

**CALIFORNIA STATE BOARD
OF
BARBERING AND COSMETOLOGY**

BOARD TELECONFERENCE MEETING

MINUTES OF DECEMBER 7, 2020

BOARD MEMBERS PRESENT

Lisa Thong, President
Jacquelyn Crabtree
Andrew Drabkin
Derick Matos
Calimay Pham
Christie Tran
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 MEMBERS ABSENT

Dr. Kari Williams, Vice President

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

Lisa Thong, Board President, called the 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 acknowledged that Stay-at-Home Orders were reissued last week. Stay-at-Home Orders are decisions made by the California Department of Public Health (CDPH) and the Governor's Office. She noted that the Board was not notified of the decision prior to its issue to the public. She thanked staff for noticing Board licensees as soon as they received the information.

Ms. Thong stated staff will continue to work hard to provide information as it becomes available. She stated the Board's purview is consumer protection; Board authority is limited to what is within the regulations. The Board will continue to look at ways to engage both the CDPH and the Governor's Office to include the Board in the protocols, plans, and decisions that impact the industry. She stated, until then, she looks to staff and fellow Board Members to propose ways in which the Board can be proactive about addressing COVID-19's impact on the industry.

3. Agenda Item #3, BOARD MEMBER REMARKS - INFORMATIONAL ONLY

Mr. Matos thanked Ms. Thong for making her clarifying statements about the decision-making process that is in place in California to help mitigate the effects of the COVID-19 pandemic.

Mr. Drabkin suggested, in response to the Ms. Thong's request about thinking proactively to address the pandemic's impact on the industry, not charging licensees for the time they were unable to practice due to the COVID-19 closures.

Mr. Drabkin referred to the fact that testing facilities will be shut down and asked if there are ways to expedite the process once permission is received to begin testing again, such as opening up temporary locations. He noted that another reason for additional temporary locations is that the social distancing requirement allows for less test-takers at each location.

4. Agenda Item #4, DISCUSSION AND POSSIBLE APPROVAL OF SEPTEMBER 14, 2020, AND NOVEMBER 19, 2020, BOARD MEETING MINUTES

MOTION: Ms. Crabtree moved to approve the September 14, 2020, and November 19, 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, Tran, and Weeks.

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

- **Licensing Statistics**
- **Examination Statistics**
- **Disciplinary Review Committee Statistics**
- **Enforcement Statistics**
- **Budget Updates**
- **Outreach Updates**
- **Practice Status Survey Results**
- **Sunset Review Update**
- **COVID-19 Update on Impact of Board Operations**

Kristy Underwood, Executive Officer, reviewed the statistics and update reports, which were included in the meeting packet. She stated the agenda will now be posted online in multiple languages. She stated, in response to the Governor's Stay-at-Home Orders, examination sites and the Board offices are closed. Over 4,000 candidates are waiting to take the examination. She stated staff is looking into additional temporary examination locations but it would be difficult due to staff capacity.

Questions and Discussion

Mr. Drabkin asked if the staffing issue is due to a lack of funding.

Ms. Underwood stated it is not, although staff must be certified and trained to administer the examination.

Mr. Matos suggested taking the opportunity to streamline the examination process so as not to be dependent on the three entities that are necessary to do the testing.

Ms. Underwood stated any changed to streamline the process would likely have to go through a statutory change. She stated discussions could take place on ways to

address this now and in the future to help with the applicant backlog. She noted that the examination will be included in the topics covered in the Sunset Review.

Mr. Weeks referred to page 4 of the Executive Officer's Report and asked about the variance in Spanish pass rates.

Ms. Underwood stated staff held a meeting about this recently and determined the reason for this variance may be that individuals being tested have been out of school for eight months or longer.

Ms. Thong asked about the number of individuals reached by outreach events.

Ms. Underwood stated it varies but one recent virtual event had 2,000 individuals on the call while others have 400 to 800 individuals.

Mr. Matos asked if virtual meetings are planned for Northern California and if the CDPH will be invited there as well.

Ms. Underwood stated every county has their own public health department. The Los Angeles Department of Public Health is a county entity while the CDPH is a state agency.

