California State
Board of Barbering and Cosmetology

Responses to Identified Issues and Recommendations

April 17, 2015

BarberCosmo
Board of Barbering & Cosmetology

BarberCosmo
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April 17, 2016

The Honorable Jerry Hill, Senate Chair
The Honorable Susan Bonilla, Assembly Chair
Members of the Senate Business and Professions Committee
Members of the Assembly Business and Professions Committee

RE: Response to Identified Issues and Recommendations for the Board of Barbering and Cosmetology.

Dear Senator Hill and Assembly Member Bonilla,

On behalf of the Board of Barbering and Cosmetology (Board), I am pleased to provide our final responses to the identified issues and recommendations as a result of the Board's sunset review. We appreciate this opportunity and look forward to working with you and your staff on these issues.

If you have any questions, I can be reached directly at (916) 575-7111.

Sincerely,

Kristy Underwood, Executive Officer
Board of Barbering and Cosmetology

BACKGROUND PAPER FOR THE BOARD OF BARBERING AND COSMETOLOGY

IDENTIFIED ISSUES, BACKGROUND AND RECOMMENDATIONS REGARDING THE BOARD OF BARBERING AND COSMETOLOGY

CURRENT SUNSET REVIEW ISSUES

The following are unresolved issues pertaining to the BBC, or those which were not previously addressed by the Committees, and other areas of concern for these Committees to consider along with background information concerning the particular issue. There are also recommendations the Committee staff have made regarding particular issues or problem areas which need to be addressed. The BBC and other interested parties, including the professions, have been provided with this Background Paper and can respond to the issues presented and the recommendations of staff.

ISSUE #1: (Pro Rata) What services does the BBC receive for its share of pro rata?
Staff Recommendation: ***The BBC should advise the Committees about the basis upon which pro rata is calculated, and the methodology for determining what services to utilize from DCA. In addition, BBC should also discuss whether it could achieve cost savings by dealing with more of its services in-house, such as its legal, public affairs, or call center support. The BBC should also explain to the Committees if the BBC's position reduction has led to increased reliance on DCA for administrative services.***

Board Response: The Board utilizes many services offered by the DCA including, but not limited to; call center, budgets, contracts, information technology, human resources and public information. The Board does have one of the higher costs for pro rata in the DCA however, the services received are numerous. The costs that are distributed from the Board to the DCA are calculated by DCA. SB 1243 (Lieu, Chapter 395, Statutes of 2014) requires the DCA to conduct a study on the system of prorating administrative expenses and this will provide a better understanding of cost distribution. The Board does not see a cost savings should it take over functions and duties that are currently handled by the DCA. Once the study of how costs are distributed the Board may be in a better position to determine if cost savings could be achieved. The Board does not believe that any position reductions led to an increased reliance on DCA.

ISSUE #2: (Practical Examination) Is the practical examination the most effective way to demonstrate minimal competency?
Staff Recommendation: ***The Committees may wish to require the BBC to conduct an occupational analysis of the current practical examination to determine if this form of examination is still a reliable and valuable measure of meeting minimal competency standards, or if any changes to improve the examination are necessary. In addition, the BBC may wish to inquire assessing the elements of a practical examination are something schools could test for at the end of an instructional program, as part of the required curriculum.***

Board Response: The Board would be happy to conduct research and provide an update to the committee on practical examinations and if they are a reliable and valuable measure for minimal competency. As for schools administering the practical examination, this is an option that could be looked into, however, the Board believes that unless it has sole oversight of schools it would not be a secure process. Currently, schools are not monitored in a way that the Board would feel confident that the test would be administered properly. There is already a significant issue of schools selling hours (issuing completion documents when the courses were not completed) and the Board does not see the schools conducting an examination in a secure manner.

ISSUE #3: (Spanish-language failure rates) What can the BBC do to improve the success of Spanish-language test-takers?

