



**CALIFORNIA STATE BOARD
OF
BARBERING AND COSMETOLOGY**

**LICENSING AND EXAMINATION COMMITTEE MEETING
MINUTES OF JULY 16, 2017**

Department of Consumer Affairs
2420 Del Paso Road
Sequoia Room, 1st Floor
Sacramento, CA 95834

COMMITTEE MEMBERS PRESENT

Joseph Federico, Chair
Polly Codorniz
Richard Hedges
Dr. Kari Williams

STAFF MEMBERS PRESENT

Kristy Underwood, Executive Officer
Tami Guess, Board Project Manager
Carrie Harris, Enforcement Manager
Kurt Heppler, Legal Counsel
Marcene Melliza, Board Analyst

1. Agenda Item #1, CALL TO ORDER/ ROLL CALL/ ESTABLISHMENT OF QUORUM

Joseph Federico, Chair of the Licensing and Examination Committee, called the meeting to order at approximately 12:00 p.m. and confirmed the presence of a quorum.

2. Agenda Item #2, ELECTION OF COMMITTEE CHAIRPERSON

MOTION: Mr. Hedges made a motion, seconded by Ms. Codorniz, to elect Joseph Federico for a second term as chairperson of the Licensing and Examination Committee for 2017. Motion carried 4 yes, 0 no, and 0 abstain, per roll call vote as follows:

The following Committee members voted "Yes": Federico, Codorniz, Hedges, and Williams.

3. Agenda Item #3, PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA

No members of the public addressed the Committee.

4. Agenda Item #4, APPROVAL OF COMMITTEE MINUTES

- November 14, 2016

MOTION: Mr. Hedges made a motion, seconded by Dr. Williams, that the Committee approves the November 14, 2016, Meeting Minutes as presented. Motion carried 4 yes, 0 no, and 0 abstain, per roll call vote as follows:

The following Committee members voted "Yes": Federico, Codorniz, Hedges, and Williams.

5. Agenda Item #5, DISCUSSION AND RECOMMENDATIONS TO BOARD REGARDING PROPOSED REGULATORY LANGUAGE TO IMPLEMENT BPC SECTION 7402.5, PERSONAL SERVICE PERMIT

Kristy Underwood, the Executive Officer, provided an overview of the Personal Service Permit (PSP) development process and summarized the draft language for implementation of a PSP, which was included in the meeting packet.

Mr. Hedges stated he had many concerns about the PSP, such as that the PSP may provide opportunities for illegal activities that will be difficult to control and will open the Board up to criticism.

Mr. Federico stated his concern about the lack of inspectors to address even current issues in the 45,000 salons in California. PSP holders will be given carte blanche due to the lack of inspection and oversight.

Dr. Williams stated her concern about the difficulty of regularly inspecting establishments due to the lack of inspectors and enforcement. She stated the two-year requirement for a PSP is too soon.

Ms. Codorniz agreed that two years is not enough experience to work outside of an establishment.

Mr. Federico suggested continuing education as a solution. He stated continuing education can help keep seasoned licensees up to date with rules and regulations without sitting through tests. He noted that some licensees keep their licenses current but have not worked in a salon for years.

Ms. Codorniz suggested requiring licensees to be currently practicing in order to apply for a PSP.

Dr. Williams stated other things need to be done better before the implementation of a PSP can be done efficiently, such as improving enforcement and verifying that establishments are functioning without outstanding administrative fines or prior disciplinary actions.

Mr. Hedges stated the trend is moving toward unregulated industries. It is difficult to regulate individuals who ignore regulations. He asked if the Board should even attempt to make regulations because it will open the Board up to blame for the lack of enforcement of those regulations.

Mr. Federico agreed that regulations will put the responsibility on the Board to enforce them and that more things need to be put in line before a PSP can be implemented.

Mr. Hedges stated the way the PSP is currently set up, such as not requiring full disinfection of tools, will put many licensees in violation.

Ms. Underwood reminded the Committee that statute requires the Board to develop regulations but has not put a time limit on implementation.

Dr. Williams stated the need to fund more inspectors to help with the enforcement issue.

Mr. Hedges suggested prefacing the regulations on additional inspectors and continuing education.

Kurt Heppler, Legal Counsel, stated he did not think that was possible and suggested informing the Legislature that there is a greater risk to consumer protection in requiring enforcement without adequate resources

Mr. Hedges stated the industry Board Members are saying a PSP will not work.

