

**CALIFORNIA BOARD
OF
BARBERING AND COSMETOLOGY**

BOARD MEETING

MINUTES OF FEBRUARY 26, 2024

BOARD MEMBERS PRESENT

Calimay Pham, President
Tonya Fairley, Vice President
Megan Ellis
Kellie Funk
Reese Isbell
Yolanda Jimenez
Colette Kavanaugh
Tamika Miller
Danielle Munoz
Jacob Rostovsky
Steve Weeks

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

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

Calimay Pham, Board President, called the meeting to order at approximately 9:00 a.m. and confirmed the presence of a quorum.

2. AGENDA ITEM #2: BOARD PRESIDENT’S WELCOME

In her opening remarks, Calimay Pham extended a warm welcome to all attendees and introduced Tamika Miller as the Board's newest member, acknowledging her role as an industry member and manicurist. Ms. Miller expressed her gratitude for being part of the team. Ms. Pham then took a moment to reflect on the achievements of the past year, expressing gratitude to the Board, staff, and all involved for their exceptional work. She highlighted significant accomplishments such as the implementation of exams in simplified Chinese, the initiation of hairstylist licensing, and the introduction of remedial education as an alternative to initial fines and citations. Additionally, she noted the substantial progress made in enhancing the Board's social media presence and the successful implementation of requirements following the Sunset review. Looking ahead, she expressed excitement for the upcoming year and thanked Kristy Underwood and the Board members for their dedication and insights.

3. AGENDA ITEM #3: BOARD MEMBER UPDATES – INFORMATIONAL ONLY

There were no updates from any Board members.

4. AGENDA ITEM #4: DEPARTMENT OF CONSUMER AFFAIRS (DCA) UPDATE WHICH MAY INCLUDE UPDATES ON DCA'S ADMINISTRATIVE SERVICES, HUMAN RESOURCES, ENFORCEMENT, INFORMATION TECHNOLOGY, COMMUNICATIONS AND OUTREACH, AND LEGISLATIVE, REGULATORY, OR POLICY MATTERS

Calimay Pham introduced Yvonne Dorantes as the guest speaker for the DCA update. Ms. Dorantes extended a welcome to new Member Miller and mentioned the upcoming distribution of the Board and Bureau Relations monthly email, along with the winter newsletter, which would contain relevant information. She then provided updates on various fronts, including the recent appointment of Secretary Tomiquia Moss and the current expenditure freeze due to anticipated budget deficits. Ms. Dorantes highlighted directives from the Department of Finance, emphasizing the importance of prudent spending and cost analysis, especially regarding travel and expenses. Furthermore, she shared guidance from the DCA regarding exemption requests for purchases, contracts, and travel.

Yvonne Dorantes proceeded with the Diversity, Equity, and Inclusion (DEI) update, noting that the DEI steering committee held its quarterly meeting on December 15, 2023. During the meeting, they reviewed a draft DEI internet page for employees, re-elected its chairperson and vice-chair for 2024, and discussed DEI training. The DEI internet page serves as a centralized hub for DEI-related tools, information, and updates. Ms. Dorantes emphasized the priority of providing DEI training opportunities, mentioning a recorded training available online for Board members on navigating dialogue in the workplace. Additionally, she highlighted DCA's ongoing support for expanding culturally competent communications and promoting the importance of meeting the needs of all California consumers, licensees, and applicants. She mentioned that the latest issue of DCA's Consumer Connection magazine includes articles with valuable information for consumers, including a feature cover story translated into three languages for broader accessibility.

Continuing her update, Ms. Dorantes discussed the threat assessment training conducted by DCA on February 2nd, led by California Highway Patrol Officer Wong. Participants learned about steps to take in the event of an active threat. DCA plans to explore providing similar training to all Board members and staff in the future.

Yvonne Dorantes then addressed the Bagley-Keene Open Meeting Act, stating that on February 2nd, DCA provided guidance on the amendments to the teleconference meeting requirements, which became effective on January 1, 2024. The guidance offered an overview of both traditional in-person and teleconference meeting requirements, along with detailed discussions on the legal requirements and best practices for conducting meetings using the two new teleconference meeting procedures.

Ms. Dorantes then provided a legislative implementation update on the Federal Professional License Portability and State Registration. She highlighted the successful development and launch of a new online portal to support service members and their families, in accordance with new federal and state laws passed in 2023. The portal allows military service members and their spouses with valid licenses from other states to register their practice in California if they relocate due to military orders. The portal enables timely processing of requests, with registrations required to be approved within 30 days. DCA has shared the portal with relevant government agencies and provided an Outreach toolkit to promote the new portal through social media and email lists.

