



**CALIFORNIA STATE BOARD OF  
BARBERING AND COSMETOLOGY**

**MINUTES OF OCTOBER 20, 2014 BOARD MEETING**

**Four Points by Sheraton  
11960 Foothill Boulevard  
Rancho Cucamonga, CA 917339**

**Additional meeting location via teleconference:  
1515 Sports Drive  
Sacramento, CA 95834**

**BOARD MEMBERS PRESENT**

Richard Hedges, President  
Dr. Kari Williams, Vice President  
Mary Lou Amaro  
Bobbie Anderson  
Christie Truc Tran

**STAFF MEMBERS PRESENT**

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

**BOARD MEMBERS ABSENT**

Wen Ling Cheng

**TELECONFERENCED MEMBERS**

Joseph Federico  
Andrew Drabkin

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

Mr. Hedges called the meeting to order at 10:00 a.m. The Board members and staff introduced themselves.

**2. Agenda Item #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)]*

**Public Comment**

Rich Hines of Covered California, gave a brief overview of the Covered California Insurance plan. In the year 2014, Covered California enrolled 3.3 million new members, 1.4 through Covered California on the individual exchange and 1.9 million on Medi-Cal. Primarily, Covered California goes through insurance agents and brokers. The website is: [www.CoveredCA.com](http://www.CoveredCA.com). The new open enrollment period is November 15<sup>th</sup>, 2014 through February 15<sup>th</sup>, 2015.

Ken Williams stated for many years the Board has looked at natural hair and braiding as a subject of concern. There was indication that there were no textbooks that really governed braiding. He presented the New Milady's Text on Natural Hair Styling. He thinks braiders have earned a right to have some type of certification in California and he believes braiders should be included, instead of excluded, in some kind of certification or licensing. Braiders should be well educated in health and safety. His school offers formal training for braiding and natural hair. In addition, he would like the Board to entertain the possibility of having the written exam given prior to the completion of Board mandated training hours.

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

It was noted that since Board meetings are regularly webcasted, the public attendance at the meetings have declined. Mr. Hedges encouraged the public to attend the Board meetings and offer public comments. Mr. Hedges expressed appreciation for the comments made by Rich Hines, the Covered California representative.

Mr. Hedges noted the Board needs to hire more inspectors. Board inspectors write an inspection report, summarizing what they have observed during an inspection. A copy of this report is given to the practitioner. In addition, the Cite and Fine unit also receives a copy. The unit reviews the report and decides whether or not to cite, based on the content of the report and submitted photographs. The practitioner may decide to appeal the citation issued by the Cite and Fine unit.

Currently, appeals heard in the Disciplinary Review Committee (DRC) forum can take up to 90 days to schedule. There are approximately 500,000 practitioners in the industry. The DRC receives 40 to 60 appeal requests a week. The DRC has been meeting four days a month, in an effort to reduce current backlog.

The Enforcement Committee met on October 16th, 2014.

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

Ms. Underwood directed the Board's attention to the attached Board statistics contained in the meeting materials. The BreZE database now has the capability to produce quarterly statistics. Staff can now pull data on what type of applications are received. Staff can compile the number of pre-applications, initial applications and/or re-exam applications received by the Board.

The Board went live with new Barber exam scoring method on October 1<sup>st</sup>, 2014.

Staff has received approval to travel to the ISSE show in January 2015, Long Beach, California. The Board will have an informational booth.

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

A motion was made by Dr. Kari Williams and seconded by Ms. Bobbie Anderson, to approve the Minutes from the July 28, 2014, Board meeting. The motion was approved by a 7-0 vote.

A motion was made by Dr. Kari Williams and seconded by Ms. Mary Lou Amaro, to approve the Minutes from the September 4, 2014, Board meeting. The motion was approved by a 7-0 vote.

