

**CALIFORNIA STATE BOARD
OF
BARBERING AND COSMETOLOGY**

ENFORCEMENT AND INSPECTIONS COMMITTEE MEETING

MINUTES OF OCTOBER 14, 2024

COMMITTEE MEMBERS PRESENT

Danielle Munoz, Chair
Tonya Fairley
Kellie Funk

STAFF MEMBERS PRESENT

Kristy Underwood, Executive Officer
Carrie Harris, Deputy Executive Officer
Sabina Knight, Legal Counsel
Allison Lee, Board Project Manager
Monica Burris, Executive Analyst

COMMITTEE MEMBERS ABSENT

Jacob Rostovsky
Steve Weeks

1. Agenda Item #1: Call to Order/ Roll Call/ Establishment of Quorum

Committee Chair Danielle Munoz called the meeting to order at approximately 10:02 a.m. A roll call was conducted, confirming a quorum.

2. Agenda Item #2: Discussion and Possible Approval of the January 22, 2024, Committee Meeting Minutes

Motion: Kellie Funk moved to approve the minutes of the January 22, 2024, Committee Meeting. Tonya Fairley seconded the motion.

Public Comment: There were no public comments received.

Roll Call Vote: Motion to approve the January 22, 2024 Committee Meeting Minutes carried: 3 yes, 0 no, and 0 abstain, per the following roll call vote:

- Committee Members voted “Yes”: Danielle Munoz, Tonya Fairley, and Kellie Funk

3. Agenda Item #3: Discussion and Possible Recommendation Regarding Proposed Administrative Fines That Directly Impact Consumer Safety (California Code of Regulations, Title 16, Section 974)

Danielle Munoz introduced the next agenda item, asking Kristy Underwood to lead the discussion on proposed administrative fines related to consumer safety under California Code of Regulations Title 16, Section 974. Ms. Underwood explained that the discussion stems from SB 803, which now mandates the Board to establish fines specifically for violations that directly impact consumer safety.

Ms. Underwood provided an overview of the work done so far, including a detailed risk assessment reviewed by the Health and Safety Committee. The committee proposed increasing fines for certain high-risk violations, recognizing that the current penalties were inadequate to serve as effective deterrents. First offenses typically result in lower fines, with incremental increases for repeat offenses. The overall fine limit remains capped at \$5,000.

Ms. Underwood directed the committee to the 28-page document listing all violations, their current fines, proposed adjustments, and the associated risk levels. She emphasized that these adjustments were based on a thorough review, including insights from a Nevada report on consumer harm within the industry. She asked the committee to carefully evaluate whether each violation truly poses a risk to consumer safety.

Tonya Fairley voiced her support for the proposed fine increases, drawing on her experience with the Disciplinary Review Committee (DRC) where repeat offenders are common. She noted that some of the current fines are inadequate for deterring violations and believes that higher penalties will enhance accountability, potentially reducing repeat offenses and alleviating the Board's workload. Kellie Funk praised the proposed fine schedule for its thoroughness and detail, particularly its inclusion of risk levels and justifications for adjustments. She acknowledged the challenge of balancing the needs of licensees, the nature of violations, and consumer safety, expressing her gratitude for the extensive work behind the proposal.

7313 Access to Establishment for Inspection:

Kristy Underwood initiated the detailed review of the proposed fine schedule, starting with Section 7313 regarding access to establishments for inspection. Although classified as high-risk, the committee recommended no changes to the existing fee schedule. The fines will remain at \$250 for the first offense, \$500 for the second, and \$750 for the third.

7317a Unlicensed Establishment:

Ms. Underwood explained the infraction for unlicensed establishments, which includes businesses operating without a valid license or those that changed ownership without updating their licenses. The current fine for a first offense stands at \$500, with a proposed increase to \$1,000 for the first violation, and subsequent fines of \$2,000 and \$3,000. An unlicensed establishment poses a high risk, especially after repeated offenses. All committee members were in agreement with the proposed increases.

7317b Unlicensed Individual:

The next item discussed relates to unlicensed individuals. This category represents a significant risk, as it involves individuals operating without a personal license. Unlike situations where a license may have lapsed, this pertains to individuals who have never been licensed. The existing fines for all three offenses are \$1,000. The recommendation increases the fines for the second and third violations by an additional \$1,000 each. The committee members expressed their agreement with the proposed increases.

7317c Expired Establishment License:

The committee then reviewed 7317c, which addresses expired establishment licenses. Kristy Underwood explained that this situation is typically classified as low to medium risk, often resulting from oversight when individuals forget to renew their licenses. The current fine for a

first offense is \$250, but there is a proposal to reduce it to \$100 since many licensees quickly renew their licenses once they are notified of the expiration.

