



BOARD OF BARBERING AND COSMETOLOGY
CALIFORNIA DEPARTMENT OF CONSUMER AFFAIRS
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**Board of Barbering and Cosmetology
Doubletree Club Hotel
1515 Hotel Circle South
San Diego, California 92108**

MEETING OF THE BOARD OF BARBERING AND COSMETOLOGY

MINUTES OF OCTOBER 23, 2006

BOARD MEMBERS PRESENT:

Jerry Tyler, President
Richard Hedges, Vice President
Frank Lloyd
Marlene Gadinis
Jerri Ann Walters
Angela Reddock
Bonnie LaChappa

STAFF MEMBERS PRESENT:

Kristy Underwood, Executive Officer
Denise Johnson, Asst. Executive Officer
Gary Duke, Staff Counsel
Theresa Rister, Board Analyst

BOARD MEMBERS ABSENT:

Dr. Della Condon
Joe Gonzalez

1. Agenda Item #1, CALL TO ORDER/ROLL CALL

Mr. Tyler called the meeting to order at 9:00 a.m. The board members and staff introduced themselves. Mr. Tyler welcomed the audience to the meeting. In order to address the entire lengthy agenda, and keep it flowing, Mr. Tyler asked members to keep their comments succinct and to the point. Mr. Duke, legal counsel, explained the process to be followed at the meeting, in order to keep it flowing. Speakers will be limited to 2 minutes. All speakers and board members were asked to stay focused on each item.

2. Agenda Item #2, PRESIDENT'S REPORT

Mr. Tyler thanked the board members and staff for a very successful Strategic Planning Session. He commended Mr. Lloyd as the new committee chairman of the Disciplinary Review Committee. The backlog is decreasing due to the committee's hard work.

He reported the Industry Advisory Committee held their first meeting on September 18th, with twenty-five industry leaders present.

Mr. Tyler commented on his article that is featured in the California Stylist Magazine, President's Report, it has received a positive response from California and beyond. This has been a positive step for outreach efforts. Mr. Tyler stated future articles will continue to appear in the Stylist and possibly in Nails and other magazines.

He commended staff for the successful open houses at the exam facilities.

3. Agenda Item #3, EXECUTIVE OFFICERS REPORT

Ms. Underwood introduced the rest of the staff to the audience; Kim Madsen, Enforcement Manager, Xochitil Camargo, Inspector, Arlene Bauby, Inspector, Joe Brown, Inspector, Lisa Montoya, Inspector, Ed Sherman, Supervising Inspector for Southern California and Jim Jacobs, Supervising Inspector for Northern California.

Update on Examinations in State Correctional Facilities: Staff has been working with the Department of Corrections and Rehabilitation on the examination process in correctional facilities. The first exam is scheduled for December.

DCA Report: The DCA had no report at this time.

4. Agenda Item #4, APPROVAL OF BOARD MEETING MINUTES

- a) **June 26, 2006**
- b) **July 24, 2006**
- c) **August 14, 2006**

Mr. Lloyd made the motion to approve the above minutes. He suggested that the June 26, 2006 minutes should reflect that there was not a quorum at this meeting. Mr. Duke indicated it probably should have been done more clearly as this is an independent document. A motion was made and seconded to approve the minutes of the meetings of June 26, 2006, July 24, 2006 and August 14, 2006. Ms. Gadinis seconded and the motion was approved with a 7-0 vote.

5. Agenda Item #5, REVIEW AND APPROVAL OF BOARDS STRATEGIC PLAN

Ms. Underwood reported on the strategic plan session. She stated it was a brainstorming meeting that covered Sunset Review, the Performance Audit and past legislation. Ideas and comments were incorporated into the plan and are now before the board for additional changes. Mr. Lloyd asked if Goal 3, (Improve the Boards licensing and examination efficiency) should be more specific with the objectives. He would like to include reducing application time with all categories. Ms. Underwood stated that we could make that a specific objective. Mr. Lloyd also questioned Objective 3.4, if aggregate scoring could be accomplished sooner than June of 2007. Ms. Underwood believed it could be possible, and that June 2007 is the dead line date. Mr. Tyler indicated staff would be working with the Office of Examination Resources on this issue and it may slow down the process. Mr. Tyler commended the board members on effectively addressing the issues of the internal audit and developing a comprehensive plan. Mr. Hedges made the motion to approve the strategic plan

with the requested changes. Ms. Gadinis seconded the motion and it was passed with a 7-0 vote.

Public Comment:

Dian Torres expressed some concerns about the strategic plan timelines. She is concerned about the diversity between the state colleges and private beauty schools. She feels each school ask for different qualifications. Consistently trained educators are needed. Thus, in Item 3, page 12, why aren't the apprentice curriculum and instructors not mentioned in this item? She asked although the plan was approved, that it be "not locked in stone" for further review and change. Mr. Lloyd noted that it was not the Board's choice to abolish the instructor's license. It was done through legislation.