Yvonne Dorantes proceeded to discuss SB 372 (Menjivar), which became effective on January 1, 2024. This bill mandates DCA Boards and bureaus to update license records upon receiving government-issued documentation showing a legal name change or gender for reasons related to gender transition or domestic violence. Licensees have the option to request that their prior name not be published online in connection with their license. The bill also establishes a process for individuals to access a licensee's enforcement records under their prior name. DCA is tasked with ensuring that the previous name does not appear in connection with the new name while ensuring that previous disciplinary records remain accessible to consumers upon request.

Ms. Dorantes concluded her update by informing the attendees about the Board member virtual orientation training schedule for 2024. This training is specifically for those who have been appointed or reappointed within the last year.

Kellie Funk inquired about the duration of the budget cuts, asking whether they were open-ended or for a specific timeframe. Ms. Dorantes responded that a revision is scheduled for May 2024, which is expected to offer more clarity and a timeline. Jacob Rostovsky inquired about the bill related to name changes, and it was affirmed to be SB 372. With no further questions, Ms. Dorantes concluded her presentation, expressing gratitude to the attendees.

5. AGENDA ITEM #5: ANNUAL ELECTION OF OFFICERS

Calimay Pham delineated the election procedure, noting that only the roles of President and Vice President required voting. Calimay Pham nominated Tonya Fairley for Vice President, and Ms. Fairley accepted.

Motion: Yolanda Jimenez made a motion to elect Tonya Fairley as Vice President. Jacob Rostovsky seconded the motion.

Public Comment: No public comments were received.

Roll Call Vote: Motion carried: 9 yes, 0 no, and 0 abstain, per the following roll call vote: Committee Members voted "Yes": Calimay Pham, Tonya Fairley, Kellie Funk, Reese Isbell, Yolanda Jimenez, Colette Kavanaugh, Tamika Miller, Danielle Munoz, Jacob Rostovsky

Kellie Funk nominated Calimay Pham for another term as President. Ms. Pham accepted the nomination.

Motion: Kellie Funk made a motion to elect Calimay Pham as President. Yolanda Jimenez seconded the motion.

Public Comment: No public comments were received.

Roll Call Vote: Motion carried: 10 yes, 0 no, and 0 abstain, per the following roll call vote: Committee Members voted "Yes": Calimay Pham, Tonya Fairley, Megan Ellis, Kellie Funk, Reese Isbell, Yolanda Jimenez, Colette Kavanaugh, Tamika Miller, Danielle Munoz, Jacob Rostovsky

6. AGENDA ITEM #6: APPOINTMENT OF BOARD MEMBERS TO STANDING COMMITTEES FOR 2024

Each Board member chose their standing committees for 2024. Tonya Fairley, Megan Ellis, Kellie Funk, Yolanda Jimenez, Danielle Munoz, and Jacob Rostovsky decided to stay with their current committees. Reese Isbell stayed with his current committees but removed himself from the Education and Outreach Committee. Colette Kavanaugh wished to stay on her current committees and join the Health and Safety Committee. Tamika Miller joined the Disciplinary Review Committee and the Licensing and Examination Committee.

7. AGENDA ITEM #7: REVIEW AND POSSIBLE APPROVAL OF 2024 BOARD MEMBER GUIDELINES AND PROCEDURES MANUAL

Kristy Underwood provided an overview of technical changes to the document. The changes primarily consisted of grammatical adjustments. Notably, she highlighted updates to reimbursement rates for travel expenses, transportation services, along with revised meal reimbursement rates.

Motion: Danielle Munoz motioned to approve the 2024 Board Member Guidelines and Procedures Manual. Megan Ellis seconded the motion.

Public Comment: No public comments were received.

Roll Call Vote: Motion carried: 9 yes, 0 no, and 0 abstain, per the following roll call vote: Committee Members voted “Yes”: Calimay Pham, Megan Ellis, Kellie Funk, Reese Isbell, Yolanda Jimenez, Colette Kavanaugh, Tamika Miller, Danielle Munoz, Jacob Rostovsky

8. AGENDA ITEM #8: DISCUSSION AND POSSIBLE APPROVAL OF THE JULY 17, 2023 BOARD MEETING MINUTES

Motion: Reese Isbell motioned to approve the July 17, 2023 Board Meeting Minutes. Jacob Rostovsky seconded the motion.

Public Comment: No public comments were received.

Roll Call Vote: Motion carried: 8 yes, 0 no, and 0 abstain, per the following roll call vote: Committee Members voted “Yes”: Calimay Pham, Kellie Funk, Reese Isbell, Yolanda Jimenez, Colette Kavanaugh, Tamika Miller, Danielle Munoz, Jacob Rostovsky

9. AGENDA ITEM #9: EXECUTIVE MANAGEMENT REPORTS

a) Administration and Operations:

Kristy Underwood commenced by expressing appreciation for her dedicated staff and provided introductions to the management team. She then discussed the imminent office move, acknowledging the efforts required for the transition. She presented reports on administrative operations, budget projections, and fund conditions, highlighting a new loan to the general fund and a payback of a previous loan.

b) Licensing, Examinations, and Disciplinary Review Appeals

Ms. Underwood noted the unit's high vacancy rate, which includes five openings, and highlighted the ongoing challenge of filling entry-level positions. As a result, the number of pending emails now exceeds 2,000.