### **6. Agenda Item #6, Proposed Regulations -- Discussion/Review and Approval of Proposed Changes**

- Health and Safety Regulations: At the last meeting, the Board approved language which included technical changes from the Department of Public Health. A 15-day notice was sent out to the public. Public comments were received and are included in the meeting materials

packet. Staff does not feel the comments warrant any changes. The final language is in today's packet. Upon the Board's approval today, the proposed regulation changes will be forwarded to the Department of Consumer Affairs (DCA) and Office of Administrative Law (OAL). A motion was made by Ms. Bobbie Anderson and seconded by Dr. Kari Williams, to approve the final language. The motion was approved by a 7-0 vote.

- Apprenticeship Program: The Apprenticeship Program regulation changes are being review by the OAL.
- Lash and Brow Tinting: The proposed regulation changes are being reviewed by the OAL.
- Cross Over and Transfer of Credit of Barbering and Cosmetology: The proposed cross-over course regulations are with the DCA. Once approved, they will be forwarded to the OAL.
- Text and Reference Books: The final statement of reasons is before the Board today. Staff would like a motion to approve the language as listed in the meeting materials. A motion was made by Dr. Kari Williams and seconded by Ms. Bobbie Anderson, to approve the final language on the text and reference books. The motion was approved by a 7-0 vote.

## **7. Agenda Item #7, Update and Discussion of Proposed Bills That Could Impact BBC**

- Senate Bill 1159 - Federal Tax Identification Number

Senate Bill 1159 was signed by the Governor. The bill allows the Board to use an Individual Tax Identification number (ITIN) instead of a Social Security number (SSN), to schedule Board examinations and issue licenses. The Board has until January 2016 to effect regulations to implement this bill. Many people who come to the United States are working and are not paying taxes and they are not being tested in order to have minimum competency. With the changes brought forth in SB 1159, they will be able to work legally and pay taxes and the public will be reasonably secure that these individuals have been educated in Health and Safety.

## **8. Agenda Item #8, Approval of the 2014 Sunset Review Report**

The final Sunset Review Report is included in the packets. The last review was in 2012. A large portion of the report is background data.

Section 11 presents the new issues the Board would like the Legislature to consider during the Sunset Review. The report is due to the Legislature on November 1<sup>st</sup>, 2014. The hearing will be held in March of 2015. The date of the hearing will be posted on the Board's website.

During the Board's Sunset Review, the Legislature will be asked for statutory authority to designate booth rental licensure. Staff is recommending that the Board adopt legislative language to allow for booth rental.

### **Public Comment**

Jerry Tyler: In California alone, probably between 70 and 90 percent of all individuals working in salons are independent contractors. He indicated that freelance individuals are the real leaders within the industry. Licensees are experiencing a challenge due to the fact that most work in multiple locations at different salons. He would like the Board to investigate a way for individuals to obtain a mobile license. Licensees could be fingerprinted and carry a small card that identifies they are licensed by the Board. He feels that if the Board pursues a freelance authorization, the authorization should be tied to the State's

independent contractors license. He suggested the Board reach out to the Industry unions and gather their input on the practicality of mobile licensure.

Fred Jones, Professional Beauty Federation of California, stated the PBFC is in support of the Board enacting a booth renter's license. Mr. Jones concurs with Mr. Tyler's comments. As he envisions this process, the Legislature will grant authority to establish a booth rental license and it will be incumbent upon the Board to develop the details/regulations of that process. PBFC looks forward to providing an incentive in the regulations to encourage booth renters to supply liability coverage, thereby protecting their clientele. It is PBFC's position to encourage liability insurance coverage, not to mandate insurance coverage.

Andre Nizetich supports the licensure of booth renters.

The issue of early written testing is being recommended within the Sunset Review report. This is in the Sunset Review because it would take extensive legislative changes to the Act due to defined statutes that state the exam is only to be administered to students upon the completion of school required theory hours and practical training applications. Staff is purposing to the Legislature, that the written exam be allowed to be taken prior to the completion of theory/practical instruction. Staff has not been specific, at this time, on the completed hours required prior to taking the early examination.

### **Public Comment**

Ken Williams: Is in support of early written testing. He hopes that in the future, the BBC will govern all things pertaining to cosmetology, including sole oversight of the barber, cosmetology and electrology schools.