6. Agenda Item #6, PROPOSED BOARD MEETING DATES AND LOCATIONS FOR 2021

Ms. Underwood reviewed the proposed Board meeting dates for 2021.

Ms. Weeks suggested additional meetings for the year 2021 to tackle unforeseen issues that may occur due to the COVID-19 pandemic.

Ms. Underwood stated additional meetings can be added when necessary.

Mr. Weeks suggested making a subcommittee calendar as well.

Board Members agreed with the proposed Board meeting dates for 2021.

7. Agenda Item #7, LEGISLATIVE AND BUDGET COMMITTEE UPDATE

Ms. Underwood stated the Legislative and Budget Committee met on November 17, 2020, and recommended that the Board approve the proposed changes to AB 817, mobile units, and move the language into the Board's Sunset bill. A copy of the bill and proposed changes were included in the meeting materials.

8. Agenda Item #8, LEGISLATIVE AND BUDGET COMMITTEE RECOMMENDATION, SUPPORT: PROPOSED AMENDMENTS TO BUSINESS AND PROFESSIONS CODE SECTIONS 7354 THROUGH 7361, MOBILE UNITS

Mr. Drabkin moved to support the changes in AB 817 and move the language into the Board's Sunset bill. Ms. Crabtree seconded.

Public Comment

Wendy Cochran, California Aesthetic Alliance, spoke against removing the requirement for a split-lead generator.

Brenna Jones asked when the new rules and regulations on mobile units will be available.

Ms. Underwood stated this recommendation will require a statutory change. The language will need to be placed into a bill and go through the legislative process. The earliest that a legislative change could happen is January of 2022.

MOTION: Mr. Drabkin moved to support the changes in AB 817 and move the language into the Board's Sunset bill. Ms. Crabtree 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, Tran, and Weeks.

9. Agenda Item #9, DISCUSSION AND POSSIBLE ACTION REGARDING PROPOSED REGULATORY CHANGES TO APPRENTICESHIPS, TITLE 16, CALIFORNIA CODE OF REGULATIONS (CCR) SECTIONS 913-926

Ms. Underwood provided an overview of the background, funding and costs, pass/fail rates, ongoing issues, oversight, and recommended changes to the apprentice program outlined in the staff memo, which was included in the meeting materials. She offered two options for discussion:

- Eliminate the apprenticeship program and develop a license type that allows for on-the-job training as the dual oversight is not conducive to success for apprentices in this industry.
- Revise the regulations to allow for clearer understanding of what is required of trainings and owners and promulgate regulations that will allow increased oversight of a program sponsor.

Questions and Discussion

Mr. Matos asked if the challenges between the Board and the Division of Apprenticeship Standards (DAS) are historic.

Ms. Underwood stated they are, although she noted that there has been more communication in recent years. The DAS is a small unit within the Department of Industrial Relations. She noted that many members of the unit have recently been reassigned to another state agency in need. The DAS is a great group of people who have always been supportive, but they also have statutory constraints that likely should be addressed.

Mr. Matos agreed with the staff recommendations and stated this is something that the Board should have an in-depth discussion on going forward. He suggested creating a task force or committee to further discuss this issue. The apprenticeship program is a positive path of entry into the industry but needs new ideas on ways to improve it.

Mr. Weeks agreed that both options will take a great deal of discussion. He stated he is inclined to favor Option 1 at this point. Financial and operational issues will need to be dealt with. He stated perhaps the Junior Operator Program of the past was closer to what is needed and would give the Board more control.

Ms. Crabtree agreed with Mr. Matos about the need to create a task force to discuss this ongoing issue to help make a big change in this area.

Ms. Pham agreed that further discussion is necessary. She asked about accountability and taking responsibility for the success of the apprentices who individuals have agreed to sponsor. She suggested that the sponsors be required to return a portion of their fees if the students do not pass the examination or that the sponsors be given a probationary period where they must show that they can help their apprentices pass the examination. It is important to not only let sponsors know what is required of them but to apply mechanisms to motivate sponsors to help their apprentices succeed.

Ms. Pham also suggested something similar to the Baby Bar where first-year law students take a written examination to determine if they have learned enough to continue in the program.

