



BUSINESS, CONSUMER SERVICES, AND HOUSING AGENCY – GOVERNOR Edmund G. Brown JR.
BOARD OF BARBERING AND COSMETOLOGY
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**CALIFORNIA STATE BOARD
OF
BARBERING AND COSMETOLOGY**

**BOARD MEETING
MINUTES OF APRIL 26, 2016**
Department of Consumer Affairs
1625 North Market Blvd.
Hearing Room S-102, 1st Floor
Sacramento, CA 95834

The off-site meeting location for teleconference:
1038 West 80th Street
Los Angeles, CA 90044

BOARD MEMBERS PRESENT

Joseph Federico, President
Dr. Kari Williams, Vice President
Mary Lou Amaro
Bobbie Anderson (via teleconference)
Polly Codorniz
Andrew Drabkin
Richard Hedges
Coco LaChine
Lisa Thong

STAFF MEMBERS PRESENT

Kristy Underwood, Executive Officer
Heather Berg, Assistant Executive Officer
Rebecca Bon, Legal Counsel
Carrie Frank, Licensing Manager
Tami Guess, Staff Manager Specialist
Carrie Harris, Enforcement Manager
Marcene Melliza, Board Analyst
Theresa Rister, Inspection Manager

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

Joseph Federico, the Board President, called the meeting to order at 10:00 a.m. A quorum was achieved.

New Board Members Coco LaChine and Lisa Thong introduced themselves. Mr. Federico welcomed them to the Board.

2. Agenda Item #2, PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA

There were no questions or comments from the public.

3. Agenda Item #3, BOARD PRESIDENT'S REPORT

Mr. Federico stated the Board held a teleconference meeting wherein time-sensitive legislation was discussed. He stated, while it is nice to see new legislation affecting the industry, the purpose and mission of the Board is client protection and safety. It is imperative that the Board not take on responsibilities that are out of its purview.

4. **Agenda Item #4, EXECUTIVE OFFICER REPORT**

Ms. Kristy Underwood, the Executive Officer, presented her report with the following highlights:

- The cosmetology examination applicants have dramatically decreased as a result of the closure of the Marinello Schools of Beauty. It is estimated that this decrease may remain for a few more months before stabilizing.
- Staff continues to look at the Spanish exam pass rates and will have more information to present at the next Board meeting.
- Staff participated on a panel in a town hall meeting in Garden Grove with representatives from the Department of Industrial Relations and the Employment Development Department. It was a positive event for the Board.
- Heather Berg, the Deputy Executive Officer, has worked on improving processes at exam sites and the inspections program.
- Many reports are coming due. Status updates will be provided at the July 2016 Board meeting. Tami Guess, recently promoted to Staff Manager Specialist, will be the lead for this and other projects.

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

MOTION: Mr. Hedges made a motion, seconded by Mr. Drabkin, that the Board approves the January 24, 2016, Meeting Minutes as presented. Motion carried 7 yes and 0 no per roll call vote. Board Members LaChine and Thong abstained.

6. **Agenda Item #6, LICENSING AND EXAMINATION COMMITTEE REPORT: CONSIDERATION OF COMMITTEE RECOMMENDATIONS AND POSSIBLE ACTION**

Mr. Federico, the Chair of the Licensing and Examination Committee, presented his report.

- **Discussion and Recommendations to Board Regarding Possible Licensing Requirements for Establishment Owners.**

Mr. Federico stated this item was held over to a future Licensing and Examination Committee meeting.

- **Discussion and Recommendations to Board Regarding Possible Board-Approved Certifications for Each Licensee Type.**

Mr. Federico stated this item was held over to a future Licensing and Examination Committee meeting.

- **Update on Personal Service Permit Stakeholder Meetings Held on March 29, 2016, and April 5, 2016.**

Ms. Underwood stated the need for stakeholder meetings to be held in addition to the two already convened. Meetings have been scheduled for May 16th in Costa Mesa and May 18th in Sacramento. Staff would like to gather more input from establishment

owners. A survey has been submitted to Rebecca Bon, Legal Counsel, for review and will be posted on the Board's website, Facebook, and Twitter for additional feedback.

