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**CALIFORNIA STATE BOARD
OF
BARBERING AND COSMETOLOGY**

**BOARD MEETING
MINUTES OF October 22, 2018**

Courtyard by Marriott
San Diego Mission Valley
595 Hotel Circle South
San Diego, California

BOARD MEMBERS PRESENT

Dr. Kari Williams, President
Lisa Thong, Vice President
Polly Codorniz
Jacquelyn Crabtree
Andrew Drabkin
Joseph Federico
Coco LaChine
Steve Weeks

STAFF MEMBERS PRESENT

Kristy Underwood, Executive Officer
Michael Santiago, Board Legal Representative
Tami Guess, Board Project Manager
Marcene Melliza, Board Analyst

BOARD MEMBERS ABSENT

Bobbie Jean Anderson

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

Dr. Kari Williams, Board President, called the meeting to order at approximately 10:00 a.m. and confirmed the presence of a quorum.

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

Dr. Williams stated today was Tami Guess's last Board meeting prior to her retirement in December. She thanked Ms. Guess for her hard work and dedication and stated she will be missed. On behalf of the Board, Dr. Williams presented Ms. Guess with a resolution in appreciation for her years of service with the Board.

Dr. Williams stated today was also Mr. LaChine's last day on the Board. She thanked Mr. LaChine for his contributions and presented him with a resolution in appreciation for his years of service with the Board. Dr. Williams wished Mr. LaChine all the best in his future endeavors.

3. Agenda Item #3, BOARD MEMBER REMARKS

Mr. LaChine thanked Board Members, staff, and members of the public for their help during his term. He stated he is moving to New York where he was originally from. He

stated his time on the Board has given him a new perspective in life. His service on the Disciplinary Review Committee (DRC) has made him fairer and more patient. He stated Board Members taught him that the DRC is also a good time to educate, encourage, and inspire the industry.

Mr. Federico stated he attended a meeting in Sacramento with DRC staff to explore paperless options for DRC case files. He stated IT demonstrated a Dropbox-style device as a paperless option during the meeting that was well-received. Mr. Federico agreed with Mr. LaChine that the Board tries to use the DRC hearing as a moment to educate. He suggested retaining the photos taken by inspectors for DRC hearings so they can be shared and used as opportunities to educate.

Kristy Underwood, Executive Officer, stated Ms. Guess has been a great asset to the office. She stated Ms. Guess worked on the Sunset Review Report, which is one of the best ever that the Board has put forward. She will be greatly missed.

Ms. Underwood stated Mr. LaChine has been one of the most active Assembly appointees. She thanked him for his work on the Board.

4. Agenda Item #4, PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA

Fred Jones, Legal Counsel, Professional Beauty Federation of California (PBFC), thanked Ms. Guess and Mr. LaChine for their service to the industry.

Wendy Cochran, Founder, California Aesthetic Alliance (CAA), thanked Ms. Guess and Mr. LaChine for their service to the industry.

Richard Hedges, former Board Member, thanked Ms. Guess and Mr. LaChine for their service to the industry.

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

- a. Licensing Statistics**
- b. Examination Statistics**
- c. Disciplinary Review Committee Statistics**
- d. Enforcement Statistics**
- e. Budget Updates**
- f. Outreach Updates**
- g. Practice Status Survey Results**
- h. NIC October 2018 Conference Report**

Ms. Underwood reviewed the statistics and update reports, which were included in the meeting packet. She thanked the Board for their work on the DRC over the last several years. She stated going into the Sunset Review with no DRC hearing backlog will be a huge benefit.

Ms. Underwood updated the Board on recent activities:

- Ms. Underwood attended the National-Interstate Council of State Boards of Cosmetology (NIC) two-day conference in Seattle, Washington. Only 23 states were represented this year. Many states that were in attendance had similar issues to California such as the following:

- Reducing hours for cosmetology to the 1,500- to 1,600-hour range
- Creating smaller license categories such as a lash certificate or a waxing certificate
- Creating licenses similar to the California Personal Service Permit (PSP)
- Staff met last week with the Division of Apprenticeship Standards to discuss apprenticeship programs in California and Spanish pass rates. Apprenticeship programs have an approximate 20 percent pass rate.
 - A Spanish Task Force will be put together by the end of the year and will hopefully include a representative from the Division of Apprenticeship Standards.
- Staff met with the new Department of Consumer Affairs (DCA) Public Information Officer who is assigned to the Board, to ask that his first project with the Board be a consumer campaign. Staff will be working on the campaign with the Public Information Officer over the next few weeks.
- The Mexican Consulate in Los Angeles has invited the Board back to convene a second Town Hall meeting, which is tentatively set for December 4th.
 - Staff has contacted the DCA to try to expand the Town Hall meetings throughout California.
- Mr. Federico has arranged a tour of the Federico Beauty Institute for legislative staff members in order to give individuals who work on bills a different perspective and to see the operations of a cosmetology school.
- As reported at the last Board meeting, emergency decisions were made to close three schools. Eight additional schools have now voluntarily closed due to the pressure from the Board on their operations and fraudulent proofs of training that have come through. Some students knowingly bought hours, while others were misled by the schools. Students were sent deficiency letters to allow them to withdraw their applications and go to a legitimate school. A formal denial requires students to wait a year before reapplying. The Board formally denied over 400 cosmetologist, manicurist, and esthetician applicants.
 - Staff has had conference calls with the National Accrediting Commission of Career Arts and Sciences (NACCAS) because more and more accredited schools are not teaching the curriculum they were approved to teach.
 - Another issue is individuals trying to get reciprocity in other states by submitting fraudulent certification letters. Staff is combating that by keeping in contact with other states and sharing processes on how they receive and send certification letters.

Questions and Discussion

Mr. Weeks asked for additional statistics relative to the Spanish written pass rate at the next Board meeting. He suggested analytics on the average failing score for first-time-only Spanish written test takers to determine how close they are coming to passing the exam, the percentage of students who failed by 10 points or less, and the average

score for second-time-only Spanish test takers to demonstrate what two exams could mean in a situation like this.

Mr. Federico asked if there has been an increase in apprenticeship programs. Ms. Underwood stated there has been a significant increase. She stated she will add those statistics to her report at the next Board meeting.

6. Agenda Item #6, APPROVAL OF BOARD MEETING MINUTES

- **August 27, 2018**

MOTION: Mr. Federico moved to approve the August 27, 2018, California State Board of Barbering and Cosmetology Meeting Minutes as presented. Ms. Crabtree seconded. Motion carried 7 yes, 0 no, and 1 abstain, per roll call vote as follows:

The following Board Members voted “Yes”: Codorniz, Crabtree, Drabkin, Federico, Thong, Weeks, and Williams.

The following Board Member abstained: LaChine.

7. Agenda Item #7, PROPOSED BOARD MEETING DATES/LOCATIONS FOR 2019

Dr. Williams reviewed the proposed Board meeting dates for 2019, which were included in the meeting packet.

Ms. Thong pointed out that May 12, 2019, is Mother’s Day. Ms. Underwood suggested pushing it back a week to May 19th and 20th.

8. Agenda Item #8, FINAL APPROVAL OF THE 2019 SUNSET REVIEW REPORT

Ms. Underwood reviewed the additions, changes, and corrections suggested by the Board and stakeholders at the last meeting to the 2019 Sunset Review Report Draft. The registration of students and internships were added to Volume 1. She presented the amended report along with an Executive Summary for final Board review and stated the report is due to the Legislature on December 1st.

Ms. Crabtree asked if insurance would cover an unlicensed intern providing services for the business owner. Ms. Underwood stated she did not know the answer to that question.

Mr. Drabkin stated the language states the internships are paid positions, not that it is optional. Ms. Underwood stated additional clarifying language will be added.

Ms. Crabtree stated, if clarifying language is added about interns being paid or not paid, then labor laws will need to be reviewed to ensure the salon owner is covered.

Ms. Thong stated there are specific requirements around internships under California Labor Law. The student has to either get school credit or be paid.

Ms. Underwood suggested that internships be limited to accredited schools. That is how the language is currently written.

Mr. Drabkin suggested changing the language under Outcomes Desired from “obtain” to “and/or obtain” so it would read “provide an opportunity for students to earn a wage and/or obtain on-the-job training.”

Mr. Weeks referred to the last sentence in the fourth paragraph of the Executive Summary at the front of Volume 1 and suggested referencing the 1,600 hours of education that are required to obtain a license so individuals in the industry who are reviewing the Executive Summary do not assume that only a few courses are involved.

Mr. Weeks asked if his suggestion from the previous meeting to define PSP to eliminate any possible connection to the establishment license was incorporated. Ms. Underwood stated it was not because the definition of PSP is in statute.

Mr. Weeks asked if it can be mentioned from the establishment side such as “as an establishment, you shall not ...” He stated his concern that, since a PSP is an individual business, they can have an office. His concern was that that office would then turn into an establishment. Ms. Underwood stated it will be addressed in the regulations for the PSP.

