



State and Consumer Services Agency – Arnold Schwarzenegger, Governor

BOARD OF BARBERING AND COSMETOLOGY

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MEETING OF THE BOARD OF BARBERING AND COSMETOLOGY

MINUTES OF OCTOBER 4, 2009

**Courtyard Marriott
Mission Valley
595 Hotel Circle South
San Diego, CA 92108**

BOARD MEMBERS PRESENT

**Jerry Tyler, President
Richard Hedges, Vice President
Deedee Crossett
Frank Lloyd
Ken Williams**

STAFF MEMBERS PRESENT

**Kristy Underwood, Executive Officer
Denise Johnson, Ass't Executive Officer
Theresa Rister, Administrative Assistant
Gary Duke, Staff Counsel
Richard Loa, Staff Counsel**

1. Agenda Item #1, Call To Order/Roll Call

Mr. Tyler called the meeting to order at 10:00 a.m. The board members and staff members present introduced themselves.

2. Agenda Item, #2, President's Report

Mr. Hedges reported he and Ms. Crossett attended a meeting in July of the Asian community. They answered questions on the board and were well received. In September, he traveled to San Jose to attend a meeting with Vietnamese nail professionals.

Mr. Williams recently attended a school forum in Pasadena.

Mr. Tyler requested all cell phones be turned off. He also requested all public comments be kept to the point of the subject at hand.

Mr. Tyler discussed recent events he had attended. These included the meeting of the NIC, a national board. He introduced Jackie Dahlquist, the newly elected president. Mr. Tyler continues to write monthly articles called Blue Highways for the California Stylist newspaper.

3. Agenda Item #3, Executive Officer's Report

Ms. Underwood reported a cosmetology and manicurist exam were held at the state prison. Five cosmetologists took the exam and four passed. Two manicurists took the exam and both passed.

Ms. Underwood reported on the recent live webcast. Inspections and violations were discussed. Multiple questions were answered. It was extremely successful.

The regulations have been translated into Spanish and are available online. The Vietnamese version will be available shortly.

Mr. Williams commended Ms. Underwood and her staff for being proactive.

4. Agenda Item #4, Approval of Meeting Minutes:

- **June 29, 2009 – Board Meeting:** Upon a motion by Mr. Hedges, seconded by Ms. Crossett the minutes were approved by a 5-0 vote.
- **June 30, 2009 – Board Meeting:** Ms. Crossett noted a change on page 4, #8. Upon a motion by Mr. Hedges, seconded by Mr. Lloyd, the minutes were approved by a 5-0 vote.

5. Agenda Item #5, Board Ethics Orientation

Mr. Loa gave a presentation on board ethics. Two areas were covered: portions of the Open Meetings Act and Disqualification and Abstention (conflict of interest and/or personal bias). Making ethical decisions ensures the decisions are made in compliance with the law. Closed session was discussed. Requirements of the Open Meetings Act was discussed, as well as exemptions. Examples were provided. A list of the top ten rules of the Open Meetings Act was presented and discussed. Guidelines for disqualification and abstention were discussed.

Public Comment:

Fred Jones clarified the Bagley Keene act allows individual discussions but not collective decisions outside of the meeting.

A female member of the audience asked if she was allowed, as a member of the industry, to email the board about questions she had. The Bagley Keene Act governs boards and not the public. The board noted if they received an email they would probably turn it over to staff.

6. Agenda Items #6, Review of Board Statistics

- **Licensing:** Staff is keeping up with the workload.
- **Examinations:** Exam results were presented and discussed.

- **Disciplinary Review:** Mr. Hedges noted he and Mr. Lloyd have committed a lot of time to keep up with the committee. Ms. Crossett has also found meeting places in San Francisco at no cost. They and staff have worked to streamline the paperwork.
- **Enforcement:** Education is ongoing.

7. Agenda Item #7, Budget Update

Ms. Underwood discussed the current budget. Adjustments were made to accommodate the reduction in the state budget. The reserve is healthy and stable. Ms. Crossett expressed her concerns about the funds spent on exam administration. She believed the money could be spent elsewhere, possibly in education and conducting exams in schools. Ms. Underwood agreed to do research and report back to the next meeting. Mr. Williams noted in North Carolina the students who earned 70 to 74% on the test were given an assistance license and encouraged to work for six months to enhance their knowledge. He believed possibly other options should be looked at. Mr. Hedges believed the first step would be to bring up the quality of the schools. The schools need to be held accountable. Schools need to be vetted prior to being allowed to do testing.