Additionally, Kristy Underwood discussed the low exam results, particularly for barber and cosmetology exams. Changes in pass rates were discussed, with adjustments made based on psychometric reviews. Concerns were raised about the low pass rates for Spanish exams, prompting discussions on potential causes and solutions. Ms. Underwood emphasized the limitations of the Board's authority over education quality but expressed efforts to collaborate with exam vendors and stakeholders to address the issue. Member Munoz and others inquired about steps being taken to improve pass rates, including possible engagements with regulatory bodies and educational institutions. Ms. Underwood outlined ongoing efforts to analyze exam content, enhance candidate information, and collaborate with textbook companies to ensure alignment with exam standards. Additionally, discussions touched on the impact of reduced training hours on exam performance and the challenges faced by apprenticeship programs, including issues related to worker safety and oversight. Kristy Underwood committed to providing a comprehensive report on the apprentice program issues in a subsequent meeting, acknowledging the urgent need for solutions.

Ms. Underwood continued with her presentation by providing updates on pass rates, licenses issued, and disciplinary reviews. The current license population stands at 636,441. She also mentioned a slower pace in disciplinary review hearing cases due to changes in inspection practices. Plans for upcoming Disciplinary Review Committee meetings were also outlined.

c) Enforcement, Inspections, and Cite and Fine

In the enforcement report, it was noted that all positions are currently filled. Over the last quarter, 1,321 complaints were received, with detailed breakdowns provided for different types of complaints. The report also included statistics on application investigations, cases referred to the Attorney General's office, and disciplinary processes.

Public Comment (Items a-c):

Fred Jones of the Professional Beauty Federation highlighted the impact of reduced hair hours under SB 803, affecting barbering and cosmetology. He noted that while other licensed categories have seen improved passage scores, hair licenses have not. He pointed out that even reputable schools are struggling with reduced hours, affecting student performance. Mr. Jones also discussed the incongruity of apprenticeship programs in the industry, where most professionals are independent contractors, making it challenging to operate apprenticeships based on employee-based salon models.

Alexander Krainiy, a Russian and Ukrainian interpreter experienced in interpreting written exams for licenses, addressed concerns regarding declining passing scores. He highlighted the role of interpreters, stating that unprepared interpreters contribute significantly to applicant failures, rather than the applicants themselves. Mr. Krainiy referenced a specific instance where an applicant received incorrect exam guidelines, leading to confusion and potential failure. He emphasized the need for the Board to ensure proper oversight of testing centers to prevent such issues.

Barbara Brown expressed concern over the declining pass rates despite schools' efforts to adhere to recommended guidelines. She questioned whether the Board was simply adjusting passing percentages rather than addressing underlying issues with the test. She sought advice on how schools could improve pass rates.

Following the closure of public comments, the meeting proceeded with a review of the school inspections and cite and fine reports. Kristy Underwood provided details about the present inspector count, which stands at 21 with just a single vacancy. She also touched upon the total number of schools and open cases. The statistics included citations issued, inspections completed, and establishment inspection reports. Steve Weeks inquired about the percentage of adjustments or removals made by the cite and fine unit upon receiving inspection reports. Ms. Underwood proposed sharing the stats in the next report. She indicated the figure is likely high, especially for minor infractions like expired licenses, due to the swift nature of compliance.

d) Outreach:

The Outreach update acknowledged the constraints of the budget freeze on in-person activities, but highlighted the continuation of virtual webinars, social media, and email outreach efforts. Jacob Rostovsky suggested adding Spanish-language social media content. Ms. Underwood noted that such posts have been done previously and committed to ongoing translation efforts.

e) Legislative Update:

- i. AB 1328 (Gipson) Cosmetology Licensure Compact
Kristy Underwood stated there was a recent informational hearing held by the Senate Business and Professions Committee to discuss compacts in general. Although the hearing wasn't overly positive about compacts, the bill is expected to have a hearing in the spring. Reese Isbell offered assistance if needed in future discussions.
- ii. SB 451 (Nguyen) Worker classification: employees and independent contractors: licensed manicurists
Ms. Underwood announced that this bill is not advancing and will not be revisited.
- iii. SB 817 (Roth) Barbering and cosmetology: application, examination, and licensing fees
The two-year bill is under review and language to clarify hairstylist license has been submitted. Updates will be provided as necessary.

f) Strategic Plan Update

Ms. Underwood concluded by providing an update on the Strategic Plan, noting the progress made towards the five-year plan ending in 2027. Calimay Pham commended the thorough breakdown of the Strategic Plan, expressing appreciation for the Board's diligent tracking of progress and establishment of measurable standards.

