

**CALIFORNIA STATE BOARD
OF
BARBERING AND COSMETOLOGY**

BOARD MEETING

MINUTES OF APRIL 29, 2019

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

BOARD MEMBERS PRESENT

Lisa Thong, President
Andrew Drabkin, Vice President
Jacquelyn Crabtree
Steve Weeks
Dr. Kari Williams

STAFF MEMBERS PRESENT

Kristy Underwood, Executive Officer
Michael Santiago, Board Legal Representative
Marcene Melliza, Board Analyst

[Note: Agenda Item 12 was taken out of order. These minutes reflect this Agenda Item as listed on the agenda and not as taken in chronological order.]

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

Lisa Thong, Board President, called the meeting to order at approximately 10:00 a.m. and confirmed the presence of a quorum.

2. Agenda Item #2, PETITION FOR REINSTATEMENT HEARINGS

- Canh Trung Huynh
- Sandra Martinez

CLOSED SESSION

- a. Pursuant to Government Code Section 11126(c)(3), the Board will meet in Closed Session to Deliberate on Disciplinary Matters.**

The Board met in closed session as permitted by law to deliberate on disciplinary matters.

- b. Adjourn Closed Session and Reconvene Open Session**

Ms. Thong reconvened the meeting. No action was announced as having been taken.

3. Agenda Item #3, BOARD PRESIDENT'S OPENING REMARKS

Ms. Thong thanked staff for their work during the Board's sunset review.

Ms. Thong presented former Board Member Joseph Federico with a resolution from the Department of Consumer Affairs (DCA) in appreciation for his years of service with the Board.

4. Agenda Item #4, BOARD MEMBER REMARKS

No Board Member remarks were offered.

5. Agenda Item #5, PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA

John Moreno, Vice President, Bakersfield Barber College, stated he ordered physical copies of the Health and Safety textbooks and workbooks in February and has not received them yet, although he has been assured that they have been shipped. He asked that the books be delivered in a timely manner. Also, the State Board Laws and Regulations have been ordered and have yet to be received.

Kyin Chiou, Chief Operating Officer, International Beauty College, San Francisco, stated his students have been applying for their test dates since December. His college's application is under review and he has been told that he will hear from the Board soon but he has yet to receive anything.

Eleven students who have completed the manicure program, seven students who have completed the cosmetology program, three students who have completed the esthetician program, and two students with undeclared programs from the International Beauty College spoke in support of Mr. Chiou's request. Many of these students have been waiting for five to six months to get their test date.

Wendy Cochran, Founder, California Aesthetic Alliance (CAA), stated licenses are being held by franchise owners and licensees are not being allowed to take the licenses with them to other jobsites. Many estheticians work multiple places and the franchise owners are either holding their licenses at the front desk away from their work areas or telling them to contact the Board to get a duplicate, which costs \$10. She asked the Board to address this issue by perhaps having a better understanding with the establishment owners that this is part of what licensees take with them every day so they can perform services elsewhere. Licensees are being written up for not knowing the regulation that the license is to stay with the practitioner as they move from room to room and that they cannot take it with them when they go to another jobsite. They are being disciplined and often lose their jobs. They are being written up for asking to bring their license back and forth between jobs.

Fred Jones, Legal Counsel, Professional Beauty Federation of California (PBFC), stated the 14th Annual Welcome to Our World (WOW) event at the state Capitol is one week from today from 3:00 p.m. to 6:30 p.m. Details are on the PBFC website.

Patty Barnes, Instructor, Solano Community College, stated instructor licenses must be posted at community colleges and some instructors teach at multiple facilities. She stated she had to move her license back and forth between Solano Community College

and another college she was teaching in while also owning a salon. She asked the Board to provide multiple copies of licenses.

Ms. Barnes stated accommodations are made for students who have special needs in the written portion of the exam. She stated those same students often have need for accommodation in the practical portion of the exam. She asked what the Board does to ensure that the needs of all students are met.

Ms. Barnes stated she also is the owner of Rent-A-Kit, which is a business that facilitates students with State Board kits. She invited the Board to visit to get a bird's eye view of what is going on in the testing world and how successful the students are. She stated it is shameful how some schools and apprenticeship programs operate. She stated the need to be held accountable to a higher standard for the students. Students should not have to go back to the State Board five or six times. She stated this is an issue that will not go away. Some apprenticeship programs and schools are very good while others are very bad.