Ms. Lynelle Lynch, Bellus Academy: Applauds the Board for taking on the issue of early written testing.

Jerry Tyler: Stated the longer a future professional is away from the educational culture the harder it is for them to retain what they have learned. He felt that if a student were allowed to test at 1200 hours, even if they failed the exam, they would still have the opportunity to get educational support from the school prior to leaving the school.

Ms. Underwood indicated that the BreEZe online database is up and working. The Board is receiving re-exam applications which are being processed within a one week period. This means anyone who fails the written examination, is able to reapply and is able to re-test within a week from the date of the prior failed written examination.

Included in the Sunset Report is a recommendation for enacting a freelance authorization. This would require a statute change.

### **Public Comment**

Jerry Tyler: Felt this kind of authorization could be a slippery slope. There are so many areas of freelance activities. He wants to make sure that freelancers do not get put in a box. If the Board tries to make the regulation too particular, it will have to re-regulate it and re-legislate it constantly. He would like to see any proposed freelance authorization tied to an independent contractor's license.

Jamie Schrabec, Precision Nails: This topic is something she has repeatedly encouraged the Board to address. She wants to be sure that the Board does not confuse the terminology. Using the term freelance could be confusing. The term freelance has more to do with the employment status of the person as opposed to where the services are being

performed. She prefers the term mobile license. These services are being performed in places that are not licensed establishments.

The next item considered in the Sunset Report is industry certification. The Board supported this concept in Assembly Bill 1153. However, AB 1153 did not make it through the Legislative process. This item is asking for a Statute to be added that recognizes industry certification of advanced practices. The certification is confirmed by the industry, not necessarily by the Board but with Board's approved standards for that certification. Dr. Kari Williams stated that as a licensee, she is very excited about this concept. She has always wanted something tangible that expresses the educational investment. Ms. Amaro is in full support of industry certification. She stressed the necessity of education in order to stay current with trends and health and safety. Mr. Hedges wants to make sure the Board has full control over which associations are approved to issue industry certifications.

### **Public Comment**

Fred Jones is in strong support of this effort. The PBFC supported the previous bill (AB 1153). The vision the Board has, and that the PBFC supports, is a non-mandatory opportunity to provide State Board recognition of quality continuing advanced education. If a licensee chooses to go to a vendor that measures up to the minimum standards set by the Board, then the Board will provide official recognition of that continuing education.

Andre Nizetich, American Board of Certified Hair colorists: The American Board of Certified Hair colorist is an institution that was formed to raise the standard of the professional hair colorist. His organization has managed to stay clear of any manufacturer sponsorship and yet they have managed to have a thousand members nationwide that have passed a very stringent examination. He suggests providing graduates, for a very low fee, the opportunity to take tests online and start learning haircolor generically as opposed to manufacturer-sponsored education. The website is [www.haircolorists.com](http://www.haircolorists.com).

Thelma Price, past President of the California Cosmetology Association: She is in support of continuing education. She would like to see Instructors pursue continuing education. She would like the Board to consider bringing back the Instructors license.

Peter Westbrook, Riverside Community College: He supports certification recognition. He stated, going through the chancellor's office to be certified and going through the public sector is a daunting task. He hopes that the Board will consider that the programs that are certified through the chancellors should have automatic recognition with the Board as being a certificate program or class approved by the Board.

Jerry Tyler: He complimented the Board on its efforts in the certification project. He felt the Board could use continuing education as an ongoing way to reach out to licensees with new standards in healthcare. He suggested a continuing education requirement be attached to the renewal of a license as a way of reaching licensees and ensuring that they are keeping up with industry standards.

Julie Perez, licensed cosmetologist. She is currently going through the teacher/instructor training program at Riverside Community College. She is hearing two different subjects being discussed. She is hearing discussion on a certification program and a licensing with higher education plan. Mr. Hedges stated that it is industry certification, not licensing. She stated that when she gets her renewal license in the State of Nevada, she is required to go online and find out all the new State Board requirements and receive health and safety training prior to renewing her license. She thinks California should have continuing education so that licensees know what is going on as far as health and safety.

