

**CALIFORNIA STATE BOARD  
OF  
BARBERING AND COSMETOLOGY**

**BOARD TELECONFERENCE MEETING**

**MINUTES OF SEPTEMBER 14, 2020**

**BOARD MEMBERS PRESENT**

Lisa Thong, President  
Dr. Kari Williams, Vice President  
Jacquelyn Crabtree  
Andrew Drabkin  
Derick Matos  
Calimay Pham  
Steve Weeks

**STAFF MEMBERS PRESENT**

Kristy Underwood, Executive Officer  
Carrie Harris, Deputy Executive Officer  
Sabina Knight, Board Legal Representative  
Allison Lee, Board Project Manager  
Marcene Melliza, Board Analyst

**BOARD MEMBER ABSENT:** Christie Tran

**[Note: Agenda Item 8 was taken out of order. These minutes reflect these Agenda Items as listed on the agenda and not as taken in chronological order.]**

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

Lisa Thong, Board President, called the teleconference meeting to order at 9:00 a.m. and confirmed the presence of a quorum.

**2. Agenda Item #2, BOARD PRESIDENT'S OPENING REMARKS**

Ms. Thong reminded everyone that the Board's purview is consumer protection. It is through the lens of consumer protection that the Board reviews and makes decisions on everything from regulations to licensing and enforcement.

Ms. Thong stated Board Members are listening to public comments and hearing the concerns but explained that, by law, Board Members are not allowed to respond to public comments. This is why answers are not given to questions posed during public comment periods.

Ms. Thong acknowledged the pain that this industry and all licensees are experiencing during the COVID-19 pandemic and the pain that Board Members have in listening to the stories shared during public comment and in communications being sent to the Board as these stories also apply to them.

Ms. Thong acknowledged the frustration caused by the perceived silence of the Board. The Executive Officer and Board staff have been doing their best to support and assist the Governor's Office and the California Department of Public Health (CDPH) to make informed decisions that impact this industry and its licensees.

Ms. Thong stated the Board has worked to support and execute on orders that were given to it. She noted that the Board was not at the table to make these decisions – its input was only requested after decisions were made. The Board was not asked to

partner in the creation of the conditions under which licensees could continue to operate and provide services. The Board was not asked to build a solution together.

Ms. Thong shared about a meeting with the CDPH and the Governor's Office she took part in on August 26<sup>th</sup>. This meeting only took place because the Board stepped out of its lane and voiced concern to legislative offices about the lack of say the Board had on decisions impacting licensees. She stated she asked for three things on that call:

- A true partnership with the CDPH and the Governor's Office so that the Board would be at the table for decisions prior to finalization and announcements at press conferences. She wants the Board to be able to weigh in and provide insight into regulations that could help with decisions.
- A clear reason or statement to provide to licensees as to why they were not being allowed to open indoors.
- The CDPH's partnership and presence with outreach via teleconferences or other communication platforms so that licensees could hear directly from them and greater language outreach efforts due to the diversity of the licensee population.

Ms. Thong stated, in short, the meeting was disappointing. Regarding a true partnership, she stated she has not received communication from the meeting participants since that meeting. Nothing has changed. Two days after the meeting, the governor announced his new Blueprint for a Safer Economy. None of the changes were made that were shared during the meeting just two days prior. The Board was informed just minutes prior to the announcement regarding the changes allowing hair salons and barber shops to operate indoors. Again, Board staff scrambled to gather information and worked towards providing answers to questions that could not be anticipated. Again, the Board had been left in the dark.

Ms. Thong stated, regarding her question about a clear answer as to why licensees could not operate indoors at that time, she received the response that this industry is nonessential. She asked the CDPH a series of questions:

- What proof is there that this industry has high risk of exposure for the general public? The CDPH mentioned one case in the Midwest in which two licensees caught COVID.
- Have there been cases of COVID which have been linked to an establishment through contact tracing in California? No data was received that day or since indicating that there have been any cases.

Ms. Thong asked many questions but did not get the answers that she felt the licensees of this industry deserve. Ms. Thong stated the one answer she did get from that phone call was that the CDPH would agree to participate in outreach events if coordinated by the Board.

Ms. Thong apologized that the conversation did not result in answers that licensees and this industry deserve and need. The CDPH and the Governor's Office continues to separate out hair salons and barber shops, even though all industry establishments

follow the same regulations. They continue to leave manicurists and esthetics in a different category without concrete answers as to why.