6. Agenda Item #6, EXECUTIVE OFFICER'S REPORT

- a. Licensing Statistics**
- b. Examination Statistics**
- c. Disciplinary Review Committee Statistics**
- d. Enforcement Statistics**
- e. Budget Updates**
- f. Outreach Updates**
- g. Practice Status Survey Results**

Kristy Underwood, Executive Officer, reviewed the statistics and update reports, which were included in the meeting packet. She noted that a historic review was added to the examination statistics per Board request.

Questions and Discussion

Mr. Weeks asked about the low 2019 Spanish barber pass rate of 15 percent.

Ms. Underwood stated the new barber test went into effect two months ago. She stated there consistently is a decline in scores for new examinations.

Ms. Thong asked about things the Board has done in the past to help decrease the number of violations issued and if there is a difference between how the Board is enforcing now versus ten years ago. Ms. Underwood stated the Board made huge progress with foot spa enforcement. Also, the fine scheduled has been increased several times, which has made a difference. She stated staff will do a historical analysis of the enforcement statistics for the next Board meeting.

Mr. Drabkin asked why interpreter services were not used during the last quarter for Disciplinary Review hearings. Ms. Underwood stated no appellants requested it. Historically, appellants bring individuals with them to interpret.

Mr. Drabkin suggested ensuring that appellants know that this service is available to them. Ms. Underwood stated staff has put together a press release that talks about services provided. This will be translated into multiple languages and sent out to communities to help get the word out.

Ms. Thong suggested that language material be shared on Facebook and Instagram. There are individuals who use those platforms in other languages.

Public Comment

Ms. Barnes stated part of the reason for low test scores is because the test is in correct grammar and very often the students do not understand that because they do not speak using correct grammar. She suggested that the schools teach using proper grammar, especially in the Hispanic and Asian communities.

Kevin Nguyen, California Barber and Beauty College, San Diego, stated the pass rate has dropped since implementing the new rules and testing.

7. Agenda Item #7, OVERVIEW OF DCA'S BUDGET PROCESS PRESENTED BY DEPARTMENT OF CONSUMER AFFAIRS BUDGET OFFICE

Karen Munoz, Budget Manager, DCA Budget Office, provided an overview of the budget process. She reviewed the three stages of the annual budget process, which was included in the meeting packet.

Questions and Discussion

Mr. Weeks asked how the Board's budget for the upcoming year is set. Ms. Munoz stated it starts with the governor's budget. Additional resources may be requested through the Budget Change Proposal process.

8. Agenda Item #8, APPROVAL OF BOARD MEETING MINUTES

• February 11, 2019

MOTION: Mr. Drabkin moved to approve the February 11, 2019, California State Board of Barbering and Cosmetology Meeting Minutes as presented. Ms. Crabtree seconded. Motion carried 5 yes, 0 no, and 0 abstain, per roll call vote as follows:

The following Board Members voted "Yes": Crabtree, Drabkin, Thong, Weeks, and Williams.

9. Agenda Item #9, APPOINTMENT OF COMMITTEE MEMBERS TO THE HEALTH AND SAFETY ADVISORY COMMITTEE

Ms. Crabtree and Ms. Thong volunteered to serve on the Health and Safety Advisory Committee this year.

10. Agenda Item #10, UPDATE ON SUNSET REVIEW

Ms. Underwood stated the February Sunset Review Hearing was postponed. An extension will be put into a bill to allow for discussions on the oversight of the industry and the hearing will be rescheduled soon.

Public Comment

Ms. Cochran stated the esthetician license scope has not been reviewed since 1978. Estheticians would like to provide services that are modern to 2019 and beyond.

11. Agenda Item #11, DISCUSSION AND POSSIBLE ACTIONS REGARDING SPANISH LANGUAGE EXAMINATION PASS RATES

- **Review of Recommendations from Spanish Language Examination Task Force**
- **Review of Spanish Pass Rates for Written Examinations**

Ms. Underwood reviewed the five recommendations made by the Spanish Language Task Force and the staff analysis of Spanish pass rates for written examinations, which were included in the meeting packet.

