



**CALIFORNIA STATE BOARD
OF
BARBERING AND COSMETOLOGY
BOARD MEETING
MINUTES OF OCTOBER 22, 2017**

Crowne Plaza San Diego – Mission Valley
2270 Hotel Circle North
San Diego, CA 92108

BOARD MEMBERS PRESENT

Kari Williams, President
Andrew Drabkin, Vice President
Polly Codorniz
Jacquelyn Crabtree
Joseph Federico
Coco LaChine
Lisa Thong
Steve Weeks

STAFF MEMBERS PRESENT

Kristy Underwood, Executive Officer
Michael Santiago, Board Legal Representative
Tami Guess, Board Project Manager
Marcene Melliza, Board Analyst

BOARD MEMBERS ABSENT

Bobbie Jean Anderson

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

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

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

Wendy Jacobs, Founder, California Aesthetic Alliance (CAA), requested an update on Assembly Bill (AB) 1322, alcoholic beverages, and whether it applies to estheticians. She stated establishments and licensees in good standing should be allowed to do the same thing that cosmologists and barbers are allowed to do. She asked for a clarification or an industry bulletin to be issued.

Ms. Jacobs stated she asked at the July meeting for a method to educate the Board on new technologies being made available, such as new products used in the skin care industry that include CO₂ cartridges. She offered to send the Board clarification on the definitions of LED and light-emitting diodes.

Mirela Marinescu, International School of Beauty, asked for clarification of a sentence in Senate Bill (SB) 490, wages, that states, "By expanding the scope of an existing crime, this bill would result in a state-mandated local program."

Ms. Marinescu stated for the past 15 years the pass rate on the state board examination could be predicted. She stated her concern that this year some stellar students failed, while some poor students passed. She asked about the Board's plans to further train the examination proctors.

Rochelle Freeman, American Electrology Association and the Electrologists' Association of California, invited the Board to the American Electrology Association's annual convention in San Diego this Thursday through Sunday.

A member of the public asked about apprenticeship programs for estheticians on how to perform services that are not taught in beauty schools, such as Brazilian waxing, because currently the burden is on salon owners to pay estheticians to train them. She suggested apprenticeship programs at salons, increasing the scope of practice for threaders, and new licenses for eyelash extensionists and hair removal, such as waxology, and apprenticeship programs for those new licenses. She stated there has been an increase in on-demand services. She suggested online education for at least technical hours.

John Moreno, Vice President, Bakersfield Barber College, stated the barber college would like to receive questionnaires that the Board distributes, including the questionnaire recently distributed to the cosmetologists. He stated the Bakersfield Barber College does not address mask peels in their curriculum, but more and more barbers are doing them. He stated the need to ensure that these products are within the barber scope of practice, specifically the Pacinos Signature Line Black Mask.

3. Agenda Item #3, BOARD PRESIDENT'S OPENING REMARKS

Dr. Williams welcomed Steve Weeks to the Board. She stated she looked forward to working with him and asked him to introduce himself.

4. Agenda Item #4, BOARD MEMBER REMARKS – INFORMATIONAL ONLY

Coco LaChine, a Board Member, reminded everyone to commemorate breast cancer awareness month and LGBT coming out day.

5. Agenda Item #5, EXECUTIVE OFFICER'S REPORT

- a. Licensing Statistics**
- b. Examination Statistics**
- c. Disciplinary Review Committee Statistics**
- d. Enforcement Statistics**
- e. Budget Updates**
- f. Outreach Updates**
- g. Practice Status Survey Results**

Kristy Underwood, Executive Officer, presented her report. She noted that the Examination Results pages include for the first time a comparison of the past five years. Also for the first time, Apprentice and Prison Examination Results pages have been included. There are five vacant inspector positions currently. This brings down the number of inspections made, which brings down the number of citations, which brings

down the number of appeals. The data analysis for the responses to the Renewal Questionnaire was presented for the first time.

Mr. LaChine asked about the Interpreter category. Ms. Underwood stated it is the examination taken via an interpreter in languages other than the four broken out in the chart – English, Spanish, Vietnamese, or Korean.

Andrew Drabkin, Board Member, asked for a five-year comparison of the prison examination results.

Lisa Thong, Board Member, asked why inspectors are required to have criminology credits. Ms. Underwood stated staff is waiting for an answer to that question.

