

**CALIFORNIA STATE BOARD  
OF  
BARBERING AND COSMETOLOGY**

**HEALTH AND SAFETY COMMITTEE MEETING**

**MINUTES OF JUNE 6, 2022**

**COMMITTEE MEMBERS PRESENT**

Jacquelyn Crabtree, Chair  
Calimay Pham  
Reese Isbell  
Paul Bryson  
Lorianne Burr  
Deedee Crossett  
Brandon Hart  
Leslie Roste

**STAFF MEMBERS PRESENT**

Kristy Underwood, Executive Officer  
Carrie Harris, Deputy Executive Officer  
Sabina Knight, Board Legal Representative  
Allison Lee, Board Project Manager  
Marcene Melliza, Board Analyst

**Committee Members Absent**

Brandy Hamilton  
Paula Johnson  
Mark Rierson  
Yumi Youn

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

Jacquelyn Crabtree called the meeting to order at approximately 10:00 a.m. and confirmed the presence of a quorum.

**2. AGENDA ITEM #2, EXECUTIVE OFFICER'S OPENING REMARKS (KRISTY UNDERWOOD)**

Ms. Underwood explained that the committee would continue their previous discussion of the fine schedule and whether violations are related to consumer harm.

**3. ACTION ITEM #3, REVIEW AND APPROVAL OF MARCH 14, 2022, COMMITTEE MEETING**

Ms. Crabtree moved to approve the March 14, 2022, Meeting Minutes. Ms. Crossett proposed an amendment to the minutes. She stated that on page 7, the paragraph which starts with her name should state 'what schools should teach' instead of 'which schools should teach.' Ms. Crabtree moved to approve the March 14, 2022, minutes as amended. Mr. Isbell seconded. The motion was opened up for public comment. No comments were received from the public.

Motion to approve with the amendment carried 8 yes, 0 no, and 0 abstain, per roll call vote as follows:

The committee members voted "Yes": Jacquelyn Crabtree, Calimay Pham, Reese Isbell, Paul Bryson, Lorianne Burr, Deedee Crossett, Brandon Hart, and Leslie Roste.

**4. ACTION ITEM #4, DISCUSSION AND POSSIBLE ACTION REGARDING THE STAFF'S ANALYSIS OF THE BOARD'S LAWS AND REGULATIONS FOR THE ESTABLISHMENT OF A SCHEDULE OF ADMINISTRATIVE FINES PURSUANT TO THE REQUIREMENTS OF BUSINESS AND PROFESSIONS CODE SECTION 7407.**

**Section 981(a) – No Disposal of Non-Disinfectable items**

Ms. Underwood explained that this section is cited when inspectors find disposable items that have not been thrown away immediately after use. The most common items are nail buffers, emery boards, and wax sticks. Staff ranked the violation as a high risk to consumers. Mr. Isbell asked why the fine starts at \$100 when it is a high risk. Ms. Underwood stated that that is what the fee was set at, but it could be changed. Ms. Underwood explained that the fines had been established by a fine task force and had been changed only twice. Whenever the task force held meetings to review the fines, they did not look at the actual relation to consumer harm.

Ms. Crossett noted that liner fines start at \$250. She proposed moving up the fines to that amount since the offenses are similar. Mr. Isbell echoed her sentiments.

Mr. Hart pointed out that a significant number of violations were identified relatively compared to other sections. For instance, an inspector could find a dozen violations during one inspection, resulting in about \$1200 of fines. He wondered if this was because there were multiple instances of a violation in one setting. Ms. Underwood stated that staff had considered everything when tabulating the violations. An inspector could walk into an establishment and see five workers with the same violation. All five would get the fine plus the establishment owner. In another instance, an inspector could walk into an establishment and see five of the violations but not at anyone's station. This cannot be tied to a particular person; thus, only the establishment owner would get one fine. Ms. Underwood remarked this as one of the top violations that happen frequently. She believed it was a significant cause of consumer harm.

