



**CALIFORNIA STATE BOARD OF
BARBERING AND COSMETOLOGY
MINUTES OF JANUARY 11, 2013**

**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
Deedee Crossett
Richard Hedges
Bobbie Jean Anderson
Wen Ling Cheng
Katie Dawson
Frank Lloyd (Absent)

STAFF MEMBERS PRESENT

Kristy Underwood, Executive Officer
Gary Duke, Legal Counsel
Tandra Guess, Executive Analyst

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

Ms. Tran called the meeting to order at 11:00 a.m. She welcomed the attendees to the meeting. The Board members introduced themselves.

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)]

Fred Jones, Professional Beauty Federation of California announced the setting of the date of their 13th annual Welcome to our World Event for Monday, April 29th, south steps of the State Capitol.

Ms. Victoria Martinez from Bellflower Beauty College, Lakewood, California, introduced herself and stated her concerns with the requirements and the time it is taking to open her beauty college. She is wondering if the Board has any power to exert on the Bureau of Private Post-Secondary Education. She is concerned with how long the Bureau is taking to approve her school. She brought letters for each member.

Mr. Hedges stated that part of the Board's vision is to make the schools approval process part of the Board, which would take legislation. Board meeting comments will be embedded in the record

and most likely will become part of their ammunition for making that case with the California Legislature.

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

Ms. Tran did not have any particular items to report. She thanked Mr. Hedges, Mr. Lloyd, and Ms. Kristy Underwood who have helped her throughout the years. Ms. Tran congratulated Mr. Hedges for his reappointment by the Senate Rules Committee and welcomed Bobbie Jean Anderson as a new Board member.

Mr. Hedges thanked the Board and public members for their support of his appointment by the Senate Rules Committee.

4. Agenda Item #4, Annual Election of Officers

- Upon a motion by Mr. Hedges and a second by Ms. Tran, Joseph Federico was nominated as the new President of the Board of Barbering and Cosmetology. His term will continue until the end of this year. Ms. Tran called for further nominations. Hearing none, the motion was approved by a vote of 7-0.
- Upon a motion by Mr. Hedges and a second by Mr. Federico, Wen Ling Cheng was nominated as Vice President of the Board. Further nominations were called for. Hearing none, the motion was approved by a vote of 7-0.

Public Comment

Fred Jones pointed out historic nature of Ms. Tran's holding the position of Board president.

Mr. Hedges stated the Board was privileged to have had Ms. Tran as president.

5. Agenda Item #5, Appointment of Committee Members

Mr. Federico asked Board members' preference for committee membership. Ms. Underwood asked each member to state which committee they would like to serve on. Committees are limited to four members and there may be alternates. Everyone is asked to be an alternate for the Disciplinary Review Committee, which meets monthly.

- Mr. Federico: Disciplinary Review Committee; Legislative and Budgets Committee; Education and Outreach Committee
- Ms. Tran: Disciplinary Review Committee.
- Ms. Crossett: Enforcement and Inspections Committee; Education and Outreach Committee; Disciplinary Review Committee; Licensing and Examinations Committee
- Mr. Hedges: Licensing and Examinations Committee, Enforcement and Inspections Committee, Legislative and Budgets Committee, and Disciplinary Review Committee.
- Ms. Crossett: Licensing and Examination Committee; Enforcement and Inspections Committee
- Ms. Dawson: Licensing and Examination Committee and Enforcement and Inspections Committee
- Ms. Anderson: Legislative and Budget Committee and Disciplinary Review Committee
- Ms. Cheng: Legislative and Budget Committee and Disciplinary Review Committee

6. Agenda Item #6, Executive Officer Report

Ms. Underwood noted that later in the agenda there will be an update of the Enforcement Committee and she recognized people who have assisted the Board in the compilation of the suggested Regulation changes.

- **Review of Board Statistics**

Statistics and Executive Officer's Report are provided in the packet under Item 6. Nothing too different than normal statistics. Ms. Underwood stated that they are moving forward with the new Breeze database project after a delay and are looking to go live very soon. Ms. Underwood called for any questions on any statistics.

Mr. Hedges: The Disciplinary Review Committee (DRC) has been operating effectively. We have fallen behind because of the amount of written testimony letters coming before the DRC and have had to change some of the protocols for the written testimony letters. Changes include the swearing under penalty of perjury statement now included on the letter and denying people with multiple citations.