Public Comment (Items d-f): No public comments were received.

10. AGENDA ITEM #10: DISCUSSION AND POSSIBLE ACTION ON PROPOSED LEGISLATION:

a) AB 2412 (Reyes) Healing arts: California Body Contouring Council: practitioners

Kristy Underwood introduced the bill, explaining that it was not yet reviewed by the Legislation and Budget Committee due to timing. The bill proposes the creation of the California Body Contouring Council, similar to the Massage Therapy Council. While it doesn't directly affect existing laws, she emphasized its potential impact on licensees, considering body contouring as a practice of medicine. She mentioned the bill's relevance due to the widespread practice of body contouring in the industry and suggested that the Board closely monitor it without taking a specific position at the moment.

Reese Isbell expressed concerns about the impact of the legislation on licensees and proposed sending a letter to the author regarding the Board's concerns, particularly regarding the classification of body contouring as a medical practice. Calimay Pham raised questions about mechanisms for cooperation between the proposed council and the Board, specifically concerning site inspections. She advocated for including provisions for effective communication in the letter. Steve Weeks and Kellie Funk highlighted potential confusion stemming from the use of the term "cosmetologist" in the bill and suggested alternative terminology. The Board agreed to prepare a letter that addresses the Board's recommendations.

Motion: Reese Isbell motioned to prepare a letter that addresses the concerns outlined below. Megan Ellis seconded the motion.

1. Information regarding how the Board views body contouring as a practice of medicine.
2. Details about the Board's inspection process and the Board's firsthand experiences with body contouring.
3. Concerns about the use of the term "cosmetology" in the legislation with a proposal for a more suitable title to be adopted.

Public Comment: No public comments were received.

Roll Call Vote: Motion carried: 10 yes, 0 no, and 0 abstain, per the following roll call vote: Committee Members voted "Yes": Calimay Pham, Megan Ellis, Kellie Funk, Reese Isbell, Yolanda Jimenez, Colette Kavanaugh, Tamika Miller, Danielle Munoz, Jacob Rostovsky, Steve Weeks

b) AB 2444 (Lee) Barbering and cosmetology: licensees: manicurists

Kristy Underwood gave an overview of the bill, which expands basic labor laws to include sick pay rights. It also mandates establishment owners to view a labor law video for license renewal and requires dissemination of notifications about changes in employment classification. The discussion centered on the Board's responsibility for creating labor law media, potential impact on solo establishment owners, and the fiscal implications of implementing the bill, including adjustments to renewal processing and system modifications.

Steve Weeks raised concerns about the Board's responsibility in educating licensees on labor laws, suggesting that it falls under the jurisdiction of EDD. He emphasized the potential budget and staffing implications of taking on such a task. Ms. Underwood acknowledged the resource requirements and expressed uncertainty about implementation given current resources. Reese

Isbell questioned if the Board oversees business licensing, to which Ms. Underwood explained the limited role in verifying business licenses during establishment licensure. Mr. Isbell expressed reservations about expanding the Board's oversight into labor laws, fearing it may lead to further legislative demands beyond their expertise. The discussion touched on the feasibility of implementing labor law education within the renewal process, considering the majority of industry members are independent contractors. Danielle Munoz asked about the renewal process, and Ms. Underwood explained the automated system. Ms. Munoz suggested using existing structures for implementation. Kristy Underwood agreed that it was feasible, but stressed the requirement for resources, noting the absence of continuing education in the current system. Members also discussed concerns about ensuring compliance and the staff capacity to manage additional responsibilities.

Motion: Reese Isbell moved to oppose Assembly Bill 2444, and Steve Weeks seconded.

Public Comment: Catherine Porter, representing the California Healthy Nail Salon Collaborative, expressed support for AB 2444. She highlighted the two main components of the bill: the video viewing requirement for licensure and renewal, and the notification about changes in labor laws. Ms. Porter emphasized the Board's existing relationship with salon owners and workers, making it a suitable agency for implementing the bill. She mentioned that basic labor law education is already part of the Board's curriculum and application process. Ms. Porter estimated the cost of implementing the notification requirement between \$90,000 to \$100,000. Finally, she urged the Board not to oppose the bill at this stage, suggesting that further discussions could refine its implementation.

Fred Jones, representing the Professional Beauty Federation, highlighted the central concern of the bill, which revolves around the exemption to AB 5 for manicurists. He delved into the historical context, mentioning the unsuccessful SB 451 from Senator Nguyen, which aimed to extend this exemption. Mr. Jones explained the significance of the exemption, particularly in light of the Dynamex decision by the California Supreme Court in 2018, which established criteria to differentiate between independent contractors and employees. Mr. Jones expressed concerns about the implications of manicurists being classified as employees under the ABC test, citing potential legal and financial burdens. He advocated for extending the exemption for manicurists, similar to what is afforded to hair and skin professionals, to avoid potential adverse impacts on the nail industry.