Mr. Bryson recognized that the violation was a risk for harm, but he asked if there were statistics on infections transmitted by people reusing nail files and other items. Ms. Underwood stated she did not have any statistics. She added that when a consumer gets an infection after visiting a nail salon, it would not be easy to tie it to precisely what happened on that particular day. Mr. Bryson agreed, but he believed that there should be some medical statistics stating that several people per year complain of getting an infection after visiting a nail salon. Such data could be used to strengthen specific penalties.

Ms. Roste stated that such data would come from the medical side. She pointed out that when harmed consumers turned in their medical documents, they would rarely point out that they got infections from a nail salon.

Ms. Crossett wondered if the fines had been rated lower since the harm a consumer would get from reusing a nail file is a lower risk than what one could potentially get from reusing a plastic liner. Ms. Roste pointed out that the risk was the same. She explained that a nail file was designed to hold skin tissue that could be easily transferred onto someone else when reused. The plastic liner also exposed the consumer to high risk even though there's some water involved. Ms. Roste further stated that the Committee should go by what they knew could be transmitted through reusing such cases. She acknowledged that some are

worse than others but maintained that single-use items should remain single-use items. This would eventually result in very few cases of infection.

Mr. Isbell stated that the focus should not be on how many medical cases had emerged. He urged the Committee to focus on whether or not the consumer feels safe going into such establishments. He added that if hygiene is not held to a good standard, then the overall standards of the State are lowered.

Ms. Underwood indicated that the fine used to be \$50 for a first offense. It was raised to \$100 at the last fine review meeting. She stated that the standards had improved as cases of reusing buffers and emery boards had decreased. This was, however, not the case with the wax sticks.

Ms. Roste believed that if the fine went up to \$200, most people would feel the sting and avoid repeating the offenses. On the other hand, if the fines are low, businesses would not feel the cost of paying them. They would prefer to pay the fines, so they do not have to replace all the disposable items.

Chair Crabtree agreed that the fine should be increased as it was a repeat offense. Nail salons were known to be notorious for reusing disposable items.

### **Section 981(b) – Improper Storage of New Supplies and Disposable Tools**

Ms. Underwood stated that the rate was low because inspectors had been advised that it was not a priority violation. People are usually advised to print a label and put it on a manufacturer's container, indicating that the item is brand new and clean.

Ms. Crossett pointed out that someone could take something out of a drawer and label it new or clean. As a result, the consumer and the student would know how to identify an unused item. She stated that students should be trained when something should be labeled new and clean.

Ms. Roste remarked that the Committee should not be focusing on labeling the infraction as no big deal. She believed that people should not be fined for not having a label. They should be fined for not storing things properly, such as mixing new things with items waiting to be disinfected.

Ms. Underwood highlighted that the verbiage of the violation indicated that new supplies and single-use disposable tools should be stored in a clean, covered place labeled new. She asked if the language should be changed or clarified.

Ms. Crossett stated that the language was consistent as everyone was responsible for labeling something that they had moved out of the original manufacturer's container. Ms. Roste added that most states have a secondary container labeling rule. She indicated that making people label containers that the manufacturers have already labeled as new would be frustrating.

The Committee agreed that the language on the violation should be that labeling is only required when one removes items from a manufacturer-labeled container. The fine amount for a first offense was set at \$50.

### **Section 981(c) – Carrying Tools or Supplies in or on Garments**

Ms. Underwood explained this violation is cited most commonly when hair clips are clipped to aprons. Staff ranked it as a low to medium risk. The fine is low as it is not a common occurrence. There is no evidence of consumers ever being harmed.

Ms. Crossett noted that such an offense would be dangerous in a case where an aesthetician pulls tweezers out of their apron or pocket.

Mr. Isbell asked if the fine would apply in the case of non-contact holstered tools like a hair dryer that doesn't touch the client. The Committee members agreed that a hair dryer would be considered since it is an electrical tool.

### **Section 982 – Incorrect Sterilization of Electrology Tools**

Ms. Underwood considered this section a high risk to consumers because electrology is an invasive procedure. The Committee members proposed increasing the fine to \$250 for a first offense.