Staff Recommendation: ***In order to improve the outcomes of the written examination for both recent graduates and those individuals taking the Spanish-language examination, the Committees may wish to require the BBC to reevaluate the curriculum standards that are necessary for licensure and work with current BBC- and BPPE-approved education providers to ensure that the curriculum and instructional materials meet the needs of students and any material instructed in a language other than English is consistent with the language utilized on the NIC examinations. In addition, the BBC should continue to work with Spanish-language test takers to inform them of the dialect utilized in the Spanish examination. Also the Committees may wish to require the BBC to work with education providers who teach in Spanish to improve communication and information with Spanish-language examinees. Further, the BBC reported that it plans to conduct targeted outreach to Spanish-speaking students and licensees. The BBC should explain to the Committees its timeline for conducting outreach and explain its outreach strategy.***

Board Response: The Board is taking continual steps to determine what the issues are for low pass rates for those taking the written examination in Spanish. The Board does not believe that the issue lies within the curriculum or the examination. As the Board is able to generate more reports from the BreEZe database we believe students that are requesting the examination in Spanish are often not obtaining their education in Spanish. As a result, the Board will be reaching out to schools to encourage them to discuss with the students the pass rates and how the examination is translated. The Board will also be reaching out to students who have failed the examination to obtain their input and conducting town hall meetings with Spanish speaking students. This outreach will be the Board's focus during fiscal year 2015/2016.

The Board has already met with the BPPE on this issue as they are the regulatory entity who oversees the quality of education. The Board would like to see the Spanish pass rates become comparable to other language pass rates by the end of 2016.

ISSUE #4: (Taking the written examination prior to completing school) Should applicants be permitted to take the written examination prior to completing school instruction?

Staff Recommendation: ***The Committees may wish to require the BBC to conduct an occupational analysis of the written examination along with an assessment of curriculum standards to ensure the material is relevant to current practices and standards within the industry. Additionally, the Committees may wish to inquire of the BBC the need to attend***

1600 hours of instruction or less depending on licensee-type, if individuals are able to take and pass an examination prior to completing coursework. Is there coursework that is no longer relevant to industry practices? The Committees may wish to require the BBC to contract with an outside entity to conduct a revised Occupational Analysis of the 1600 curriculum program for cosmetologists.

Board Response: The Board believes that the current 1600 hour curriculum is adequate. The Board supports the idea of the written examination being taken early only because it is based on theory that is learned in the beginning of a course and it would be beneficial to students to be tested upon completion of learning the material as opposed to several months later.

ISSUE #5: (SCHOOL APPROVALS) What is the BBC's current relationship with the BPPE? Does the BBC have a plan to improve its relationship with the BBPE? What steps has the BBC taken ensure better outcomes if it were tasked with the responsibility of being the sole approving entity for schools?

Staff Recommendation: ***The BBC should further update the Committees about any plans it has to improve it regulatory relationship with the BPPE. The BBC should explain where the communication problems may lie between the two entities and consider establishing an enforcement process and communication system in consultation with the BPPE to help alleviate any communication deficiencies. The BBC should inform the Committees about any transition plan it has in place if it were to be granted the sole approval authority for schools including, the projected costs and staff resources necessary to implement such a program. The BBC and the BPPE should continue to work together and monitor any pending litigation issues that impact the curriculum requirements and licensing model for the barber and cosmetology industry.***

Board Response: Communication with the BPPE has been lacking since the BPPE was reconstituted. Effort has been made by the Board to improve communication by requesting meetings and providing information on what the Board needs from the BPPE. In the past these meetings have not been successful as communication from the BPPE to the Board has not improved. However, in 2015 the Board reached out to the DCA to address these issues and we now have regularly scheduled meetings with the BPPE. These meetings are held monthly and are to discuss outstanding issues as well as general information sharing. The Board continues to believe that one entity should have sole oversight over cosmetology and barbering schools and that entity should be the Board. Should the Board be granted sole oversight it would then have the authority to charge a fee for its services and then be able to pursue additional staffing. The Board has not done a full study of staffing needs but maintains it is in the best position to oversee schools as we currently already have staff dedicated to this process.

ISSUE #6: (Health and Safety for Hair Care and Beauty Professionals) What is the BBC's timeframe for updating its current health and safety curriculum manual?

Staff Recommendation: ***The BBC should advise the Committees as to when it will revise or update the current curriculum in the Health and Safety for Hair Care and Beauty Professionals manual. The Committees may wish to require the BBC update this important instructional material by July 1, 2017.***

Board Response: The Board is currently in the process of updating this curriculum and expects to have it completed no later than July 1, 2017.

