

**CALIFORNIA
BOARD OF BARBERING AND COSMETOLOGY**



MARCH 13, 2023

ENFORCEMENT AND INSPECTIONS COMMITTEE

**PUBLIC
TELECONFERENCE**



**CALIFORNIA BOARD
OF
BARBERING AND COSMETOLOGY**



**MEMBERS OF THE
COMMITTEE**

Danielle Munoz, Chair
Tonya Fairley
Kellie Funk
Jacob Rostovsky
Steve Weeks

**ENFORCEMENT AND
INSPECTIONS MEETING**

**PUBLIC TELECONFERENCE
MEETING**

**March 13, 2023
11:30 A.M. or upon Adjournment
of the Education and Outreach
Committee Meeting - Until
Completion of Business**

*Action may be taken on
any item listed on the
agenda.*

The Board may take action on any
agenda item.

NOTE: Pursuant to Government Code section 11133, neither a public location nor teleconference locations are provided. Public participation may be through teleconferencing as provided below.

Important Notices to the Public: The Board of Barbering and Cosmetology will hold a public meeting via a WebEx Events. To participate in the WebEx Events meeting, please log on to this website the day of the meeting:

<https://dca-meetings.webex.com/dca-meetings/j.php?MTID=m199ee2a1310e6df1214ebe3374b7925e>

Webinar number: 2488 200 4474

Webinar password: BBC03132023

Instructions to connect to the meeting can be found at:

https://www.barbercosmo.ca.gov/about_us/meetings/how_to_join_webex_event.pdf

Members of the public may but are not obligated to provide their names or personal information as a condition of observing or participating in the meeting. When signing into the WebEx platform, participants may be asked for their name and email address. Participants who choose not to provide their names will be required to provide a unique identifier such as their initials or another alternative, so that the meeting moderator can identify individuals who wish to make public comment; participants who choose not to provide their email address may utilize a fictitious email address in the following sample format: XXXXX@mailinator.com.

In order to ensure all public members have an opportunity to speak and in the interest of time, public comments will be limited to two minutes unless, in the discretion of the committee, circumstances require a shorter period or longer period; members of the public will not be permitted to "yield" their allotted time to other members of the public to make comments.

As an alternative, members of the public who wish to observe the meeting without making public comment can do so (provided no unforeseen technical difficulties) at

<https://thedcapage.wordpress.com/webcasts/>.

AGENDA

1. Call to Order/ Roll Call/ Establishment of Quorum
2. Election of Committee Chairperson
3. Discussion and Possible Approval of the January 9, 2023, Committee Meeting Minutes
4. Review and Discussion of Current Inspection Process for Suite Owners
5. Discussion and Possible Recommendation Regarding Plan to Address Unlicensed Individuals Working Outside of Establishments
6. Public Comment on Items Not on the Agenda
Note: The Committee may not discuss or take any action on any item raised during this public comment section, except to decide whether to place the matter on the agenda of a future meeting (Government Code Sections 11125, 11125.7(a))
7. Suggestions for Future Agenda Items
8. Adjournment

The time and order of agenda items are subject to change at the discretion of the Committee Chair and may be taken out of order. In accordance with the Bagley-Keene Open Meeting Act, all meetings of the Committee are open to the public.

*Government Code section 11125.7 provides the opportunity for the public to address each agenda item during discussion or consideration by the Committee prior to the Committee taking any action on said item. Members of the public will be provided appropriate opportunities to comment on any issue before the Committee, but the Committee Chair may, at his or her discretion, apportion available time among those who wish to speak. Individuals may appear before the Committee to discuss items not on the agenda; however, the Committee can neither discuss nor take official action on these items at the time of the same meeting (Government Code sections 11125, 11125.7(a)).

The meeting is being held via WebEx Events. The meeting is accessible to the physically disabled. A person who needs disability-related accommodation or modification in order to participate in the meeting may make a request by contacting: Natalie Mitchell at (916) 244-6644, email: natalie.mitchell@dca.ca.gov or send a written request to the Board of Barbering and Cosmetology, PO Box 944226, Sacramento, CA 94244. Providing your request is a least five (5) business days before the meeting will help to ensure availability of the requested accommodations. TDD Line: (916) 322-1700.