Included as a new issue of the Sunset Report is the Board's Report on Natural Hair Care and Braiding.

Dr. Kari Williams stated that one of the issues discussed in the last Board meeting is the Board's difficulty in producing actual cases of consumer harm done by Natural Hair Care/Braiding practitioners. There is difficulty in citing a practitioner, as oftentimes, the consumer feels shame and embarrassment and feels possibly that they have done something to contribute to the harm. In addition, there really is no place for consumers to go to report harm. The Board does realize that oftentimes this practice is done by unlicensed individuals, working out of their home, so there is no formal way to report consumer harm within the industry. The Board is working hard to try to document this form of harm, knowing that there is a necessity to have some form of oversight and licensure for this particular haircare practice. The art of braiding, locking, and twisting is extends beyond the African-American community to other ethnic groups.

### **Public Comment**

Ken Williams, Universal College of Beauty: This is a subject he feels very close to because he operates a beauty college and most of the clientele, as well as, his students are African-American. This is an issue as to whether or not someone should receive training for a very extensive type of service. African-American braids can take up to 10, 15 hours of time. The reverse process also takes a long time. He feels encouraged that the Board is moving in the right direction and doing it speedily. He urged the Board to stay motivated in the pursuit of this licensure. He would like to see every Board member support Natural Hair Care/Braiding licensure. He suggested the Board try to poll as many Braiders as possible to see how the industry feels on the issue.

Jerry Tyler: Previously when the State was looking at licensing braiders, there was no real strong evidence of consumer harm. In addition, there was nothing in textbooks to support the training of braiders. At that time, the Board could not demonstrate a real need for control or regulation. So, braiding was deregulated. Now, things have changed. Milady's currently offers a textbook that addresses training in Natural Hair Care/Braiding. He fully supports the Board's decision to pursue Natural Hair Care/Braiding licensure.

Cynthia King, Universal College of Beauty (UCB), is a braider and has seen cases where there is too much tension applied to the braids, resulting in traction alopecia. She is in support of a Natural Hair Care/Braiding license.

Ms. Jaclyn Glover, cosmetologist, hair stylist: Supports braiding certification as opposed to licensure. She feels that many times licensed cosmetologists are receiving blame for hair loss issues that originated by a previous unlicensed braiders work. She feels braiders should be held accountable for their work.

Mr. Andre Nizetich summarized the Cornwall vs. the State Board case. He suggested the Board exercise caution in this pursuit as the Legislature has previously already moved to remove braiding from the cosmetology curriculum. He does not think the Board should ask for licensure without adding training in braiding to the cosmetology curriculum. Mr. Hedges clarified that the Board was asking for legislation that would allow the Board to include it in the cosmetology curriculum.

Sharon, student at UCB, as a braider herself, thinks that braiders do need education. She showed the Board her hair, as an example of traction alopecia, due to hair loss as a result of undue tension on her hair. She has received formal education on how to properly loosen braids and combat traction alopecia. She feels all braiders could benefit from this kind of training.

The next issue included in the Sunset report is sole oversight of the barbering, cosmetology and electrology schools. This has been an ongoing issue. Currently, the Board shares oversight with the Bureau for Private Post-Secondary Education (BPPE). Staff feels that it is still important to continue to move forward and address this with the Legislature. The Board does feel it is the appropriate entity to regulate barbering, cosmetology, and electrology schools.

### **Public Comment**

Ms. Lynelle Lynch, Belles Academy, commented that there are federal regulations on how you need to be stated (or named), as an educational entity for higher education, so that schools still will qualify for Title 4 provisions. There are programs that schools, like hers, have that don't fall under the cosmetology act. (i.e. massage) She thinks that if the Board does receive sole oversight over the schools, it should be mindful of these programs.

Fred Jones: PBFC is in strong support of the Board receiving sole oversight of the barbering, cosmetology and electrology schools.