Jaime Schrabec, a licensed manicurist and salon owner, expressed her support for maintaining the exemption for manicurists under AB 5, stressing the importance of equal treatment with other license types overseen by the BBC. While acknowledging the bill's aim to educate salon owners about labor laws, Ms. Schrabec highlighted numerous concerns with its current form. She advocated for eliminating the Sunset date entirely and extending the same rights to all industry professionals. Ms. Schrabec endorsed the Board taking an opposed position on the bill due to its complexity, while expressing support for the concept of continuing education and direct dissemination of information from the Board to licensees.

Roll Call Vote: Motion carried: 9 yes, 0 no, and 1 abstain, per the following roll call vote: Committee Members voted "Yes": Calimay Pham, Megan Ellis, Kellie Funk, Reese Isbell, Yolanda Jimenez, Colette Kavanaugh, Tamika Miller, Jacob Rostovsky, Steve Weeks

c) SB 1084 (Nguyen) Barbering and cosmetology: Hairstyling License

Kristy Underwood discussed Senate Bill 1084, introduced by Senator Nguyen, which proposes substantial changes to current statutes. The bill aims to repeal the hairstylist license and remove certain practices from barbering and cosmetology, viewed as partial deregulation. The Board recommends opposing the bill as it would eliminate a recently implemented license, diminish the scope of practice for cosmetologists and barbers, and necessitate costly developments such as new examinations and updates to systems and regulations. Additionally, it could jeopardize reciprocity with other states.

Steve Weeks expressed concern about the potential impact of the bill, suggesting that it would effectively render half of the Board's responsibilities obsolete, thereby compromising public health and safety measures. Jacob Rostovsky and Danielle Munoz inquired about the bill's origins and purpose. Kristy Underwood indicated that they have not heard back from the author's office.

Motion: Steve Weeks moved to oppose Senate Bill 1084. Colette Kavanaugh seconded the motion.

Public Comment: Fred Jones from the Professional Beauty Federation expressed full support for the Board's opposition stance. He noted that he had engaged with the author's office and sponsors, highlighting a similar bill proposed by Senator Morel several years ago. Mr. Jones emphasized that this bill signifies a movement towards de-licensing in the industry, despite recent efforts to lower barriers to entry with the new 600-hour hair stylist license.

Roll Call Vote: Motion carried: 10 yes, 0 no, and 0 abstain, per the following roll call vote: Committee Members voted "Yes": Calimay Pham, Megan Ellis, Kellie Funk, Reese Isbell, Yolanda Jimenez, Colette Kavanaugh, Tamika Miller, Danielle Munoz, Jacob Rostovsky, Steve Weeks

11. AGENDA ITEM #11: DISCUSSION AND POSSIBLE ACTION REGARDING INTERPRETERS FOR THE LICENSING EXAM

Kristy Underwood presented a proposal regarding interpreters for licensing exams, suggesting a modification from the current regulation of allowing interpreters once every two years to once every year. This proposal was based on research conducted with the exam vendor and the California Contractor State Licensing Board, both of which support the one-year timeframe. The Board was asked to discuss this proposal, and if approved, it would be brought back for formal approval at the next Board meeting.

Steve Weeks raised concerns about the potential for fraud in the interpretation process. Jacob Rostovsky sought clarification on the frequency of test question cycles. Calimay Pham expressed support for changing the requirement to one year, citing the importance of language access. A discussion ensued on the most effective approach to address this agenda item. Board Regulation Counsel, Kristy Schieldge, pointed out that agenda item 18 involves a cleanup action related to SB 803, encompassing the current interpreter requirements. It was agreed to address this recommendation independently to avoid delaying the SB 803 regulation.

Motion: Calimay Pham motioned staff to prepare proposed regulations to change the interpreter requirements to allow interpreters to act as an interpreter once in a year instead of two years and bring the language back to the Board for approval. Colette Kavanaugh seconded the motion.

Public Comment: Alexander Krainiy, a Russian interpreter, expressed concern about the discussion on interpreter regulations, noting that more time was spent on the timeframe issue rather than delving into the reasoning behind it. He questioned the necessity of the restriction and its impact on professionals seeking licenses. Mr. Krainiy also highlighted the challenges interpreters face during licensing examinations, emphasizing the need for deeper understanding and collaboration.

Roll Call Vote: Motion carried: 10 yes, 0 no, and 0 abstain, per the following roll call vote: Committee Members voted “Yes”: Calimay Pham, Megan Ellis, Kellie Funk, Reese Isbell, Yolanda Jimenez, Colette Kavanaugh, Tamika Miller, Danielle Munoz, Jacob Rostovsky, Steve Weeks

12. AGENDA ITEM #12: REPORT ON THE SEPTEMBER 11, 2023, AND JANUARY 22, 2024, LICENSING AND EXAMINATION COMMITTEE MEETINGS

a) Review, Discussion, and Possible Action Regarding Committee Recommendation on Establishment Ownership Types

Steve Weeks opened by highlighting two important topics covered in the committee meetings: (1) the treatment of renters during inspections and (2) the inclusion of limited liability companies (LLCs) into regulations. Kristy Underwood then presented a proposal to amend Section 7347 of the Business and Professions Code to include LLCs as eligible for establishment licenses. She commented that LLCs are prevalent ownership structures within the industry.

