CALIFORNIA
BOARD OF BARBERING AND COSMETOLOGY

APRIL 20, 2015

Enforcement Committee Meeting
Department of Consumer Affairs
1747 North Market Blvd.
HQ2 Hearing Room 186, 1st Floor
Sacramento, CA 95834

Kristy Underwood
Executive Officer

Edmund G. Brown Jr., Governor
State of California

Department of Consumer Affairs
Board of Barbering and Cosmetology

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2420 Del Paso Road, Suite 100
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California State Board of Barbering and Cosmetology

Enforcement Committee Meeting Agenda

Monday, April 20, 2015
10:00 A.M. - Until completion of business

Department of Consumer Affairs
1747 North Market Blvd
HQ2 Hearing Room 186, 1st Floor
Sacramento, CA 95834

ALL TIMES ARE APPROXIMATE AND SUBJECT TO CHANGE

1. Establishment of a Quorum; Welcome and Introductions

2. Public Comment on Items not on the Agenda
   Note: the Board may not discuss or take action on any matter raised during this public comment section, except to decide whether to place the matter on the agenda of a future meeting. [Government Code Sections 11125, 11125.7(a)]

3. Approval of Enforcement Committee Meeting Minutes

   - December 11, 2014

4. Update on the Progress of the Implementation of SB 1159.

   - SB 1159 allows the Board to accept an Individual Taxpayer Identification Number (ITIN) in lieu of a Social Security Number (SSN).

5. Update on the Progress of Compiling the Medical Services Task Force to address Services that Can be Performed by Board Licensees.

6. Discussion of Proposed Regulatory Language to Define "Demonstrating" for Purposes of BPC §7319(e) Exemptions.

7. Discussion and Recommendations on How to Prevent False and Misleading Advertising with Regard to Beauty Services.

8. Agenda Items for Next Committee Meeting.

9. Public Comment
   Note: the Board may not discuss or take action on any matter raised during this public comment section, except to decide whether to place the matter on the agenda of a future meeting. [Government Code Sections 11125, 11125.7(a)]

A quorum of the Committee is expected to be present. Meetings of the Board of Barbering and Cosmetology are open to the public except when specifically noticed otherwise in accordance with the Open Meeting Act. The audience will be given appropriate opportunities to comment on any issue before the Board, but the Chair may apportion available time among those who wish to speak.

The meeting is accessible to the physically disabled. A person who needs disability-related accommodation or modification in order to participate in the meeting shall make a request no later than five (5) working days before the meeting to the Board by contacting Marcene Melliza at (916) 575-7121 or sending a written request to that person at the address noted above.

No Attachment

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

ENFORCEMENT COMMITTEE MEETING

MINUTES OF DECEMBER 11, 2014

Federico Beauty Institute
1515 Sports Drive
Auditorium Room
Sacramento, CA 95834

COMMITTEE MEMBERS PRESENT
Richard Hedges
Andrew Drabkin
Joseph Federico

STAFF MEMBERS PRESENT
Kristy Underwood, Executive Officer
Marcene Melliza, Board Analyst

COMMITTEE MEMBERS ABSENT
Dr. Kari Williams

1. Agenda Item #1, WELCOME AND INTRODUCTIONS

Mr. Hedges, Board President, called the meeting to order at 10:00 a.m.

2. Agenda Item #2, APPROVAL OF ENFORCEMENT COMMITTEE MEETING MINUTES

Upon motion by Mr. Federico, seconded by Mr. Drabkin, the minutes from the October 16, 2014 Enforcement Committee meeting were approved by a 3-0 vote.

Public Comment

Fred Jones informed the committee that the 2015 WOW date may be moved from April 20, 2015 to April 13, 2015. He will keep the Board updated.