8. Agenda Item #8, Status on Legislation

- **AB 48 Creation of BPPVE:** This bill is on the Governor's desk. Ms. Underwood noted this bill prevents the board from having full oversight of schools.
- **SB 549 Cultural Background Requirement** This bill is on the Governor's desk.

Staff is awaiting news on the signing of the above bills that are on the Governor's desk. They were scheduled to be reviewed on October 11.

Public Comment:

Fred Jones of the PBFC, noted the author of the bill was favorable to give the board sole oversight. However, he was pressured by other boards who then wanted sole oversight in their industries. A hearing will be scheduled. Regarding the accreditation issue, he noted only regional agencies are exempted and not national. The author tried to limit the exemptions and keep the revenues to run the program. He noted it was a work in progress.

9. Agenda Item #9, Proposed Regulations Update

- **Approved of Schools, Amendment to Title 16, California Code of Regulations, Section 941:** Currently with the Department of Consumer Affairs for review. After approval is received, it will be reviewed by the Office of Administrative Law.

Public Comment:

Female audience member asked about the apprentice approval. She stated she was very frustrated with the process. The Board educated her that this was not the time to discuss. She could bring her concerns at the end of the meeting during public comment. .

At this time, the meeting was adjourned for a 10 minute break.

10. Agenda Item #10, Review and Approval of Proposed Draft Regulatory Language

- **Manicure Curriculum**
- **Barber Curriculum**
- **Extern Curriculum**
- **Electrology Curriculum**

The above curriculums need to be approved for the public hearing to be held. Mr. Hedges made a motion to approve all the curriculums as presented. Mr. Williams seconded the motion.

Public Comment:

Angela Regalado asked about the final approval process. She asked if it was possible to add an item on regarding going green in businesses and chemical exposure under health and safety for manicuring. Ms. Underwood noted the board was moving the items forward and a public hearing will be held in the future with public comment. She also asked if the board would be interested in participating in a committee with OSHA and other agencies to develop standards. Staff and the board recommended this issue be included in a future agenda.

The motion was approved by a 5-0 roll call vote.

11. Agenda Item #11, National Exam Update

- **Update on Written Exam Statistics:** The exam results were broken down in English, Spanish and Vietnamese.

Public Comment:

Dana Pancoe of the NIC noted steps were taken to lessen the stealing of test answers. They also received guidance to develop a lexicon for translated tests.

- **Review of Practical Audit and Discussion on Adopting National Practical Exam:** The board agreed they would like more information prior to approval. Staff was not involved in the audit; it was reviewed by experts. Ms. Underwood noted if the exam was implemented the licensing fee would have to be increased by \$15. It would then be self-sustaining. Start-up costs were involved. Ms. Crossett asked for clarification on certain comments and the overall report. Ms. Underwood stated the staff that developed the report could be asked to speak to

- the board at the next meeting All agreed this may be helpful. Ms. Crossett believed the practical exam required a more detailed understanding by the board. Mr. Hedges clarified the board will continue to administer the test but using the NIC material.

Public Comment:

Dana Pancoe gave a brief background of the report and the process of obtaining the information. She noted NIC published every task for the practical exam so examinees can understand every expected behavior. The requirements were very specific.

Nadene Bruders asked for clarification regarding disinfection. It was noted it was included.

Fred Jones noted the PBFC's position was to adopt the full NIC test. The state's practical exam needed to be updated to avoid regurgitation of answers by students. The NIC would keep updated and be more relevant. He felt the \$15 increase in fee was well justified. Timing, cost and relevancy should be reviewed.

Peter Westbrook agreed the report needed to be more clarified.

Maggie Le commended the board for acknowledging Vietnamese workers. Mr. Tyler asked Ms. Le to save her comments for the public comment section.