ISSUE #7: (Enforcement timeframes) Why is the enforcement process for formal discipline taking longer than the targeted 540 days?

Staff Recommendation: ***The BBC should advise the Committees about where it believes the bottlenecks are in its investigation processes and disciplinary actions. What does BBC think are the causes of the delays? In the BBC's opinion, what are viable solutions to the extensive timeframes in its enforcement processes?***

Board Response: The Board's investigation portion of cases where formal discipline was completed in the FY 2013/2014 averaged 241 days. The balance of the aging process for these cases is occurring at the AG's Office. In order to decrease aging at the AG's office Board analysts are regularly inquire about the status of accusations, whether Notices of Defense were filed, whether or not default decisions have been prepared, and whether or not settlement terms have been offered. When accusations or decisions are received, the Board staff will ensure they are processing these documents timely.

ISSUE #8: (Inspector Program) What are the BBC's current issues with its Inspector Program?

Staff Recommendation: ***Given the current challenges with obtaining the approval to hire BBC's desired number of inspectors, and the recruitment challenges, the BBC should explain to the Committees how it plans to adjust, streamline or modify its Inspection Program in order to work within the constraints of available resources. The BBC should explain any problems that may arise from a resource-deficient Inspection Program. The BBC should explore ways it can improve the inspection process for individuals with limited English proficiency and explain to the Committees if an inspector protocol around language and diversity is possible, and if not, what those challenges may be to implementing it. The BBC should inform the Committees of any outcomes from its "all-inspector" trainings. Additionally, the BBC should explain to the Committees its hiring plan to fill inspector positions, if granted BCP authority.***

Board Response: The Board will continue to pursue obtaining additional inspector positions as it believes this is the only way to ensure consumers are protected. It should be noted that the lack of inspector positions to adequately cover all of California does put consumers at risk. It is often that the most egregious violations are found in establishments that have been licensed for many years but have not been inspected on a regular basis. In addition, not having the adequate number of staff requires current inspectors to carry a significantly larger workload thereby impacting the quality of inspections. The Board is committed to quality not quantity inspections. We believe that more time spent in an establishment is beneficial to licensees as opposed to a fast inspection.

The Board does believe that a protocol for inspecting establishments where there is limited English speaking individuals can be developed and can be helpful. The Board plans to develop this protocol and have it in place by the end of 2015, if not sooner.

The Board held two "all-inspector" trainings in 2014. During these meetings inspectors attended tactical communication training, met with industry experts on emerging trends in skin care, and conducted a violation review to ensure consistency in conducting inspections.

Additional meetings will be scheduled for 2015 and the Board will continue to focus on diversity and customer service.

The DCA is assisting the Board in recruitment for vacant inspector positions including promoting the vacant positions at California colleges. The Board is also utilizing social medial as a means of promoting the vacant positions. Should the Board be granted new positions, the first step would be to have DCA conduct personnel examinations to establish a list of eligible applicants.

ISSUE #9: What is the status of BReEZe implementation by the BBC?
Staff Recommendation: ***The BBC should update the Committees about the current status of its implementation of BreEZe. What have been the challenges to implementing this new system? What are the costs for using the system and has it enhanced operational or administrative efficiencies?***

Is the cost of BreEZe consistent with what the BBC was told the project would cost? Is the BBC comfortable that any remaining technical issues will be addressed?

Board Response: The Board has fully implemented the BreEZe system. Numerous challenges were encountered in the initial implementation. The system did not function as easily as Board staff believed it would and there were several changes that needed to be made to accommodate the Board's functions. The Board has spent over $4 million to date on the BreEZe system which is higher than originally thought. The Board is happy to report that operational efficiencies have been gained as a result of BreEZe, the most significant being on-line transactions. The Board receives over 1,000 on-line transactions a month. The Board believes that remaining technical issues will be addressed as prior issues have already been addressed.