Tonya Fairley opposed the proposed fine reduction, stating that it should stay at \$250 to ensure accountability. Kellie Funk supported the view and raised the possibility of a grace period for renewals after inspections. Ms. Underwood clarified that there is no official grace period, but compliance is considered in citation processing. Danielle Munoz suggested a graduated fine schedule based on the time since expiration, but regulations mandate fixed penalties per offense.

The committee deliberated on raising the fines for repeated failures, but ultimately decided to maintain the first offense fine at \$250, with subsequent offenses reflecting the same percentage increase as other fines.

7317d Expired Individual License:

The committee then addressed expired individual licenses, recommending that the initial fine remain at \$250, increasing to \$500 for the second offense and \$750 for the third. This issue was classified as medium risk.

Ms. Funk expressed support for the proposed fine increases, emphasizing that they are justified given the circumstances. She also noted the possibility of allowing citation forgiveness for individuals who promptly renew their licenses upon notification of expiration.

7317e Individual Working in an Expired Establishment:

The discussion then moved to individuals operating in establishments with expired licenses. Kristy Underwood noted that the current fine structure is \$25 for the first offense, \$50 for the second, and \$100 for the third, with a proposal to reduce the third offense fine to \$75. Tonya Fairley expressed that the fine for a third offense should remain at \$100, stating that licensed individuals should be aware of the licensing requirements after receiving prior fines. Kellie Funk concurred and proposed a greater increase in the fines, emphasizing the need for accountability.

Kristy Underwood clarified that significant increases would deviate from the established incremental fine structure. Kellie Funk expressed hope that second and third offenses would be rare, while Tonya Fairley pointed out the responsibility of individuals to verify their establishment's licensing using resources like the Breeze system. The committee members ultimately agreed to recommend a revised fine structure of \$50 for the first offense, \$100 for the second, and \$150 for the third.

Additionally, Danielle Munoz raised a concern about whether increasing the fines for 7317e would require reclassifying the risk level from low to medium. Kellie Funk and Tonya Fairly supported a higher risk classification, noting that expired paperwork might indicate broader compliance issues. The members agreed that the risk level for 7317e should be adjusted to medium.

7317f Individual Working in an Unlicensed Establishment:

This situation pertains to individuals employed in establishments that have never obtained a license. The first offense fine remains at \$250, while the proposed structure increases fines for

subsequent violations to \$500 and \$750, mirroring the gradual increase seen in other violations. The committee agreed to these proposed adjustments.

7320 Practice of Medicine:

The next topic of discussion focused on the unauthorized practice of medicine, which includes performing procedures beyond the licensee's scope. Kristy Underwood highlighted that the current fine for all three offenses stands at \$1,000, with proposed increases to \$2,000 for a second offense and \$3,000 for a third offense.

Tonya Fairley advocated for raising the initial fine to \$1,500, highlighting the significant safety risks associated with this violation. The committee acknowledged the seriousness of the issue, noting that many offenders are repeat violators who knowingly operate outside the regulations. Kellie Funk and Danielle Munoz concurred, stating that a higher fine would be a more effective deterrent, particularly since some offenders could easily profit from illegal activities and view lower fines as merely a cost of doing business.

Ms. Funk emphasized the need to set this violation apart from others due to its egregious nature and the potential harm to consumers, who often are unaware they are receiving treatments from unqualified individuals. The committee agreed to increase the fines to \$1,500 for the first offense, \$3,000 for the second, and \$4,500 for the third violation. The conversation concluded with a discussion of the regulatory process, noting that it could take 1-3 years for these changes to be implemented.

Public Comment (7313 through 7320):

Fred Jones, representing the Professional Beauty Federation, shared his concerns regarding 7317f, which involves licensed individuals working in unlicensed establishments. While acknowledging that it is technically the responsibility of each licensee to ensure the establishment is licensed, he questioned whether an increase in fines was justified. He also stressed the intention to lower fines whenever feasible.

7320.2 Illegal Treatment Methods:

The meeting continued with a discussion of 7320.2, which pertains to illegal treatment methods, such as the use of x-ray devices or solutions of phenol exceeding 10%. Although such practices are rare, their potential risk to consumer safety is significant. Staff recommended maintaining the first offense fine at \$500, with subsequent violations increasing to \$1,000 and \$1,500.

The members discussed aligning these fines with those of regulation 7320, acknowledging the serious nature of these violations. Danielle Munoz suggested maintaining consistency with the previous fine structure, which garnered agreement from other committee members.

