



**CALIFORNIA STATE BOARD OF  
BARBERING AND COSMETOLOGY**

**MINUTES OF APRIL 30, 2012**

**Department of Consumer Affairs  
1625 North Market Blvd.  
Hearing Room S-102, First Floor  
Sacramento, CA 95834**

**BOARD MEMBERS PRESENT**

Christie Truc Tran, President  
Joseph Federico, Vice President  
Wen Ling Cheng  
Frank Lloyd  
Richard Hedges  
Deedee Crossett  
Katie Dawson

**STAFF MEMBERS PRESENT**

Kristy Underwood, Executive Officer  
Gary Duke, Legal Counsel  
Tami Guess, Board Analyst

**1. Agenda Item #1, Call to Order/Roll Call**

Ms. Tran called the meeting to order at 10:00 a.m. She welcomed the attendees to the meeting. Mr. Hedges announced that Ken Williams', a strong member in the industry, mother recently passed away. Ms. Tran then adjourned the meeting to the closed session.

The Board returned from closed session and Ms. Tran again opened the meeting.

**2. Agenda Item, #2, 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)]*

**Bruce Lazams** representing Laney College asked if the Board could address item 9 first. He noticed that his students were concerned about fish pedicuring. He also asked if cosmetologists needed to be concerned about hair weaving.

**Fred Jones** of the Professional Beauty Federation announced that their 12<sup>th</sup> Annual Welcome to Our World Event is the afternoon of the meeting, from 3:00 p.m. to 7:00 p.m. on the South Steps of the State Capitol. He invited all in attendance.

### **3. Agenda Item #3, Board President's Report**

Ms. Tran had nothing to report. She invited the other Board members for anything to report.

### **4. Agenda Item #4, Executive Officer Report**

Ms. Underwood noted the Board is starting its own Facebook page on May 1, 2012. Tami Guess has been working on it. She also informed the Board that another examination has been scheduled at a State Correctional facility on June 5, 2012. She will report the results at the next Board meeting. Ms. Underwood reported the transition to the national exam since October 2011 has gone extremely well. All reports have been positive.

- **Review of Board Statistics**

Ms. Underwood provided a brief summary of the Board statistics. Mr. Federico asked why more establishment applications were approved as compared to cosmetology licenses. Ms. Underwood noted the establishment application only required an application review. The Cosmetology application required a review to determine eligibility to take the examination. Mr. Hedges asked why there was such a delay for testers who fail their first test. He was told there was a six month wait between tests. He hoped this could be improved and asked if using the doll head models will help. Ms. Underwood noted they have seen less people turned away from the exam because a lot of the disqualifications were due to models. Paul Steiger, from Rent a Kit, confirmed this. They have noticed a decrease in no-shows. The pass rate has also improved from 72-76 to 90 percent. Mr. Steiger acknowledged the switch to doll heads was challenging due to supply and demand. The price for doll heads has increased 25 percent.

Ms. Underwood stated they were six months behind a few months ago due to reduction in staff. They have now hired new staff at both facilities and the delay has reduced to three months. Ms. Crossett hoped this could be reduced even further. Ms. Underwood stated that an additional testing site would be needed. The volume of applications has remained steady for cosmetologists. The two examining facilities test five days per week. Ms. Crossett hoped they could be creative to allow more tests to be done. The wait could have a strong impact on new graduates. Ms. Underwood agreed and mentioned the board has looked into various options. Additional days would affect overtime and expert examiners' allotted hours. In addition, they only have a certain amount of rooms available. They test 48 students a day at the Glendale facility.

Mr. Hedges noted the Disciplinary Review Committee (DRC) hears 240 appeals per month. They receive approximately 300 appeals from the north and south. They fall 60 behind per month. He commended Mr. Lloyd for his innovative ideas. One idea was to have the written appeals sent to them and they could meet centrally to discuss them without a staff member. Staff could be contacted via phone with any questions. Their goal is to take no longer than 60 days.