Ms. Crossett noted that exam results have gone up a little bit. The average pass rate for the written in cosmetology is 57, which seems low. Ms. Underwood stated they would look into it and make sure the data is going in the right place. Ms. Crossett asked if there was a way to speed up the process of retaking the written tests. Ms. Underwood stated it depends on how fast the applications are processed through the office and her feelings were the retake applications were processed quickly, within just a few weeks. Ms. Crossett also asked how the statistics would be listed in the new database program, by year or by quarter. Ms. Underwood stated that was not determined yet.

Mr. Hedges mentioned that the Sacramento Bee stated the State will actually have a larger cost per employee but fewer employees because the Governor is ending the furlough days and wondered if this would help the Board with workload. Ms. Underwood stated no. It's a day off a month right now, but the employees are still working. When furloughs were implemented, the Board did not see an increase in their workload. Examination schedules are not affected.

Ms. Crossett suggested a little PR as part of the Board's education outreach. It was noted that the Board is still under the Governor's Executive Order not to travel. Ms. Crossett felt that it is important to get the message out that the Board is there to help. It was noted that the Board is under the new fee schedule.

7. Agenda Item #7, Approval of Board Meeting Minutes

- **October 22, 2012**

Upon a motion by Mr. Hedges and seconded by Ms. Tran, the minutes were approved by a 7-0 vote.

8. Agenda Item #8, Update on Sunset Review

Ms. Underwood stated that the Board would like to keep this item on the agenda as it starts coming into 2013 and while the Board is getting prepared for the Sunset Review hearing. At this point, she does not have an update. The report was submitted to the Legislature and when she does have any information, she will pass it onto the Board.

Mr. Hedges had a request on the Sunset issue. He would like to be included as a Board member if at all possible in the Sunset hearings since he has previously been through one.

Public Comment

Sarah Mason of the Senate Committee on Business, Professions and Economic Development, thanked Ms. Underwood for sharing her information and turning in the report. Ms. Mason informed the Board that hearings for Sunset Review are held as informational hearings. The actions and recommendations are not sent out as formal actions of the committee. Members of her committee attend those hearings and members of the public as well as Board members and other stakeholders are invited and encouraged to attend. She anticipates that the hearings will be held in March of this year but a final date has not been set.

9. Agenda Item #9, Discussion on Lash/Brow Tinting

Ms. Underwood stated this was a new item to be brought to the Board. The Board has received several inquiries from licensees on who may perform lash/brow tinting. Currently the Board operates that only cosmetologists can do lash and brow tinting. The Food and Drug Administration (FDA) maintains that there is no acceptable tint or dye for lash and brow tinting. California currently allows cosmetologists to tint lashes and brows. There are many other states that allow lash and brow tinting. According to the FDA, if they were to do an inspection of their own, it would be a violation if the inspectors found lash/brow tint on the establishment premises. Ms. Guess informed the Board that the FDA has imposed an Import Alert on the tints coming into the country.

Ms. Underwood stated that according to the Board's regulations estheticians can apply makeup, but they cannot tint. The Board has always allowed cosmetologists to tint lashes and brows. Ms. Underwood stated they wanted to bring it to the Board and discuss what action to take. One suggestion was to bring an FDA person to Sacramento to do a presentation or to correspond with the FDA. The biggest concern is blindness. A question was asked as to whether this also applies to tattoos. If the Board has to make a change, it has to determine how it will enforce this since lash and brow tinting is currently being practiced and not being cited.

Public Comment

Mary Jane Dana, Director of Training and co-founder of Lavish Lashes, stated that they had made a decision that the lash extensions shouldn't be offered without requiring training and certification. There are thousands of people who now offer this service across the country. They have observed that tinting has been done safely and has continued to be offered throughout the country. They would inquire of the Board if there is any role or impact that the Board would have in terms of influencing legislation. There is an opportunity for the Board to evaluate the process and see if there is something that the Board can do to influence state law and continue to offer lash and brow tinting as a safe option. It was noted that FDA does not approve any of the glues for lash extensions.

Mr. Hedges asked of Ms. Underwood if the Board had explored the lash and brow tinting issue through the National Interstate Council of State Boards (NIC), what they've said about it and if they have solutions.

Sherry Davis, NCEA representative for National Advanced Esthetics, commented on the issue. There are facilities that are monitored through the Department of Education for the adult correctional facilities. For those in the postsecondary, we

have the Higher Education Act for accountability. She believes that those standards need to apply across the board regardless of public or private school.