7336 No Supervision of Apprentice:

The next item discussed was 7336, concerning the lack of supervision of apprentices. This occurs when an inspector finds an apprentice providing services without their approved trainer present. Due to the risks involved, this situation is categorized as high risk. The proposal is to keep the initial fine at \$100, with increases to \$200 for a second offense and \$300 for a subsequent violation.

Kellie Funk asked whether the fines are issued to the apprentice or the trainer. It was clarified that while the fine typically goes to the apprentice, trainers may also face citations for their absence. Concerns were raised about apprentices being unaware of the risks, particularly if trainers minimize the importance of supervision.

Kristy Underwood noted that fines are issued only if an apprentice is found working without supervision. The responsibilities of apprentices are clearly outlined in their applications. Despite the complexities of the situation, the committee agreed to recommend the proposed fine schedule, recognizing the need for accountability and consumer safety.

7348 No Licensee in Charge of Establishment:

The discussion shifted to regulation 7348, which mandates the presence of a licensed individual in charge of an establishment during service offerings. Violations occur when no one takes responsibility, leading to citations. While some establishments have a designated manager, others do not, and inspectors often find staff hesitant to assume this role due to fears of personal liability, despite not being liable.

This regulation is categorized as a medium-risk violation. The proposal is to maintain the initial fine at \$100, with subsequent increases to \$200 for a second offense and \$300 for a third. The committee expressed agreement with this recommendation.

7349 Employing Unlicensed Persons:

Regulation 7349 addresses the employment of unlicensed individuals—specifically, those who have never obtained a license. This is considered a high-risk violation, with the recommended fine set at \$1,000 for a first offense, increasing to \$2,000 for a second and \$3,000 for a third.

Tonya Fairley suggested raising the first offense fine to \$1,500, with incremental increases for subsequent violations. She argued that the current fine fails to act as a sufficient deterrent. The recommendation received support, with committee members agreeing that higher fines align with the seriousness of the violation. They noted the prevalence of repeat offenses among owners, reinforcing the need for stricter penalties.

7349 Employing Unlicensed Persons - Expired License:

The discussion then moved to 7349 concerning employing licensees with expired licenses. This occurs when inspectors find that a person's license has lapsed. Staff takes into account whether the individual is in the process of renewing their license, as the renewal process can be quick and often completed online.

This violation is categorized as a medium offense. No changes to the current fines were recommended, which remain at \$250 for the first offense, \$300 for the second, and \$500 for the third. Danielle Munoz asked about the recidivism for this issue. Kristy Underwood responded that it is typically low, as most instances are due to oversight that is rectified promptly. The group agreed that the existing penalty structure was suitable under these circumstances.

7350 Establishment Residential Use/Entrance/Prohibited Use:

Kristy Underwood introduced 7350, involving residential use of establishments. This offense is cited when an inspector finds evidence of someone living in the establishment or if the

business lacks a separate entrance from private quarters. Establishments like home salons must have distinct entrances. It is classified as low to medium risk, with no recorded consumer harm. The fine structure remains unchanged at \$50 for the first offense, escalating to \$100 and \$150 for subsequent offenses. Committee members expressed their agreement with this assessment.

7351 Restroom Requirement (Clean, Storage, Floor, Vented):

This regulation outlines restroom requirements for establishments, specifying that restrooms must be clean, free from storage use, and properly ventilated. Violations often occur when cleaning supplies or other items are stored in public restrooms, creating potential hazards. This is a medium-risk issue, with proposed fines of \$100 for the first offense, rising to \$200 and \$300 for subsequent violations. Despite concerns about the impact on smaller establishments, the committee agreed to the increase for safety reasons. Ms. Underwood noted that the statute may need revision in the future to clarify storage regulations.

7352 No Soap/Towels or Air Hand Dryer in Hand Washing Facilities:

Kristy Underwood discussed 7352, which addresses the requirement for soap and hand-drying facilities in handwashing areas. Highlighting the significance of proper hand hygiene, especially post-COVID, this violation has been categorized as high risk. The committee recommended raising the fines to \$100 for the first offense, \$200 for the second, and \$300 for the third.

7353.4 Labor Rights Notice Not Posted:

Statute 7354.4 mandates the posting of a labor rights notice. While recognizing its importance, the consumer risk associated with non-compliance is considered low to medium. There were no proposed changes to the fines, with the first violation set at \$50, escalating to \$100 for the second offense and \$150 for the third. Committee members expressed agreement with this structure.