ISSUE #10: (Freelance Certification) Are more people seeking beautification services outside of the traditional salon establishment? Does the BBC need to update the current establishment requirements to meet consumer demands?
Staff Recommendation: ***The BBC should explain to the Committees how they would implement a freelance or mobile certificate. The BBC should also explain any new regulations, industry standards or licensing reforms that would be necessary to implement a new freelance certificate and explain how the BBC could regulate such certificates in a matter consistent with its mission. In addition, the BBC should explain to the Committees if it would need to enhance application requirements for freelance certificates, such as expanding the background check program or adding bonding requirements.***

Board Response: Should the Board be granted the authority to issue a "freelance" certificate it believes the process would be to add an indicator to an applicants personal license. An individual would be required to submit an application and fee, obtain fingerprint clearance from the Department of Justice and provide proof of liability insurance. The Board would then

approve the licensee to enter non-licensed facilities to perform services. As the Board's primary focus is consumer protection, the Board would also require any individual that is providing services outside of a licensed establishment to provide information to consumers on how to file a complaint with the Board.

ISSUE #11: (Correctional Facilities Licensing Program) What, if anything, can the BBC do to expand this program? How can the BBC assist in increasing the number of test-takers?

Staff Recommendation: ***The BBC should explain to the Committees its role in the program, how their current partnership with CDCR is working, and ways the BBC believes it can help to improve or expand access to the program.***

Board Response: The Board currently has two examinations scheduled one at Chowchilla State Prison and the other at Corona State Prison. The Board is contacted by the CDCR to set up the examinations when there are candidates ready to test. The Board is flexible and can usually accommodate the CDCR whenever they are ready. At this time, these are the only two facilities that offer educational programs that lead to Board licensure. The Board is willing to expand this program however, that is dependent upon the CDCR. Costs involved for the Board are minimal as the examinations are conducted by Board staff; therefore only minimal travel costs are involved. CDCR incurs the majority of the cost as each facility must be equipped with a learning center.

ISSUE #12: (Booth Renters License) Is there a need to create a separate booth renter's license?

Staff Recommendation: ***The Committees may wish to inquire of the BBC how a booth renters' license will provide any enhanced protections for consumers or licensees. As raised during previous sunset review oversight hearings, it is unclear why owners of establishments would not want to maintain the responsibility for individuals operating at their place of business and it is unclear why a responsible business owner would potentially want to ignore violations in their establishment and not require all individuals working closely with them to abide by the law. In addition, the BBC should explain to the Committees if a booth renter's license would increase the workload of investigators, which the BBC reports, is currently understaffed. The Committees may wish to instead require the BBC to provide additional information to consumers and licensees, on its Web site, about the difference between a booth rental and establishment employment to help clarify the role of establishment owners, employees and booth renters to benefit both licensees and consumers.***

Board Response: The Board believes that a booth rental license will provide increased consumer protection by allowing a consumer to fully understand who is providing the service. Consumers should understand that when they enter an establishment if they are receiving services from a booth renter, and are harmed, the liability is with the individual performing the services. The Board does believe that owners would still be required to maintain responsibility of the establishment, specifically common areas that may be used by multiple booth renters (for example: shampoo bowls). The addition of a booth renter license would not increase work for Board inspectors because they currently inspect all aspects of the establishment and issue individual inspection reports and establishment inspection reports.

The Board agrees with providing additional information on its website that will benefit consumers and licensees and will have this information posted by June 30, 2015.

ISSUE #13: (Additional Licensing Sub-categories and Industry Certification) How would these enhance consumer protection?

Staff Recommendation: ***The Committees may wish to require the BBC to focus on numerous other areas including: adjusting its current regulatory authority to include recognition of a freelance certificate; improving its Inspection Program, improving its relationship with the BPPE, reviewing the curriculum standards of schools and hour requirement necessary for licensure; and addressing consumer safety issues instead of approving industry certificates which licensees are already permitted to receive, granted they are operating within the scope of their professional license.***

Board Response: The Board believes that an industry certification program would allow an incentive for an individual to gain further education in their specific skill set. This would allow those licensees to become better at their craft and become safer operators. More education by licensees would increase consumer protection.

ISSUE #14: (Board Composition) Should professional members be required to be a licensed professional?