### **Section 983 – Personal Cleanliness**

Ms. Underwood noted that this section is cited when an inspector observes a licensee's attire not being clean or observes a licensee not washing their hands.

Ms. Roste pointed out that if something is considered high risk, the fine should also start at a high rate. The Committee members agreed to raise the fine to \$250.

Mr. Isbell stated that once the fine structures have been set, DCA should send out communication to the industry informing the people of what is considered high risk to help them understand the fine structure. Ms. Roste added that communicating the fine structures would also drive education around specific issues. Establishment owners would be notified to fix specific high-risk problems occurring at their places of business.

Educators would also put more focus on the high risks identified by DCA.

### **Section 984(a) – Allowing a Licensee with an Infectious or Communicable Disease to Work on a Person.**

Ms. Underwood stated that this section applies when an inspector observes a licensee providing service and the licensee has an infection or a parasitic infestation capable of being transmitted. This is not a common occurrence but was ranked as high risk. Ms. Underwood proposed setting the fine at \$250 for a first offense. Ms. Roste pointed out that such cases would not get cited frequently because it would be hard for an inspector to know if someone has a parasitic infection. She, however, agreed that having a rule in place informs service providers that in case they know they have something, they must take care of it first before coming to work.

### **Section 984(b) – Allowing or Requiring a Licensee to Work on a Person Who Has an Infectious and Communicable Disease.**

Ms. Underwood said that this section is not a common occurrence, but owners have asked licensees to work on such consumers. Ms. Roste stated that the rule allows licensees to say no when asked to work on consumers with parasitic infections. Ms. Underwood added that many licensees voiced concerns during COVID. The fine was set at \$250.

### **Section 984(e) – Performing Services on Inflamed, Broken, Infected, Or Erupted Skin Without Gloves**

Ms. Underwood explained that this is cited when an inspector observes the licensee providing service to a consumer who has an inflamed or broken infection on their skin or scalp, or the licensee has a skin issue and is not wearing gloves during the service.

Not a common occurrence but considered high risk. Fine set at \$250.

### **Section 985 – No Use of a Neck Strip or Towel**

Ms. Underwood stated that this section is cited when a person provides a service without a neck strip or a towel between the neck and the cape. It was rated as low risk because it is not common and there is no evidence to suggest that the neck strip will protect the consumer.

Chair Crabtree stated that there would be no need for a neck strip when a clean drape is used on every client. Mr. Hart pointed out that there were instances where a barber nicks someone when shaving their neck, and they do not replace the drape. That could be a potential hazard to the following consumer. He felt the fine should be set high at \$250.

Ms. Crossett indicated that the violation should also cover towels because students are always taught to ensure they have clean towels. Ms. Roste mentioned that a neck strip and a towel are two different things that should not be categorized together. She stated that a neck strip is not meant for infection control. It was designed for comfort, especially during a haircut. She also indicated that the chances of transferring blood-borne pathogens on a neck strip to another person are meager. However, the chance of transferring ringworms from one consumer to the next is very high, but a neck strip would not protect one from that. Ms. Roste further stated that a towel should be used during a chemical service to protect the consumer's skin. She reiterated that the neck strip and towel should not be mixed into one rule.

Ms. Crossett stated there was no need for separate rules for the two, adding that the neck strip protects the consumer.

Chair Crabtree proposed adding language in the rule to say new clean drape. She also indicated that the language needs to be clarified because some salons use clean drapes on each customer, so they have no towels around. An inspector might give such a salon a citation when he sees no towels anywhere.

Ms. Underwood clarified that the Committee could add suggested language to the rules but not at this meeting. The Board was currently looking at the recently updated health and safety regulations. Some of them will be brought back before the Committee for modification.

### **Section 986 – Neck Dusters**

Ms. Underwood stated that the neck dusters had been eliminated in the health and safety regulations. Most states had eliminated them; only four, including California, still allowed neck dusters. Neck dusters were eliminated for the following reasons:

- They cannot be adequately disinfected.
- They're made with natural hair, so they are porous and can't be disinfected thoroughly.
- They throw everything up in the air, including those that should be contained.