7358 No Licensee in Charge of Mobile Unit:

The discussion shifted to 7358, focusing on the necessity of having a licensee in charge of a mobile unit, similar to the regulations for established businesses. This requirement ensures that a licensed individual oversees operations in mobile settings. The fines are aligned with those for an establishment, set at \$100 for the first offense, \$200 for the second, and \$300 for the third. Committee members confirmed the medium risk level and expressed approval of the fine schedule.

7359 Employing Unlicensed Person in Mobile Unit:

The next statute discussed was 7359, which addresses employing an unlicensed person in a mobile unit. While instances of this violation are rare, it remains classified as a high risk. The current fines are set at \$1,000, \$2,000, and \$3,000 for each infraction. Tonya Fairley suggested that the fines be aligned with those recommended for employing an unlicensed person in an establishment (7349), proposing adjustments to \$1,500 for the first offense, \$3,000 for the second, and \$4,500 for the third. The committee agreed with her suggestion.

7360 Mobile Unit - Residential/Prohibited Use:

The next item discussed was 7360, regarding the use of a mobile unit for residential purposes. Although this issue has not been encountered, it was noted that the fine structure is the same

as for an establishment, with fines set at \$50, \$100, and \$150. The committee agreed with this alignment.

Public Comment (7320.2 through 7360):

Public comment was reopened, and Fred Jones from the Professional Beauty Federation expressed concerns about missed opportunities to reduce fees, particularly regarding licensing paperwork and duplicate fines. He highlighted how the focus should be on service performance rather than paperwork deadlines. He suggested reducing fines for issues like 7348 (no licensee in charge) and 7349 (expired license) to \$25, as they often result from simple oversight.

In response, Kellie Funk acknowledged the ease of addressing these issues online and confirmed that inspectors would consider if the paperwork could be completed promptly, suggesting no citation in such cases.

Maria Barrios asked if a home salon without a public bathroom or dedicated sink would be cited, particularly for manicurists. Kristy Underwood advised her to email the BBC for clarification on home salon requirements.

Fred Jones concluded the public comment by reiterating the need to reduce duplicate fines and lower penalties for non-high-risk violations, urging the board to focus more on these opportunities.

7400 No Change of Address Notice Filed:

Kristy Underwood introduced the next item, a violation for failure to file a change of address notice within 30 days. She explained that this is typically a low-risk issue, which is often corrected during inspections. The Health and Safety Committee recommended lowering the fine from \$50 to \$25 for the first instance, with subsequent fines increasing to \$50 and \$75. The committee members agreed with the adjustment.

7404(I) Refusal or Interference with Inspection:

In the review of section 7404L, the Committee discussed violations related to refusal or interference with inspections. Kristy Underwood explained that these violations occur when an individual prevents an inspector from entering or conducting an inspection by locking them out, or even becoming hostile. Such actions are deemed high-risk, both to consumer safety and to the inspectors. The proposal established the initial fine at \$1,000, escalating to \$2,000 for a second offense and \$3,000 for a third.

Danielle Munoz asked for clarification on the difference between this citation and Section 7313. It was explained that 7313 relates to situations where inspectors are physically unable to access part of the establishment, such as a locked cabinet or room. In contrast, 7404L involves active refusal or interference, like blocking entry, or hiding violations. It was noted that the explanation of these two infractions in the package was inaccurate and will be corrected.

The members agreed that the fine for 7404L should be raised to \$1,500, \$3,000 and \$4,500 to align with other high-risk penalties. Kellie Funk emphasized the importance of using these fines as educational tools for licensees, helping them understand what is expected during inspections and the potential consequences of non-compliance.

904(d) No Photographic Identification Available:

The discussion moved to section 904(d), which pertains to the absence of photographic identification during inspections. Inspectors require a photo ID for verification, as some individuals may use others' licenses, making this a high-risk issue. The proposal increases fees to \$100 for the first infraction, \$200 for the second, and \$300 for the third.

Committee members considered maintaining the current fee structure instead of adopting the proposed increases. Ultimately, they reached a compromise, establishing a new schedule of \$75 for the first offense, \$150 for the second, and \$300 for the third.

905 Consumer Information Not Posted:

This requirement mandates the posting of consumer information, with non-compliance categorized as high risk due to its direct effect on consumers' ability to report harm. The Health and Safety Committee proposed increasing the fines from \$50 to \$100 for the first offense, with subsequent fines set at \$200 and \$300.

Questions arose about whether establishments receive the required poster when applying for or renewing licenses. It was clarified that they receive the poster with both new and renewal licenses.

In the end, the recommendation was to retain the existing fine structure of \$50 for the first offense, \$100 for the second, and \$150 for the third.