Agenda Items

No. 1-2

No Attachments

DRAFT
CALIFORNIA STATE BOARD
OF
BARBERING AND COSMETOLOGY

ENFORCEMENT AND INSPECTIONS COMMITTEE MEETING

MINUTES OF JANUARY 9, 2023

COMMITTEE MEMBERS PRESENT

Danielle Munoz, Chair
Tonya Fairley
Steve Weeks

COMMITTEE MEMBERS ABSENT

Kellie Funk

STAFF MEMBERS PRESENT

Kristy Underwood, Executive Officer
Carrie Harris, Deputy Executive Officer
Alex Torkelson, Licensing and Operations Chief
Sabina Knight, Board Legal Counsel
Allison Lee, Board Project Manager
Natalie Mitchell, Board Analyst
Shelby Edmiston, HR Liaison/Presenter

1. AGENDA ITEM #1, CALL TO ORDER/ROLL CALL/ESTABLISHMENT OF QUORUM

Danielle Munoz called the meeting to order at approximately 10:57 a.m. and confirmed the presence of a quorum.

2. AGENDA ITEM #2, DISCUSSION AND POSSIBLE APPROVAL OF THE OCTOBER 10, 2022, COMMITTEE MEETING MINUTES

MOTION: Tonya Fairley moved to approve the October 10, 2022, Committee meeting minutes. Danielle Munoz seconded. No comments were received from the public.

Motion to approve October 10, 2022, Committee meeting minutes carried; 3 yes, 0 no, and 0 abstain, per roll call vote as follows:

The following Committee Members voted "Yes": Danielle Munoz, Tonya Fairley, and Steve Weeks.

3. AGENDA ITEM #3, DISCUSSION AND POSSIBLE RECOMMENDATION REGARDING REMEDIAL EDUCATION TO REDUCE OR REMOVE ADMINISTRATIVE FINES

Ms. Underwood stated that staff discussed how to do a remedial education program in lieu of a fine. They determined that the best direction would be to obtain the statutory authority to establish the program in regulation. Staff recommended modifying Business and Professions Code section 7407.1 to state that the Board shall establish by regulation a remedial education program in lieu of a first offense of a health and safety violation, which may include a fee to cover the cost of administering the program. This was the first draft of the language. It will go to the full Board for approval then staff will find an author to carry the language in a bill to get it put into statute. Ms. Underwood indicated that the Committee recommends this

language to the full Board because the regulations would be allow the Board more control on how the program will be set up after getting the statutory authority.

Chair Munoz asked how the administrative cost of the program would be assessed. Ms. Underwood stated that any fee developed has to be the actual cost for administration of the program, so staff would conduct a cost analysis.

Ms. Fairley stated that offenders should have to pay for the education so they are invested and to prevent them from repeating violations. She mentioned that remedial education is a big deal because, during Disciplinary Review Committee hearings, one of the recommendations is for offenders to continue education. This recommendation usually comes without a clear direction of what that consists of. She thus felt that this program would be a step in the right direction.

Mr. Weeks asked if the Board would set the curriculum for continuing education. Ms. Underwood answered in the affirmative, adding that a statute would give the Board the authority to develop the whole program.

Motion: Mr. Weeks moved to recommend to the full Board the attached language in section 7407.1 for consideration of a legislative proposal. Tonya Fairley seconded.

Public Comment:

- Wendy Cochran asked about who would provide the education. She wondered if it would be provided by private schools or a pre-recorded webinar presented by the Board staff. Ms. Cochran believed that collecting fees for the program would be a conflict of interest because the private educators that should be providing their students with the right education in the first place will be the same ones profiting off of the fees.
- Board Legal Representative, Ms. Sabina Knight, stated that Ms. Cochran's concerns would be addressed in the regulations if the Board had authority for the program. She added that the Committee would see the language long before it is put into statute. This is just a legislative proposal, and many changes will be made.

Motion to recommend to the full Board the attached language in Section 7407.1 for consideration as a legislative proposal carried; 3 yes, 0 no, and 0 abstain, per roll call vote as follows:

The following Committee Members voted "Yes": Danielle Munoz, Tonya Fairley, and Steve Weeks.

4. AGENDA ITEM #4, PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA

- Jamie Schrabek noted that in the process of enforcement and inspections on the role of consumer complaints, it was not very clear if there is any statute of limitations on when a consumer can complain about a service received and how it was performed, particularly when the service resulted in an injury. Ms. Schrabek stated that as someone who works with attorneys and has been contacted, many serious injuries do

not get reported to the Board because there is no obligation in law for the settlements to be reported like it would be if it were the Medical Board.

- Ms. Cochran pointed out that estheticians and electrologists often work in solo suites. Ms. Cochran stated that there needs to be better clarity and understanding of how inspectors conduct their business. This entails what they can inspect, if they can inspect handbags or the property of clients, and how they enter rooms, especially in critical situations that require quick timing not to cause burns on the skin or eyes. She requested that the process be clearer on how inspections are happening and the parameters of those inspections, and also that the process be more public than it currently is.
- Fred Jones asked what the Enforcement and Inspection Committee was doing to confront the huge problem of underground services outside of licensed establishments since COVID.