Larry Walters, Chairman of the NEC, which is a testing department of the National Interstate Council of State Boards of Cosmetology (NIC), stated that they are in the midst of a job analysis for estheticians and this has proven to be the largest job analysis they have been able to do. There were over 1,500 participants. He probably will be able to send Kristy the content outline by the end of April. He noted their biggest problem is when you go to write a question on lash/brow tinting, they use three basic cosmetology textbooks, not one of them agrees on how it is applied, how it is done, and what product to use. Their job analysis will tell us more maybe where to go on this, but as it is right now, they are not really able to develop questions on it because nobody agrees on it.

Vicky Garvey, an owner of Lashify, stated she performs lash extensions and has been certified through various eyelash companies. She has taken a master's advanced class which is above and beyond the basics class. She has called the Board numerous times to find out about lash extensions and whether she has to be an esthetician. She is not an esthetician or a cosmetologist, but she is a certified lash extensionist and has asked many times whether she needs to have an esthetician license. She has never received an answer from the Board. She was cited for doing eyelash extensions without having an esthetician license and needs to know what to do in the meantime.

Mary Jane Dana asked that since the Board is in the process of discussion of what to do about the fact that we have thousands of people tinting lashes and brows right now and the Board hasn't been enforcing it, that the Board consider broadening the scope of evaluations of eyelash extensions as a service. She respectfully disagrees with any individual who thinks that because a person is a licensed esthetician that they are qualified to apply eyelash extensions safely. She would ask the Board to consider when it is evaluating lash and brow tinting and the role that it plays to our economy and the role that it plays in public safety that the Board extend its scope of practice to include lash extensions.

Fred Jones stated the Board is a licensing and regulatory agency. It examines basic competencies that have broad applications across the entire scope of practice which is defined in statute by the Legislature and regulated and enforced by the Board. In speaking with a former owner of Federico's, he stated the reason eyelash extensions isn't being taught in schools is because only maybe 1 out of 30 estheticians wanted to offer that service. They didn't want to spend a lot of time teaching a specific technique that 95 percent of students would never use.

10. Agenda Item #10, Enforcement Committee Update – Discussion and Recommendation on Revisions for Title 16, Division 9, Article 12 of the California Code of Regulations that relates to Health and Safety Requirements

An Enforcement Committee meeting was held this morning. Board members present were Richard Hedges, Deedee Crossett, and Katie Dawson. The Enforcement Committee has made a recommendation. The broad changes are mainly in definitions. Requirements have been added to identify a footspa that is out of service, to require disposable needles be used on electrology, make it clear that callus removal, corn removal, and mole removal are invasive procedures, clarify skin peel products cannot be over 30 percent acid content or a startup pH under 3.0. Some additional clarifications have been added to the footspa tubs including the use of plastic liners.

The Enforcement Committee is recommending that the Board accept by unanimous vote the submitted changes and additions.

Ms. Underwood went through the changes and identified them for the Board members and the public. Item 10 contains the recommendations to update our health and safety regulations.

- Page 1: Addition of the word “contaminated” to definitions.
- Page 2: Under Section 978.2, add the word “linens.”
- Page 3: Remove hot styling tools curling irons, hot irons, and hot combs from Section 980(a).
- Page 4: No changes.
- Page 5: Correcting the lettering.
- Page 6: Under Section 980.4, add use recyclable.
- Page 7: Under No. 4, state that establishments that utilize the liners must maintain an adequate supply of liners; develop language that will clarify that there must be a certain amount in stock for the number of foot tubs that are in the facility. The recommendation is maintain five liners for each tub.
- Page 8: Under Section 985, add the protective coverings such as client capes.
- Page 9: Under Section 986, remove the word “completely” from No. 3 under (a) and No. 3 under (b). In Section 987, add the word “linen.” Section 10 under 989, relabel that section. Section 990(c), amend to read treatment tables must be covered with either a clean treatment table paper, a clean towel, and so on as listed. Further down in that section, after a towel or sheet has once been used, it shall immediately be removed from the treatment table and be deposited in closed container. Add another sentence that states all treatment table paper must be disposed of after each single use.
- Page 11: Under 992, remove (e).