Ms. Underwood strongly agreed with creating a task force to discuss the information in the staff report. She suggested that the task force meet in January.

Ms. Thong stated the need for the Board, as a consumer protection agency, to take this issue seriously - students are being misled that this program will lead to a successful career and licensing. She agreed with convening a task force to work on this issue. She suggested that the task force be made up of establishment owners and licensees who are experienced in hosting apprentices, successful sponsors, a licensee who is a former apprentice who completed the program, and an apprentice who has not had success with the program.

Ms. Thong stated there is not an apprenticeship program for manicurists or estheticians. She stated the need to learn more about how to create a program that may or may not apply to both of those licenses. She stated many legislators and members of the general public are looking for ways that are cost effective and will successfully prepare individuals for this industry. She suggested having a conversation at a future meeting about the way for individuals to be introduced to this industry and to be successfully licensed by the Board, either through the apprenticeship program or through other alternative ways. This is an opportunity to talk through not only how to improve current regulation but to gather ideas on how to create something completely different that will help individuals become licensed.

Ms. Thong appointed Ms. Crabtree and Mr. Matos to serve on the task force and Ms. Tran to serve as an alternate. She delegated authority to Ms. Underwood to locate an industry sampling of representatives that would be beneficial to this task force.

Public Comment

Wendy Cochran stated there is no esthetics program. Students would need to go through a cosmetology apprenticeship. The speaker suggested eliminating the program to be fair to all license categories. Students are being told that they must participate in apprenticeship or externship opportunities in order to complete their hours. The speaker stated the need to allow all licensees to participate in a program that works or to discontinue the program altogether.

Fred Jones, Legal Counsel, Professional Beauty Federation of California (PBFC), stated PBFC is well aware of the problems with some program sponsors but is

also aware of decent apprenticeship programs. The single biggest concern of policymakers in the Legislature is barriers to entry to licensure. The apprenticeship concerns present an opportunity for the Board to get in front of that concern. The PBFC suggests that the apprenticeship option should be preserved. After 39 hours of instruction, students can go into a salon and begin earning while they are learning.

Fred Jones stated the PBFC also suggests embracing a multi-pronged approach on this issue of barriers to entry such as bringing back the Junior Operator license for students that have completed a certain percentage of their program to allow them to earn while they learn, or do that through an enhanced externship program wherein students are allowed to get into salons sooner as externs, work more hours than they are currently limited, get more credit for their schooling, and allow them the option of being paid.

Fred Jones stated the PBFC is concerned that the paperwork requirements of the reforms in the meeting materials may have a chilling effect on establishments wanting to employ apprenticeships. The speaker spoke in support of convening a task force and encouraged inviting good program sponsors to be a part of it. The speaker offered to provide names of candidates for the task force.

10. Agenda Item #10, LEGISLATIVE UPDATE

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

Discussion and Possible Action on Proposed Bills

AB 2113 (Low) – Refugees, Asylees, and Special Immigrant Visa Holders

SB 878 (Jones) – License Application Processing Timeframes

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

Public Comment

Fred Jones stated the PBFC has been approached by legislators about the barrier to entry concern. The speaker stated they expressed the PBFC's desire to expand the current externship program. There are limits in statute that need to be addressed to expand this program. The PBFC has a proposal on the externship program to lower the barriers to licensure called the 25-25-25 Rule, where students qualify as an extern after 25 percent of their education rather than waiting for students to complete 60 percent of their education before qualifying as an extern. Legislators are responding positively to the proposal.

11. Agenda Item #11, DISCUSSION AND POSSIBLE ACTION REGARDING RULEMAKING PROPOSALS

Ms. Underwood summarized the Regulations Update, which was included in the meeting materials.