Steve Weeks, Board Member, asked about the sizeable difference between the projected and allotted expenditures for examinations in the Operating Expenses and Equipment of the Budget for Fiscal Year (FY) 2016-2017. Ms. Underwood stated the expenditures are standardized with the examinations. The variance is due to the budget realignment.

Mr. LaChine referred to the Employment Identification chart and asked who “not working in the industry” refers to. Ms. Underwood stated they are individuals who keep their licenses current but do not perform services.

Dr. Williams referred to the Establishments chart and asked how a booth renter is distinguished from an independent contractor. Ms. Underwood stated the law mandates that the Board ask these questions. She stated the need to review and revise the data for this chart due to the confusion between the two designations.

Mr. Drabkin agreed and stated establishment owners potentially could have answered yes to both designations due to the confusion.

Jacqueline Crabtree, Board Member, noted a discrepancy in the data. The Employment Identification chart states 24 percent are employees, but the Establishments chart indicates that the majority of the establishments are booth renter or independent contractor salons.

Ms. Thong asked if it would be worthwhile to consider canceling licenses.

Ms. Underwood stated licensees hesitate to give up their license because they can always begin using it again and they receive discounts on product purchases.

6. Agenda Item #6, APPROVAL OF BOARD MEETING MINUTES

July 17, 2017

MOTION: Mr. LaChine made a motion, seconded by Ms. Crabtree, that the Board approves the July 17, 2017, Meeting Minutes as presented. Motion carried 6 yes, 0 no, 1 abstain per roll call vote as follows:

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

The following Board Member abstained: Weeks.

7. Agenda Item #7, BOARD MEMBER APPOINTMENTS TO STANDING COMMITTEE VACANCIES

Dr. Williams appointed Mr. Weeks to the Enforcement and Inspections and Legislative and Budget Committees.

8. Agenda Item #8, PROPOSED BOARD MEETING DATES/LOCATIONS FOR 2018

Dr. Williams asked if there are any changes to the Board California for 2018.

Mr. Drabkin suggested moving the October 21 and 22 meeting past the election date or moving the location for the meeting to Sacramento.

Mr. Weeks suggested switching the Sacramento and San Diego locations.

Mr. LaChine asked staff to work around San Diego conventions such as Comic-Con.

9. Agenda Item #9, BOARD MEMBER APPOINTMENTS TO THE COSMETOLOGY CURRICULUM REVIEW ADVISORY COMMITTEE

Tami Guess, Board Project Manager, asked to remove the second bullet point from staff recommendation 3 on the materials provided in the meeting packet.

Dr. Williams asked for two volunteers for the Cosmetology Curriculum Review Advisory Committee. Ms. Crabtree and Dr. Williams volunteered to be Committee members; Mr. Drabkin volunteered to be an alternate.

Public Comment

Ms. Jacobs asked how estheticians will be represented on this committee.

Dr. Williams stated they will be represented by her, as a licensed barber, and Ms. Crabtree, as a cosmetologist and salon owner.

MOTION: Mr. Drabkin made a motion, seconded by Ms. Crabtree, that the Board approves the staff recommendations minus the second bullet point in recommendation 3. Motion carried 7 yes, 0 no, and 0 abstain per roll call vote as follows:

The following Board Members voted "Yes": Codorniz, Crabtree, Drabkin, LaChine, Thong, Weeks, and Williams.

10. Agenda Item #10, REVIEW AND ADOPTION OF THE BOARD'S PROPOSED STRATEGIC PLAN

Mr. Weeks asked if a working group will oversee implementation of the strategic plan.

Ms. Underwood stated the working group, with assistance from the California Department of Consumer Affairs (DCA), will develop an action plan and provide updates to the Board.

MOTION: Mr. Drabkin made a motion, seconded by Mr. Weeks, that the Board adopts the Strategic Plan for 2018 to 2022. Motion carried 7 yes, 0 no, and 0 abstain per roll call vote as follows:

The following Board Members voted "Yes": Codorniz, Crabtree, Drabkin, LaChine, Thong, Weeks, and Williams.

11. Agenda Item #11, COSMETOLOGY OCCUPATIONAL ANALYSIS REPORT

Dr. Williams stated the Cosmetology Occupational Analysis Report was completed by the DCA Office of Professional Examination Services (OPES). She deferred to Heidi Lincer, Ph.D., Chief, OPES, DCA, to review the report.