Ms. Underwood stated staff separated the data on the Apprenticeship Program for the first time and found a 33 percent pass rate for applicants who took the examination in Spanish and a 38 percent pass rate for applicants who took the examination in all other languages. These percentages are alarming. She stated possible issues are that the examination is developed referencing textbooks, yet the apprenticeship program does not require the use of textbooks, and the trainers have no requirements other than that they are licensed with no fines. Also, apprentices are often found working in shops with no supervision.

Questions and Discussion

Mr. Weeks asked what can be corrected through the actions of the Board and the Division of Apprenticeship Standards (DAS). Ms. Underwood stated it will take significant changes on the regulatory level for both entities. The DAS standards for sponsors need to be reviewed.

Ms. Thong asked if new legislation would be needed to implement new requirements. Ms. Underwood stated it depends on the authority the Board has through current statute. She stated the hope to see a significant regulation package to change how the Board is handling schools. Several recommendations were made in the sunset report for how the Board currently handles schools and more Board authority of schools was requested. New and revised regulations can improve the situation in schools.

Mr. Weeks stated concern about the language in the Business and Professions Code (BPC) – for example, whether “weighted average” is the right answer, the most adequate, or part of the solution to the problem. The BPC states “practical demonstration shall prevail over a written test.” It seems that the Board historically has ignored the basis of this law. The code is unambiguous and to interpret it in any other way is to change the intent of the law and the intent of the Legislature. This is fundamental to how examinations should be done. The code states that examinations should be graded in a very different format than all examinations are currently being graded. A recent study indicated that following the Legislature’s direction could increase pass rates. The study stated that the practical examination is more important than the written examination with respect to the protection of the public, which is the Board’s fundamental goal.

Ms. Thong stated it sounded like there were two questions: a compliance question regarding whether or not the Board is operating out of compliance, which is a question for legal counsel, and the question of the way the scoring is weighted as it pertains to not just Spanish language pass rates but to pass rates overall. She stated a letter was provided to the Board, which contains information that was recently agreed upon to become public. Ms. Thong asked Ms. Underwood and Michael Santiago, Board Legal Representative, to go through the memo.

Ms. Underwood deferred to the creators of the letter to discuss it.

Lee Schroeder, Ed.D., President and Founder, Schroeder Measurement Technologies, Inc. (SMT), representing its parent company, Metric (phonetic), and the National Interstate Council of State Boards, asked, given the statement of law that was just referenced, what the case would be to follow that rule. SMT currently scores examinations on what is referred to as a non-compensatory basis, where both examinations must be passed and having more skill in one area does not compensate for less in the other. It appears as though it was in the minds of the individuals who passed the law that somehow extra competence in the practical area should compensate for less performance in the written area.

Dr. Schroeder stated he looked at a one-year period of time ending June of 2018 for first-time test-takers. He stated 62 percent of English language examinations passed versus 36 percent of Spanish language examinations passed. He noted that averaging these two scores with a 1 percent difference, making it 51 percent of the weight placed on the practical examination and 49 percent placed on the written examination, changed the Spanish language examination pass rate from 51 percent to 54 percent. Using this smallest possible weighting difference made a fairly dramatic change of 18 percent.

Ms. Crabtree stated her understanding that the examinations are currently weighed 50/50. Dr. Schroeder stated there currently is a non-compensatory model. Both the written and practical portions of the examination must be passed; the scores are not averaged.

Mr. Weeks stated the first paragraph on the second page of the SMT report, which was included in the meeting packet, states “further, such a weighting does not make it possible for a candidate with a very high score on the practical examination to pass without a meaningful level of performance on the written examination,” meaning there is bad equity between the two.

Dr. Schroeder stated what he was getting at was his understanding that a few years ago the examination portions were separated, where 25 percent of the weight was placed on the written examination and 75 percent was placed on the practical. He stated that was compliant with the law as he understands it; yet, an individual could be licensed without demonstrating any knowledge on the written examination. Moving to his example of a 49/51 weighted scoring would change the outcomes substantially while requiring individuals to demonstrate some meaningful level of knowledge on the written examination.