Ms. Thong stated she asked in that meeting if the Board could work together in partnership to work for active solutions and to understand conditions under which licensees can work indoors safely. That request and offer still stands. The need is greater than ever to develop state-level guidance and plans for this industry to operate safely. The COVID-19 pandemic continues and there is an anticipation for a step backwards in the upcoming months, which will once again set businesses back to square one.

Ms. Thong asked about the conditions and restrictions under which licensees can operate safely to keep themselves and the general public safe. She stated licensees know how to operate safely and know how to keep themselves and their clients safe. She asked that the CDPH and the Governor's Office give the Board the opportunity to explain why and how to them, and to work with them to create those guidelines. Licensees want to keep California safe – that is why the Board exists.

Ms. Thong stated the topic of the COVID-19 impact has been placed on today's agenda for Board discussion. She stated she looks forward to hearing the perspectives and thoughts of fellow Board Members on this matter and looks to stakeholders for a robust exchange of ideas.

### **3. Agenda Item #3, BOARD MEMBER REMARKS – Informational Only**

Ms. Crabtree agreed with Ms. Thong's opening remarks.

Mr. Matos stated the importance of communicating the meaning of capacity limits, defining certificates of occupancy and capacity ratios, and what 25 percent means. He gave the example of a 3-person occupancy in the 1,200-foot space. He asked how this will affect the rest of the staff and what they are able to do. He stated there is more that can be done. Communication is key.

Dr. Williams agreed with Ms. Thong's and Mr. Matos's comments.

Mr. Weeks stated he has visited over a dozen barber shops, hair salons, and street-side nail establishments in Los Angeles over the past two weeks to see for himself how licensees are performing during these difficult times. He stated he found that all establishments were adhering to the regulations with high levels of health and safety protocols.

### **4. Agenda Item #4, DISCUSSION AND POSSIBLE APPROVAL OF JUNE 8, 2020, AND AUGUST 3, 2020, BOARD MEETING MINUTES**

**MOTION:** Ms. Crabtree moved to approve the June 8, 2020, and August 3, 2020, California State Board of Barbering and Cosmetology Meeting Minutes as presented. Mr. Drabkin seconded. Motion carried 7 yes, 0 no, and 0 abstain, per roll call vote as follows:

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

## 5. Agenda Item #5, EXECUTIVE OFFICER'S REPORT

- **Board Overview**
- **Licensing Statistics**
- **Examination Statistics**
- **Disciplinary Review Committee Statistics**
- **Enforcement Statistics**
- **Budget Updates**
- **Outreach Updates**
- **Practice Status Survey Results**

Kristy Underwood, Executive Officer, reviewed the statistics and update reports and outreach activities, which were included in the meeting packet. She stated there is still work to do in the apprentice programs. She suggested a review of the apprentice programs and a report to be presented at the next Board meeting.

Ms. Underwood reviewed the new Board Overview Q&A section, which contained information on the purpose of the Board and other information to help clarify common questions received over the past few months during the COVID-19 pandemic. She asked for input on this section before it is finalized as a fact sheet to be posted on the website.

### Questions and Discussion

Board Members thanked staff for putting together the informative Board Overview Q&A fact sheet.

Mr. Drabkin asked about the number of closed schools that were Spanish language approved and for information on why the cosmetology Spanish written exam pass rate was 31 percent overall from January through March and doubled to 61 percent from April through June. He stated his concern that no barber Spanish written exam applicants passed from April to June.

Ms. Underwood stated she will research those questions and provide the answers at the next Board meeting.

Mr. Matos asked about projections for licensees had COVID not happened and whether the number of individuals who took the Spanish language exam is normal.

Ms. Underwood stated the impacts of the COVID-19 pandemic are seen in the significant decrease in test takers from April to June.

Mr. Drabkin suggested monitoring how distance learning affects the examination results. Ms. Underwood stated staff is tracking that.

Ms. Pham referred to the Projected Expenditures document and asked why the projected Consultant and Professional Services – External line item was higher than allotted.

Ms. Underwood stated it is a portion of the examination since the Board contracts with the National exam, which goes into different line items. Staff is working with the Budget Office to get the financial documents cleaned up to remove the items in red. The Board's expenditures are consistent over many years and the financial documents have

looked this way for years. The Budget Analyst is working on reallocating the items in red to correctly reflect the budget.

Mr. Matos asked if the new Barbicide certification was discussed at the outreach event on August 11<sup>th</sup>, specifically how the certification was devised and approved.