Mr. Heppler stated the draft implementation language is confusing. He suggested focusing on who would be eligible for the PSP and what they can do once the permit is issued.

Ms. Codorniz suggested only requiring a written examination on sanitation and consumer protection issues for licensees who have been certified for more than two years limited to the PSP so it will not impede the application process. She also suggested completing documented online courses in lieu of the examination.

Mr. Federico suggested designing an examination on disinfection and sanitation beyond the establishment. Mr. Heppler stated the Board does not have authority to create another examination. He suggested including required courses on the application for applicants to check off if completed.

Mr. Hedges suggested sending Board recommendations to the Legislature with the caveat that it will be impossible to be effective without continuing education and more inspectors.

Mr. Heppler stated the PSP is a special permit with additional requirements beyond the base licensure.

Mr. Federico suggested the requirement that applicants show completion of disinfection/sanitation in the workplace.

Mr. Hedges stated his concern about burglaries or other criminal activity when consumers invite solicitors and workers into their homes.

Public Comment

Wendy Jacobs, California Aesthetic Alliance (CAA), asked that estheticians be the first PSP holders. She stated one of her group's membership requirements is to carry liability insurance and to carry a bloodborne pathogen certification renewed annually online for approximately \$30. This covers universal precautions, health and safety, procedures, and diseases. She suggested requiring the certification to expose licensees to things they may have forgotten from school. It raises the bar, open people's eyes, and answers questions.

Mr. Hedges agreed and stated some individuals are too trusting. Many things can go wrong.

Ms. Jacobs stated most estheticians are not employees but would love to change that. She stated the bloodborne pathogens certificate would take up much of the requirement that the Board is looking for - universal precautions, annual renewal, inexpensive.

Ms. Codorniz agreed and stated much of home service is makeup for weddings. It may be a good idea to start with estheticians.

Jaime Schragebeck, of Precision Nails, suggested creating bloodborne pathogen training targeted toward the barbering and cosmetology industry rather than the tattoo industry. She stated there may be no appropriate licenses where the PSP will work. She stated concern that, if the Board chooses the laws to enforce, its credibility will go down because it will not protect consumers and licensees who are practicing within the law. Without additional resources and continuing education to enforce, the PSP is an impossible situation.

Mr. Heppler read the comments submitted by Fred Jones, Legal Counsel for the Professional Beauty Federation of California (PBFC).

Dr. Williams asked about enforcement issues. Carrie Harris, the Enforcement Manager, stated the Board received a complaint about in-home esthetician services. The licensee has been cited for performing service outside of a licensed establishment, providing services out of the scope of practice, and using a product prohibited by the FDA. Also, the Board has received several complaints about app services that facilitate activity outside of licensed establishments. The Board has sent the app service organizations letters informing them that they are misleading licensees and consumers into thinking this is legal and that their business model does not comply with California regulations. The app service organizations responded that they do not think they are breaking the law because the organizations are only facilitating. The Board is in a holding pattern because the PSP is in statute but has no parameters.

Mr. Federico suggested giving the implementation draft back to staff to develop new criteria to bring back to this Committee rather than bringing it to the full Board tomorrow. Committee members suggested ideas for staff to think about as follows:

- It is already happening.
- Should the Board be involved in regulating it? How can it effectively be regulated?
- The Board should limit the PSP to one specific license type to limit exposure and be less likely to cause public harm.
- Begin the PSP program with estheticians.
- Include a requirement for bloodborne pathogens certification.
- Perform a risk assessment of license types and services before choosing a specific license type. After the risk assessment, the Committee members can determine if cosmetologists can get PSPs for a segment of services.
- Keep in mind that waxing is currently the top consumer harm case and that there is pending legislation that manicurists will soon be doing waxing.
- Add “or contract” to “employment” in application requirement (c) and require that establishment owners provide verification of employment or contract to the Board.

MOTION: Mr. Hedges made a motion, seconded by Mr. Federico, to direct staff to revise the implementation draft to present back to the Committee at the next Committee meeting. The vote was not taken.

6. Agenda Item #6, AGENDA ITEMS FOR THE NEXT MEETING

Mr. Federico stated the importance of future agenda items to help the Committee and the Board keep current with changing issues.

Public Comment

Ms. Jacobs spoke against Senate Bill 296.

Ms. Schrabek suggested including an agenda item breaking down the license types and the scope of practice for each type, both in California and nationally.

7. Agenda Item #7, ADJOURNMENT

There being no further business, the meeting was adjourned at approximately 1:15 p.m.