Jerry Tyler: Dual oversight has long been the Achilles heel of our industry in California. Dual oversight has long been a huge barrier because at no time have these two entities ever worked in concert. He believes this Board has more than proven that it deserves the sole oversight.

The Board has noted several cases of schools selling hours. The Board continues to investigate closed schools that sell hours. The Board struggles with this type of investigation due to the fact that it does not have the authority to look at student records. These types of investigations have been at a huge cost to the Board. Staff still believes there are numerous schools existing today that are selling hours to students. Any cases involving active/open schools selling hours have been referred to the BPPE due to such cases falling within their jurisdiction.

Ken Williams: Stated he has firsthand knowledge of the difficulty students are experiencing in dealing with the BPPE, as he is a school owner and has attempted to accept students from schools that have suddenly closed. He stated that many times he has been unsuccessful in obtaining student record of hours from the BPPE. He felt that if the BPPE collected data from the closed schools, students would not have difficulty transferring to open schools. He encouraged the Board to take a strong stance with the Legislature in gaining sole oversight of the schools.

The last issue that the Board is taking forward in the Sunset Report is title protection for all license types. Right now, the Statutes only allow for title protection of cosmetologists and barbers. You cannot call yourself a cosmetologist/barber unless you have a license issued by the BBC. The BBC does not have that same provision for manicurists, estheticians, or electrologists. BBC would like to have title protection for all of its license types.

A motion was made by Dr. Kari Williams and seconded by Ms. Bobbie Anderson to approve the Sunset report with minor grammatical changes. The motion passed with a vote of 7-0.

## **9. Agenda Item #9, Overview of the Disciplinary Process**

Ms. Underwood put together a chart that makes it very clear how the disciplinary process works. The Board will receive a complaint that goes to the enforcement unit. The enforcement staff decides if that complaint is within the jurisdiction of the BBC. Usually the first thing staff will do is request an inspection. Multiple inspections may be done. The complaint goes through the citation and fine process. A citation may or may not be issued. If it is an egregious complaint and staff finds facts that are egregious during the inspection, staff may go straight to the Attorney General's office for actual discipline.

If a citation is issued, an individual has an opportunity to appeal that citation to the DRC. Once a decision is made by the DRC, if the individual still does not agree, the individual has the opportunity to appeal to an Administrative Law Judge (ALJ). Cases going to an ALJ come from two different directions. They can come from consumer harm where staff feels it is warranted or it can be an appeal from the DRC. Once a decision is made in DRC, the individual still has the opportunity for one more hearing in front of an ALJ.

Once an individual is heard by the ALJ, the case can be settled. All proposed settlements must be agreed upon by the office staff. Board members vote on any proposed decisions that come from the ALJ. It is the Board members' decision to accept or not to accept the ALJ decisions. The Board can accept, reject, or discuss. These discussions are held during closed session. The proposed decisions need to be thoroughly looked at. Most of the cases that bypass the DRC, straight to the ALJ are from consumer harm cases.

### **Public Comment**

Fred Jones, PBFC, thanked the Board for the days and hours they spend on the DRC.

## **10. Agenda Item #10, Update from the Enforcement Committee Meeting on October 16, 2014**

The Enforcement Committee met on October 16th.

The first item discussed at the Enforcement Committee meeting was the practice of teeth whitening. It has been the BBC's practice in the past to cite practice of medicine for teeth whitening, which carries a hefty fine. In working with the legal office, it was found that teeth whitening is not considered practice of medicine. Teeth whitening is a growing trend within the industry. The Dental Board of California helped staff understand the difference between the practice of dentistry as opposed to an unregulated service. No Board licensee should be putting their hands in another person's mouth. Use of chemicals is also a concern.

The issue of washers and dryers being stored in the establishment's public restroom was discussed. It was agreed that placing a washer and dryer in a restroom is basically extending the work space, and, therefore, washers and dryers should not be placed in an establishment's public restroom. The BBC will continue to cite for this.

Revisions to the fine schedule were discussed. The BBC has health and safety regulations that are going to be going through the OAL process. The following violations need established fine amounts. Staff needs a motion from the Board.

