

**CALIFORNIA STATE BOARD
OF
BARBERING AND COSMETOLOGY**

BOARD MEETING

MINUTES OF DECEMBER 2, 2019

Crowne Plaza San Diego-Mission Valley
2270 Hotel Circle N.
San Diego, California

BOARD MEMBERS PRESENT

Lisa Thong, President
Andrew Drabkin, Vice President
Jacquelyn Crabtree
Calimay Pham
Steve Weeks
Dr. Kari Williams

STAFF MEMBERS PRESENT

Kristy Underwood, Executive Officer
Michael Santiago, Board Legal Representative
Marcene Melliza, Board Analyst

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

Lisa Thong, Board President, called the meeting to order at 9:19 a.m. and confirmed the presence of a quorum.

BOARD PRESIDENT'S OPENING REMARKS

Ms. Thong expressed her thanks and gratitude for everyone's hard work throughout 2019. 2019 was the Board's sunset year and there were a few surprises. She thanked staff for helping the Board to understand everything and what they needed to do. She thanked the Members of the Board, who have worked at half capacity since January.

Ms. Thong welcomed new Board Member Calimay Pham, who was recently appointed by Speaker Anthony Rendon.

2. Agenda Item #2, BOARD MEMBER REMARKS – Informational Only

No remarks were offered.

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

Wendy Cochran, Founder, California Estheticians – Esthetician Advocacy; Founder, California Aesthetic Alliance, asked Jamie Schrabek to read her statement. Jaime Schrabek, Ph.D., Owner, Precision Nails, read the statement written by Ms. Cochran about attending a recent Disciplinary Review Committee (DRC) action. The Board assessed the penalty of practice of medicine without a license for a microcurrent device

that the FDA has affirmed is a non-medical device. Ms. Cochran wrote about her concern with the challenge of deregulation efforts that cite barriers to entry and that state and local regulations are a growing burden on small business in California. She asked for a clear directive from the Board for licensees who incorporate services outside of the Board's purview. This is an unnecessary cost, barrier, and burden on small business. Ms. Cochran asked that the Board develop guidelines for licensees to responsibly follow.

4. **Agenda Item #4, APPROVAL OF AUGUST 12, 2019, BOARD MEETING MINUTES**

Mr. Drabkin referred to his comment on page 4 and asked to change the word "stuck" to "struck."

Ms. Thong referred to the first sentence in the third paragraph on page 5 and asked to add "exemptions specific to the Board" so it would read "Ms. Crabtree spoke in opposition to AB 5's exemptions specific to the Board."

MOTION: Mr. Weeks moved to approve the August 12, 2019, California State Board of Barbering and Cosmetology Meeting Minutes as revised. Ms. Crabtree seconded. Motion carried 5 yes, 0 no, and 1 abstain, per roll call vote as follows:

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

The following Board Member abstained: Pham.

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

- **Licensing Statistics**
- **Examination Statistics**
- **Disciplinary Review Committee Statistics**
- **Enforcement Statistics**
- **Budget Updates**
- **Outreach Updates**
- **Practice Status Survey Results**

Kristy Underwood, Executive Officer, reviewed the statistics and update reports, which were included in the meeting packet.

Questions and Discussion

Mr. Weeks asked about the low barbering examination scores. Ms. Underwood agreed that the barber pass rates were unusually low and stated staff has reached out to the national organization to question that and continues to monitor that weekly.

Mr. Drabkin asked staff to compare apprenticeships and schools. Ms. Underwood stated staff will present those statistics at the next Board meeting.

Ms. Thong asked if there had been a change to the barber examination.

Ms. Underwood stated the current examination has been in place for two years.

Mr. Weeks asked if the number of barbers taking the examination has changed. Ms. Underwood stated the numbers have increased.

Mr. Weeks asked what staff is looking to modify the inspector qualifications. Ms. Underwood stated the minimum qualifications include a college degree with a good number of criminal justice units, which should not be a requirement. The union recently approved a raise for inspectors so this should help with recruitment.

