



**CALIFORNIA STATE BOARD OF
BARBERING AND COSMETOLOGY
BOARD MEETING**

MINUTES OF APRIL 20, 2015

Department of Consumer Affairs
1747 North Market Blvd
HQ2 Hearing Room 186, 1st Floor
Sacramento, CA 95834

BOARD MEMBERS PRESENT

Dr. Kari Williams, President
Richard Hedges, Vice President
Mary Lou Amaro
Bobbie Anderson
Polly Codorniz
Andrew Drabkin
Joseph Federico

STAFF MEMBERS PRESENT

Kristy Underwood, Executive Officer
Heather Berg, Assistant Executive Officer
Tami Guess, Board Analyst
Marcene Melliza, Board Analyst
Gary Duke, Legal Counsel
Rebecca Bon, Legal Counsel
Carris Harris, Enforcement Manager
Sandra Torres, Board Analyst

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

Dr. Williams, Board President, called the meeting to order at 1:19 p.m. The Board members and staff introduced themselves.

Gary Duke, Legal Counsel, advised there have been reassignments made in the legal office, and the Board now has a new legal counsel, Rebecca Bon. Ms. Bon is from the Sacramento area and has been with DCA since 2012, representing BAR and the Veterinary Medical Board. She attended UC San Diego and University of Pacific, McGeorge School of Law.

Ms. Underwood, Executive Officer, publicly thanked Mr. Duke for his work for the Board.

2. Agenda Item # 2, PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA

Fred Jones, Professional Beauty Federation of California, wanted to report on their 15th annual WOW event which was held on April 13th 2015. It turned out to be a beautiful event; some members of the board were there, as well as Board staff. They had one Legislator that had never been before and he told Mr. Jones, it was one thing to talk to a lobbyist about an industry that they represent, but to hear things direct from an industry professional was great.

Mirela Marinescu, International School of Beauty, would like the issue of dermaplaning, shaving, and the removal of unwanted hair on all parts of the body by barbers, estheticians and cosmetologist on the next Board's meeting agenda.

Denise Frintner, Marinello Schools of Beauty, shared their schools concerns with the tripods and the additional expense to the students who will be taking the exam. They are concerned with the expense, the time frame of which their company would be able to put the new tripod into their kits, and making sure their instructors are properly trained to be training their students. They, as a company, would like more advance notice when it comes to an equipment change. It has been very difficult to have their students prepared by May 1st. Marinello Schools would consider donating the tripods to the Board, so that they could reduce the cost to their students.

Mr. Hedges asked Ms. Fritner since there is a certain cost associated with transporting of the model and paying for their time, and there is a cost for the kit, is there a net positive or negative between the two?

Ms. Frintner said there is up to a \$70.00 increase to the cost of the kit, and what they see now is that the students are receiving the tripod in their kit at the beginning of school and by the time they are ready to take the exam, they have either lost the tripod or it is useless and then the student is burdened with purchasing another tripod. She does not have any information on how much a model would charge for their time.

Paul Steiger, Rent A Kit, wanted to clarify right now that most candidates don't even bring a model, most candidates bring a mannequin to take the exam. The only candidates left currently using models are barbers, and that's only during a portion of their exams. The changes that are happening May 1st are the chairs are being removed and the tripods are being required. He shared that an inexpensive tripod can be found on EBAY for about \$75.00. His company will rent tripods to their customers.

Rene Parker, Cosmebar, shared her concerns about the stability of the tripods, as she has observed students working with a tripod and the tripods are falling over. She feels this makes the candidates who are already anxious about the exam, even more disconcerted during the exam.

3. Agenda Item #3, BOARD PRESIDENT'S REPORT

Dr. Williams reported that she attended the Board's Sunset Hearing on March 18, 2015 along with Ms. Underwood and Mr. Hedges and it was very successful. She thanked Mr. Fred Jones, Professional Beauty Federation of California, for his continuous support of the Board at meetings, as well as attending the Sunset Review, and providing additional testimony regarding Freelance licensure, Early Testing, as well as Industry Certification.

Dr. Williams acknowledged former Board Members, Ms. Christie Tran and Ms. Wen Ling Cheng who are no longer with the Board. They were both valuable members of the Board. Dr. Williams had the opportunity to work very closely with Ms. Tran, who was an advocate for the Vietnamese community and they both will be greatly missed.

Dr. Williams welcomed the newest Board Member, Polly Cordoniz to the Board.

4. Agenda Item #4, EXECUTIVE OFFICER REPORT

Ms. Underwood reported that the Board continues to operate with no back log in the licensing unit and that BreEZe is still a benefit with receiving over 1000 online transactions.