3. Agenda Item #3 DISCUSSION ON UNREGULATED SERVICES BEING OFFERED IN ESTABLISHMENTS AND MEDICAL OFFICES.

Ms. Underwood started the discussion concerning this issue. The inspectors are finding more and more Medical Spas and Establishments having both doctors and estheticians performing services at the same business and no clear line of separating the two. Lasers, needles and other medical devices are being found and accessible to all staff, including the estheticians and/or unlicensed

persons. The estheticians are being cited and also being misled by being told that with online certification or training by the doctor that they can perform these services. Ms. Underwood continued to explain that we do not have regulation stating that needles need to be locked up. The inspectors can only recommend that the establishments do so. The discussion here today is to see what we may be able to do thru regulation to differentiate the two by creating new requirements for these businesses to keep services separate. We need to bring to the table the Medical Board as well as the RN Board to take part in these discussions. Large populations of the Board's estheticians are RN's as well.

Mr. Hedges wants to make sure everyone; the doctors, our licensees and Medical Board are clear on the differences. He offers recommendations on both scenarios as listed below:

For an esthetician working in a Doctor's office:

- Posting an Establishment license in an esthetician's room.
- Locking up needles and making them inaccessible to esthetician.
- The esthetician only uses needles if she/he possesses the appropriate medical license to do so.
- The certifications are only valid if they have the appropriate medical license. (IE: RN, Medical Assistant)

For a doctor working in a licensed salon:

- The doctor must have a separate room within the salon.
- Doctor's license number and name posted on the door.
- Medical services can only be performed by the doctor in person.

Ms. Underwood also suggested the task force consider how we define "a Med Spa" and also consider some type of recognition for that type of establishment. Also, an even bigger issue is the skin peels. It's difficult for estheticians to differentiate between a medical grade peel and a skin peel that falls under their scope of practice.

Mr. Hedges recommended there be a motion to take a request to the Board at the January 12, 2015 Board meeting to attempt to set up a task force with the Medical Board, RN Board and Am Spa, The American Med Spa Association, to deal with our licensees working in a doctor's office and/or a doctor working in one of our licensed establishment. The task force would look into setting up regulations to separate the use of medical appliances from the use of estheticians and barbering appliances. A motion was made by Mr. Federico, and seconded by Mr. Drabkin to take this request to the Board. The motion was passed with a 3-0 vote.

4. Agenda Item # 4 DISCUSSION ON THE IMPLEMENTATION AND ENFORCEMENT OF SB 1159. RELATING TO SECTION 30 OF THE BUSINESS AND PROFESSIONS CODE.

Mr. Hedges began with an overview of the benefits from the passing of this bill. We have a large population of students being trained in our California schools, but because they don't have a social security number they are unable to get a license. Now with the passing of SB 1159 these undocumented workers, can get a Federal Tax ID number and apply for our licenses. Mr. Hedges would like to discuss today ideas on how get this information out to people that aren't fluent in English and would benefit from this new legislation.

Mr. Hedges started by making the following recommendations to the committee:

- Explain the process with handouts via BBC's inspectors to various neighborhoods where it might be of most use, explaining the regulatory process in the appropriate language, as well as English in the simplest terms.

- Work with groups such as the Asian Law Caucus, the United Farm Workers, Latino legislators, Community Colleges, Beauty schools, and professional beauty associations to get this information out.

Mr. Hedges would like an example of a handout for the January 2015 Board meeting packet.

Mr. Federico questioned whether the BreEZE system was able to handle this change.

Mr. Drabkin suggested the Board use social media to get the word out. He also asked if we do any outreach to high schools.

Ms. Underwood believes the BreEZE system should be able to handle this and we can actually implement these requirements prior to the January 2016 deadline. She will be meeting with the Department's legislative office to discuss further details and will be able to provide an update during the January 2015 Board meeting. The Board is already getting calls concerning SB 1159. Ms. Underwood shared that BBC did outreach in 2014 to the Vietnamese community, and plans on doing similar outreach to the Spanish communities in 2015. She also mentioned we would be able to get this information out to our schools, which in turn can provide it to the high schools.

5. Agenda Item # 5, PUBLIC COMMENT

Note: The Board may not discuss or take action on any matter raised during this public comment section, except to decide whether to place the matter on the agenda of a future meeting. [Government Code Sections 11125, 11125 (a)].

The public present did not wish to address the Committee.

6. ADJOURNMENT

With no further business, the meeting was adjourned.