5. AGENDA ITEM #5, AGENDA ITEMS FOR THE NEXT MEETING

Ms. Fairley proposed addressing the enforcement clarity, public knowledge, and the process for suite owners.

6. AGENDA ITEM #6, ADJOURNMENT

There being no further business to discuss, the meeting adjourned at approximately 11:14 a.m.



MEMORANDUM

DATE March 13, 2023

TO: Members, Enforcement and Inspections Committee

FROM: Kristy Underwood, Executive Officer

SUBJECT: Review and Discussion of Current Inspection Process for Suite Owners

This memo is to provide an overview of the inspection process for salon/suite settings hereafter referred to as establishment suites.

Establishment Suites

Establishment suites are multiple individual businesses that are located at the same address but are differentiated by suite numbers. For example, one large building may have up to fifty suites and each of those suites are separately licensed establishments. These suites often have a single main entrance with a directory as to where each business is located inside the building.

Inspection Process

Prior to the COVID-19 pandemic the inspection process for establishment suites was the same as it is for traditional establishments. An inspector would either be directed to a specific establishment suite or be conducting a routine inspection and as they were within the building they would try to inspect as many open businesses as possible. However, during the pandemic many of these businesses changed their policy and began locking the main door. Consumers would then contact their individual licensee by telephone to be let into the building. As establishments began re-opening, the establishment suites maintained their locked door policy citing that it was a more secure environment for the individual license holders.

Unfortunately, the locked main door prevents an inspector from entering the building unless the door is opened for them. Inspectors are usually able to gain access when the door is opened by a licensee to let in a consumer. Often an inspector may have to wait at the door for someone to exit the building so that they are able to enter. Inspectors have also been able to call a licensee to let them in.

At this time, while the process is not ideal, inspectors are able to gain access and conduct inspections of establishment suites that are open.



MEMORANDUM

DATE March 13, 2023

TO: Members, Enforcement and Inspections Committee

FROM: Nicole Quinn, Enforcement Chief

SUBJECT: Discussion and Possible Recommendation Regarding Plan to Address Unlicensed Individuals Working Outside of Establishments

Background

The Board of Barbering and Cosmetology (Board) Enforcement Unit has seen an increase over the last five years in complaints alleging Board services are being provided by unlicensed individuals out of their homes and/or advertising these services on Instagram. During the pandemic, establishments were closed, forced to provide services outside, or only allowed to provide minimal services. As a result, the number of complaints regarding services being provided in homes and advertised on Instagram increased.

Complaints Received with Allegations of Services Being Provided Outside a Licensed Establishment						
	2018	2019	2020	2021	2022	Grand Total
Home Salons	75	106	246	322	378	1127
Instagram*	0	0	0	59	60	119

*Instagram was not noted on complaints until 2021.

Issues

The Enforcement Unit continues to see an increase in the number of complaints received and the Enforcement analysts are taking steps to address the complaints. However, many of the Instagram complaints do not contain the address where services are being provided and attempts to contact the respondent via Instagram go unanswered. When the analysts have the address where services are being providing, they are sending unlicensed establishment letters and contacting local code enforcement agencies to determine if the location is licensed to provide services. Complaints are opened with local code enforcement agencies if the location is not licensed. If the local ordinances do not require a license to provide Board regulated services the analyst requests a Board inspection. Most often, when Board inspectors visit homes, the result is that the door is not answered, so we are unable to verify if Board-regulated services are being provided in the home.

Recommendations

On February 8, 2023, Board Enforcement Managers met with the Division of Investigation (DOI), to discuss home salons and Instagram complaints. DOI has agreed to assist the Board with the home salon and Instagram complaints. By utilizing their various law enforcement databases, they may be able to obtain additional information, such as complete names, addresses, telephone numbers, and/or property owner information. DOI also offered to send letters to respondents who are not complying with Board laws, suggesting that a letter coming from law enforcement may be taken more seriously. The Board can also request that DOI conduct undercover surveillance at locations where Board services are allegedly being provided.

Future Actions

The Enforcement Analysts will provide the Enforcement Manager with the information they have for the respondent. The Enforcement Manager will send information to DOI via a spreadsheet and DOI will conduct their research and return the spreadsheet with their findings. The analysts will then utilize the information provided by DOI and attempt to contact the individual. The analysts can use property owner information to contact homeowners and apartment complex owners to obtain additional information about the respondent or notify the owners that Board laws are not being complied with. The analyst can also request an inspection be conducted and contact local code enforcement agencies if DOI provided addresses where advertised Instagram services are being provided. The Board is appreciative for this collaboration with DOI and is confident that their resources will help the Enforcement analysts process these types of complaints. We believe this will be a successful collaboration to address home salons and Instagram complaints.

Agenda Items

No. 6-8

No Attachments