Ms. Crossett noted it was very important the board move forward in a responsible and well-educated way. She believed it would be a good idea to bring in a rep from SMT regarding the report. Ms. Underwood noted even if the board decided to move forward there would be a lot of work involved in the future. Mr. Tyler noted the new exam would be updated and more relevant. He agreed the increase in testing fees was well justified. Ms. Crossett made the motion to direct staff to move forward on the NIC process and bring a representative to answer questions to a future meeting. Mr. Hedges seconded the motion and it was approved by a 5-0 vote.

Theresa Le of UFCWS, asked if the exam would cover aestheticians and manicuring. She asked if they would be presented only in English. (The test would be also be available in Vietnamese and Spanish)

A ten minute break was called at this time.

12. Agenda Item #12, Industry/Consumer Outreach Update

Mr. Williams recommended participation in the upcoming SIBE show in Los Angeles.

13. Agenda Item #13, Discussion on Remedial Education for Licensees

Mr. Williams stated this was a very important issue. Sometimes a punitive fee or fine did not get the message across and people accused of gross negligence required remedial education for retraining. Mr. Hedges agreed, especially for first time offenders. However,

follow up and strict conditions were needed. Ms. Underwood noted this would require legislation. Current legislation required immediate action for foot spas. Other offenses were dealt with in the settlement terms requiring remedial education. They are also placed on probation and staff thoroughly monitors this. A formal request to require educational hours to offset the fine would need legislation.

Public Comment:

A female member of the audience asked about remedial education offered in various locations and languages. She believes it will help.

Jaime Schrabek, Precision Nails, asked if the probation period was variable? (It was a set period of time) She asked if probation status was posted on the website? (Yes)

Ms. Crossett asked if the recommended school list could designate a school's pass/fail rate. Ms. Underwood noted regulations/standards would have to be set. Mr. Hedges agreed a person needing remedial education should not be sent to a remedial school. It was agreed it should be based on the pass/fail rate.

Peter Westbrook asked if the school list included all schools (Yes). But students are advised to contact their local school.

Mr. Hedges made the motion to ask staff to develop recommendations based on the board's comments to move toward preparing new regulations for remedial education. Ms. Underwood noted if a person who has been fined and is offered remedial education in lieu of paying the fine must be approved by legislation. She noted staff could look at what is available to licensees today and what regulations can be developed regarding attending remedial education at schools of 70% or higher pass rate. Mr. Hedges amended his motion to ask staff to review currently allowable remedial education regulations to only allow remedial education to be conducted at schools that are performing at an adequate level.

Ms. Underwood recommended staff provide the board with options at the next board meeting regarding remedial education. Research will be done regarding legislations and regulations, and the cost of proposed recommendations. Mr. Hedges withdrew his motion and agreed to the above staff direction.

14. Agenda Item #14, Discussion on Establishment Owner Qualifications

Mr. Tyler recommended an establishment owner who is not a licensee should be required to take an 8 hour course that would include health and safety. They currently were not required to do continuing education. The establishment owner license would protect the consumer and the licensees. He believed the establishment owner license would require legislation. Mr. Hedges believed the initial course should be more than 8 hours, possibly 12. It was agreed the establishment owner needed a stronger base of knowledge, particularly in sanitation. Ms. Crossett noted the license should be more specific, for example a barber should not be in charge of a manicuring salon. Ms. Underwood agreed this was not currently specified. An applicant for a new salon is not required to show their license. She noted the current statutory language states every salon must have a licensee

in charge, but it does not specify the kind of license. Ms. Crossett believed all licensees should be aware of sanitation. The current language cannot require education. The board agreed owners should be required to have a license. Mr. Hedges made the motion to request staff bring forward information and suggestions for alternatives to the establishment owner qualifications regarding education. Ms. Underwood noted the board did not meet again until January and it would be prudent to look for authors for possible legislation. Mr. Lloyd seconded the motion. Mr. Williams believed the establishment owner should be required to familiarize themselves with the board's rules and regulations as a written test. The board did not believe a written and practical test were necessarily required.

Public Comment:

Angela Regalado agreed with the continuing education for everyone. She agreed a training course should be required for the establishment license. Cal-OSHA required owners to have a health and safety booklet but it is not enforced. She wondered if the inspectors could check for this.