She said the Board is looking closely at the Spanish examination pass rate for the cosmetology exam, which is at 32% for the first quarter of this calendar year. The Board did find after collecting statistical data, it appears that these students are not learning in Spanish, that they are not coming from specific schools, but in fact they are coming from all over the State. They are attending English speaking schools and then taking the exam in Spanish and failing. The Board thinks this may be a factor. Unlike Vietnamese students, who are taking instruction in Vietnamese and testing in Vietnamese, they have a much higher passing rate. The Board has added a note to the examination application that says, "The exams are translated into the most universal or neutral version of each language to be acceptable to the widest possible audience". Ms. Underwood said the Board will be sharing these findings with the schools, in hopes that the schools can advise their students that the exams are being translated in the most universal or neutral manner. The Board did find out from schools, that these students speak conversational Spanish, and when given the exam in Spanish, they are having a hard time understanding the text.

Mr. Drabkin, inquired if the Board knows what the education backgrounds of the applicants are. He wonders if an oral exam would benefit these applicants and if that is even an option for the Board. Could the Board create a sample oral exam and give to these students that had failed, and see if their scores would increase.

Mr. Federico wanted to confirm that when these reports were run, was the Board able to find what schools the students had attended and if the students were apprentices or regular applicants.

Ms. Amaro said she feels a lot of the Hispanic students do come from across the border for a better life in this country. They generally are very poor and probably don't have much of a formal education. She has spoken to some individuals that say they have taken the exam in English because it is easier to understand than trying to figure out the proper Spanish being used on the Spanish exam. She thinks an audio test would be a better option.

Mr. Hedges suggested doing a pilot project on an oral exam.

Ms. Underwood said they could look into this, but doesn't know what the cost involved would be. The Board contracts with a computer based testing vendor and the National Interstate Council. She said the Board has committed to the Legislature to improve these pass rates by 2017, so one of the next steps we want to do is speak with these students and see how we can help them.

5. Agenda Item #5, APPROVAL OF BOARD MEETING MINUTES

Upon motion by Mr. Hedges, seconded by Mr. Drabkin the minutes from the January 12, 2015 Board Meeting were approved by a 6-0 vote. Ms. Cordoniz abstained.

6. Agenda Item #6, UPDATE ON SUNSET REVIEW

Ms. Underwood reported that the Board's Background Paper from the Committee, and the Board's responses have been submitted to the Committee staff last week. There is a lot of

work for the Board to do. Staff will be working on these items and will keep the Board updated on the progress.

Mr. Hedges said he appreciated the leadership Dr. Williams gave the Board during the Sunset Review Hearing and that she did a wonderful job. He also acknowledged Ms. Underwood for hard work and her organization as well.

Dr. Williams also thanked staff for all their work with the Sunset Review.

7. Agenda Item #7, COMMITTEE REPORTS, CONSIDERATION OF COMMITTEE RECOMMENDATIONS AND POSSIBLE ACTION:

A. Update from the Enforcement Committee Meeting on April 20, 2015

Mr. Hedges, Committee Chairperson, asked Ms. Underwood to report on the committee's meeting early in the day.

- **Update on the Progress of the Implementation of SB1159.**
 - **SB 1159 allows the Board to accept an Individual Taxpayer Identification Number (ITIN) in lieu of a Social Security Number (SSN).**

Ms. Underwood reported that SB 1159 is fully implemented and the Board has processed 75 applications using the Individual Taxpayer Identification Number since implementation.

- **Update on the Progress of Compiling the Medical Services Task Force to Address Services that can be performed by Board Licensees.**

Ms. Underwood reported that the Task Force will be meeting on May 4, 2015. Staff will be bringing back recommendations from that meeting to the next Enforcement Committee.

- **Discussion of Proposed Regulatory Language to Define “Demonstrating” for Purposes of BPC §7319(e) Exemptions.**

Ms. Underwood reported that the committee would like a motion from the full Board to approve the sample language proposed to the committee by staff and allow the Board to start the regulatory process. This would still require lots of public input and steps. She encouraged the public to watch the Board's website and social media. When the Board publicly notices the language it will be sent to the Board's Interested Parties list and be posted on the Board's website. This gives the public a chance to participate in the process.

Upon motion by Mr. Hedges, seconded by Ms. Amaro, the Board approved the proposed regulatory language to define demonstrating, by a 7-0 vote.

- **Discussion and Recommendations on How to Prevent False and Misleading Advertising with Regard to Beauty Services.**

Ms. Underwood reported that this was the first time the issue of misleading advertising was brought to the committee, and it will also be taken to the Medical Services Task Force next month. She encouraged the public to continue to watch the website for any updates so they can participate in any of these decisions.