Mr. Weeks asked if the form that goes to the appellant at DRC hearings can include that the DRC has photographic evidence of the citation.

Ms. Thong asked if the ratio of establishments with and without violations in the enforcement statistics has ever improved. Ms. Underwood stated it has improved, especially over the past three to four years.

Mr. Weeks asked what is included in the examination expenses in the budget. Ms. Underwood stated the \$1,354,000 includes the cost of the national examination, development, and analysis, but does not include rent or salaries allocated during the examination process.

Mr. Weeks asked if there is a staff member assigned to the budget. Ms. Underwood stated there is a staff person who tracks expenditures, but the Department of Consumer Affairs (DCA) Budget Office also works on the development of the budget and works with the Department of Finance (DOF).

6. Agenda Item #6, DISCUSSION AND POSSIBLE ACTION ON THE SUNSET REVIEW PROCESS

- **Review of Trends Presented by National Council of State Governments**

Ms. Underwood summarized the trends presented by the National Council of State Governments (CSG) and what the Board has done to address those national trends, which was provided in the meeting packet, including targeted reform for specific populations, universal license recognition, establishing a sunrise/sunset process, changing regulatory structure, and interstate compacts.

- **Discussion on 1600 Hour Curriculum and other State Requirements**
- **Discussion and Possible Action on Future Committees to Address Examinations and Curriculum**

Ms. Underwood stated one of the big issues that was brought up during Sunset Review was the curriculum. The chair of the Committee questioned the 1600-hour requirement. She stated the need to possibly set up specific Committees to research what the curriculum and examinations can look like. She stated the majority of states are at 1500 hours. There are many different licensing structures such as stackable licenses.

Questions and Discussion

Ms. Crabtree suggested a hair-only license.

Mr. Weeks asked what other states charge for cosmetology school hours and if states with lower hours charge less. One of the reasons for reducing the hours is to lower the

burden of the funds students must pay to be licensed. Ms. Underwood stated staff will look into this and report back at the next Board meeting.

Ms. Thong stated the manicurist license is only 400 hours of instruction, so those students would not qualify for federal student loans, which require 600 hours.

Ms. Underwood agreed and stated other states' manicurist licenses are for 600 hours for that reason.

Ms. Thong suggested that the Committees address curriculum versus risk. Currently, the curriculum does not address areas that have the most risk; the most curriculum hours are spent on areas with the least amount of consumer harm complaints.

Ms. Underwood stated this was discussed at the hearing on the risks. She noted that the state of Nevada took on a project to look at risks for the industry. Ms. Underwood was invited to be a part of that task force, which is made up of other states and subject matter experts nationwide.

Ms. Underwood stated the task force's next three-day meeting will be held next month to finalize the project. The finalized document is for Nevada but they are willing to share the results with other states. A sample of the project was presented at the Sunset Committee where they did a risk assessment for every step involved in every service. The final report will be presented in January.

Ms. Underwood stated a report from the federal government specifically on the cosmetology industry is expected out in December. The report will address the curriculum from a federal standpoint.

Ms. Underwood stated both of these reports will be made available in January and will be helpful to the Board's future discussions.

Ms. Thong stated the Board's Health and Safety Committee is also looking at regulation changes to better tie them to risk. She suggested that this would be a good opportunity to also look at the examination, since the testing of areas that have the highest amount of risk for consumer harm is the small percentage on the examination. Ms. Underwood agreed and stated the report that will soon be made available from the federal government will address that as well.

Ms. Thong asked if looking at the examination content and the curriculum will also impact the examination results. Ms. Underwood stated it would.

Ms. Thong stated aligning the curriculum to the examination while also aligning it to consumer protection and risk will make the entire process simpler for licensees.

Ms. Thong asked for a motion to propose how to move forward.

Ms. Crabtree moved to create a Committee to look into how to design new streamlined education in health and safety and risk. Ms. Thong seconded.