Dr. Lincer provided an overview, accompanied by a slide presentation, of the purpose; demographics; interview, focus group, and survey processes and results; and next steps of the Occupational Analysis of the Cosmetologist Profession. She noted changes in content outline domains and weights from the previous occupational analysis.

Questions and Discussion

Mr. LaChine asked for further explanation of why 48 percent for 0-5 years is a good number. He stated the number seems high. Dr. Lincer stated the number defines entry-level practice. Typically, there is 60 to 70 percent response rate to the survey from individuals licensed 20 years and more. It is important to keep the entry-level perspective for testing.

Dr. Williams asked when the previous occupational analysis was completed. Ms. Underwood stated it was in 2007 or 2008.

Mr. LaChine stated safety and sanitation in the wait area was previously 20 percent and now is 36 percent. He stated that is a good thing but asked why there was a large increase in the percentage. Dr. Lincer stated there is more public attention to safety.

Joseph Federico, Board Member, asked about the cosmetologist description of practice content and whether the different categories reflect how cosmetologists reported that they divided their time. Dr. Lincer stated it is the amount of weight that cosmetologists feel should be given to each category.

Mr. Weeks asked if there were opportunities to add new knowledge areas to the exam. Dr. Lincer stated this analysis develops a description of knowledge that practitioners currently need to know.

Ms. Underwood stated the occupational analysis will be part of the reading materials for the 1600-hour review.

12. Agenda Item #12, UPDATE ON THE HEALTH AND SAFETY ADVISORY COMMITTEE

Dr. Williams stated the update on the Health and Safety Advisory Committee is included in the meeting packet.

13. Agenda Item #13, UPDATE ON THE NAIL CARE SCOPE OF PRACTICE TASK FORCE

Dr. Williams stated the Nail Care Scope of Practice Task Force proposed report and recommendations to the Legislature is included in the meeting packet.

Ms. Underwood asked to change the second bullet under the reasons for this belief from “wax-related injuries” to “nail care and waxing-related injuries.”

Public Comment

Ms. Jacobs thanked the Board for their opposition to this bill.

Fred Jones, Legal Counsel for the Professional Beauty Federation of California (PBFC), thanked staff for capturing the spirit and substance of the Task Force and for including the need for sole oversight of beauty schools.

A member of the public asked how long it has been since the Board evaluated whether these policies do more harm than good – whether consumer harm exceeds the cost it is putting on the economy in terms of manicurists who say they want to do more to potentially increase their income. That would be important to individuals on commission, self-employed individuals, or booth renters. She asked about the high exam fail rate and what students are not retaining. She suggested that the method of how they are taking in that information is not up to par. Medical students are allowed to use animations. Maybe the method of education is not assisting students to pass the exam. She suggested using disposable tools and equipment to decrease consumer harm.

Jaime Schrabek, Precision Nails, stated manicurists should adhere to their current scope of practice and not expand into waxing. She stated the occupational analysis shows that these specialties should be isolated, not merged with existing licenses.

Richard Hedges, past Board Member, stated the nail industry receives economic pressure and the cost of manicures has dropped. He stated there are many groups that do these services that do not pay attention to sanitation because it is cost-prohibitive.

MOTION: Mr. Federico made a motion, seconded by Ms. Crabtree, that the Board approves the Nail Care Scope of Practice Task Force report and recommendations, including changing the second bullet under reasons for this belief to “nail care and waxing-related injuries.” Motion carried 8 yes, 0 no, 0 abstain per roll call vote as follows:

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

14. Agenda Item #14, OVERVIEW ON THE BOARD’S CONSUMER COMPLAINT PROCESS

Ms. Underwood referred to the staff memo included in the meeting packet and provided an overview of the consumer complaint process, including historical data to see the trends that have impacted consumer harm. She stated the implementation of the DCA’s BreZE Online Services enables this information to be included in the Executive Officer’s Report and will be reported at future Board meetings on a quarterly basis.

Questions and Discussion

Mr. Drabkin asked about the average time it takes to get from Step 1 to Step 4 in the consumer complaint process. Ms. Underwood stated an acknowledgement letter is sent out within five days and an inspection is requested immediately or within two months, depending on the severity of the complaint.

Mr. Drabkin asked if the acknowledgement letter is sent out in the language the complaint was received in. Ms. Underwood stated the letter is in English.