Motion: Kellie Funk motioned to pursue the provided amended language for Section 7347 of the Business and Professions Code to add Limited Liability Companies (LLCs) as a legislative proposal. Megan Ellis seconded the motion.

Public Comment: No public comments were received.

Roll Call Vote: Motion carried: 10 yes, 0 no, and 0 abstain, per the following roll call vote: Committee Members voted “Yes”: Calimay Pham, Megan Ellis, Kellie Funk, Reese Isbell, Yolanda Jimenez, Colette Kavanaugh, Tamika Miller, Danielle Munoz, Jacob Rostovsky, Steve Weeks

b) Review, Discussion, and Possible Action Regarding Implementing a 90-day Retention Schedule for Out of State License Certifications

Kristy Underwood discussed a proposal for the adoption of a 90-day timeframe for processing certification letters. This timeline would apply to individuals seeking licensure or reciprocity from out-of-state. The measure aims to streamline the process by ensuring that licenses are issued only to individuals with valid certifications, free of disciplinary actions.

Kristy Schieldge, DCA Regulations Counsel, requested that any motion made by the Board include a provision stipulating that the proposed regulatory text will undergo legal review to address any potential legal issues before being noticed for public comment.

Motion: Steve Weeks made a motion to approve the proposed regulatory text for Section 911, direct staff to submit the text to DCA Regulations Council for legal review, the Director of the Department of Consumer Affairs and the Business, Consumer Services, and Housing Agency for review and if no adverse comments are received, authorize the Executive Officer to take all steps necessary to initiate the rulemaking process, make any non-substantive changes to the package, and set the matter for a hearing if requested. If no adverse comments are received during the 45-day comment period and no hearing is requested, authorize the Executive Officer to take all steps necessary to complete the rulemaking and adopt the proposed regulations at Section 911 as noticed. Danielle Munoz seconded the motion.

Public Comment: No public comments were received.

Roll Call Vote: Motion carried: 10 yes, 0 no, and 0 abstain, per the following roll call vote: Committee Members voted "Yes": Calimay Pham, Megan Ellis, Kellie Funk, Reese Isbell, Yolanda Jimenez, Colette Kavanaugh, Tamika Miller, Danielle Munoz, Jacob Rostovsky, Steve Weeks

13. AGENDA ITEM #13: REPORT ON THE SEPTEMBER 11, 2023, EDUCATION AND OUTREACH COMMITTEE MEETING

Kristy Underwood provided an update on the committee meeting, where discussions revolved around the new scope of practice publications, recommendations to promote guidelines via social media including Instagram reels, and an update on outreach plans. There were no action items resulting from the meeting.

Public Comment: No public comments were received.

14. AGENDA ITEM #14: REPORT ON THE SEPTEMBER 11, 2023 AND JANUARY 22, 2024, ENFORCEMENT AND INSPECTIONS COMMITTEE MEETINGS

Danielle Munoz reported on discussions held during the meetings, including criteria for citing practices of medicine, educating consumers on licensee scope of practice, and introducing a new enforcement website. Further details were provided by Kristy Underwood regarding the discussion on body slimming/body contouring and efforts to educate consumers, as well as the establishment of a new school enforcement webpage on the Board's website. No action was requested by the committee.

Public Comment: No public comments were received.

15. AGENDA ITEM #15: REPORT ON THE SEPTEMBER 11, 2023, JANUARY 22, 2024, AND FEBRUARY 20, 2024, LEGISLATIVE AND BUDGET COMMITTEE MEETINGS

Reese Isbell summarized the committee meetings, emphasizing discussions regarding the fee study and application processing times, as well as the endorsement of two bills. Kristy Underwood elaborated, stating that a thorough review of fees was conducted in response to

recent legislative changes. Upon examination, it was found that the existing fees did not adequately cover the costs of processing, resulting in a deficit. However, due to the significant budget already in place and concerns about the potential backlash from licensees, no recommendation for fee adjustment was proposed at this time.

a) Review, Discussion, and Possible Action Regarding Committee Recommendation on SB 992 (Bradford) Hair Types and Textures; AND b) Review, Discussion, and Possible Action Regarding Committee Recommendation on AB 2166 (Weber) Hair Types and Textures

The Board discussed two similar bills, SB 992 and AB 2166, focusing on textured hair education in the cosmetology curriculum. SB 992 was withdrawn by its author, leaving AB 2166 to advance. This bill requires textured hair education in cosmetology programs and examinations. Kristy Underwood provided insights, noting that many schools already integrate textured hair education, with minimal anticipated impact on current practices. The bill's specifications were reviewed, confirming alignment with existing hour breakdowns. The Legislative Committee supported AB 2166, recognizing its significance for DEI efforts within the industry.