Ms. Underwood stated it is not Board approved. It is an optional program. The outreach event on August 11<sup>th</sup> was about getting regulatory feedback on the Board structure and role.

Mr. Drabkin referred to the Practice Status Survey Results charts and asked to make the independent contractor/booth renter pie chart more realistic on the first chart.

#### Public Comment

Deedee Crossett, Owner, San Francisco Institute of Esthetics and Cosmetology (SFIEC), licensed esthetician, establishment owner, and former Board Member, stated SFIEC was approved for distance learning. Students who just graduated have test dates in December. She stated students are frustrated due to the fact that test dates are being assigned inconsistent with dates of graduation. Also, students who graduated during the initial COVID-19 shut-down are still waiting for test dates. She asked that the Board communicate the scheduling process to schools so the schools can inform students when to expect their test dates.

Ms. Underwood stated she will contact Deedee Crossett offline.

#### **6. Agenda Item #6, BOARD DISCUSSION AND UPDATE REGARDING IMPACT OF COVID-19 ON LICENSING, EXAMINATIONS, OUTREACH, AND ENFORCEMENT**

Ms. Underwood stated the Governor released a new tiered system for opening businesses. There are currently 23 counties that are completely open to the industry and 32 counties are hair only with the remaining services of skin and nails being allowed outside. Two counties are opening with restrictions that hair is open, and skin and nails can be open if it does not require the removal or adjusting of a face mask, which rules out facials. There are counties that have restrictions on certain types of facial services and counties that are limiting capacity. It has been challenging to determine what that capacity is.

Ms. Underwood stated the system is based on the counties. The Board is in contact with all counties daily to keep up-to-date on county decisions and to track changes. One issue staff has found is counties opening esthetic services in medical spas but not allowing esthetic services in other licensed establishments. Staff is educating counties that esthetic services performed in all licensed establishments are the same.

Ms. Underwood stated inspectors are in the field and continue to operate on an educational mode. They provide the Board's checklist to salons, remind them of the Governor's orders, and will begin this week to promote wearing masks, since the number of individuals wearing masks has decreased. The Board is creating a postcard in multiple languages for inspectors to hand out to remind individuals to wear masks to help prevent the spread of COVID-19.

Ms. Underwood stated staff workload has been affected by the state office furlough of two days per month and the fact that four staff members have been directed to become contact tracers. Examinations are at half capacity, which is a challenge. There has been confusion about individuals' anticipated test dates due to pre-application submittals. Processes have changed to adapt to the COVID-19 pandemic. There is currently a plan to increase the number of examinations and to do mega-days, where several additional examination slots will be open during those days to help with the examination backlog.

### Questions and Discussion

Mr. Matos asked if there is a distinction between license types in regard to wearing masks. He stated his barber shops do not promote the removal of masks but each county is different. He asked if guidelines to services that allow mask removal are included in the postcard to help licensees better understand the services that are allowed.

Ms. Underwood stated this is not something that the Board can put on a postcard because each county determines their own rules. Links to counties are posted on the website.

Ms. Thong asked for Board Member feedback on where they think the industry should be at this point during the COVID-19 pandemic and also looking forward into the future second wave of pandemic. She asked what the Board can do to prepare and how to inform counties about best practices, especially now that the state orders leave decisions up to each county.

Ms. Crabtree stated everyone should be able to work safely, as long as everyone is wearing a mask in the salon, social distancing, and sanitizing between each guest. Facials would be difficult to do without removing the mask and causing exposure.

Mr. Matos stated the confusion is due to counties having different guidelines. It is important to learn from the past few months and to push to have the Board voice at the table to set guidelines going forward. He suggested that the Board take the initiative to create guidelines on services that are acceptable or are limited to alleviate the confusion.

Mr. Matos noted that borders between counties are not closed. Residents go to neighboring counties that offer the services that are closed in their county. It needs to be looked at objectively as to what will be best overall in the short-term to improve the outcomes in the long-term.

Mr. Drabkin stated the need to work with the Legislature on providing a pandemic safety net such as some sort of expedited financial unemployment support for industries that are shut down for public safety due to the pandemic. He also suggested working with the Legislature on the definition of "essential" work.

Ms. Thong stated the CDPH and the Governor's Office agreed that the definition of "essential" is vague in that the retail industry was allowed to open but the salon industry was not.