The Board discussed the apprentice curriculum and regulations are currently being written for review.

The motion to approve the strategic plan passed by a 7-0 vote.

6. Agenda Item #6, REPORT OF LEGISLATION AND BUDGET COMMITTEE

Mr. Tyler reported on the meeting of the Legislation and Budget Committee. Current legislation was discussed including AB409 (Disciplinary Suspension), AB1793 (Threading), AB2927 (Public Records Bill - Vetoed by the Governor), SB1474 (Board Member Terms/Use of Lasers/Reciprocity and Sunset), and AB861 (Probationary License).

Ms. Underwood noted approval was received from the Office of Administrative Law on the Pre-Application for Apprenticeship. Staff is working on several regulation packages, including increasing exam fees and fines. Footspa emergency regulations are currently under review. Approval is expected soon from DCA and the Department of Health Services. Reciprocity package is in process.

Ms. Underwood noted the reciprocity language was discussed and approved by committee but since it is not on the agenda today, it cannot be approved. Mr. Duke further explained that each specific item needs to be on the agenda. Therefore, a motion was made and seconded to accept the report and direct staff to continue on regulatory language and bring it to the board for approval in the future. It was approved 7-0.

Mr. Hedges asked about the threading discussion, i.e., changing scissors to shears. Mr. Duke suggested to direct staff to provide language alternatives for the next meeting. All agreed that the language needs to be very clear and should state scissors.

Public Comment

Ramona Gamache, Riverside, asked how much money was allotted for inspectors in the budget. However, Mr. Tyler noted this question should be held until the end of the meeting for general public comment.

7. Agenda Item #7, REPORT OF LICENSING AND EXAMINATION COMMITTEE.

Ms. Gadinis reported on the meeting of the Licensing and Examination Committee. The workload statistics were reviewed. There are still candidates not showing up for their examination. Ms. Underwood stated that they are overbooking and applicants are getting tested.

Ms. Underwood noted at the manicuring taskforce, it was discussed to add an additional 100 hours to the manicure curriculum totaling 500 hours. The additional hours would include more health and safety issues and possibly adding waxing to the curriculum since paraffin is a new form of manicuring.

New license types were also discussed. New licenses discussed included assistant/extern, hairstylist, waxing, permanent makeup, independent contractor, and establishment manager. The committee recommended to put on hold for now. Mr. Tyler commended staff for the background information they provided for a thorough review.

Other issues discussed by the committee included the cost and benefits of the national exam and continuing education. The Board directed staff to move forward and report back at the January meeting.

Mr. Hedges made a motion and was seconded by Ms. Gadinis to accept the report of the Licensing and Examination Committee.

Public Comment

Kirby Morris, NIC, encouraged the Licensing and Examination Committee to also look at licensure of second tier esthetician to stay with the national and international trend.

Jerry Gardner, Elite CME, offered a packet to the members who were not in attendance at the committee meeting regarding continuing education.

Dian Torres, Independent Consultant, again addressed her concerns regarding private versus public education. She reiterated discussion by the committee about the board having limited control over the junior college schools. She noted it would be helpful to put all the different agencies' standards under one umbrella.

The motion was approved by a 7-0 vote.

8. Agenda Item #8, REPORT OF THE EDUCATION AND OUTREACH COMMITTEE

A quorum was not available at yesterday's meeting, therefore no formal report was presented. Ms. Walters reported on committee's discussions which included having outreach for education, development of brochures and consumer fact sheet, enhancing the website for better access, developing a list of trade shows, and media involvement. Mr. Tyler also suggested to explore the use of mall kiosks for outreach, this was done in the past and there was no charge.

9. Agenda Item #9, REPORT OF THE ENFORCEMENT AND INSPECTIONS COMMITTEE:

Mr. Hedges reported on the meeting of the Enforcement and Inspections Committee held yesterday. The numbers are looking good. Mrs. Madsen, Enforcement Manager, reviewed the specific quarterly update statistics. No backlogs are expected for the DRC in Southern California. Mr. Hedges stated at the last San Jose DRC hearings he noticed more appeals from the pedicure sweep that was done. The inspection team conducted over 1,000 inspections monthly and 2,791 citations were issued in the last quarter. Mr. Hedges noted the inspectors are working very hard; he asked them to stand and introduce themselves.