Staff Recommendation: ***The Committees may wish to consider if requiring the professional appointees to represent a more diverse segment of the licensing population would be beneficial. This could be achieved by specifying that a portion of, or all, professional board member appointees hold an active, professional license. The Committees may also wish to require the BBC to create a designated industry-advisory committee which specifically focuses industry-related issues and is comprised of licensed-industry members.***

Board Response: As noted in the background paper the Board is comprised of nine members with four members being of the profession. As of the date of this report there are 2 cosmetologists, 1 barber and 1 school owner serving on the board. Currently, the Board does not have members that hold a license as an esthetician, manicurist or electrologist. The Board has formed technical advisory committees for each of the licensing categories. These committees are beneficial to the Board in that they provide direct industry related issues. This process has allowed the Board to include all aspects of the industry in the regulatory and consumer protection areas.

ISSUE #15: (Language Access) How can the BBC enhance language-access services to consumers and licensees?

Staff Recommendation: ***Although the BBC has made significant improvements in addressing language access issues, it is clear that more can be done. The BBC should explain to the Committees how it plans to continue enhancing language access services, including translation services at disciplinary hearings and any plans the BBC has to increase the numbers of bilingual inspectors.***

Board Response: The Board believes language access will take continual effort and looks forward to adding to what has already been accomplished. Effective May 1, 2015 the Board will begin issuing citations to all manicurists and establishments cited for manicuring violations in English and in Vietnamese. In addition, the Board hopes to continue its outreach to the limited English speaking communities. The Board will be developing a protocol for inspectors to assist in the process of inspecting establishments with non-English speaking licenses. In addition, the Board continues to advertise job vacancies encouraging non-English speaking candidates to apply.

ISSUE #16: (Consumer and Licensee Safety) How can the BBC promote safe standards for industry workers and consumers? How does the BBC stay informed about product safety and pass along the information to both consumers and licensees? Is greater outreach necessary?

Staff Recommendation: ***The BBC should consider establishing a health and safety advisory committee or adding this important task to one of its existing advisory committees which meets regularly.***

Board Response: The Board agrees with staff's recommendation and will be adding this topic to each agenda for the various technical advisory committee meetings. These advisory committees are comprised of members of the industry that are educated in the current trends and medical and/or scientist personnel. Having this topic on the agenda will allow the Board to stay informed and be proactive on any industry concerns. The Board will promote safe standards through its use of social media, website and trade shows. The update of the Board's Health and Safety Curriculum (which is discussed further under item #6) will also be beneficial to promote safety standards for licensees.

ISSUE #17: Technical Cleanup.

Staff Recommendation: ***The Board should recommend any additional technical cleanup amendments for BPC § 7301 et seq. to the Committees.***

Board Response: The Board recommends the following technical cleanup amendments:

Section	Action	Reason
7303.2	Repeal	The Board fulfilled the requirement and language is no longer relevant.
7303.5 (c) and (d)	Repeal	This section does not appear to be relevant as it repeals the Executive Officer. This section would become inoperative should the Board become inoperative through the sunset process.
7308	Repeal	The Board fulfilled the requirement and language is no longer relevant.
7313 (b)	Amend	Amend language to reflect accurate name of the Bureau for Private Postsecondary and Vocational Education
7362 (a)	Amend	Amend language to reflect accurate name of the Bureau for Private Postsecondary and Vocational Education

7395.1	Amend	Amend language to reflect accurate name of the Bureau for Private Postsecondary and Vocational Education
7401 (d)	Repeal	The Board fulfilled the requirement and language is no longer relevant.
7404 (4)(c)	Amend	Amend language to reflect accurate name of the CA Department of Public Health
7407	Amend	Remove requirement for Board to review and revise the administrative fine schedule by January 1, 2005. The Board has fulfilled this requirement.

ISSUE #18: (CONTINUED REGULATION BY BOARD OF BARBERING AND COSMETOLOGY.) Should the licensing and regulation of barbers, cosmetologists, electrologists, manicurists and estheticians be continued and be regulated by the current BBC membership?

Staff Recommendation: ***Recommend that the barbering, cosmetology, electrology, manicure and esthetician professions continue to be regulated by the current the BBC in order to protect the interests of the public and be reviewed once again in four years, and that the BBC update the appropriate policy committees of the Legislature in 4 years on the issues raised earlier in this report.***

Board Response: the Board agrees with staff recommendation and looks forward to continued work with the committees.