Ms. Thong asked staff to work on the suggestions provided by the Board and report back at the next meeting. She summarized the feedback from Board Members as follows:

- Look at a number of approaches with the Legislature and a plan for legislative solutions to address impact on the industry during times of pandemic or other emergency situations in which the industry is being shut down.
- Look at standardization of a recommendation for counties that could include a limitation of services or a specific time limit.
- Look at the current tiered approach and what should be implemented for those various tiers for licensees to operate safely.

Ms. Underwood stated staff can draft recommendations to provide to counties to help them better understand the industry, especially as counties are moving to open.

Ms. Thong asked staff to create an FAQ to counties, the CDPH, and the Governor's Office to address some of the misconceptions about the industry such as that each of the industry services are operating under different regulations, and to help them understand that the industry is well-equipped to be safe during this time. She suggested scheduling another meeting with the CDPH to present this information.

Ms. Thong asked staff to work with the CDPH on outreach activities and to report back on the outcomes. She suggested offering to help the CDPH to translate their guidance. She asked staff to create a plan for an in-language media outreach to ensure that licensees have the information they need. She asked staff to ask counties to partner with the in-language media outreach effort.

Mr. Matos stated his concern for licensee and public safety during this time of unhealthy air quality due to the fires since licensees have been forced to work outside.

Mr. Drabkin suggested that giving an account of the number of licensees and licensed establishments there are in California may lend weight to the economic importance of the industry to each county.

Ms. Thong stated the CDPH is the main decision-maker. It is important to create a myths and misconceptions document to send to all county health officials and to help them understand some of the industry's regulations. It is clear that many county health officials have little understanding of how this industry operates.

Ms. Crabtree added that county health officials do not know the amount of revenue this industry brings in.

#### Public Comment

Wendy Cochran, Founder, California Aesthetic Alliance, stated San Diego and Los Angeles Counties have reported community outbreaks. She noted that San Diego County had more than eight in the last month. The scope of practice for estheticians has not been updated since 1978. It is important to update that scope of practice for the Sunset Report since many things have changed due to the COVID-19 pandemic.

Fred Jones, Legal Counsel, Professional Beauty Federation of California (PBFC), stated he was moved by Ms. Thong's opening statements this morning and with the Board Member deliberation on this agenda item. He thanked Ms. Thong and staff for working behind the scenes to try to educate and inform the decision-makers about the safety of this industry and also about the inappropriateness of discriminating against women and immigrants, since 95 percent of estheticians are women and three-quarters of the nail technicians are first-generation Vietnamese. It is inappropriate that the governor and now a few counties have decided to distinguish and discriminate within this industry. This Board does not distinguish between establishment licenses.

Mr. Jones thanked Ms. Thong for pointing out to decision-makers that nail and skin services are safer than a dental hygienist or an orthodontist procedure. He thanked Board Members for pointing out the insanity of asking these women and immigrants to work outside in incredibly bad air quality in the smoke and heat. The PBFC does not feel it is appropriate to delegate oversight to county health departments. He asked the Board to reassert its dominance and oversight of the industry and not delegate that responsibility to county health bureaucrats.

Deedee Crossett stated it is elitism to say that an industry that is made up of 90 percent women and 70 percent minorities with hundreds of hours of training are not qualified to create a health and safety environment while other businesses are open. The most important thing in going to the Legislature is to talk low-risk versus high-risk. Calling businesses essential versus nonessential is not helpful because it is subjective. Businesses that can service customers in a low-risk environment should be allowed to open. Creating a checklist and a system so licensees know what they need to do to be low-risk will help the industry to be acceptable and essential.

Susie Wong, Sacramento Nail Association (SNA), stated SNA is collaborating with the PBFC and represents the Vietnamese American nail salon owners and manicurists. The SNA sent a letter to the governor with a copy to staff educating on safety measures that nail salons are taking that should qualify them to reopen indoors.

Kayle D. Dang stated the nail industry has the same training in health and safety as the hair industry. The air quality is unhealthy for licensees and the public to provide and receive services outdoors. She asked why the Board does not raise the voice for the nail industry to reopen indoors.

Heidi Lowry, cosmetologist, stated the concern that it is difficult to find a free COVID-19 testing site when the industry is not listed as essential. Many licensees do not have health insurance. She asked the Board to speak up to allow for free testing through the state and counties.

Sa Ton, Sacramento Nails Association, stated the fact that personal care is essential and making a living is also essential. She stated the need to work with guidelines to open safely indoors.