The inspectors worked on a report and it was discussed by the committee to recommend to bring to the full Board. Some changes were recommended to include adding valid and unexpired license, adding examples of disposable items i.e. orange wood stick, buffer block and drill file, change receptacle to container as the uniform word for the towels.

a) Approval of Expert Witness Handbook:

Mr. Lloyd asked if other Boards have this. Ms. Johnson stated yes and further stated that other Boards have both the handbook and the guidelines, however, it is unique for our licensees.

b) Approval of Disciplinary Guidelines.

Mr. Hedges made the motion and was seconded by Mr. Tyler to move both items forward. The motion was clarified to approve the committee's recommendations. There was no public comment. The motion was approved by a 7-0 vote.

10. Agenda Item #10, COMPUTER BASED TESTING (Discussion of Organizational Conflict of Interest: Thomson Prometric and Thomson Delmar Learning (Milady))

Legal Counsel Gary Duke explained Thomson Delmar Learning is a large supplier of cosmetology textbooks. Thomson Prometric recently bought Experior (2004), the testing provider for many boards within the Department of Consumer Affairs. The issue of conflict of interest came up in the past. Mr. Duke discussed his research regarding this issue. He explained the meaning of organizational conflict of interest. He noted when Experior originally contracted with DCA in the late nineties that provisions were placed into the contract to create a confidentiality firewall. He reviewed the original provisions. An important item states confidential information shall not be disclosed to parent companies. In 2005 the master services agreement was amended to place Thomson Prometric in place of Experior in the contract. Consequently Thompson Prometric is subject to the very same procedures and confidentiality provisions as was Experior. The contract defines the item banks and items are owned by the state, and the agency. The contractor may not release or use the information to any third party without the express written permission of the state and ordering agencies. Therefore, Thompson Prometric would be in severe legal violation if they were to share any information with Milady or any other organization. Mr. Duke surmised there appears to be enough firewalls in the master services agreement that any perceived conflict of interest is obviated. The contract is coming up for renewal in 2007.

Public Comment

Martine Edwards of Milady addressed the board. She presented and clarified the organization chart of Thompson. She assured both organizations were of the highest integrity.

11. Agenda Item #11, DISCUSSION: WALLET SIZE PERSONAL LICENSE

Ms. Underwood noted staff has been approached about providing a wallet size personal license that licensees can take with them, i.e. when buying beauty supplies or attending tradeshows. Staff will look into this issue and bring their findings back to the board. The "portable" license would be in addition to the normal license to be displayed on the wall. Mr. Tyler made the motion and was seconded by Mr. Hedges to direct staff to conduct research on the feasibility of providing a wallet size personal license. Costs will also be determined.

Public Comment

Fred Jones, PBFC, also recommended fingerprinting be added, over the course of time as resources become available. "The industry strongly supports legitimizing and protecting the integrity of licensees."

Cynthia Menendez, Skyline College, commented on taking any consideration with prior licenses; putting a photo on the older licenses.

Ms. Gadinis noted fingerprinting is required for a massage license. Mr. Duke confirmed that boards in the Department of Consumer Affairs have the authority to require fingerprinting and a background check. Cost may have been a factor as to why the board does not do it at this time. Mr. Duke indicated the Department of Justice utilizes Livescan, which can be located in police and sheriffs departments throughout the state. Mr. Duke estimated the fee for Livescan is approximately \$58 to the licensee. There would also be considerable fees to get the program initiated and maintained, additional staff would be needed. The information can only be used for the initial license. Ms. Gadinis reiterated the board needs to make an educating decision and will rely on staff to bring back their research. Staff's report should go to the Licensing and Examination Committee prior to coming before the full board.

The motion was approved by a 7-0 vote.

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

Alternates to committees to maintain quorums, report on strategic plan and add fingerprinting to the March Board meeting (not January).

13. Agenda Item #13, PUBLIC COMMENT

Kirby Morris, NIC, requested that his organization be allowed to work with staff on the issues of brochures and consumer fact sheets. He would also like to do research on what other states are using for wallet size licensure. He also requested approval from the board to contact DCA regarding the review of the national exam program. He asked it be placed on the next agenda for board vote.

Yolanda Duran, Beauty Tech, Pro., questioned about the waxing certificate/license. Many chemicals and products are being used and users need extensive knowledge. She commended the 500 hour requirement but hoped the material being taught could be regulated. She knows of schools that sell hours and certificates. She talked about an externship program, whereby a student could work within the process.

The Board adjourned for lunch and reconvened at 1:00 p.m.

14. Agenda Item #14, PETITION FOR REINSTATEMENT

The Administrative Law Judge conducted the proceedings for the petition for reinstatement.

- Phuong M. Nguyen

Closed Session:

Decision on Reinstatement and Disciplinary Cases (Closed Pursuant to Government Code Section 11126©(3)).

Open Session:

15. Agenda Item #15, Adjournment

There being no further business, the meeting was adjourned.