No Attachment

Board of Barbering and Cosmetology
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MEMORANDUM

TO: Members, Enforcement Committee
Board of Barbering and Cosmetology

Date: April 20, 2015

FROM: Kristy Underwood, Executive Officer
Board of Barbering and Cosmetology

SUBJECT: Discussion of Proposed Regulatory Language to Define Demonstrating

Background

The Board is seeing a growing number of unlicensed individuals that are performing services within a scope of practice regulated by the Board but are claiming that the services are only for demonstration and therefore a license is not needed.

Statutory Authority

Business and Professions Code section 7319(e) states:

> The following persons are exempt from this chapter:
>
> *(e) Persons engaged in the administration of hair, skin, or nail products for the exclusive purpose of recommending, demonstrating, or selling those products.*

Recommendation

Staff recommends that the committee adopt regulatory language, and present to the full Board, that clarifies what constitutes "demonstrating".

Attached is recommended language to define demonstration.

Section 977. Health and Safety Definitions

Demonstrate – a one-time service, without compensation, to show or prove the value or efficiency of a product to a consumer with the intent that the person could perform the service or administer the product, on their own/at home without a licensee/product instructor present.

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MEMORANDUM

TO: Members, Enforcement Committee
Board of Barbering and Cosmetology

Date: April 20, 2015

FROM: Kristy Underwood, Executive Officer
Board of Barbering and Cosmetology

SUBJECT: Discussion and Recommendations on How to Prevent False and Misleading Advertising with Regard to Beauty Services

Background

The Board is seeing a growing number of establishments that are providing advertising that is misleading to California consumers. For Example:

- Using the term Medical Esthetician
- Mole Removal
- Medical Grade Skin Services

The Board believes that this type of advertising is misleading to consumers and implies that Board licensees are allowed to perform services in which they are not licensed,

Statutory Authority

Business and Professions Code section 7404 (a)(4) states that the grounds for disciplinary action are:

Unprofessional conduct which includes but is not limited to any of the following:

(4) Advertising by means of knowingly false or deceptive statements.

Recommendation

Staff recommends that the committee begin discussions on the development of regulations to clarify this statute and make clear what false or deceptive statements would be considered grounds for discipline. Staff has attached a recommendation of new regulatory language to facilitate this discussion.

Article 12. Health and Safety

999. The Board considers a person practicing medicine if the person does, advertises or offers to do, one or more of the following:

1. Advertise, offers, holds out to the public or represents in any manner that the person is authorized to practice medicine in this State.

    a. Append the letters M.D. or D. O. to the name of the person or use the words, Doctor, Physician, Surgeon, or any abbreviation or combination thereof, or any letters or words of similar import in connection with the name of the person, or any trade name in which the person is interested, in the conduct of any occupation or profession pertaining to the diagnosis or treatment of human diseases or conditions.

2. Advertises, offers, holds themselves out to the public or represents themselves as practicing, any system or mode of treating the sick or afflicted or who diagnose, treats, operates for, or prescribes for any ailment, blemish, deformity, disease, disfigurement, disorder, injury, or other physical or mental condition of any person, including, but not limited to, the treating of spider veins, lesions, growths or rashes.

3. Advertises, offers, holds out to the public or represents in any manner that the person is authorized to perform any procedures that by any means, methods, devices or tools that can damage the living skin (dermis) and subcutaneous tissues, including but not limited to, the use of all scalpels, syringes, all lasers, microwave energy, radio frequencies (with the exception of Electrologists), electrical impulses; and all other energy emitting devices, thermal destruction (with the exception of Electrologists), needles (with the exception of Electrology needles or probes), chemical application, particle sanding, and other foreign or natural substances by injection or insertion.

4. Advertises, offers, holds out to the public or represents in any manner that the person is authorized to undertake to perform any surgical operation upon any person, or puncture or pierce the skin in any manner, including but not limited to, mole removal, skin tag removal and/or spot removal.

5. Found on the premises any drug or medicine or advertises, offers, holds out to the public, or represents in any manner that the person is authorized to undertake to prescribe, give or administer any drug or medicine for the use of any other person.