Lui Nguyen, President, Sacramento Nails Association, representing the majority of nail salon owners and technicians, asked to have the directions to make a public comment translated into Vietnamese. Many individuals wanted to call in to share their public comment today. He stated he told his members that the Board is aware of this and, in the future, when more individuals call in who speak Vietnamese, that service will be provided.

Lui Nguyen stated the county-to-county reopening will not work. He stated customers have been traveling to his salons from other counties such as San Jose and San Francisco, driving one and a half hours for services.

Ms. Thong asked staff about offering translation services for meeting attendees. Ms. Underwood stated the Board is not able to be interpreters but would welcome them. Agendas will be offered in multiple languages going forward.

## **7. Agenda Item #7, LEGISLATIVE UPDATE**

### **Discussion and Possible Action on Proposed Bills:**

- **SB 1474 (Committee on Business, Professions and Economic Development) – Sunset**

Ms. Underwood stated Senate Bill (SB) 1474 has been enrolled and is awaiting approval from the Governor.

**[Note: Agenda Item 8 was taken out of order and was heard after Agenda Item 5.]**

## **8. Agenda Item #8, DISCUSSION AND POSSIBLE ACTION REGARDING RULEMAKING PROPOSALS**

- **Amend Title 16, California Code of Regulations (CCR), section 950.10 (Transfer of Credit or Training)**
- **Amend Title 16, CCR section 961 (Instructional Materials-NIC Guides)**
- **Amend Title 16, CCR sections 962, 962.1, and 962.2 (Externs)**
- **Add Title 16, CCR section 965.2 (Personal Service Permit)**
- **Amend Title 16, CCR sections 970 and 971 (Substantial Relationship Criteria, Criteria for Rehabilitation)**
- **Amend Title 16, CCR section 972 (Disciplinary Guidelines)**
- **Amend Title 16, CCR section 974.1 (Disciplinary Review Committee)**

Ms. Underwood reviewed the Regulation Update Memo, which was included in the meeting packet. She stated the personal service permit item is the only item requiring action today. The other regulatory packages continue to move through the process.

### **Questions and Discussion**

Ms. Thong asked for a motion to direct staff to reject the public comments, provide the staff responses to the comments as indicated in the meeting materials, and complete the regulatory process.

Ms. Crabtree moved the staff recommendation. Mr. Drabkin seconded.

### **Public Comment**

No members of the public addressed the Board.

**MOTION:** Ms. Crabtree moved to direct staff to reject the comments, provide the responses to the comments as indicated in the meeting materials, and complete the regulatory process. Mr. Drabkin seconded. Motion carried 7 yes, 0 no, and 0 abstain, per roll call vote as follows:

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

#### **9. Agenda Item #9, PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA**

Deedee Crossett suggested, rather than statistics on the number of students who pass or fail examinations, sharing with schools the portions of the examination where students struggle so schools could make good decisions based on the curriculum. She suggested, in order to expedite the process, sending examiners to school sites and testing students there. Most schools are larger than the Board facility, have many stations, and are practicing social distancing.

Deedee Crossett stated traditionally written examinations are given for same-day licensure. She stated there are more written testing sites than physical testing sites. It is important to allow students to get the written portion out of the way so they can see progress. Doing them separately will expedite the process.

Jaime Schrabeck, Ph.D., Owner, Precision Nails, stated the arguments citing training and licensure would have much greater impact if the Board required continuing education to ensure that licensees have the most up-to-date training.

Thea Daniels, hair stylist, stated licensees care about public health and safety and have followed the strict guidelines that have been forced upon them as business owners. Being able to make a living has been cut in half by following the guidelines and a threat of future shut-downs is concerning. She complimented licensees for ensuring they are not part of the problem. Thea Daniels agreed with the public comment about having the Board be a dominant figure in making decisions rather than individual counties and health departments. She stated there is no safety in performing services outside of salons with bad air quality and excessive heat.

#### **10. Agenda Item #10, SUGGESTIONS FOR FUTURE AGENDA ITEMS**

Ms. Thong asked for suggestions for future agenda items.

Mr. Matos asked for a discussion on mobile booking applications and license verification. He stated it is easy for anyone to use an online booking system. He stated his concern that online booking does not have a license verification feature, which puts the public at risk.

Ms. Thong asked that the Legislative Committee convene prior to the next meeting, or to add as an agenda item to discuss a legislative agenda for next year.

#### **11. Agenda Item #11, ADJOURNMENT**

There being no further business, the meeting was adjourned at 11:16 a.m.