Mr. Weeks asked about the timeframe on that. Ms. Underwood stated the Board approved the regulations at the last meeting. Staff is working on the regulatory package that will be submitted to legal within the next two weeks.

Mr. Federico moved to approve the 2019 Sunset Review Report Draft and to allow the executive officer to make non-substantive changes.

Public Comment

Caroline Barboza, Barboza Barber Academy, agreed that the internship/externship program should be limited to accredited schools.

Mr. Hedges suggested that interns should be paid. The interns bring value through their work to the establishment and should be compensated for it.

Ms. Cochran agreed that interns should be paid. It is important that the schools establish the foundation of proper compensation for work done. She questioned the term “mechanic brushes” in the typography section. She offered to send an email to staff with terms for devices.

Ms. Cochran referred to the phrase ‘devises or appliances of any kind or description’ on page 126 under Removing of Hair, and asked if that would mean a mechanical device such as a Dermaflash, which is a vibrating hand tool that estheticians use for removing peach fuzz from the face by single-use disposable razors. She stated, if the marketing campaign and branding is for hair removal, then this device should be able to be used in professional treatment by licensed estheticians.

Ms. Cochran asked if dermaplaning is considered part of hair removal or if it is considered an exfoliation process. Ms. Underwood stated it is not considered within the scope of estheticians.

Ms. Cochran asked if Plasma and Fibroblast will be addressed under the New Trends section. Ms. Underwood stated it is not within the Board's scope. Ms. Cochran agreed.

Jaime Schrabek, Ph.D., Owner, Precision Nails, stated manicuring is one of the big problem areas, but only 27 words have been used to describe the scope of practice for manicuring. She stated the word beautifying has been removed in this draft, but it is concerning, when beautifying is left out and words like manicuring and pedicuring are left in, because it unintentionally suggests that applying extensions and decorating the nails with rhinestones or nail art would not necessarily be license-required. She stated she has submitted a list of verbs that could be used to describe the use of enhancement products to staff. She suggested adding the word decorating or enhancing so individuals will not think that this does not apply to them when using acrylic and gel products and doing nail art.

Dr. Schrabek suggested modernizing the language by replacing the word "tonics" with "products" on page 124. She encouraged, going forward, particularly with the approval of the PSP, that the Board require that all licensees in establishments to advertise and conduct their businesses with their legal names and license numbers. This is information that consumers can look up on the Internet to see if individuals are licensed.

Bill Henderson, Faculty, San Diego City College, Department of Cosmetology, thanked the Board for their approval for a barbering conversion program. He also thanked the Board for including the section on internship and externship in the Sunset Review Report. He asked how internship/externship programs will affect radio, television, and film in terms of the Screen Actors Guild or what might apply to student who would be doing those programs in projects where they would be doing services where it crosses over into that field.

Dr. Williams stated there is an exemption in the law for licensees who work in film and television.

Mr. Jones stated, the Sunset Review Report is impressive. The problem when dealing with the Legislature is that it will not be read. It is wise to include an Executive Summary. He stated the term "access protocol" was used twice in the bullets on the second page of the Executive Summary.

Mr. Jones stated, as long as there is an internship and an externship, it is appropriate to set a higher bar for the optional paid internship for accredited schools. Optional pay is important because some establishments may not take advantage of an internship if they are forced to pay the interns, but the opportunity for interns to earn while learning is a great response to the barrier-to-entry argument that is being used against the industry.

Mr. Jones stated the Board's enrollment registration is fantastic; it will stop the selling of hours overnight. He commended staff for their work in shutting down fraudulent schools, which have been undermining the integrity of the license. He

suggested adding the efforts that the Board has undergone on the PSP in the letter.

Mr. Federico stated there are two different hour requirements for cosmetology and barbering. He suggested changing the recommended hours completed in the internship section from 800 hours to 50 percent, so it would read “the students shall have completed a minimum of 50 percent of the course of barbering or cosmetology in the approved school.”

Mr. Drabkin stated interns should either be paid or unpaid without the Board’s changing tracks later on. He stated part of school tuition is to provide educational training hours. He stated his concern that schools do not earn the money paid for educational hours when students are in an internship program.

Ms. Thong stated she understood Mr. Drabkin’s point, but stated the need to clarify what interns can and cannot do by reviewing the clear definition of internship in California Labor Law. She suggested reviewing that prior to moving language forward to ensure that it aligns.

Ms. Underwood agreed with the inclusion of “beautification” in the manicurist scope of practice, adding a brief synopsis of what the Board has done on the PSP into the Executive Summary, changing internship language from 800 hours to 50 percent, and to include that paid internships are optional.