Peter Westbrook noted inspectors have been citing establishments for not having a licensee in charge. He agreed with the motion.

Jaime Schrabec asked how the regulations applied to corporation owners; a different license may be required. She noted mobile spas would need to be addressed. The establishment license should match the advertised names.

Jan Pazzola asked for clarification of the establishment license and licensee in charge. She did not know how it would protect the consumer. Who would be held accountable. Continuing education would be ideal.

A female member of the audience questioned the legality of the requirement of an establishment owner license. Legal counsel explained as landlord, they are responsible to make sure the property is in compliance with health and safety regulations. It should be included in the lease agreement and would cover non employee relationships. (It was noted the discussion was not to change the information; only to require an establishment license).

In summary of the motion, Ms. Underwood noted staff will move forward to search for authors for intent of having additional educational requirements for establishment owners and will bring back proposed language to the board in January. The motion was approved by a 5-0 vote.

15. Agenda Item #15, Discussion on Advanced Esthetician License

NIC confirmed they had an advanced esthetician test available. It is available in other states. Most states require a 1200 hour course for this second tier (as opposed to 600 hours for the first tier). The language needs to be broad. Mr. Hedges made the motion that the issue be moved forward and direct staff to review the medical board to ensure there was no conflicts. Mr. Williams seconded the motion. Ms. Crossett would like to see results of the research. She believed most people were getting extra advanced training on their own. Ms. Underwood noted this would require legislation. Staff will research other states and talk to NIC, and bring back the results of their research.

Mr. Hedges stated staff has been requested to do a lot of work for the January meeting, and asked them to use their discretion to prioritize the research requests. Staff has been reduced due to furloughs and cutbacks.

Public Comment:

Florence Johnson supported the advanced license with extra continuing education.

Jaime Schrabecck recommended the legislation include the scope of practice to include the whole body such as wraps, facials.

Jan Pazzola requested information on continuing education for all licensees. It was not it was not on the agenda to be discussed and could be discussed by her during public comment.

The motion was approved by a 5-0 vote.

16. Agenda Item #16, 2010 Board Meeting Schedule

The proposed 2010 schedule was presented. It was agreed to change the January meeting to San Jose.

Public Comment:

Jaime Schrabecck noted the IBF skin show was going to be held during weekend of the planned April meeting. She noted a lot of Californians attended the meeting.

17. Agenda Item #17, Establishment of Enforcement Committee

Mr. Hedges noted the duties of the enforcement committee and DRC overlapped. It was agreed they could be held in sync and be a public meeting if proper notice was provided. The Enforcement Committee will report back to the board.

18. Agenda Item #18, Public Comment

Theresa Le, UFCWS, thanked the board and Mr. Hedges for attending their conference. Their mission was to work with Vietnamese clients through transition, provide training and classes, and assist in disciplinary hearings.

Linh Pham, UHANA, asked about the progress of the portable license. Ms. Underwood noted legislation would be required because a licensee is not allowed to have more than one license. Getting a duplicate is even difficult. It is a violation to photocopy your license. Mr. Hedges noted first offenses were minor. Ms. Crossett noted the consumer has a right to view the license and it needs to be big enough to see. This protects the consumers to assure a legitimate license. She also asked when the online videos would be captioned in different languages. Ms. Underwood stated there was only one video being developed at this time and there are no plans to translate. Future how to videos are being made, then translated. Mr. Hedges recommended a program for hearing impaired.

She also asked about the recently reviewed rules and regulations book and asked for a Vietnamese translation. Ms. Underwood noted the first attempt to translate into Vietnamese laws and regulations contained many errors. It will be available online next week. However, she noted the reading level of some Vietnamese may not be high enough. Her organization was working for multiple local and county ordinances to deal with chemicals in the work place. All agreed health and safety was very important.

Ms. Crossett noted some salons were trying to cutback and using cheaper materials, which may be less safe. Ms. Crossett stated she would personally support such ordinances but it would not be in the scope of the board. Mr. Hedges noted that most bottles were not labeled with their ingredients and this may be a first step. The female audience member was directed to work with staff.