Public Comment

Fred Jones, Legal Counsel, Professional Beauty Federation of California (PBFC), stated he was unsure about where the Board is going with the NIC examination not giving points on health and safety. He stated he has discussed this issue with the NIC and their position is all the procedures and protocols, particularly in the

practical exam, are related to health and safety to ensure that all services are done safely.

Mr. Jones stated there was a CBBC Committee a year and a half ago that studied the 1600-hour curriculum. The Committee determined to protect the status quo but to move to a health and safety curriculum in 400-hour blocks to be included in each of the license categories. The Committee determined that the 1600-hour curriculum was well within the national norm.

Mr. Jones suggested creating another option for students – competency. The fixation on clock-hour credits misses whether students know how to do services safely on consumers. This is what really matters. How well they perform the techniques can be learned in a salon. He suggested providing an option for schools to provide competency-based education for students. This would require a statutory change.

Mr. Jones stated over 90 percent of cosmetologists surveyed consistently state they only want to do hair. He agreed with Ms. Crabtree that there should be a hair-stylist-only license that could have considerably fewer educational hours.

Sarah Mason, Senate Committee on Business Professions and Economic Development, stated her appreciation for the Board's participation and proactive approach to this process. She stated she looked forward to continuing to partner with the Board. She spoke in support of creating a Committee to dig deep into some of the topics mentioned today. She offered her assistance in this work.

Mr. Weeks asked where the Board is in testifying before the Committee.

Ms. Mason stated it has completed only the first part of its testimony. She stated this Board has shorter timeframes in its review, which means that it has come before the Legislature more frequently in past years than other Boards. Sunset Review provides an opportunity to ask a number of questions throughout a long process. It typically is a process that is undertaken within approximately a 12-month period. She stated this Board responded thoughtfully and practically to the questions asked of them in the form of the Sunset Review Report.

Ms. Mason stated typically there would be an opportunity for the Board to come to hearings in the Legislature in the spring to answer questions before the Legislature, but for this Board, there were considerations where those timeframes were extended to allow for some of these larger discussions to be had. The Board came to a more information-style hearing in August and has continued to participate in all of the information and oversight hearings to date. The next step is for the Board to come to a Sunset Hearing in late February or early March, where Committees, staff, and the Legislature produce a Background Paper, which outlines issues and identifies certain recommendations and possible direction that the Sunset Review process may take. Ms. Mason requested that the Board attend that as well to respond specifically to items in the Background Paper.

Mr. Weeks asked when the Background Paper report will be completed.

Ms. Mason stated the Board is in the cycle where the statute would require that the Board not be extended if there is no enabling legislation this year. The Legislature is in the second year of a two-year legislative session. She anticipated that the Background Paper would be completed in February, which would outline issues and identify recommendations. Then the Board would respond to that in the late winter or early spring. Legislation would be a potential vehicle to make any necessary statutory changes. The public document is expected to be made available in late winter and then the Board would respond to it both in writing and in person to the Committees in the late winter, or early spring.

Dr. Schrabec spoke in support of a hair-only license but noted that some states, such as Texas, require continuing education. She stated, not to minimize the industry's role in the economy and in the population of residents and voters, possibly a third of the licensed population is inactive, which raises questions. She stated license renewal by paper only asks about military status, while renewal online asks about employment status. Unknown information about the population of licensees include how many are California residents, where they file taxes, how they identify according to race, ethnicity, and gender, how many hold establishment licenses as well as a license to provide services, and how many licenses are at risk of being canceled because they have not been renewed.

Dr. Schrabec stated individuals who are self-employed are not reporting themselves as employees to the Bureau of Labor Statistics and will not be included in Occupational Employment Statistics (OES). Those are for employees, not for the self-employed. There is a huge number of self-employed licensees in this industry.

Dr. Schrabec spoke about the alignment of the curriculum and the examination. She stated it means nothing if schools do not teach to the curriculum. It can be required and tested, but what is missing in the middle is the instruction.

Dr. Schrabec stated an individual who presented at the hearing and spoke about trends mentioned artificial intelligence (AI) and automation and how that would impact the industry. Dr. Schrabec stated the need to impress upon students the importance of following the rules.