A proposal had been put forth to remove neck dusters from California.

Mr. Isbell proposed moving the fine up, noting that the violation had been cited several times. Ms. Crossett felt \$250 would be too harsh a fine for something that has been in the industry for a long time. Ms. Roste noted that the rule also includes regular brushes. It was thus dependent on the regulations for brushes since staff was working on developing new regulations for brushes. The Committee agreed to hold off on this rule and wait for the new brush regulations.

### **Section 987 – Clean Towels Not Being Stored Properly.**

Ms. Underwood stated this is found when an inspector finds clean towels left uncovered or in an open cabinet. It is a common violation. Ms. Underwood believed that clean towels found in an open cabinet should not be violated since there was no evidence of any harm caused by a clean towel.

Ms. Crabtree suggested talking to the inspectors about what to look out for concerning the clean towels. Ms. Underwood stated that the violations are not cited in most cases, especially if it's a first offense. The person is usually educated without a fine.

Ms. Crossett agreed that it is a common violation because most people just forget to put clean towels away after laundry. She added that the risk is also low.

Ms. Roste urged the Committee members to look deeply into the rule as she believed that there's nothing dangerous flying in the air that could get onto clean towels and hurt a customer. Ms. Crossett stated that the risk arises when the clean towels are not properly stored. She recounted an incident where there was an outbreak of bed bugs in a massage school in New York because students were allowed to bring in their sheets and towels as a way to save money. Ms. Roste agreed that linens had to be clean. However, she opposed the idea of an open cabinet door being cited as a violation. The Committee agreed to leave the rule as is.

### **Section 988 – Liquids, Creams, Powders, and Cosmetics.**

Ms. Underwood explained this section is cited when an inspector finds dirty, open, or unlabeled containers. Wax pots are the most commonly found as dirty. The section also covers double-dipping.

Ms. Roste suggested that only double-dipping for waxing be \$250 since it posed a high risk of transferring HPV from client to client. She indicated that the rule would also stop people from dipping fingers into products. Ms. Crossett argued that \$250 was too high, especially for barbers and hairdressers who stick their fingers inside pomade cups. Ms. Roste reiterated that that was still a high risk that should not occur. She felt that \$250 was appropriate. Mr. Hart added that the current fee structure was not a deterrent since the violation had been cited many times.

Mr. Bryson stated that the exemption should be maintained for products that destroy microbes, such as nail gel. Ms. Underwood agreed, adding that the current regulations stated that the rule does not apply to cosmetic preparations that have been demonstrated to be unlikely to transmit pathogens, including nail polish, artificial nail monomer, et cetera.

### **Section 989 – Prohibited Hazardous Substances**

Mr. Isbell asked why the offenses were all the same amount. Ms. Underwood stated that the Committee that set the fines did not increase them at the time. Mr. Isbell felt the fee for violation 989 should be increased per offense. Ms. Crossett inquired about a cite limit. Ms. Underwood stated there's a \$5000 limit for an overall citation. The Committee agreed on a minimum fine of \$500.

### **Section 990 – Headrest, Shampoo Bowls, and Treatment Tables.**

Ms. Underwood stated this violation is cited when an inspector finds a dirty shampoo bowl or unclean treatment tables. Staff ranked it as a low risk, with the first offense set at \$50 because no consumer harm had been directly linked to it. Mr. Isbell believed that consumers should be able to feel safe when they go into an establishment. Seeing dirty shampoo areas or treatment tables does not give them that safe feeling. He proposed raising the fine to \$250.