- 980(c), incorrect storage of electrical tools. Committee recommends that fine be \$50 for first offense; \$100 for second offense; and \$150 for third offense.
- 980.1 (g) and 980.2 (f), new requirement that if foot spa chair is out of service, you need to have a sign on the chair stating that it is out of service. Committee recommends a fine of \$50 for first offense; \$100 for the second; and \$150 for the third.
- 980.3 (e), improper storage of basins/tubs used for pedicures (stand-alone tubs) and how they are to be stored when not in use. The Committee recommends that fine be \$50, \$100, \$150.
- 980.4, incorrect disinfection of the foot basin or tub after the use of a disposable liner. New regulations allow for liners if specifically made to be a liner. There is a procedure for cleaning the tub after using the liner. The Committee recommends \$500 for first, second, or third offense.
- 980.4(a) (2), incorrect or missing log. The Committee recommends \$50, \$100, \$150.

- 980.4 (a) (4), failure to maintain a supply of five disposable liners. The Committee recommends \$250 for first offense; \$300 for second offense; and \$500 for third offense.
- 981 (b), improper storage of new supplies and disposable tools. The Committee recommends \$50 for the first offense; \$100 for the second offense; \$150 for the third offense.
- 981 (c), carrying instruments and supplies on garments, fines already set, \$50, \$100, \$150. Clarification is that this also includes the leather pouches, holsters, etc.

Fine for failure to maintain a supply of five disposable liners is parallel to the fines for not having enough liquid disinfectant present in the establishment.

### **Public Comment**

Peter Westbrook, Riverside Community College (RCC): Asked the Board, when it could cite for the practice of medicine. The Board cites practice of medicine when it finds people doing things like Botox, mole removal and skin tag removal. When the Board cites for the practice of medicine, it refers the case to the Medical Board.

A motion was made by Ms. Bobbie Anderson and seconded by Dr. Kari Williams to move forward with changes to the fine schedule. The motion passed with a vote of 7-0.

There is a growing issue the BBC is having with product demonstrators. Demonstrators are exempt from BBC licensure. If you are demonstrating a product and you are performing a service for the sole reason of trying to sell that product, you do not need to be licensed. It is increasingly popular now for people to say they are just demonstrating a product as a way to get out of being licensed. One of the most common services where the Board sees this conduct is with the application of lash extensions. The BBC will continue to cite for unlicensed activity for these practices. The BBC is on top of the demonstrating loophole and will be looking closely at it.

### **Public Comment**

Trisha Gonzales, RCC Cosmetology Instructor: With the eyelash extension situation, she has noticed that a lot of makeup counters are now offering those services and the practitioners are unlicensed. These practitioners should be licensed.

Jamie Schrabek, Precision Nails: Stated that not only do these people need to be licensed but the establishments where they are providing services must be licensed.

Erica Valles, teacher trainee student at RCC Community College, definitely thinks this issue is something that needs to be looked at closely. She mentioned she has seen kiosks in the mall, selling curling irons and stating that consumers who buy the curling iron may come back through the year and have the employees style the consumer's hair.

## **11. Agenda Item #11, Agenda Items for Next Meeting**

The next meeting is in January in San Diego.

## **12. Agenda Item #12, 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 for a future meeting. [Government Code Sections 11125, 11125.7(a)]*

### **Public Comment**

Ms. Courtenay Jackson presented a scenario. A friend just went to State Board. She was taking her test. She passed her written. In order for a nail to be polished perfectly, it needs to be perfectly structured. How can you get a perfect score for polishing nails if the nails are not perfect?

Mr. Richard Hedges: The Board has new guidelines for scoring Barber examinations. A passing grade is 75 percent for the written as compared to 70 percent before.

Practical re-exams are being administered within 30 days now. The new Breeze database is working out well for the Board.

Mr. Hedges encouraged all present to check out the Board Web Site, [www.barbercosmo.ca.gov](http://www.barbercosmo.ca.gov).

**13. Agenda Item #13, Closed Session**

**14. Agenda Item #14, Adjournment**