Dr. Schroeder stated 25/75 only raises the pass rate a little. He stated he did “what if” calculations all the way up the line but soon realized, apart from the fact that data

should not be made to fit needs, the thing that made a big difference was the combination of the scores – treating them as compensatory, where better performance in one compensates for poor performance in the other. That one change is meaningful and has a significant effect for almost any weight that is applied.

Sean Colton, Vice President, SMT, stated another factor that cannot be omitted from this discussion is the large numbers of low examination scores for the apprenticeship programs, which will skew the numbers.

Ms. Crabtree asked if the scores were assigned percentages of 25/75 30 years ago. Dr. Schroeder stated 100 points were assigned to the written portion of the examination and 300 points were assigned to the practical portion.

Ms. Crabtree asked why the scoring method was changed. Tracy Montez, Ph.D., Chief, Division of Programs and Policy Review, DCA, stated it was changed because the criterion reference non-compensatory model is the best model for licensing examinations. Not many licensing examinations use a compensatory model. Most programs, including the CBBC, have certain standards and expectations that are based on entry-level standards. A candidate must achieve those minimum standards in order to practice safely and competently.

Dr. Montez stated a decision was made in the past to change the scoring to a criterion reference passing score for the written and practical examinations. Each one of those pass points must be achieved in order for a candidate to become licensed. The compensatory model was removed because it was found that the scoring was so weighted that there were candidates who could fail the written portion and still become licensed by passing the practical examination. Practical examinations tend to be less standardized, less reliable, and more difficult to score. It was important to the Board at that time to keep both the written and practical portions of the examination.

Dr. Montez stated the scoring is normative where data is used based upon the students while a criterion is what a student must do to practice safely and competently. The criterion does not fluctuate. She stated her concern about adjusting the percentages to ensure a higher pass rate. The standards specifically state that regulatory boards should not adjust pass rates arbitrarily to allow individuals to enter into the field but that scoring should be based on a criterion reference base.

Dr. Montez cited BPC section 139 and stated legislators put the term “prevail” in the law but they were not advised by a psychometrician. Psychometric standards are based on case law.

Mr. Drabkin asked if it is the role of the Legislature to gate-keep. Dr. Montez stated, based on testing, it is not. The Legislature must look at what is appropriate for standards for health and safety. The Board makes those decisions too but it does not gate-keep by arbitrarily adjusting the passing score. The Board establishes regulations to protect consumers but it would be on a test-by-test case by doing occupational analyses based on the scope of practice that identifies important tasks, skills, and knowledge that must be known upon licensure; then, the test is developed based on that. That is what should govern those decisions, not raising the pass rate.

Mr. Weeks stated it appears that the DCA is in conflict with the BPC. There are two different things going on here: the code and scientific testing of what would be best in this area. Dr. Montez stated her concern about the interpretation of the word “prevail.” There was no guidance on the appropriate use of that word when that was established so the Board chose to use BPC Section 139 to help them address the word “prevail” and how that has been interpreted.

Mr. Weeks asked for a discussion on that point. Mr. Santiago stated the overarching question is whether or not the Board is in compliance with the law. He stated it is a difficult question to ask because it is not clear-cut. The Board is in substantial compliance in terms of the BPC Section 7338 and also 139, meaning struggling with these two different code sections and trying to be lawful. The Board has been working with the Office of Professional Examination Services (OPES) over the years because of the vague language of BPC Section 7338.

Mr. Santiago stated the need for a regulation in order to say the Board is in full compliance because of the language in the statute and the regulations on how to implement what “prevail” means. Absent having a regulation, the Board relies on the psychometric data and OPES to determine how to best implement this code section. The Board must acknowledge that the language does not state the practical portion of the test will surpass the written every time because Section 139 states policies must be developed that pertain to the setting of passing standards. If the Board has that advice that it cannot automatically say that the practical demonstration surpasses the written every time, the Board has to acknowledge that and find a course. He stated that is where the Board comes into substantial compliance. The Board is legally defensible in that it is in substantial compliance with the law.