Motion: Reese Isbell motioned to recommend a support position of Assembly Bill 2166 to the full Board. Jacob Rostovsky seconded.

Public Comment: Monica, experiencing microphone issues, inquired via chat if online form submissions would be more efficient going forward. The moderator acknowledged her query and committed to sharing the relevant email address through the chat feature.

Roll Call Vote: Motion carried: 10 yes, 0 no, and 0 abstain, per the following roll call vote: Committee Members voted "Yes": Calimay Pham, Megan Ellis, Kellie Funk, Reese Isbell, Yolanda Jimenez, Colette Kavanaugh, Tamika Miller, Danielle Munoz, Jacob Rostovsky, Steve Weeks

16. AGENDA ITEM #16: REPORT ON THE SEPTEMBER 11, 2023 AND JANUARY 22, 2024, DIVERSITY, EQUITY, AND INCLUSION COMMITTEE MEETING

Jacob Rostovsky provided an update on the committee's activities, addressing the launch of the new DEI webpage and the findings from a survey targeting underrepresented communities. Kristy Underwood elaborated, highlighting the survey responses to guide social media posts and the unveiling of their new DEI website. Additionally, she noted the translation of health and safety regulations into Russian and Ukrainian due to an increase in license applications from speakers of those languages. No action items were necessary.

Public Comment: No public comments were received.

17. AGENDA ITEM #17: REPORT ON THE JANUARY 22, 2024, HEALTH AND SAFETY ADVISORY COMMITTEE MEETING

Calimay Pham reported on the committee meeting, outlining plans to update the health and safety course. Kristy Underwood elaborated on the process, stating that this involved collaboration with committee members, including representatives from the Department of

Public Health and Cal/OSHA. She highlighted the comprehensive review of the curriculum by subject matter experts to ensure accuracy and relevance. Additionally, she discussed the committee's efforts to update health and safety regulations, considering recommendations to revise fine schedules based on the risk associated with each violation. These updates will be presented to the Board for further review and approval.

Public Comment: No public comments were received.

18. AGENDA ITEM #18: DISCUSSION AND POSSIBLE ACTION REGARDING RULEMAKING PROPOSALS

a) 1. Discussion and Possible Action to Consider Comments Received During the 45-Day Public Comment Period and Proposed Responses Thereto for the Board's Rulemaking to Amend Title 16, California Code of Regulations (CCR) sections 904, 909, 931, 932, 937, 962, and 998, and Repeal sections 928, 934, 950.1, 950.2, 950.3, and 950.4 (SB 803 Clean Up)

Kristy Underwood provided an overview, stating that they received comments on the regulations proposed under SB 803. The Board was asked to review the recommended responses provided by staff and consider the following options: either to agree with staff and reject the comments as specified, make edits to the recommended response, or disagree with staff and accept the comments.

Kristy Schieldge, delved into the specifics, highlighting the legal basis for rejecting the comments. She explained that the commenter raised objections mainly regarding the repeal of Practical Operations Regulations. Ms. Schieldge clarified that these regulations were no longer necessary as the practical examination, for which they were intended, had been eliminated. Additionally, she emphasized that the legislative authority enabling the Board to adopt these regulations had been repealed. Ms. Schieldge pointed out that the Board's past recommendation to eliminate the practical examination aligned with the legislative changes, making it challenging to argue for the retention of the regulations now. Thus, Kristy Schieldge recommended rejecting the comments.

Reese Isbell questioned the origin and purpose of comments from Council One Professional Corporation. Kristy Schieldge replied that she lacked information about the commenter's background but noted that the party had submitted public records act requests for legislative history and regulations. Kellie Funk clarified that the discussion did not involve reinstating a practical portion of the exam, as desired by the petitioner. Ms. Schieldge affirmed and emphasized the need to clean up regulations in line with legislative changes under SB 803.

Motion: Kellie Funk made a motion to direct staff to reject comments as specified and provide the responses to the comments as indicated in the meeting materials. Colette Kavanaugh seconded the motion.

Public Comment: No public comments were received.

Roll Call Vote: Motion carried: 9 yes, 0 no, and 0 abstain, per the following roll call vote: Committee Members voted "Yes": Calimay Pham, Megan Ellis, Kellie Funk, Reese Isbell, Yolanda Jimenez, Colette Kavanaugh, Tamika Miller, Danielle Munoz, Steve Weeks

a) 2. Discussion and Consideration of Proposed Regulation to Amend Title 16, California Code of Regulations (CCR) sections 904, 909, 931, 932, 937, 962, and 998, and Repeal sections 928, 934, 950.1, 950.2, 950.3, and 950.4 (SB 803 Clean Up)

Kristy Underwood explained that since the Board had just approved to reject the comments on the SB 803 cleanup under Item 18, Section a, the next step was to make a motion that would authorize staff to take necessary steps to finalize the rulemaking process and adopt the proposed regulations.