B. Update from the Licensing and Examination Committee Meeting on April 20, 2015.

Mr. Federico, Committee Chairperson, deferred to Ms. Underwood to report on the Licensing and Examination Committee Meeting held early in the day.

- **Review and Discussion of Licensing Requirements for Establishment Owners and Determination if Additional Requirements are Needed.**

Ms. Underwood reported that committee did feel they should be looking at additional requirements for establishment owners and asked staff to bring back recommendations to their next committee meeting.

C. Update from the Legislative and Budget Committee Meeting on April 20, 2015.

Mr. Hedges, Committee Chairperson, deferred to Ms. Underwood to report on the Legislative and Budget Committee Meeting held early today.

- **Status of the Board's Budget**

Ms. Underwood reported that the budget is fine, however the Board is watching the budget very closely as the fiscal year is coming to an end. The Board is purchasing several vehicles to replace vehicles that are being surveyed out from our inspectors, and we are looking at splitting those cost between this fiscal year and next fiscal year.

- **Update on Sunset Review**

Ms. Underwood reported that the Board's responses have been provided to the legislature.

- **Update and Discussions of Proposed Bills that could impact BBC:**

Ms. Underwood reported that the committee discussed two bills that could impact BBC.

The first bill discussed was AB 181, the Board's Sunset Review Bill, which would extend the Board's provisions. The Committee recommends that the Board take a position of support.

Upon motion by Mr. Hedges, seconded by Mr. Drabkin, the Board accepts the committee's recommendation to take a position of support, with a 7-0 vote.

The second bill, AB 1322, Allowing Alcohol in Establishments, the committee recommends to the Board to watch the bill.

Upon motion by Mr. Hedges, seconded by Mr. Federico, the Board accepts the committee's recommendation to watch AB 1322 with a 7-0 vote.

D. Update from the Education and Outreach Committee Meeting on April 20, 2015.

Ms. Amaro, Committee Chairperson, deferred to Ms. Underwood to provide the updates from the Education and Outreach Committee meeting held early in the day.

Ms. Underwood reported that the committee discussed new outreach items, which the Board is working on internally to promote; the Individual Taxpayer Identification Number (ITIN), Lash/Brow Tinting, and the Health and Safety Regulatory Changes.

The committee discussed outreach avenues available to the Board to reach out to licensees and consumers. Due to the Executive Order limiting travel, the committee came up with an idea of using YouTube and also to contact show promoters throughout the State and see if the Board can send publications to the shows that can be distributed to attendees.

Lastly, staff shared with the committee that they are working on updating the required Health and Safety Curriculum for Professionals, which is required by statute. This is a health and safety course for the professional and how to keep themselves and customers safe. Staff plans on having this completed by January 2017.

8. Agenda Item #8, PROPOSED REGULATIONS UPDATES:

Dr. Williams deferred to Ms. Underwood to provide updates on the follow items.

- **Relating to Health and Safety Title 16, Division 9, Article 12 of the California Code of Regulations Sections: 977, 978, 979, 980.1, 980.2, 980.3, 981, 982, 983, 987, 991, and 992.**

Ms. Underwood stated the Office of Administrative Law (OAL) has approved these regulations. They will go into effect on July 1, 2015.

- **Relating to the Apprenticeship Program Title 16, Division 9, Article 3 of the California Code of Regulations Sections: 914, 918, 921, 921.1 and 921.2**

Ms. Underwood stated the Office of Administrative Law (OAL) has approved these regulations. They will go into effect on July 1, 2015.

- **Relating to the Cross Over and Transfer of Credit of Barbering and Cosmetology Title 16, Division 9, Article 7 of the California Code of Regulations Sections: 950.8 and 950.9**

Ms. Underwood stated the Office of Administrative Law (OAL) has approved these regulations. They will go into effect on July 1, 2015.

- **Relating to Text book Approval Title 16, Division 9, Article 7 of the California Code of Regulations Section: 961**

Ms. Underwood stated the rulemaking file is under review by the Business Consumer Services and Housing Agency. The next step will be to file with the OAL.

- **Relating to Military Training Title 16, Division 9, Article 2 of the California Code of Regulations Section: 910**

Ms. Underwood stated that the documents necessary to file the notice of proposed rulemaking with OAL have been produced. The notice will be mailed to the Board's Interested Parties list along with the notice of proposed rulemaking concerning the administrative fine schedule.