Dr. Montez suggested combining the written and practical portions into one examination. Students do a practical demonstration and then articulate some of those knowledge concepts captured on a written test. Rather than dealing with compensation or some model or two different tests, there is a way to address the Board’s concerns about the differences in pass rates. There is a much bigger picture with the apprenticeship program and other issues with language and translation but, rather than going back to this one statute, she suggested looking at the examinations and how they are done. Computer-based testing was a huge change and maybe now it is time to look at something a little different in terms of one exam versus two.

Dr. Montez stated she has done audits of the national examination programs and they are very strong with great information to candidates that must connect with the students and the schools. If students do what is being asked of them, taking the time to learn the material and to see what is published out there, they should be able to do well. She stated her concern is that students are not being led in the right direction.

Mr. Weeks asked if Dr. Montez is suggesting that there could be some sort of internalized weighting in a single examination that could offset the current issues. Dr. Montez stated it is a possibility by combining them to where students could articulate some of those concepts in greater detail that were on the written test as they are completing their practical demonstration. It is a way to streamline while still protecting

consumers. It addresses the need to get candidates licensed fairly while knowing that there is a disparate situation with the written and practical portions.

Mr. Weeks stated his understanding that the concept would be to go to a one-test format to negate the problem with the word “prevail.” Dr. Montez agreed and suggested working closely with the executive officer and legal counsel for any changes made in consultation with SMT and licensees who are the subject matter experts. She stated the importance of having the Board, licensees, and psychometricians at the table to discuss any changes made.

Mr. Weeks asked the representatives from SMT for their thoughts on a one-exam format to accomplish the Board’s needs. Dr. Schroeder stated he agreed with everything that Dr. Montez said, but it is difficult to visualize the mechanics of that. It would seem there would be a facility where there would be a demonstration of skills, similar to the practical portion of the examination, and then something would be done to collect cognitive information and then move on to perhaps another demonstration of skills. He stated, at the end of the day, it would do the same as combining the scores.

Dr. Schroeder stated, if there is a cognitive format, a written exam where 50 percent of it is science, 25 percent is health and safety, and 25 percent is products, if someone is good in science and not so good in health and safety, they can still pass because one compensates for the other within the exam. It is not inherently wrong to combine the scores across the two types of examinations.

Ms. Underwood asked how other states make the national examination work. Dr. Schroeder stated other states are not seeing the difference in performance that California is observing. He stated he sees candidates who are trained in other languages have certain deficiencies; the translation aspect of the examinations has been looked at in every possible way to see if it could have in some way been flawed. It comes back to the fact that for some reason candidates who choose to take their examinations in a language other than English cannot seem to read it. He suggested toggling the content. Most individuals who take the examination in Spanish are bilingual fundamentally and the examination can and should be presented in a bilingual way where a candidate can read it in both Spanish and English.

Mr. Colton added that this is currently done for a number of clients and toggling to English can be done in any language that the test is translated into for a better understanding of the terms.

Dr. Montez stated a new computer-based testing contract will be in place by the end of this year. The ability to toggle between English and other languages is a priority and is an anticipated option.

Mr. Drabkin suggested including a screen reader. Mr. Colton stated a screen reader is included in the program, but he stated the need to be careful because not all words are pronounced accurately.

Mr. Weeks stated he was intrigued by looking at a one-examination format. He asked staff to continue looking at that as a possible solution to the problem with BPC Sections 7338 and 139 and report findings at the next Board meeting.

Ms. Thong stated there is a bigger need than just looking at scoring in terms of reviewing the examination, what other states are doing, and whether or not the exam itself is how the Board should be testing. She asked that the Licensing and Examination Committee look at this in detail and bring recommendations to the Board.

Ms. Thong stated the Board is now on two separate tracks from what is seen in the data of the Spanish language exam:

- The apprenticeship and school issues are a huge factor in pass/fail rates. The examination question may play a much smaller part of that but major issues need to be addressed for Spanish test takers first and foremost.
- The examination must be looked at in detail, especially with the new toggle option and seeing how that plays out and maybe having the Licensing and Examination Committee look into other questions the Board may want to raise and take to a more detailed level.

Ms. Thong noted that Committee appointments were tabled to January due to the number of vacancies on the Board.