- **Update on Status Regarding Rulemaking Proposal to Amend Title 16, (CCR), section 950.10 (Transfer of Credit or Training)**

- **Update on Status Regarding Rulemaking Proposal to Amend Title 16, CCR section 961 (Instructional Materials-NIC Guides)**
- **Update on Status Regarding Rulemaking Proposal to Amend Title 16, CCR sections 962, 962.1, and 962.2 (Externs)**
- **Update on Status Regarding Rulemaking Proposal to Add Title 16, CCR section 965.2 (Personal Service Permit)**
- **Update on Status Regarding Rulemaking Proposal to Amend Title 16, CCR sections 970 and 971 (Substantial Relationship Criteria, Criteria for Rehabilitation)**
- **Update on Status Regarding Rulemaking Proposal to Amend Title 16, CCR section 972 (Disciplinary Guidelines)**
- **Update on Status Regarding Rulemaking Proposal to Amend Title 16, CCR section 974.1 (Disciplinary Review Committee)**

12. Agenda Item #12, PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA

V stated they have been dealing with a situation for well over a year and has reached out to the Board multiple times and has received information; however, it is upsetting to learn that consumers are not better protected in licensed establishments. The speaker shared that they and their 13-year-old child were offered a complimentary facial in a luxury department store that sent them to urgent care with blisters and they were diagnosed with contact dermatitis. The department store indicated that the contract employee who did the facial may not have been licensed because the service was complimentary, and no money was exchanged. The department store was unaware of the devices used by the employee. The speaker asked the Board to make changes to better protect consumers and educate the public so they can make informed decisions on accepting complimentary services.

Fred Jones stated the unbelievable incident that happened to the previous speaker emphasizes the mission of the Board and the reason for licensure, regulations, and inspections - to protect consumers like the previous speaker. Unfortunately, policy makers have provided a statutory exemption in some instances from licensure, and complimentary services at department stores is one of them.

Fred Jones stated the third round of lockdowns ordered by the CDPH and the Governor will be utterly ruinous to this industry. The vast majority of licensees will either go under or they will go underground. This will not slow the spread of COVID-19. The safest place to perform beauty services is in controlled, regulated, state-licensed establishments.

Brenna Jones stated the food industry has taken large steps to implement changes quickly. She asked why the hair industry cannot do the same. The speaker suggested better rules and regulations for individuals who would like more intimate settings such as mobile units.

Lui Nguyen, President, Sacramento Nail Association, discussed the performance the nail industry is experiencing during the COVID-19 pandemic, even after salons were allowed to open. The speaker stated sales and services have gone down significantly from 56 to 90 percent. Members are asking about what the data is showing and why

they have to close again. The speaker stated concern about the future of this industry and the safety of consumers due to underground services and the use of unregulated products.

Wendy Cochran stated there has been an upswing in department stores offering services to customers. Oxygen and LED devices often fall into the category of cosmetics. Those two devices do not require an FDA rating and are available to the general public. The speaker asked the first speaker, B, what equipment was used in their facial that sent them to the urgent care. The speaker asked B to contact them at www.californiaaestheticalliance.com to discuss this issue and to work together to improve it.

Wendy Cochran asked the Board to help educate counties that during the shutdown Board licensees are not to be operating. The speaker stated med spas (phonetic) should not be crossing the lines of regulation and allowing their medical staff or medical assistants who are not licensed by the state of California to step into the beauty category of services. The speaker advocated for equitable solutions for all license types.

Tami Stokes, President, National Interstate Council of State Boards of Cosmetology (NIC), stated the NIC is committed to working with the Board to figure out how to streamline additional examiner trainings between now and when exams resume in early January.

V provided additional details about the complimentary facial they received at a department store that they mentioned in their prior public comment but the audio was unstable. The moderator asked B to submit their comments to the Board in writing.

Suzy Wong, Sacramento Nail Association, thanked the Board for offering their agendas in multiple languages. Transparency is important and it is important that salon owners and licensees receive responsible information from Board meetings.

13. Agenda Item #13, SUGGESTIONS FOR FUTURE AGENDA ITEMS

Ms. Thong asked staff to make recommendations on examination changes in response to the COVID-19 pandemic and the virtual environment such as working with the NIC or other vendors.

14. Agenda Item # 14 CLOSED SESSION

The Board met in Closed Session Pursuant to Section 11126 of the Government Code. The Board met in Closed Session to Conduct the Executive Officer's Performance Review.

RECONVENE IN OPEN SESSION

15. Agenda Item #15, ADJOURNMENT

With no further business, the meeting was adjourned.