- **Relating to the Administrative Fine Schedule Title 16, Division 9, Article 11 of the California Code of Regulations Section : 974**

Ms. Underwood stated that with the approval by OAL of the Board's health and safety regulations, staff can now proceed with updating the administrative fine schedule. The documents necessary to file the notice of proposed rulemaking with OAL have been produced. The notice will be mailed to the interested parties lists along with the military training rulemaking notice.

9. Agenda Item #9, DISCUSSION AND POSSIBLE ACTION IF THE BOARD SHOULD CONSIDER CONTINUING FOR LICENSEES

Dr. Williams said the Board has had conversations about this issue since she has joined the board and also in the industry it has been a concern with licensees.

Mr. Hedges said that the legislature has not been very receptive to continuing education and he would like to start pushing harder to get some certification classes set up for licensees, so they can continue their learning and education and for the licensees to display these documents in their establishments for their customers to see. He feels it would be very valuable to have a certification on the disinfection processes. He knows that we won't be able to get formal education; so this would be a way to do it.

Dr. Williams commented that with this ever changing industry and the Board wanting to offer licensees an option of getting these classes, it would be great to be able to distinguish themselves and display to their customers that they are keeping up to date with changes in the industry and they are constantly improving upon their craft. But how would the Board go about this?

Mr. Underwood shared that the Board did ask for Industry Certification during the Sunset Review. The Board responded to the Committee, that the Board does feel it would increase consumer protection because the licensees would have more education, therefore they would be better at their licensed profession.

Mr. Federico asked if certification requires statute.

Ms. Underwood said not necessarily, but the belief is that if it is a Board approved certification, it would be more desirable to a licensee, as opposed to them getting certified in a specific skill, from an entity that the consumer may not recognize.

Mr. Federico asked that if the Board wanted to create a board certified course, then that would require statutory change. Ms. Underwood confirmed yes.

Public Comment

Fred Jones, PBFC, thinks the Board can make a strong argument, that an industry certification, in which the Board sets the parameters and standards, and then provides official recognition, those and only those programs that meet those standards, should be allowed. He shares that it is consistent with the Board's mission of protecting consumers of barbering and beauty services. He has always considered this Plan B.

Plan A is the more above the Board seeking from the policy maker's specific statutory authority to do this, but if for any reason policy makers balked on this, he doesn't think it precludes the Board from proceeding with an industry certification recognition program. He thinks if the Board requires mandatory continued education that this would trigger licensing, and that would require statutory change, because if someone didn't conform to the continuing education, their

license would be in jeopardy. He feels there is enough of a grey area in this, and right now his association is trying to play out the Sunset Review process, and trying to use AB 181 or another vehicle to incorporate the industry certification to give the Board clear statutory authority. If that fails, then he thinks we should have a meeting with the attorneys a to legal argument.

Mrs. Underwood clarified further questions from Mr. Drabkin, by saying "Board certified" means if there was an industry organization that offered advanced or continuing education, the Board would make sure it meets the Board's standards and then the licensees could consider themselves Board certified. The Board would not be the providers of the course, or develop the curriculum.

Jaime Schrabek, Precision Nails, feels that the Board would not have control over the quality of the education the licensees are receiving and complaints to the Board would increase from the licensees taking the training if they felt the training was inadequate She feels the Board would be getting into the endorsement business.

Jean Ogren, Electrologist Association/NC, shared the the National Association of Electrologist does have a certification program and she encouraged the Board to look into the options for continued education.

Mirela Marinescu International School of Beauty, feels continuing education is very important and raises the bar of licensees. Her school offers NACCAS advance education courses in coloring, hair extension and skin care and feels these certification courses raise the level of education. She feels if the Board could recognize NACCAS approved certification classes, it would be an easy way to implement continuing education.

10. Agenda Item #10, AGENDA ITEMS FOR NEXT BOARD MEETING

Mr. Hedges requested reports from all the committees and well as an update from the Medical Services Task Force.

Mr.Drabkin would like to see updates on the Spanish language exams passing rates and also options for media sources available for the Board to use for outreach.

11. Agenda Item #11, PUBLIC COMMENT

Paul Steiger, Rent A Kit, wanted to bring attention to the Board that the spread of C. Diff, which is a bacterial infection, has made its way out of hospitals into areas such as nursing homes and dentist offices. He feels it will eventually reach the beauty industry. The main issue with C.Diff is that handsantizers will not kill it; you have to wash your hands. He feels since the Board had change regulation to only require the use of hand sanitizers that the Board considers requiring hand washing in regulations again.

12. Agenda Item # 12, CLOSED SESSION

13. Agenda Item #13, ADJOURNMENT

With no further business, the meeting was adjourned.