Mr. Hedges noted the budget was in good standing. He wondered if they would be receiving additional funding in the future to rehire staff. Mr. Federico asked if the DRC was publically noticed. It did not have to be with only two members attending. Ms. Crossett stated the face-to-face meetings provided more opportunity for education. She recommended skypping to encourage this. Mr. Duke stated this would be legal as long as the general public could be included; it may be a technological issue. Ms. Underwood agreed staff should look into it.

- **Sunset Review Update**

Ms. Underwood noted the sunset review is coming and is due to the Legislature November 1, 2012. Staff is preparing the report and the Board will review the drafts. Ms. Crossett recommended discussing schools and Bureau for Private Post Secondary Education (BPPE) in the report. Ms. Underwood assured the Board these issues will be included in detail. She believed the draft will be available at the July meeting.

- **Information on the Board's Vehicles**

Ms. Underwood provided information on the Board's vehicles. The Governor has issued an order to reduce the board's vehicles. This is a big concern for the Board as there are vehicles that are over their mileage limit and need constant repair. The executive order prohibits the purchase of new vehicles. Inspectors need reliable vehicles. They have received cars from other Boards or rent them from Department of General Services (DGS) State garages "trippers". However DGS is closing all their state garages other than in Sacramento. They can rent from Enterprise but the inspectors would be required to pay for their own gas and submit claims for reimbursement. This is not feasible. The Voyager gas cards prohibit gas being purchased for anything other than a state owned vehicle, not a rental. Ms. Underwood has contacted the Deputy Director of the Department to discuss this and was hoping a meeting would be held soon. No cars are available for any future hires. Mr. Hedges agreed buying gas would be a burden on the inspectors. Mr. Duke stated the DGS would be responsible for negotiating a deal with Enterprise.

Ms. Underwood noted two more inspectors were assaulted in the past two months. This is a big concern. They need to have access to their vehicles and they need to be reliable. Cars have been vandalized.

- **Update on Inspector Class Study**

An outside company was contracted with to complete a study to ensure the inspectors were appropriately classified. The report believed they were properly classified but recommended a pay increase be negotiated for the inspectors. Ms. Underwood noted it is a very difficult job for very little money. Mr. Hedges wondered if the Board could use on-call inspectors to go to difficult locations. Ms. Underwood explained they did have a Division of Investigations (DOI) who are sworn police officers. If an inspector has a problem they will let the Board know and they will request security from DOI, which is costly.

The Board took a five minute break at this time.

## 5. **Agenda Item #5, Approval of Board Meeting Minutes**

- **February 6, 2012**
- **March 19, 2012**

Upon a motion by Mr. Federico, seconded by Ms. Crossett, the minutes were approved by a vote of 7-0.

## 6. **Agenda Item #6, Regulations Update**

- **Scoring Methods in Examinations – Approval of Modified Text and Final Statement of Reasons.** The questions by the Office of Administrative Law have been addressed. A 15 day notice was done and no comments were received. There have been no changes in the language. Upon a motion by Ms. Chan, seconded by Mr. Hedges, the Regulations were approved by a vote of 7-0 as written.
- **Unregulated Practices – Decision on Whether to Pursue or Withdraw.** This regulation would require a salon to post a notice of services they provide that are not regulated by the Board. The State and Consumer Services Agency had concerns that they were requiring licensees to post information they may not know and it could not be enforced. Additional signage was also an issue. Mr. Duke agreed the current proposed regulation would require a licensee to make a legal determination on the regulatory agency. Mr. Hedges proposed the regulation be withdrawn as it will likely be rejected. Ms. Dawson recommended the regulated services be posted; Ms. Underwood noted this would change the package as proposed. She clarified unregulated services are listed on the establishment license. Approximately two complaints about permanent makeup are received yearly. Mr. Hedges made the motion to withdraw the regulation and ask staff to bring alternatives before the Board. Mr. Federico seconded this motion and it passed by a 7-0 vote.