Motion: Steve Weeks moved to direct staff to take all steps necessary to complete the rulemaking process including the filing of the final rulemaking package with the Office of Administrative Law, authorize the Executive Officer to make any non-substantive changes to the proposed regulations and the rulemaking documents, and adopt the proposed regulations as noticed for Title 16 CCR Sections: 904, 909, 931, 932, 937, 962, and 998, and Repeal Sections 928, 934, 950.1, 950.2, 950.3, and 950.4. Danielle Munoz seconded.

Public Comment: No public comments were received.

Roll Call Vote: Motion carried: 9 yes, 0 no, and 0 abstain, per the following roll call vote: Committee Members voted "Yes": Calimay Pham, Megan Ellis, Kellie Funk, Reese Isbell, Yolanda Jimenez, Colette Kavanaugh, Tamika Miller, Danielle Munoz, Steve Weeks

c) Discussion and Possible Action to Initiate a Rulemaking and Amend Title 16, CCR section 917 (Pre-Apprenticeship Training)

Kristy Underwood introduced the next agenda item, which pertained to initiating rulemaking for pre-apprentice training as required by SB 803. The training aims to provide basic patron protection and industry knowledge at no cost to students. Ms. Underwood introduced the motion's proposed language as prepared by the legal team. Kristy Schieldge noted that the proposed pre-apprentice training program would be cost-free for trainees. She advised the Board to monitor the program's budgetary impact.

Motion: Colette Kavanaugh moved to approve the proposed regulatory text for Title 16, CCR Section 917 as set forth in Attachment 4, direct staff to submit the text to the Director of the Department of Consumer Affairs and the Business, Consumer Services, and Housing Agency for review and if no adverse comments are received, authorize the Executive Officer to take all steps necessary to initiate the rulemaking process, make any non-substantive changes to the package, and set the matter for a hearing if requested. If no adverse comments are received during the 45-day comment period and no hearing is requested, authorize the Executive Officer to take all steps necessary to complete the rulemaking and adopt the proposed regulations at Section 917 as noticed. Yolanda Jimenez seconded the motion.

Public Comment: Jaime Schrabek from Precision Nails expressed support for the initiative, suggesting that a two-hour training session at no cost would be beneficial for all license seekers, not just apprentices. She recommended using the term "client" instead of "patron" to align with current language in health and safety regulations. Ms. Schrabek also emphasized the importance of including basic labor law information in the program to prevent apprentice exploitation and ensure awareness of workers' compensation issues.

Roll Call Vote: Motion carried: 9 yes, 0 no, and 0 abstain, per the following roll call vote: Committee Members voted “Yes”: Calimay Pham, Megan Ellis, Kellie Funk, Reese Isbell, Yolanda Jimenez, Colette Kavanaugh, Tamika Miller, Danielle Munoz, Steve Weeks

b) Update Regarding Rulemaking Proposal to Amend Title 16, CCR sections 913, 913.1, 914.1, 914.2, 915, 917, 918, 918.1, 919, 919.1, 920, 921, 921.1, 921.2, 922, 924, 924.1, 925, 926, 927 (Apprenticeship)

d) Update Regarding Rulemaking Proposal to Amend Title 16, CCR sections 940, 941, 950.10, 950.12, 962, 962.1, 962.2 (Schools and Externs);

e) Update Regarding Rulemaking Proposal to Amend Title 16, CCR section 972 (Disciplinary Guidelines);

f) Update Regarding Rulemaking Proposal to Amend Title 16, CCR section 977 et seq. (Health and Safety)

Kristy Underwood provided an update on the remaining four regulation packages concerning apprenticeship, schools and externships, disciplinary guidelines, and health and safety. These packages are currently in progress at the staff level, with a more detailed update expected at the next Board meeting.

19. AGENDA ITEM #19: PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA

No public comments were received regarding items not on the agenda.

20. AGENDA ITEM #20: SUGGESTIONS FOR FUTURE AGENDA ITEMS

There were no recommendations for future agenda items from the Board members.

Public Comment: Monica, via the chat feature, asked why the pass percentage was being lowered instead of examining changes in the test that may have led to the decrease in pass rates across California. Additionally, she inquired if there were plans to further lower the barber exam passing percentage. The moderator provided the email address for submitting her inquiry.

21. AGENDA ITEM #21: CLOSED SESSION

Pursuant to Section 11126 of the Government Code, the Board met in closed session to conduct the Executive Officer’s Performance Review.

22. AGENDA ITEM #22: ADJOURNMENT

There being no further business to discuss, the meeting adjourned at approximately 2:50 p.m.