920 Apprentice Training Records Not Available or Incomplete:

The committee next focused on the issue of unavailable or incomplete records for apprentice training. This violation arises when an inspector encounters an apprentice lacking their required training records, which must be provided by the trainer. This violation was categorized as medium-high risk. The suggestion is to keep the initial fine at \$100 for the first offense, while increasing fines for subsequent violations to \$200 and \$300.

Committee members discussed the rationale behind the gradual increases and whether they were necessary for this particular violation. Ultimately, they agreed to the recommended fines.

965 Display of Licenses:

This violation is deemed high risk since failing to display a license prevents consumers from verifying the qualifications of service providers. Despite its importance, the proposal is to keep the existing fines at \$50 for the first offense, \$100 for the second, and \$150 for the third.

Members expressed concerns that these penalties might be too low, suggesting that complacency could arise from insufficient fines. Some advocated for a higher structure, with suggested amounts of \$250, \$500, and \$750. However, the consensus leaned toward maintaining the current fee schedule. Ultimately, the committee agreed to present the issue to the Board for further discussion without making a recommendation.

978(a)(1),(a)(2),(a)(3),(a)(4) Receptacles, Cabinets and Containers:

The next item addressed violations related to the absence of essential equipment, such as covered waste containers for hair and closed containers for soiled and clean linens. This

violation is classified as low-medium risk; while the presence of these items is important, their absence is unlikely to cause direct harm.

The committee agreed to maintain the existing fines of \$50 for the first offense, \$100 for the second, and \$150 for the third

978(a)(5) Insufficient Disinfectant for Total Immersion:

This infraction concerns inadequate disinfectant for total immersion, particularly when inspectors find a disinfectant container only partially filled. The oversight is classified as high risk, as it directly impacts consumer safety. The proposed fine for the first offense remains at \$100, with recommended increases to \$200 for the second offense and \$300 for the third.

The committee members supported the new fine schedule. Kellie Funk noted that inspectors often use these situations as educational opportunities, encouraging licensees to maintain adequate disinfectant levels rather than issuing automatic citations.

978(a)(6) No Steam/Dry Heat Sterilizer for Electrology Tools:

While steam and dry heat sterilizers for electrology tools are rarely used—often due to the preference for disposable needles—their absence presents a substantial risk. The committee chose to maintain the current fine structure, set at \$500 for the first offense and increasing to \$1,000 and \$1,500 for subsequent violations.

978(b) No Disinfectant Solution Available for Use:

The committee then addressed 978B, concerning the lack of disinfectant solution, classified as high risk due to the unavailability of necessary disinfectants. The committee agreed with the recommendation to increase the fine from \$250 to \$500 for the first offense, with subsequent fines set at \$1,000 for the second offense and \$1,500 for the third.

978(c) No Manufacturer-Labeled Container for Disinfectant:

The committee next discussed 978C, which mandates retaining a manufacturer-labeled container for disinfectants, even when empty, as it contains essential EPA labeling and mixing instructions for effective disinfection. Categorized as high risk, the recommendation was to increase the fine from \$250 to \$500 for the first offense, with subsequent fines of \$1,000 and \$1,500. The importance of educating licensees on why these containers must be kept was emphasized.

979 Disinfecting Non-Electrical Tools:

This mandate covers the disinfection of non-electrical tools, highlighting issues like inadequate disinfection and improper labeling of clean or dirty items. It is classified as a high-risk violation, particularly when dirty tools are used on clients. Labeling violations are the most common under this section, and though not always high-risk, they can lead to cross-contamination when improperly labeled tools are used. The recommended fee structure for this violation maintains the first offense fine at \$100, while reducing the subsequent fines to \$200 and \$300 for the second and third offenses.

Public Comment (7400 through 979):

Fred Jones expressed his appreciation for the committee's effort to hold the line on increasing fines. He highlighted a broader context, noting that certain policy makers in Sacramento are pushing to reduce, or even eliminate, licensing for the industry. He shared concerns about

licensees receiving multiple fines—often for minor issues like labeling or missing notification posters—that can quickly add up to significant amounts. These high fines lead licensees to complain to legislators, further fueling the push to remove licensing requirements. He emphasized that reducing fees and minimizing duplication would help protect the industry's license and prevent policy makers from taking more drastic actions.

Kristy Underwood concluded the discussion, noting that a follow-up meeting would be scheduled to finalize the review of this agenda item.

4. Agenda Item #4: Public Comment on Items Not on the Agenda

There were no public comments made for items not on the agenda.

5. Agenda Item #5: Suggestions for Future Agenda Items

No additional agenda items were proposed, other than completing the review of the proposed administrative fines.

6. Agenda Item #6: Adjournment

There being no additional business to discuss, the meeting adjourned at approximately 11:54 a.m.