These will go through the regulatory process and all public comments received will be brought back to the Board for final language approval. There will be numerous public meetings and this will go through the Office of Administrative Law, the Secretary’s office, The Department of Consumer Affairs, and the Department of Health Services. The public will be able to comment during public hearing and in writing.

Upon a motion by Mr. Hedges and seconded, this was put up for adoption by the Board and was approved by a vote of 7-0.

11. Agenda Item #11, School Oversight

Under Item 11 in the packets is a discussion and recommendation on minimum equipment for schools. The Board has oversight of minimum equipment of schools. The regulations need to be updated. This is the first draft that is being presented to the Board to see if the Board would like to proceed with the rule-making process.

Public Comment

Sharon Duckham, owner of Avance Beauty College, was told by an inspector her school had to have 12 stand up chair dryers. They replaced two hood dryers with two pole dryers which the inspector would not accept. Mr. Hedges stated that he understands this issue will continue in the DRC case and is not for discussion in this forum. Another issue Ms. Dunham presented was with the Dermalight. Ms. Underwood stated that there was a proposal to remove this requirement and that the Board is looking at the proposed regulations.

Sharlyn Ada of Marinello School of Beauty, is excited about the changes. Schools don't need 12 hooded dryers. It is the school's option to add things in as needed to improve their programs.

Ms. Crossett questioned if you can show that the students are receiving some of these items in their kits, do schools still need to have them on hand? Does the Board think that schools should also have duplicates on hand if the students have their own?

Mr. Hedges believes the Board ought to require that schools make mannequin heads available.

Mr. Federico stated that on the flip side, would you not require that there be a house set of mannequin heads for educators to work off of?

Ms. Ada suggested reducing the number of doll heads required and requiring that each school have on hand an adequate supply in order to teach students the curriculum.

Gary Federico believes the Board is looking at a minimum equipment requirement that was established 50 years ago when mannequins were not issued to students.

Ms. Underwood stated it has been an issue for a while because there are items that brand-new schools can't find and so the Board needs to make some changes and update the minimum requirements list. Suggestions will be taken and this issue brought back at the next Board meeting.

Ms. Underwood stated that the Board attempts to inspect schools on an annual basis. Directed inspections are performed if complaints pertaining to consumer health and safety are received. School inspectors go to the equipment list that were just discussed and check off what schools have. The lists are turned into the Board for review.

Mr. Hedges made a recommendation that, based on the comments today, Ms. Underwood work closely with the Board members who are school owners to update and make changes to the equipment requirement.

Public Comment

Mr. Fred Jones inquired of Ms. Underwood the amount of fees charged for inspections. Ms. Underwood stated the Board does not charge fees for inspections. Mr. Jones brought to the Board's attention how much more responsive the State Board is than the Bureau of Private Post-Secondary Education and that it is important that we try to convince the State Legislature that sole oversight of beauty schools by the Board serves school owners, serves students, and serves consumers so much better than having duplication, delay, and contradiction coming from two different agencies within the same department.

Ms. Duckham commented on the authority of inspectors to have student lockers opened when the students are not present. Inspectors should have flexible hours in order to perform inspections when schools are in session and students are present. Can the inspectors show some flexibility? Most schools have a night class. When the inspectors come in and want to do a locker inspection, is the department going to afford some flexibility to do those inspections after 5:00 o'clock when the night students start.

Ms. Duckham stated the Board inspectors are writing violations for failure to cut the locks. Is there anything in the regulations that gives the inspectors that authority? How are the inspectors trained? If they do open a locker and do find evidence of a crime, how do they react to that? Mr. Hedges stated that DRC recommends that schools have keys to the lockers and are able to open the lockers. Mr. Hedges recommended to Ms. Duckham that she write specific recommendations and present them to the Board.

Jaime Schrabec, Precision Nails, would like to see the issue of mobile services addressed, in particular, people who are working out of their car going or going to people's homes. People who own salons and are in leases and are following the rules are having to compete with people who are not. She would like to have the Board discuss this issue at their next meeting.

Ms. Sherry Davis asked the Board to have separate schools for esthetics.

12. Agenda Item #12, Agenda Items for Next Meeting

- Update on Sunset Review
- Discussion and recommendation on minimum equipment for schools
- Update on the revisions for Title 16, Division 9, Article 12 of the California Code of Regulations that relates to Health and Safety Requirements

13. Agenda Item #13, 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)].

14. Agenda Item #14, ADJOURNMENT

With no further business, the meeting was adjourned.