- **Review of Public Stakeholder Meeting Comments – Discussion on Recommended Further Actions to be Taken by Board**

Staff will report on the public stakeholder meetings and survey input results and give recommendations at the July Board meeting.

7. Agenda Item #7, ESTABLISHING THE HEALTH AND SAFETY ADVISORY COMMITTEE

Ms. Underwood stated this Committee is required by Assembly Bill (AB) 181, the sunset bill. Notice has been posted to the Board's website that applications are being accepted from individuals in the industry. Two Board Members will be assigned to serve on the new Committee.

Mr. Hedges, a Board Member, suggested also assigning a Board Member to serve as an alternate on the Committee.

MOTION: Mr. Hedges made a motion, seconded by Mr. Drabkin, that the Board creates the Health and Safety Advisory Committee to be partially made up of two Board Members and an alternate from the Board. Motion carried 9 yes and 0 no per roll call vote.

MOTION: Mr. Hedges made a motion, seconded by Mr. Federico, that the Board assigns Lisa Thong and Richard Hedges to serve on the Health and Safety Advisory Committee and Dr. Kari Williams to serve as an alternate. Motion carried 9 yes and 0 no per roll call vote.

Public Comment

Fred Jones, Legal Counsel for the Professional Beauty Federation of California (PBFC), read the language provided in SB 181 and suggested, instead of having a prescriptive, required number of members as indicated in the meeting packet, using that list as an example of who to look for.

Ms. Underwood stated the numbers and makeup of representatives listed in the meeting packet give a broad interpretation. She stated she did not believe staff would have a problem finding individuals to volunteer.

Mr. LaChine, a Board Member, suggested adding the words "if available" to the motion to allow for representative variation. Mr. Drabkin and Mr. Hedges accepted Mr. LaChine's friendly amendment.

MOTION: Mr. Drabkin made a motion, seconded by Mr. Hedges, that the Board establishes the remainder of the Health and Safety Advisory Committee to be made up of industry and public members as outlined in the meeting packet, if available, and delegates the authority to the Executive Officer to make those appointments. Motion carried 9 yes and 0 no per roll call vote.

Mr. Hedges made a motion that the Board establishes a one-year appointment term for Committee members beginning at the Committee's first meeting, and that the members can be reappointed at the end of that year, if necessary. Ms. Thong made a second.

Mr. LaChine asked if this Committee will be ongoing. Rebecca Bon, Legal Counsel, stated nothing has been created in statute to sunset it. It would be another standing Committee.

Ms. Underwood stated staff recommends a one-year commitment for all Committee members. The intent is for this Committee to provide input to the Board from all aspects of the industry on health and safety to licensees and consumers.

Mr. Federico suggested that the Committee terms end at the end of the calendar year with reappointments in January to stay consistent with the other Board Committees.

Mr. Hedges and Ms. Thong accepted Mr. Federico's friendly amendment.

MOTION: Mr. Hedges made a motion, seconded by Ms. Thong, that the Board establishes a one-year appointment term for Committee members beginning at the Committee's first meeting, and that the members can be reappointed at the end of the calendar year as set with the other Committees of the Board, if necessary. Motion carried 9 yes and 0 no per roll call vote.

8. Agenda Item #8, UPDATE AND DISCUSSIONS OF PROPOSED BILLS THAT COULD IMPACT BBC

Mr. Federico stated the Board took a position on these bills at the April 11, 2016, teleconference meeting.

- **AB 2025 (Gonzalez) – Labor Law Education Requirements**

Mr. Federico summarized this bill and stated the Board took a position to support, if amended.

Ms. Underwood stated staff is working with the author's office to made the amendments discussed in the April 11th teleconference meeting.

Mr. Drabkin stated the bill codifies that all materials be made available in English, Spanish, and Vietnamese, which the Board already does. He stated this does not allow flexibility. He suggested making the bill more living by requiring that materials be made available in languages where populations are a certain percentage of the industry.

Public Comment

Mr. Jones stated this is a bill creating a statutory mandate upon the Board. He cautioned against further prescriptive statutory mandates, even if the intention behind it is good. There is nothing that would prohibit the Board from doing this of its own volition or from providing materials in additional languages as appropriate.