### **Public Comment**

Lydia Justice noted that permanent makeup is regulated by the County.

- **Inspection of Examination Papers / Text and Reference Books for Students – Approval of Specific Language and Final Statement of Reasons.** This regulation eliminates the section which allows for the inspection of an examination paper. This is no longer applicable with computer-based testing. In addition, the performance criteria is irrelevant and schools should not be required to maintain that onsite. Written exams cannot be appealed. Mr. Hedges made the motion to remove Section 933 Title 16 of the California Code of Regulations. Ms. Crossett recommended providing diagnostics to show students where they were weak. Ms. Underwood agreed this was a good idea, but stated it would be a computer change and they are in the process of moving to the new computer system and no changes are being allowed. Mr. Federico seconded the motion and it was approved by a 7-0 vote.

## 7. **Agenda Item #7, Legislation Update**

- **Assembly Bill 1754 (Make up Artistry License)** The staff has received word that the author of this bill is not pursuing it at this time.

## 8. **Agenda Item #8, Discussion on Natural Hair Braiding**

Staff provided background information on braiding. Braiders were exempted from the Board's statute because it is not taught in the curriculum. It is specific that braiders are not to use combs and brushes. Ms. Dawson found it disturbing that hair braiders would be cited for using a brush or

comb. She also expressed concern over the effects on hair if braiding is not done properly. She believed there should be a regulation if they are allowed to practice for the safety of consumers. Ms. Underwood noted the statute reads "The practice of barbering and cosmetology do not include any of the following: ...natural hair braiding is a service that results in tension on hair strands or roots by twisting, wrapping, weaving, extending, locking or braiding by hand or mechanical device." Mechanical device can include a comb or brush. Mr. Hedges stated this language makes it difficult for the inspectors to determine exemptions. Mr. Duke explained the issue has been addressed by the Legislatures and was hotly contested at the time. Any changes would require a statutory change in law. Ms. Dawson felt this was necessary. She wondered if dermatologists testified. Ms. Underwood noted this issue could be added to the Sunset Report. Ms. Crossett expressed her frustration that pain and suffering had to be a precursor to change.

**Public Comment:**

**Fred Jones** of the Professional Beauty Federation of California (PBFC) recalled the court case in 1999. The argument was that the curriculums did not include hair threading and hair braiding. Since then, the curriculum has become more flexible. The word needs to get out to the schools to teach these skills. The legal and political argument could then be supported. He noted many other states have a natural hair stylist license.

Mr. Hedges agreed and wanted to pursue the issue further. He asked Ms. Dawson to work with him on the Enforcement Committee regarding this issue and she agreed. He felt Mr. Jones and legal counsel should also be involved. Ms. Crossett noted it is a health and safety perspective and not an ethnic issue. Graduates should be able to work with any hair type/structure. Mr. Hedges noted a lot of licensees go beyond braiding.

**9. Agenda Item #9, Discussion on Garra Rufa Fish Pedicures**

Ms. Underwood presented the research done by staff on this issue. They contacted the National Interstate Council of State Boards of Cosmetology, Incorporated (NIC) and communicated with other states but could not find another state that allows this procedure. Staff also spoke with the Department of Fish and Game who had concerns with the fish and their effect on the environment. Mr. Duke noted the Center for Disease Control has not investigated this issue or prepared a formal study. However, their website addresses some concerns by various states. A study was done by the National Health Services/Health Protection Agency in the United Kingdom. The report noted fish pedicures are extremely popular in the United Kingdom. The use of the fish for medicinal purposes started in Turkey over 150 years ago. It was introduced in the United States in 2008. It has become very popular in the United Kingdom and they have many fish pedicure establishments, all using the Garra Rufa fish. They are similar to a minnow and range in size from 1 to 4-1/2". The fish does not have teeth and many people think this is a safe process. The British Health Protection Agency provided guidelines how the Garra Rufa fish can be used safely. It entails an extreme amount of attention to ensure the water is clean. The report concluded that the use of the Garra Rufa fish can be done safely. The British were also concerned about the care of the fish. Any salon offering this procedure has to adhere to the requirements for maintaining fish in a decent manner. There is also a concern about the release of the fish into the wild. California Fish and Game expressed the same concerns. Mr. Duke noted clients can get scared when the fish get bigger so they are possibly disposed of at that time. In his research, Mr. Duke found one establishment in Oakland, California that advertised this service. However, he found they no longer