Mr. LaChine asked if staff receives fraudulent or malicious complaints, such as individuals who seek to “get back” at someone. Ms. Underwood stated those types of complaints are submitted but staff can usually tell that they are fraudulent or malicious. She stated staff looks at every complaint to ensure public safety and consumer complaints are a top priority for inspectors.

Ms. Thong asked about protocols to protect the complainant’s identity during the process. Ms. Underwood stated anonymous complaints are accepted except in cases of consumer harm, where medical records are required. Consumer complaint names are not released to the public.

15. Agenda Item #15, DISCUSSION AND ACTION ON PROPOSED BILLS THAT COULD IMPACT BBC:

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

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

This bill has passed. Implementation will be discussed at the next Board meeting.

b. AB 1099 (Gonzalez) – Compensation-Gratuities

This bill did not move forward.

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

This bill has passed. Implementation will be discussed at the next Board meeting.

d. AB 1575 (Kalra) – Cosmetic Ingredients Label

This bill did not move forward.

e. AB 1615 (Garcia) – Gender Discrimination

This bill has passed. Implementation will be discussed at the next Board meeting.

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

This bill did not move forward.

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

This is a two-year bill; discussion will continue.

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

This bill has passed. Implementation will be discussed at the next Board meeting.

i. SB 547 (Hill) – Apprentice Supervision

This bill has passed. Implementation will be discussed at the next Board meeting.

j. SB 715 (Newman) – Removal of Board Members from Office (applies to all state boards)

This bill did not move forward.

Public Comment

Mr. Jones stated bills that did not pass the house of origin are still alive: AB 1099 and 1575, and SB 247 and 296. He stated SB 490 is a major change in the way salons pay their employees. He provided a brief summary of the background and details of the bill.

Ms. Schrabec stated she was glad to see AB 1615 among the bills being reviewed today. She credited Ms. Crabtree with saying “ethics has no need of rules.” She stated the industry should never charge for services based on the customer’s gender. She stated her concern that the language in the bill does not capture all licensees or establishments.

Ms. Jacobs stated often bills such as AB 1322 and AB 1615 list only beauty salons and barber shops, but estheticians also work in spas and medical establishments. She suggested that bills use the language “licensees in good standing” or “establishments in good standing.”

16. Agenda Item #16, PROPOSED REGULATIONS

Status Updates

Ms. Underwood summarized the status updates for the following proposed regulations, which were provided in the meeting packet.

a. Title 16, CCR Sections 904 and 905 (Health and Safety Poster)

This rulemaking has been filed with the Office of Administrative Law.

The following rulemaking packages are under review by the DCA:

b. Title 16, CCR Section 904 (Definition of Access)

c. Title 16, CCR Section 950.10 (Transfer of Credit or Training)

d. Title 16, CCR Section 961 (National Interstate Council (NIC) Translation Guides)

e. Title 16, CCR Section 974 (Administrative Fine Schedule)

f. Title 16, CCR Section 974.3 (Citation of Establishments, Individuals for Same Violation)

g. Title 16, CCR Section 974.4 (Installment Payment Plan for Fines)

h. Title 16, CCR Sections 978, 979, 980, 980.4, 981, 982, and 989 (Health and Safety Regulations)

17. Agenda Item #17, AGENDA ITEMS FOR THE NEXT MEETING

Mr. Federico asked for a report on the selling of hours.

18. Agenda Item #18, PUBLIC COMMENT

A member of the public asked to put technical and practical online education on the next agenda, extra licenses and apprenticeships for eyelash extensionists and waxologists, and possibility of self-employed beauticians working in clients' homes with disposable tools and equipment. She asked where to find additional information on consumer harm to learn if it exceeds the social benefits of an occupation. She stated SB 247 eliminated occupations rather than requiring additional education so individuals can enter the industry sooner. She stated her concern for the extra cost added to the small business owner to teach individuals how to do Brazilian waxing.

Ms. Schrabec asked for a flowchart of the consumer complaint process to use as a visual aid.

Mr. Jones stated the 18th Annual Welcome to Our World event is currently scheduled for Monday, April 30, 2018, from 3:00 p.m. to 6:00 p.m., with more details to follow.

Ms. Jacobs stated her group of approximately 3,000 estheticians is concerned about inconsistent responses received from staff to questions by email or the website. She requested accurate responses.

19. Agenda Item #19, ADJOURNMENT

There being no further business, the meeting was adjourned.