Ms. Crossett mentioned that when the practical exam was updated, people could use fresh towels or linens or spray the area with a disinfectant. Both were considered sanitary maintenance measures. Ms. Underwood clarified that with regard to the treatment tables, the regulations stated that the tables must be covered with either clean treatment table paper, a clean towel, or a clean sheet after each use. Ms. Crossett indicated that the rule might have changed for the SMA but not for clients. Ms. Underwood believed the change was not recommended in the health and safety regulations. She would look into it further. Ms. Roste stated that if disinfectant sprays are correctly used for the recommended 10 minutes for treatment tables, the chemical would eventually destroy the material over time. This is why the coverings might have been left in the rule. She also asked if the citation covered cases where treatment table sheets or papers were not changed for an entire day. Ms. Crossett remarked that the language in the regulation must be clear on whether one is required to change the linen, clean it, throw away the paper, or disinfect the space. Ms. Underwood stated that according to the proposed new health and safety regulations, treatment table paper should be immediately disposed of after a single-use. The treatment table should be disinfected before being covered with a clean paper, clean linen, or a non-porous covering.

Mr. Isbell voiced concern about the language in the regulation. He noted that the regulation only said a dirty shampoo bowl and treatment table, but the Committee members were discussing disinfecting surfaces.

Ms. Crossett pointed out that a surface might be dirty due to not being disinfected. Ms. Roste agreed, adding that it must have been neglected for a long time when something was visually dirty. She further stated that using the same for waxing different clients and changing the sheets without disinfecting the table are two different topics.

Ms. Underwood mentioned that the inspectors usually find dirty sheets on treatment tables or hair in the drains of shampoo bowls. Mr. Hart noted that before COVID, the offense was a common occurrence, and the current fine structure was not a deterrent.

Ms. Crossett reiterated that it is a low-risk violation, so the fines are kept low at \$50.

Mr. Isbell pointed out that it was a matter of educating people on the importance of cleanliness. He also proposed increasing the minimum threshold of low-risk violations to \$100. Ms. Crossett argued that \$100 was still high since it was common to have hair in the shampoo bowl, especially in busy salons.

Ms. Roste suggested separating the headrest, treatment tables, and shampoo bowls as different violations since they all posed different risks. The Committee members agreed. Staff will work on the separate violations and return them to the Committee.

### **Section 991 – Performing an Invasive Procedure**

Ms. Underwood stated this section is cited when an inspector finds a licensee providing an invasive procedure, such as microneedling. The fine was set at a minimum of \$500 but could be changed.

Ms. Crossett asked if a licensed esthetician should have a separate space for tattooing or doing permanent makeup. Ms. Underwood answered in the affirmative.

Ms. Crossett also stated that licensed estheticians work in medical spas as medical assistants without a separate license. She asked if the citation covered such cases. Ms. Underwood stated that the Medical Board would come in in such cases. Ms. Underwood clarified that an esthetician working in a doctor's office and performing invasive procedures outside of an esthetician's scope would be cited for the practice of medicine.

Ms. Crossett pointed out that hiring licensed estheticians as medical assistants was common practice. She added that the violation's language should be clarified.

### **Section 992 – Performing Invasive Skin Exfoliation.**

Ms. Underwood explained that this violation was cited when an inspector finds products that remove deeper than the epidermal layer of the skin. It is considered a high risk to consumers. Inspectors might not see the procedure being done. Usually, consumer harm complaints are received by DCA, which leads to investigations. Mr. Isbell proposed raising the fines, adding that a second incidence would be overboard if the offense were hard to cite.

### **Section 993 – Prohibited Tools**

Ms. Underwood stated this is cited when an inspector finds a razor-edged tool, pointy tools, or needle tools used for extractions. Staff ranked it as high risk.

Ms. Crossett noted that for Section 991, the inspector has to catch a person doing the procedure, while for 993, the inspector only has to find the item.

It was clarified that Section 993 would be cited to the establishment, while 991 is specific to the licensee.

The Committee agreed that the amounts for the two sections should be consistent.

Ms. Crossett wondered if the owner would still get cited even if they rented the space to someone unaware of the violation. Ms. Underwood stated that the owner could appeal, and DRC would look into waving the citation. Ms. Underwood further explained that there's an informal appeal process consisting of a three-member board. If the citation is upheld at the DRC, the offender can appeal at the administrative level.