advertised and kept their fish tank in the back room. Mr. Duke read consumer reactions on Yelp. Some were positive, some were negative. An establishment has recently been advertising the service for free because the fish have gotten so big.

### **Public Comment**

**Victor Chang** noted various breeds of fish can be used; there is a breed that does not grow more than 7 cm and would not need to be disposed of. He corrected that Ohio did approve the practice in 2008. They told him they have not had any issues with consumer safety. No infectious diseases have been reported. He noted 32 states allow this practice. The medical opinion presented stated the procedure does not pose any undue risks. Mr. Chang offered to provide a physician to speak on the process. He did not believe the currently regulations apply. He stated it was no different than a pool or spa where people share water.

Mr. Lloyd asked Mr. Chang about his goals. Mr. Duke stated the practice has been regulated but not specifically. He explained Regulation 981 states “all instruments and supplies which come into direct contact with a patron and cannot be disinfected shall be disposed if in a waste receptacle immediately after use.” This means the fish would have to be disposed of after a single use, which would be impractical. The fish cost \$4 and this would not be cost effective.

**Adam Yeganeh** stated he has addressed the issue of fish disposal and keeping things sanitary for patrons. One solution was to have a fresh fish for each patron. This would eliminate any health risk and offer a peace of mind. He noted fish are a good fertilizer/compost. Once the fish are used, they could be sent to compost centers to be used for fertilizer. This type of business would provide taxes to the state, and include local fish farmers and hatcheries, and compost centers. Regulations 979, 981 and 980.3 will be met with the use of new fish for each patron and proper disposal. He also noted the receptacles would have continuous filtering.

Mr. Lloyd asked how Mr. Adam Yeganeh would like it to be regulated. Mr. Adam Yeganeh stated the fish should be 2 to 3 cm in length, hungry and young, to eat the dead skin. They are scavengers and would not be starved.

Mr. Duke asked how many fish were required per pedicure. Mr. Adam Yeganeh stated this depended on the establishment. He estimated 10 fish would be needed per hand and 10 per foot. Adam hoped the procedure could be done at a dedicated establishment and not at existing nail salons. However, he was not opposed to including it in a nail salon.

**Andrew Yeganeh** stated his proposal was for a dedicated Garra Rufa center, similar to a day spa. He believed the United Kingdom also had dedicated centers and were not incorporated into manicure centers.

Ms. Crossett clarified there were 18 states that do not currently allow the procedure. Mr. Duke stated these 18 states have specifically banned the process. Ohio is the only state that has approved it specifically. He noted the guidelines are cumbersome and it would be best to have dedicated centers. Mr. Hedges believed the procedure can be done but not in the licensed salons. He believed it could be done in a separate room but should not be called a pedicure. Adam Yeganeh explained he had a family business and hoped to expand. They did not have

cosmetology licenses and were not scientists. Their parents were pet shop owners. Ms. Crossett did not believe the procedure could be allowed due to the pedicure regulations. She did not believe the fish would survive the procedure. She recently read an article that reported there is still a risk of transmitting HIV and hepatitis with the fish as the fish tank can contain microorganisms. She noted if anything is done in a licensed establishment, the Board's regulations need to be followed. However, if they had a dedicated center and did not call it a pedicure, it would not fall under the Board's authority.

Mr. Duke noted the British report stated the degree of micro bacteria in the water is equivalent to the foot spas. He confirmed there were no incidents of blood borne diseases. The inspectors would have to know the differences between the fish. The Chinese Chin Chin fish look similar and have teeth.