Mr. LaChine agreed with Mr. Drabkin and suggested adding "or any language as deemed necessary."

Ms. Thong asked about the process to assess the populations to provide translations for. Ms. Underwood stated statute requires that, if five percent of the population served speaks another language, the Board is required to provide materials in that language. She stated the Board supports language access and would already supply translated materials.

Public Comment

Mr. Jones stated the Board already has an amendment dealing with the questions asked on the owners' application. He suggested focusing on that single amendment and not asking for additional amendments that may cloud the main focus.

Mr. Hedges stated it is a mistake for this bill to ask questions about Labor Law – it will bog the system down and create unnecessary citations to establishments. He suggested following the recommendations of the Legislative Committee to support, if amended

- **AB 2125 (Chiu) – Healthy Nail Salon Recognition Program**

Ms. Underwood summarized this bill and stated the Board took a position to oppose. Staff has expressed the Board's concerns to the author.

Mr. Hedges stated the word "healthy" given to establishments by the county is misleading to the consumer and some of the establishments in the program have received citations or are not licensed.

- **AB 2437 (Ting) – Nail Establishments: Training: Wage Violations**

Ms. Underwood provided an update to changes made to this bill. The Board's requested amendments were made to this bill prior to staff's asking for them.

Mr. Hedges stated the need for the Board to be vigilant, not necessarily for this bill, but due to changes in the operations of massage parlors – some massage parlors are applying for esthetician licenses instead of massage licenses for establishments because it does not come under the purview of local police.

Public Comment

Mr. Jones spoke in support of the changes made to the bill. He stated too many educational postings in break rooms and welcome areas may decrease the likelihood that they are read.

Mr. LaChine stated there are many establishments that do not have a break room and must post information in the restrooms. He suggested providing the information in pamphlet form upon employment.

Public Comment

Mr. Jones stated the posting concern is continually brought up by salon owners. He stated the updated bill is an improvement, and the Board could take a watch position to see how this bill progresses and possibly support it later, as amended with Mr. LaChine's suggestion. He stated an issue may be proving an employee received the pamphlet years ago on their date of hire as opposed to a posting being clearly defensible by an employer.

MOTION: Mr. Drabkin made a motion, seconded by Mr. Hedges, that the Board supports Assembly Bill 2437. Motion carried 9 yes and 0 no per roll call vote.

- **SB 896 (Nguyen) – Credit / Debit Cards for Tips**

Ms. Underwood summarized this bill and stated the Board took a position to oppose. The Board's position has been relayed to the author's office but no discussion has ensued.

Public Comment

Mr. Jones spoke in opposition to the bill. He stated members of the Legislative Committee opposed this bill saying it was an unprecedented level of micromanaging a salon. He stated the PBFC applauds the intent behind the bill – an employer should provide every opportunity to give tips to their stylists. However, what may be a moral imperative should not rise to the level of a statutory mandate micromanaging how a salon owner chooses to interact with their clientele.

Mr. Drabkin stated the concern that, in today's increasingly cashless society, individuals will go without their tips. He suggested posting notice upon arrival to a salon that tips are only received in cash.

Mr. Federico stated the concern of how inspectors can enforce the bill's mandate. Mr. Hedges stated the Legislative Committee suggested it will be better handled by the Franchise Tax Board because they have the ability to enforce it and the Board does not.

Mr. Drabkin suggested pointing out to the author that enforcement of this bill might be better served by another entity.

- **SB 1044 (Nguyen) – Assessment of Fines to Individuals and Establishment Owners and Citation Fine Payment Plans**

Ms. Underwood summarized this bill and stated the Board took a position to support, if amended. The author's office accepted the Board's amendment.

Mr. Federico asked if individuals can be on multiple payment plans from multiple inspections or if individuals can only be on one payment plan at a time.

Ms. Underwood stated it is unclear in legislation but can be established in regulation.