### **Section 994 – Cleanliness and Repair**

Ms. Underwood explained that this was cited when an inspector finds excessive hair clippings, rarely cleaned floors, and overflowing garbage cans. It is considered a medium risk, with the first offense set at \$50.

Mr. Isbell reiterated that a consumer must feel safe in an establishment and seeing garbage would cause a problem. He proposed increasing the amount.

Mr. Bryson indicated that the biggest risk was someone falling and getting hurt. He urged the Committee to focus more on such violations that would lead to potential harm for the salon worker or the consumer.

Mr. Hart felt that the \$50 fine was not a deterrent.

Ms. Pham stated that the fines should be consistent with the risk level. If an offense is low, the fine should be consistent across all low-risk offenses. Same case with medium and high-risk offenses. She added that medium-risk fines should be increased to about \$100.

Ms. Roste echoed Ms. Pham's sentiments. She stated that the Committee should determine the risk level. The fines will be consistent across each.

The Committee agreed that violation 994 is medium risk. However, Ms. Crossett and Chair Crabtree felt the risk level should be low.

### **Section 995 – Plumbing Standards**

Ms. Underwood stated this regulation requires that specific requirements such as running water, ventilation, and public toilets be available. Mr. Hart wondered how the inspectors measured adequate ventilation. Ms. Underwood stated that it was measured when an



inspector walked into a nail salon and the smell was too strong. The inspectors check for vents. The offense is no longer common.

Mr. Hart stated that OSHA requires mechanical ventilation to provide air equivalent to the outside air. New guidelines came from CDPH during COVID that require HEPA or portable filtration. However, in this case, the inspectors used smell instead of instruments. He also noted that the risk was set at medium though it was identified as hazardous fumes. He felt the \$50 fine was too low.

Ms. Underwood explained that inspectors usually find MMA, a prohibited substance. Mr. Bryson added that MMA and EMA have good warning properties where they smell sour even at low concentrations. Mr. Bryson further stated that substances that are harmful but do not smell should not be used. An example is methylene chloride used for removing nail gel. He stated that it is used in small amounts that might not be deemed enough to cause harm, but the long-term effect was dangerous.

Ms. Roste mentioned that some cleaning products mix chlorine bleach with ammonia, creating harmful fumes. Inspectors should be able to smell such and cite them.

Mr. Isbell indicated that instead of looking into specific cases, the department should be working on setting standards for adequate ventilation. He felt ventilation should be taken seriously, especially in a post-COVID world. He also proposed increasing the fine to \$100. Mr. Hart suggested moving the risk level higher as not having hot water limits someone's ability to wash their hands and do laundry.

Staff was directed to work on the recommendations and bring back the regulations before the Committee.

## **5. AGENDA ITEM #5, PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA**

Fred Jones, Professional Beauty Federation of California, stated that the current inspectors are better than they were 15 years ago thanks to the to the shift in attitude and perspective brought on by leadership and staff. He appreciated the Health and Safety Committee's work, adding that the Board's primary role is protecting consumers, not making a salon marketable or improving their image.

## **6. AGENDA ITEM #6, SUGGESTIONS FOR FUTURE AGENDA ITEMS**

Mr. Isbell wondered what the role of the Committee concerning the inspectors was. He noted that the Committee did not give the inspectors guidelines. Ms. Underwood stated that the laws and regulations control the inspectors' actions. She further stated that there is an Enforcement and Inspections Committee. All inspection policies are directed to them. Ms. Crossett suggested adding guidelines for dermaplaning. She also asked about the status of brow tinting. Ms. Underwood stated that regulations were being modified and she believes tinting should be allowed in California as in other states. Ms. Crossett mentioned that lash perming and brow lamination should also be considered when considering disposable regulations. For example, silicon pads can be disinfected. She also asked about the status of the 600-hour hairstylist license. Ms. Underwood stated that it was about a year and a half out. It will be discussed when looking at the regulations.

## **AGENDA ITEM #7, ADJOURNMENT**

There being no further business to discuss, the meeting adjourned at approximately 11:58 p.m.