Mr. Hedges asked if the gentlemen would be able to open a foot spa using the fish. Mr. Duke stated they could use different labels such as fish massage, however the purpose is still beautification and cleansing of the feet, which is under the jurisdiction of the Board. The men wondered if their proposed solutions would fall under the regulations. Mr. Duke stated the best way to allow the procedure would be through legislative change. Andrew Yeganeh asked if he could bring a physician to provide the Board with further information. Ms. Crossett believed it was beyond the Board's scope and it would take the approval of many other agencies.

Adam Yeganeh stated he was very familiar with aquariums and fish. He hoped to be able to import the fish to use in his business and sell to fish stores. Andrew Yeganeh clarified he wanted to get the fish from local hatcheries and use the fish in his own spa. This would stimulate the local economy. He noted the state only licenses hatcheries whose fish can be ingested.

Mr. Lloyd reiterated a legislation change would be needed to allow the practice. This could take a couple of years. He recommended they talk to their local assemblyman regarding a bill. Mr. Hedges stated there is a big concern in the United States about non native species and he believed various organizations would file lawsuits against the fish therapy. The Board agreed they cannot give their blessing for Garra Rufa therapy at this time.

#### **10. Agenda Item #10, Recommendations on Hand Hygiene**

Washing hands with soap and water versus sanitizer was discussed at the last meeting and staff has researched this issue. They found recommendations from the United States Food and Drug Administration (FDA), the Center for Disease Control (CDC) and the World Health Organization (WHO). Staff recommends putting a link on the website for proper hand hygiene. The CDC has a video and thorough information on proper hand washing. The regulation allows for hand washing and sanitizer. Mr. Hedges hoped the message addressing the need for proper hand washing could be strong on the website.

#### **11. Agenda Item #11, Discussion and Possible Establishment of Ad Hoc Committee on Strategic Planning**

The Board needs to come together to do an updated strategic plan prior to finalizing the Sunset Review. Ms. Underwood estimated it would take a half day meeting to do this and asked the Board to decide if they wanted to do it as a full Board or an ad hoc committee. She believed time is of the essence. Mr. Hedges agreed the committee be appointed. He agreed the Board needs to be

prepared for the Sunset Review. Ms. Underwood believed it would be best to meet face-to-face as a representative of Department of Consumer Affairs will be brought in to help.

The committee meeting would be noticed as a full meeting if all members wanted to participate. Ms. Underwood will contact everyone to set up some dates and locations.

Mr. Hedges made the motion to set up the committee and start immediately. Mr. Federico seconded the motion and it was approved 7-0.

**12. Agenda Item #12, Discussion on Allies Innovation Initiative**

Mr. Hedges stated he is on the Workforce Investment Board. He noted in certain counties, English as a second language has impeded workers' move up the corporate ladder. He asked fellow Board members to come to a meeting to find out more about the initiative. The idea of providing common sense ways to help students learn English could be implemented in schools. It could also help licensees become more efficient in English. The Board agreed to move forward.

**13. Agenda Item #13, Agenda Items for Next Meeting**

Presentation by the Allies Innovation Initiative, discussion on establishment owners not being qualified to serve as a licensee in charge, when a Cosmetologist or other licensee is not present in the salon. Discussion of hair clipper care and sanitation procedures. (use of clipper spray)

**14. Agenda Item #14, 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 Board.

The meeting was adjourned to the closed session.

**15. Agenda Item #15, Closed Session to Discuss Enforcement Cases**

- **Discussion on Reconsideration and Disciplinary Cases (Closed Pursuant to Government Code Section 11126(c) (3).**
- **Report on Potential Litigation (Closed Pursuant to Government Code Section 11126(e) (2) (B).**

**16. Agenda Item #16, ADJOURNMENT**

The board returned to open session. With no further business, the meeting was adjourned.