Dr. Montez stated it will take time to research these issues. She suggested sharing at the Sunset Review Hearing that the Board is looking at Spanish pass rates, the examination structure, and how to do things more efficiently and still protect consumers. This is a great example of the balance between being fair, improving the economy, and protecting the public.

Mr. Weeks stated the Legislature would appreciate a one-examination format.

Mr. Colton stated changing the examination format is not the solution to the problem because there is still the administration side. There is flexibility where candidates can take the test but changing the examination model will increase the length of the exam and the wait time for individuals to take the examination. There are other factors to consider.

Ms. Thong agreed that it is not only about how the examination is scored but whether or not the examination needs to be updated in any other way so that it is easier to access and also addresses the economic need, especially what legislators have concerns with.

Public Comment

Mr. Jones suggested not changing the format and not assigning weighted percentages but instead combining the score of the written and practical portions of the examination. A single test score will compensate for students who do well on the practical portion but not so well on the written portion.

Mr. Jones noted that BPC Section 7338 is specific to this Board while Section 139 is a general DCA code section.

Mr. Jones stated his organization's primary concern is to preserve the practical examination. The practical examination should prevail but, at the very least, it should exist. Going back to a single score will help preserve the practical examination.

Janice Moses, On-Site Administrator, Blake Austin College, Vacaville, stated quality of education is a concern. She encouraged the Board not to diminish the written portion of the examination because it is in the learning of the sciences and health and safety that produces a higher caliber licensee. She stated getting anyone to pass is not what the Board is looking for. Elevating what the students are learning is important.

[Note: Agenda Item 12 was taken out of order and was heard after Agenda Item 5.]

12. Agenda Item #12, DISCUSSION ON INSTRUCTOR REQUIREMENTS FOR PRIVATE BEAUTY SCHOOLS

Ms. Underwood summarized the staff notes, which were provided in the meeting packet. She stated the Board does not have oversight over instructors in any school setting; however, the Bureau for Private Postsecondary Education (BPPE) does have requirements for instructors. She invited the representatives from the BPPE to come to the presentation table for a question and answer session.

Dr. Michael Marion, Jr., Bureau Chief, BPPE, introduced his colleague, Robert Bayles, Chief, Quality of Education and Annual Reports Unit, BPPE, and stated they would be happy to answer any questions from the Board.

Questions and Discussion

Ms. Thong asked about the requirements in the BPPE's oversight of instructors.

Mr. Bayles stated the BPPE looks at a combination of three years of education, experience, and training for faculty in non-degree programs. In the case of Board programs, typically three years of experience meets the requirement for hire. This is evaluated through various documents that come to the BPPE through the licensing application process. BPPE compliance inspectors verify the same thing when out in the field.

Mr. Weeks asked what the equivalencies are for experience, education, and training that the second sentence of the California Code of Regulations (CCR) Section 71720(b)(1) refers to, which states "If an instructor does not possess the required three years of experience, education, and training in the subject area they are teaching, the institution shall document the qualifications the instructor possesses that are equivalent to the minimum qualifications."

Mr. Bayles stated the Quality of Education Unit met four or five months ago because that question was posed by compliance inspectors. The unit came up with a single example and it was for a criminal justice program, where an individual had some type of significant award because of their accomplishments in the field. There are no equivalencies for instructors in the CBBC programs.

Mr. Weeks asked if equivalencies have been denied at the BPPE or school level.

Mr. Bayles stated they would be denied in the licensing application but, once a school becomes licensed, they are free to operate so they can hire more faculty. Schools are not required to run additional faculty through the BPPE. Compliance inspectors typically return after the school has been running a few years. The compliance inspectors review the faculty files to ensure that the instructors are qualified.

Mr. Drabkin asked what community colleges require for instructors. Mr. Bayles stated community colleges are typically more stringent in their requirements for degree programs. He stated he was unsure for non-degree programs.

Ms. Crabtree asked if the BPPE oversees apprenticeship programs. Mr. Bayles stated it does not.

Ms. Thong asked about the documentation the BPPE requests for instructors. Mr. Bayles stated, in most cases, it is a resume because a resume outlines an individual's career and qualifications based on experience. If qualifications are based in part on education, the BPPE asks for an academic transcript from the college or university that the individual attended. If qualifications are based on training such as their attendance at a CBBC school, the BPPE asks for documentation of that, which can be a transcript or proof-of-training document.