Public Comment

Mr. Jones stated it was not noticed on the agenda, so the Board cannot take a position. He brought to the Board's attention another bill that has impact on this Board – Senator Hill's bill extending the sunset of the California Bureau for Private Postsecondary Education (BPPE). He stated the PBFC's belief that sole oversight of beauty schools should be placed under this Board. The PBCF is also concerned about the steep licensing fees for BPPE-approved schools.

Mr. Hedges asked Mr. Jones to explain selling of hours to the new Board Members.

Mr. Jones explained what selling of hours means and stated one of the reasons the ethnic second-language passage rates have been so low is possibly due to the selling of hours and information from old, outdated exams. He stated the best thing for the industry, for beauty schools, and, most importantly, for future licensees would be for one agency to have complete control over monitoring them. The state Board is in a better position to assist and protect the interests of students.

MOTION: Mr. Drabkin made a motion, seconded by Ms. Amaro, that the Board supports Senate Bill 1044, as amended. Motion carried 9 yes and 0 no per roll call vote.

9. Agenda Item #9, PROPOSED REGULATIONS UPDATES (POSSIBLE ACTIONS)

Mr. Federico deferred to Ms. Underwood to provide updates on the following items:

- **Military Training – Title 16, Section 910 of the California Code of Regulations**

Ms. Underwood reported that the rulemaking file was approved by the Department and is at the Office of Administrative Law.

- **Administrative Fine Schedule -Title 16, Section 974 of the California Code of Regulations**

Ms. Underwood reported that the fine schedule has been approved and goes into effect on July 1, 2016.

- **Proposed Regulatory Language to Define “Demonstrating” for Purposes of BPC 7319-(e) Exemptions**

Ms. Underwood stated technical changes have been made and are outlined in the Board meeting packet. Upon Board approval today, the proposal will go out with a 15-day notice.

MOTION: Mr. Federico made a motion, seconded by Mr. Hedges, that the Board approves staff’s proposed regulatory language changes as outlined in the Board meeting packet. Motion carried 9 yes and 0 no per roll call vote.

- **Consumer Notice -Title 16, Sections 904 and 905 of the California Code of Regulations**

Ms. Underwood reported that staff will continue to work on this item and will update the Board on its progress.

10. Agenda Item #10, DISCUSSION ON EXTERNSHIP PROGRAMS FOR STUDENTS OF PUBLIC SCHOOLS OF COSMETOLOGY PURSUANT TO BUSINESS AND PROFESSIONS CODE SECTION 7395.1(a)

Mr. Federico deferred to Dr. Williams to report on this item.

Dr. Williams stated the Board received public comment from a community college instructor at the last Board meeting about the interest of students participating in externships. There is currently an exemption in the law. She discussed the historical lack of unity among program directors and community college instructors about allowing students to participate in externships but wanting there to be a carve-out in regulation that exempted their students from participating in externships. She stated the importance of ensuring that program directors and instructors are now unified in wanting this externship implemented before the Board takes a stand on this issue.

Mr. Hedges stated Skyline Community College System with two beauty schools is in favor of participating in an externship program.

Public Comment

Mr. Jones stated the PBFC does not recommend that the Board sponsor legislation because many community colleges remain opposed to externships. If the two colleges Mr. Hedges mentioned would like to participate in externships and create legislation to that effect, the PBFC will likely support it. He agreed with Dr. Williams’s comments about letting the two colleges move forward and seeing if other community colleges oppose or support the effort.

11. Agenda Item #11, DISCUSSION ON CALIFORNIA REENTRY PROGRAMS AND LICENSING EX-OFFENDERS

Mr. Federico deferred to Ms. Anderson to report on this item.

Ms. Anderson stated she was not prepared to move forward on this today. She stated she will continue her research and present to the Board at a future meeting.

Mr. Underwood provided a brief update of the current program.

Mr. Hedges offered to speak with Ms. Anderson offline about the Los Angeles Community College and what they can do. Ms. Thong offered to connect Mr. Hedges and Ms. Anderson to her contacts at the college.

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

Ms. Underwood introduced the Board's management staff.

13. Agenda Item #13, PUBLIC COMMENT

There were no questions or comments from the public.

14. Agenda Item #14, ADJOURNMENT

There being no further business, the meeting was adjourned at 11:41 a.m.