Nadene Bruders asked if the performance criteria had been updated from 2005. (In the process) Why does the license renewal not contain a picture? (Pictures came from initial testing. Primarily for examination security purposes and not ongoing identification.) She noted it was important to revisit the licensing of instructors. Ms. Underwood noted the proposal to take over the oversight of the schools from BBPVE included this.

Katie Gardener, an instructor, noted she had an instructor's license from practicing in Illinois. She noted some schools were only hiring instructors that have had a California cosmetology license. She noted the Illinois license required 14 hours continuing education in psychology and methodology of teaching courses. She was given misinformation from a former board member. She noted the textbooks were written at a 10th grade level which some students were unable to understand. The newspapers were written at a 6th grade level to appeal to the masses. She noted Illinois also provided portable licenses.

Theresa Le, UFCWS, brought to the board's attention the practice of price slashing which affects public health and safety. Mr. Hedges noted consumer knowledge is important to know if prices are too low then corners have probably been cut. Price fixing is illegal.

A female audience member asked about inspector training. Ms. Underwood noted the inspectors are trained in all aspects of a salon. She has received many complaints about the inspectors. Mr. Lloyd noted the complaints at DRC have diminished and complaints need to be put in writing to be addressed. It was agreed inspectors should not be rude. Ms. Underwood stated all inspectors should present their ID when entering a business. She recommended reviewing the self inspection sheet that was available online in Vietnamese and Spanish. A survey card is also provided if an inspection results in a citation. Ms. Underwood stated they need to know about inspector complaints right away with details so they can be addressed correctly. The audience member also recommended something similar to traffic school – remedial education was being researched.

A female audience member asked about approving of school licenses. Ms. Crossett explained the prior process. Even though the BBPVE was discontinued, the rules and regs still require approval before a school can be opened. At this time, no new schools can be approved because the board has not been given the legal authority. Proposed regulations are in the works. Legislation is on the governors desk to be signed by October 11. If the bill is signed, the process will be reinstated. The board's hands are tied at this point and a timeframe could not be given. If the bill was signed, information should be available in January. The board and staff expressed empathy for her concerns.

Mr. Lloyd recommended she talk to her state representative to encourage the Governor to sign the bill.

Jan Pazzola commented on the need for continuing education. Ms. Underwood noted it was a legislative priority but an author cannot be found. It will be pursued in the upcoming year. Jan believed it should be required every two years (minimum 20 hours) to keep everyone up to date.

Phuoc Dam, UHANA, thanked staff for putting the survey on the website. He encouraged all materials be available for limited English licensees. He noted a situation where a customer refused to pay for a manicure because they used unclean tools, and threatened to call the inspector. Ms. Underwood stated this cannot be done. The complaint must be done in writing. Complaints are reviewed for legitimacy prior to an inspection.

In addition, inspectors don't take phone calls. Mr. Hedges recommended the police be called for the non paying customers.

Katie Gardener commented on continuing education – one hour per month for 2 years equals 24 hours.

Magdalena commented on school applications. She was frustrated, like others, because she has spent the money to open her school but could not get approval. Legal counsel noted franchises are not always exempt. He clarified the board had some authority to approve schools provided they meet the curriculum. However, per the rules, they must also be licensed by the BPPVE, which no longer exists. Proposed legislation will provide this authority. Legal counsel explained the legislative process. The regulations were currently going through the internal process with the Department of Consumer Affairs.

A female audience member asked for clarification on fines versus revenue. Legal counsel explained the fines were not revenue generators, and were not expensive. The money went into the board reserves. She also asked if the survey results were online (No).

David Mojadidi, outlined his specific problems he had with opening his school. He passed all the inspections and given preliminary approval on June 25, 2009. He was told final approval would be received in two weeks. He hired staff but never heard back. The board directed the gentleman to get his paperwork together and talk to Ms. Underwood. Mr. Hedges noted the board approved to discontinue issuing licenses on June 29, 2009.

19. Agenda Item #19, AGENDA ITEMS FOR NEXT MEETING

CLOSED SESSION

20. Agenda Item #20, Discussion on Reconsideration and Disciplinary Cases

OPEN SESSION

21. Agenda Item #21, Adjournment

With no further business, the meeting was adjourned.