership type of an LLC, Limited Liability Company. Applications have been processed this way for at least 16 years. As new regulations are being worked on, it has come to attention that the Board does not have the authority to issue an establishment license to an LLC. Ms. Underwood explained that there is a corporation code that says a professional service cannot be offered by an LLC unless it is clear in the statute. For the Board to make it clear in their laws, the legislature must include the words Limited Liability Company in the statute. Ms. Underwood highly recommended this to be done as there are many LLCs. Should the Committee agree and there is no concern regarding an LLC, Ms. Underwood thinks this should be moved forward to the legislature for clarification in the language.

Mr. Weeks stated that it may make sense to modify some of the current regulations to enforce disclosure of individuals that are now hidden through a corporation. If an individual has lost their license due to disciplinary action of the Board, the individual would just have to establish a corporation without their name to be brought back in. This can be seen as a loophole for those with ill intentions to return to the profession. This may be solved by adding language to require disclosure of prior disciplinary actions. Sabina Knight stated that the 7347 Establishment License does request information about officers and partners when applying. Tonya Fairley confirmed and explained that

it does not ask for prior licensing. The license only states the name of the LLC, and the manager and members will need to be asked about.

Aside from the LLC issue, Ms. Underwood believes there is a lot of clean up that can be done as this is one of the biggest issues, even in sole proprietorships. Drafted legislative language can be brought back to the Committee, to the Board, and then a legislative change can be pursued. Any voluntary or involuntary dissolved corporations can be discussed as well due to possible licenses under a corporation that was dissolved several years ago. Steve Weeks asked if this would work within the framework of the discussion for Item 3. Ms. Underwood confirmed.

Public Comment:

No comments were received from the public.

5. AGENDA ITEM #5, DISCUSSION AND POSSIBLE RECOMMENDATION REGARDING IMPLEMENTING A 90-DAY RETENTION SCHEDULE FOR OUT OF STATE LICENSE CERTIFICATIONS

Ms. Underwood stated that individuals with licenses from another state may come to California and be issued a new license. In previous experiences, individuals have requested a certification letter from their origin state, submitted the letter, and then not applied for almost a year. It is desired for the license certification to only remain on file for 90 days. Limiting the time frame can help to ensure licenses are still valid.

Tonya Fairley stated that 90 days seems like a long time for the industry for a license change. Ms. Underwood explained it is desired for the number of days to not be below 60 in order to allow time in case of a backlog occurring in the office with certifications.

Ms. Fairley asked what the process is when bringing in the certificate for the license and if the certificate is verified upon receiving. Ms. Underwood explained that certifications are received straight from the state and are not accepted from applicants. Most states agree to submit these due to the amount of fraud in certification letters. A high number of applicants are found online. Applications are filed electronically by state and name, certifications are received and matched to applications, and then approval is issued to receive licenses. Individuals are required to renew licenses before the application process.

Public Comment:

- Fred Jones asked Kristy Underwood if requests are made to the original state for certification based on an applicant's request. Ms. Underwood explained that it depends, and some applicants already know to receive certification from the state. Certification letters are often received without an application. The Board is not actively communicating with the state in order to receive certifications. Certification letters must be purchased and then are sent to the Board to be filed. Individuals are not informed when certifications are received. Mr. Jones stated that this can explain the delay in applications as the individual may be waiting for confirmation.

Steve Weeks asked how many certifications become inactive. Ms. Underwood shared that there are a lot and that there is a lot of fraud in the certification letters. Sometimes certification letters are received, an individual tells their friend to apply in California, and then it is never done. Ms. Underwood stated that is the number one topic discussed when meeting with Executive Directors.

The Board is currently not accepting certifications from another state due to a significant fraud issue. In the past two years, only 100 to 200 certifications were received. In 2023, over 800 certifications have already been received.

Ms. Fairley asked how salon owners will protect themselves in this process. Ms. Underwood suggested asking questions pertaining to the individual obtaining their license. Years ago, there was a major issue with people coming from Puerto Rico and obtaining licenses based off fake out-of-state or out-of-country materials. Individuals would go to a state that did not examine information thoroughly, receive a license, and easily be issued a California license. The Board is requesting proof of receiving the license from applicants.

6. AGENDA ITEM #6, PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA

No comments were received from the public.

7. AGENDA ITEM #7, SUGGESTIONS FOR FUTURE AGENDA ITEMS

No suggestions were made.

8. AGENDA ITEM #8, ADJOURNMENT

There being no further business to discuss, the meeting adjourned at approximately 9:31 a.m.



MEMORANDUM

DATE	January 22, 2024
TO	Members, Licensing and Examinations Committee
FROM	Kristy Underwood, Executive Officer
SUBJECT	Agenda Item 3 – Discussion and Possible Recommendation of Establishment Ownership Types

On September 11, 2023, the Licensing and Examinations Committee directed staff to prepare legislative language that would allow Limited Liability Companies as an establishment ownership type. The proposed language is provided below.

Section 7347 is amended to read:

(a) Any person, firm, ~~or~~ corporation, *or limited liability company* desiring to operate an establishment shall make an application to the board for a license accompanied by the fee prescribed by this chapter. The application shall be required whether the person, firm, ~~or~~ corporation, *or limited liability company* is operating a new establishment or obtaining ownership of an existing establishment. The application shall include a signed acknowledgment that the applicant understands that establishments are responsible for compliance with any applicable labor laws of the state and that the applicant understands the informational materials on basic labor laws, as specified in Section 7314.3, the applicant is provided by the board with the application. Every electronic application to renew a license shall include a signed acknowledgment that the renewal applicant understands that establishments are responsible for compliance with any applicable labor laws of the state and that the applicant understands the informational materials on basic labor laws, as specified in Section 7314.3, that the renewal applicant is provided by the board with the renewal application. If the applicant is obtaining ownership of an existing establishment, the board may establish the fee in an amount less than the fee prescribed by this chapter. The applicant, if an individual, or each officer, director, and partner, if the applicant is other than an individual, shall not have committed acts or crimes which are grounds for denial of licensure in effect at the time the new application is submitted pursuant to Section 480. A license issued pursuant to this section shall authorize the operation of the establishment only at the location for which the license is issued. Operation of the establishment at any other location shall be unlawful unless a license for the new location has been obtained upon compliance with this section, applicable to the issuance of a license in the first instance.

Action Needed: The Committee may make a motion to recommend to the full Board the above language for consideration as a legislative proposal.



MEMORANDUM

DATE	January 22, 2024
TO	Members, Licensing and Examinations Committee
FROM	Kristy Underwood, Executive Officer
SUBJECT	Agenda Item 4 – Discussion and Possible Recommendation Regarding Implementation a 90-day Retention Schedule for Out of State License Certifications

On September 11, 2023, the Licensing and Examinations Committee directed staff to prepare regulatory language to establish a 90-day retention schedule for out-of-state license certifications. The proposed language is provided below.

California Code of Regulations Section 911 is adopted to read:

§ 911. License Certification

An applicant applying for a license based on possessing a current license in another state shall have a license certification from the licensing state sent to the board. The certification shall be submitted from the licensing state directly to the board by mail or email and not be submitted from the applicant. The certification shall be kept in the Board’s office for 90 days from the date it is received by the Board. If after 90 days the license has not been issued, a new certification must be received from the licensing state.

Action Needed: The Committee may make a motion to recommend to the full Board the above language for consideration as a regulatory package.

Agenda Items

No. 5-7

No Attachments