Mr. Federico agreed to make those amendments to his motion.

Ivonne Villalobos, Owner-Operator, Ivonne’s Beauty Salon, asked how the internship/externship programs and sponsors of the interns will be regulated. She asked about the percentage rates of success with internship programs.

Dr. Williams stated the internship program is in the discussion phase and has not yet been implemented.

Mr. Federico stated an externship program is currently being implemented, which requires students to complete 60 percent of their education prior to applying for an externship. The externship program allows the student to attend one day per week in a salon to observe.

Ms. Villalobos asked how the salon owners or sponsors are monitored and how the Board is regulating to ensure that these students are being educated in alignment with school curriculum.

Dr. Williams stated there is information about externships on the website. She asked Ms. Villalobos to connect with staff offline.

MOTION: Mr. Federico moved to approve the 2019 Sunset Review Report Draft, to allow the executive officer to make non-substantive changes, to include the word “beautification” in the manicurist scope of practice, to add a brief summary of what the Board has done on the PSP into the Executive Summary, to change the internship language from 800 hours to 50 percent, and to include that paid internships are optional. Dr. Williams seconded. Motion carried 7 yes, 0 no, and 1 abstain, per roll call vote as follows:

The following Board Members voted "Yes": Codorniz, Crabtree, Federico, LaChine, Thong, Weeks, and Williams.

The following Board Member abstained: Drabkin.

9. Agenda Item #9, REPORT ON THE AUGUST 28, 2018, HEALTH AND SAFETY ADVISORY COMMITTEE

• **Dynamex Decision**

Ms. Underwood referred the Board to the discussions on the Dynamex decision from the last Health and Safety Advisory Committee, which were included in the meeting packet. She stated many agencies are discussing the issue but little progress has been made. She stated she recently spoke to the Department of Industrial Relations who assured her that they are trying to come up with a statement that can be linked to website. In the interim, inquiries from the public are being routed to the Labor Commissioner's Office. Until the next legislative session opens, the ramifications of the Dynamex decision remain unclear.

10. Agenda Item #10, LEGISLATIVE UPDATE

Ms. Underwood updated the Board on the following bills:

a. AB 2134 (Rubio) - Externships

This bill was signed into law and will be effective January 1, 2019.

b. AB 2138 (Chiu and Low) Denial of Applications

This bill was amended prior to being signed.

c. AB 2775 (Kalra) Professional Cosmetics Labeling Requirements

This bill was signed into law and will be effective January 1, 2019.

d. SB 984 (Skinner) Board Representation: Women

This bill did not move out of the Assembly.

e. 1492 (Hill) (SBP) Examination Failure Notification

This bill was signed into law and will be effective January 1, 2019.

11. Agenda Item #11, PROPOSED REGULATIONS: DISCUSSION AND POSSIBLE ACTION OF PROPOSED REGULATORY CHANGES

Ms. Underwood stated the following proposed regulations are in process:

The language for this regulations package has been revised and is being resubmitted for approval by the Board. The package is still undergoing internal review at the Department of Consumer Affairs (DCA).

- Title 16, CCR Section 961 (National Interstate Council (NIC) Translation Guides)

The following regulation packages are under internal review at the Department of Consumer Affairs:

- Title 16, CCR Section 904 (Definition of Access)
- Title 16, CCR Section 950.10 (Transfer of Credit or Training)
- Title 16, CCR Section 974 and 974.3 (Fine Schedule and Payment Plan)

Staff is developing the filing documents of these regulation packages:

- Title 16, CCR Section 965.2 (Personal Service Permit)
- Title 16, CCR Section 972 (Disciplinary Guidelines)

Staff is developing the language on the following regulation package:

- Title 16, CCR Sections 977, 978, 979, 980, 980.1, 980.2, 980.3, 980.4, 981, 982, 983, 984, 985, 986, 987, 988, and 989 (Health and Safety Regulations)

12. Agenda Item #12, AGENDA ITEMS FOR THE NEXT MEETING

Mr. Federico suggested a discussion on competency-based education.

Ms. Thong asked for statistics on certified translator use at DRC hearings and the number of remote translators the Board has utilized for inspections.

13. Agenda Item #13, CLOSED SESSION

The Board entered closed session to discuss reconsideration of disciplinary cases.

OPEN SESSION

Dr. Williams reconvened the meeting and stated the Board took no reportable action.

14. Agenda Item #14, ADJOURNMENT

There being no further business, the meeting was adjourned.