Mr. Weeks stated the CCR Section 71720(b)(2) requires the completion of continuing education courses in three areas. He asked about the frequency and number of hours required and proof that these requirements were met for file audits.

Mr. Bayles stated it is recommended but there are currently no such requirements. Accrediting agencies typically require that information on an annual basis. The BPPE is in the process of revising the minimum operating standards language to an annual requirement and adding information that was not previously required.

Ms. Thong asked if the BPPE works with Board staff to look at the applicant's record, specifically the history of violations. Mr. Bayles stated the BPPE does not work with the Board staff as part of the licensing application process.

Ms. Thong asked if there is a requirement for faculty to be a current licensee with the Board. Mr. Bayles stated the BPPE does not have a regulation that says that faculty must hold current licensure.

Ms. Crabtree asked who oversees the apprenticeship program. Ms. Underwood stated the Division of Apprenticeship Standards oversees the apprenticeship program.

Mr. Weeks stated there has been more collaboration and sharing of information recently between the Board and the BPPE. That is good for both entities. Dr. Marion thanked the Board for their support. He stated the hope for continued collaboration in the future.

Public Comment

Ms. Cochran asked how schools can hire contractors who teach services that are out of scope, such as microneedling, permanent makeup, dermaplaning, and fibroblasting. Students are being misled into thinking that they will perform these services when licensed.

Jaime Schrabec, Ph.D., Owner, Precision Nails, stated her concern that, if the Board took action, it would give instructors the opportunity to teach at schools. She stated her concern that any type of instructor license within cosmetology will lend a sheen of credibility to schools whose business models may be to sell hours and proofs of training. These may be great instructors, but students will not be present to benefit from that instruction.

Ms. Barnes stated, to instruct at a community college, individuals must have a degree and multiple years of experience, and must do continuing education within the college district.

Ms. Underwood stated students' time in school working toward a cosmetology license gives them the experience to apply to the BPPE to be an instructor. She suggested further discussion on this issue at a future Board meeting.

13. Agenda Item #13, LEGISLATIVE UPDATE: DISCUSSION AND POSSIBLE ACTION ON PROPOSED BILLS

Ms. Underwood summarized the Bill Analysis, which was included in the meeting packet, for the following bills:

a. AB 5 (Gonzalez) – Worker Status: Independent Contractors

Public Comment

Ms. Cochran suggested taking a watch position. It is a massive problem in the industry and what follows behind it is tax evasion, which will eventually roll back to the Board.

MOTION: Mr. Drabkin made a motion, seconded by Ms. Crabtree, that the Board watch AB 5. Motion carried 5 yes, 0 no, and 0 abstain, per roll call vote as follows:

The following Board Members voted "Yes": Crabtree, Drabkin, Thong, Weeks, and Williams.

b. AB 193 (Patterson) – Barbering and Cosmetology Scope of Practice Changes

Ms. Underwood stated the Board currently has taken an oppose position on this bill. This bill has been pulled from the Committee. She recommended maintaining an oppose position.

c. AB 496 (Low) – Business and Professions Changes

MOTION: Ms. Thong made a motion, seconded by Dr. Williams, that the Board support AB 496. Motion carried 5 yes, 0 no, and 0 abstain, per roll call vote as follows:

The following Board Members voted "Yes": Crabtree, Drabkin, Thong, Weeks, and Williams.

d. AB 613 (Low) – Regulatory Fees

MOTION: Mr. Weeks made a motion, seconded by Ms. Crabtree, that the Board support AB 613. Motion carried 5 yes, 0 no, and 0 abstain, per roll call vote as follows:

The following Board Members voted "Yes": Crabtree, Drabkin, Thong, Weeks, and Williams.

e. AB 817 (Kiley) – Mobile Units

Ms. Underwood stated this bill has recently been pulled by the author. She stated this bill will be discussed at the Sunset Review Hearing. She suggested that the Board support this bill because it makes significant changes.

Public Comment

Dr. Schrabec stated the need to define the word “enclosed” or it may be interpreted to include horse trailers or carts.