MOTION: Ms. Crabtree made a motion, seconded by Ms. Thong, to create a Committee to look into how to design new streamlined education in health and safety and risk. Motion carried 6 yes, 0 no, and 0 abstain, per roll call vote as follows:

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

Ms. Thong asked for volunteers to serve on the new Committee. Ms. Crabtree, Ms. Pham, and Mr. Weeks volunteered.

7. Agenda Item #7, LEGISLATIVE UPDATE: DISCUSSION AND POSSIBLE ACTION ON PROPOSED BILLS

a. AB 5 (Gonzalez) – Worker Status: Independent Contractors

- b. AB 496 (Low) – Business & Professions Changes**
- c. AB 1607 (Boerner Horvath) – Gender Discrimination Notification**
- d. SB 606 (Glazer) – Sunset Extension**

Ms. Underwood summarized the Bill Analysis, which was included in the meeting packet. She stated the bills do not require implementation from the Board.

Questions and Discussion

Mr. Weeks referred to the third paragraph on page 12 for AB 496, which states that Section 102.3(b)(3) of the Business and Professions Code is amended to read, “The entity shall not delegate to a technical committee its authority to discipline a licensee who has violated the provisions of the applicable chapter of the Business and Professions Code that is subject to the director’s delegation of authority to the entity.” He asked how that relates to DRC hearings that regularly get involved in that.

Ms. Underwood stated DRC hearings do not reach the discipline level. They are hearings on appeals for citations.

8. Agenda Item #8, PROPOSED REGULATIONS: DISCUSSION AND POSSIBLE ACTION OF PROPOSED REGULATORY CHANGES

- a. Title 16, CCR Section 950.10 (Transfer of Credit or Training)**
- b. Title 16, CCR Section 961 (Instructional Materials-NIC Guides)**
- c. Title 16, CCR Sections 962, 962.1, and 962.2 (Externs)**
- d. Title 16, CCR Section 965.2 (Personal Service Permit)**
- e. Title 16, CCR Sections 970 and 971 (Substantial Relationship Criteria, Criteria for Rehabilitation)**
- f. Title 16, CCR Section 972 (Disciplinary Guidelines)**
- g. Title 16, CCR Sections 974 and 974.3 (Fine Schedule and Payment Plan)**

Ms. Underwood summarized the Regulations Update Memo, which was included in the meeting packet. She noted that the Fine Schedule and Payment Plan package was approved by the Office of Administrative Law that an establishment owner may not be cited for something that an individual did at the salon. It will go into effect on January 1, 2020.

Questions and Discussion

Ms. Thong asked about the status of the creation of a Committee for DRC hearings that would free up Board members, which was brought up in a past Board meeting.

Ms. Underwood stated the Board was not in favor of it at the time. It was brought up by a previous legal counsel and is something the Board can pursue. She stated the DRC should not be made up of Board members but should be a separate Committee with the Board making the final decision on the Committee’s recommendations. She stated this matter will be put on the agenda for the next Board meeting.

9. Agenda Item #9, PROPOSED BOARD MEETING DATES/LOCATIONS FOR 2020

Mr. Weeks asked if four Board meetings will be enough. Ms. Underwood stated that is to be determined. There will always be an option to add a meeting, if necessary.

Ms. Thong suggested that the March 9th Board meeting be put back, based on Ms. Mason's public comment concerning the hearing to produce a Background Paper for the Sunset Review, which Ms. Mason anticipated would be held in late February or early March.

Ms. Underwood agreed and stated the Board will need to approve the final response back to the Legislature.

10. Agenda Item #10, AGENDA ITEMS FOR THE NEXT MEETING

Ms. Thong suggested a discussion on how the DRC can be restructured, an update from the newly-formed Committee, an update on booth rental in the industry, and the possibility of creating a permit for booth renters so they can be better tracked.

11. Agenda Item #11, ADJOURNMENT

There being no further business, the meeting was adjourned at 10:42 a.m.