Ms. Thong asked staff to take that feedback to the author’s office.

MOTION: Dr. Williams made a motion, seconded by Ms. Crabtree, that the Board support AB 817. Motion carried 5 yes, 0 no, and 0 abstain, per roll call vote as follows:

The following Board Members voted “Yes”: Crabtree, Drabkin, Thong, Weeks, and Williams.

f. AB 1271 (Diep) – Licensing Examination Reports

MOTION: Ms. Crabtree made a motion, seconded by Dr. Williams, that the Board watch AB 1271. Motion carried 5 yes, 0 no, and 0 abstain, per roll call vote as follows:

The following Board Members voted “Yes”: Crabtree, Drabkin, Thong, Weeks, and Williams.

g. AB 1607 (Boerner Horvath) – Gender Discrimination Notification

Public Comment

Dr. Schrabec stated the language is sloppy - for example, it refers to barbers or hair salons. Barber is an individual and a category of licensure while a hair salon is a type of establishment. She suggested the language “for every business that offers services that are regulated by the CBBC.” If the language does not apply to the entire Board, it is problematic.

Ms. Thong asked staff to take that feedback to the author’s office.

MOTION: Ms. Crabtree made a motion, seconded by Mr. Drabkin, that the Board support AB 1607. Motion carried 5 yes, 0 no, and 0 abstain, per roll call vote as follows:

The following Board Members voted “Yes”: Crabtree, Drabkin, Thong, Weeks, and Williams.

h. SB 238 (Grove) – Worker Status

Ms. Underwood stated this bill failed passage at the hearing and reconsideration was granted. This bill is a carve-out to AB 5.

MOTION: Mr. Drabkin made a motion, seconded by Ms. Thong, that the Board watch SB 238. Motion carried 5 yes, 0 no, and 0 abstain, per roll call vote as follows:

The following Board Members voted “Yes”: Crabtree, Drabkin, Thong, Weeks, and Williams.

i. SB 607 (Glazier) – Health and Safety Advisory Committee

MOTION: Mr. Drabkin made a motion, seconded by Ms. Crabtree, that the Board support SB 607. Motion carried 5 yes, 0 no, and 0 abstain, per roll call vote as follows:

The following Board Members voted “Yes”: Crabtree, Drabkin, Thong, Weeks, and Williams.

14. Agenda Item #14, PROPOSED REGULATIONS: DISCUSSION AND POSSIBLE ACTION OF PROPOSED REGULATORY CHANGES

Ms. Underwood summarized the Regulations Update memo, which was included in the meeting packet, for the following regulations:

- a. Title 16, CCR Section 904 (Definition of Access)**
- b. Title 16, CCR Section 950.10 (Transfer of Credit or Training)**
- c. Title 16, CCR Section 961 (National Interstate Council (NIC) Translation Guides)**
- d. Title 16, CCR Sections 962, 962.1 and 962.2 (Externs)**
- e. Title 16, CCR Section 965.2 (Personal Service Permit)**
- f. Title 16, CCR Section 970, 971 and 972 (Substantial Relationship Criteria, Criteria for Rehabilitation, and Disciplinary Guidelines)**
- g. Title 16, CCR Section 974 and 974.3 (Fine Schedule and Payment Plan)**

MOTION: Ms. Crabtree made a motion, seconded by Dr. Williams, that the Board approves the proposed language and disciplinary guidelines booklet for Title 16, CCR Sections 970, 971, and 972. Motion carried 5 yes, 0 no, and 0 abstain, per roll call vote as follows:

The following Board Members voted “Yes”: Crabtree, Drabkin, Thong, Weeks, and Williams.

MOTION: Ms. Crabtree made a motion, seconded by Dr. Williams, that the Board approves the proposed revisions to fine schedule language in Section 974. Motion carried 5 yes, 0 no, and 0 abstain, per roll call vote as follows:

The following Board Members voted “Yes”: Crabtree, Drabkin, Thong, Weeks, and Williams.

15. Agenda Item #15, AGENDA ITEMS FOR THE NEXT MEETING

No additional agenda items were offered.

16. Agenda Item #16, ADJOURNMENT

There being no further business, the meeting was adjourned at 3:06 p.m.