

**CALIFORNIA STATE BOARD  
OF  
BARBERING AND COSMETOLOGY**

**BOARD MEETING**

**MINUTES OF OCTOBER 24, 2022**

**BOARD MEMBERS PRESENT**

Steve Weeks, President  
Calimay Pham, Vice President  
Megan Ellis  
Tonya Fairley  
Kellie Funk  
Reese Isbell  
Derick Matos  
Jacob Rostovsky

**STAFF MEMBERS PRESENT**

Kristy Underwood, Executive Officer  
Carrie Harris, Deputy Executive Officer  
Sabina Knight, Board Legal Representative  
Nicole Quinn, Enforcement Chief  
Allison Lee, Board Project Manager  
Natalie Mitchell, Board Analyst

**BOARD MEMBERS ABSENT**

Yolanda Jimenez  
Danielle Munoz

**OPEN SESSION**

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

Steve Weeks, Board President, called the meeting to order at approximately 9:00 a.m. and confirmed the presence of a quorum.

**2. AGENDA ITEM #2, BOARD PRESIDENT'S OPENING REMARKS**

Mr. Weeks welcomed the new Board members, Ms. Kellie Funk, Mr. Jacob Rostovsky, and Ms. Colette Kavanaugh. He recognized the importance of having individual licensees serve on the Board. He stated Ms. Kavanaugh could not attend today's meeting and will be at the next Board meeting.

Mr. Weeks mentioned that the new *BarberCosmo Update* newsletter had been published. He stated that it would help licensees and the public to understand what the Board is doing. He also acknowledged the recent retirement of Mrs. Marcene Melliza, a staff member. This is the first Board meeting without her, and Mr. Weeks wished her well in her retirement.

### **3. AGENDA ITEM #3, BOARD MEMBER REMARKS – INFORMATIONAL ONLY**

Mr. Matos welcomed the new members. He also recognized that the year is ending and thanked the Board members for working through the difficult times seen during the year. He further stated that his term would be coming to a close at the end of the year. He wished the new and current members well and looked forward to all the progressive work they would do for the industry.

### **4. AGENDA ITEM #4, DISCUSSION AND POSSIBLE APPROVAL OF THE JULY 25, 2022, BOARD MEETING MINUTES.**

**MOTION:** Mr. Isbell moved to approve July 25, 2022, Board meeting minutes. Ms. Fairley seconded.

No comments were received from the public.

Motion to approve July 25, 2022, Board meeting minutes carried; 8 yes, 0 no, and 0 abstain, per roll call vote as follows:

The committee members voted "Yes": Steve Weeks, Calimay Pham, Megan Ellis, Tonya Fairley, Kellie Funk, Reese Isbell, Derick Matos, and Jacob Rostovsky.

### **5. AGENDA ITEM #5, EXECUTIVE MANAGEMENT REPORTS (KRISTY UNDERWOOD)**

Ms. Underwood introduced the staff present at the meeting as follows:

- Carrie Harris – Deputy Executive Officer
- Natalie Mitchell – the new staff member who replaced Marcene.
- Allison Lee - Board Project Manager.
- Nicole Quinn – Enforcement Chief.

#### **(a) Administration and Operations**

Ms. Underwood stated that many new hires have been made. Some of the new hires include Sam Swafford, the new regulations analyst, and Natalie Mitchell, who came over from the Bureau for Private Post-Secondary Education to replace Marcene. There are still vacancies in the admin unit that will need filling. The current budget analyst, Patricia Garcia, will retire at the end of the year. Staff are looking for a replacement while Ms. Garcia is still in the position so that she will help with training. Staff is also recruiting for a person to handle all the data reporting and are hoping to hire someone in the next few weeks.

Ms. Underwood stated that five new cars will be coming to the Board on fleet purchase orders. It has been an enormous process to survey those vehicles, and staff have been working on it for over a year. The vehicles might come in by the end of the year.

Regarding budget expenditures, staff is still working with the budget office to get the red lines to be black. The budget is stable and healthy. The budget office could take time before looking at it because they focus more on other boards' budgets that are not as healthy. Ms. Underwood also reported that staff is not allowed to travel to some states

that had some conventions and conferences this last year. Therefore, the budget for travel was zero. Mr. Isbell stated that his main concern was budgeting for the future and whether or not money could be put aside for the upcoming conferences. Ms. Underwood mentioned that there was an option to request out-of-state travel. She stated that there is a process for out-of-state travel that is a year in advance. However, other things pop up that are outside the year in advance. She added that the administration has helped get approval for those travels. Staff always tries to plan for a year in advance, but it only doesn't always happen.

Mr. Rostovsky asked for some examples of external consultant and professional services because he noted that their budgets were high. Ms. Underwood stated that that is the exam contract.

Ms. Underwood discussed the budget fund condition and stated that what is printed in the Governor's budget is presented in the reports. The report indicated the actual allocation, the current year, the budget year, and the budget year plus one. She referenced the months in reserve as shown in the reports and stated that the reserves are high and very stable since they are on the plus line.

#### **(b) Licensing, Examination, and Disciplinary Review Appeals**

Ms. Underwood stated that the Board is asked about the languages it provides exams in every year. She was recently asked about Chinese by an assembly member's office, so she pulled data on the number of people requesting a Chinese interpreter to take the exam. If a language meets 5% of the population, the Board is required to offer the exam in that language. Vietnamese and Spanish were well over 5%. Chinese was the highest requested interpreter to be brought to the examination. Ms. Underwood reported that she had met with the exam vendor earlier and they had agreed to add simplified Chinese to the exam. It will be launched on March 1, 2023. Mr. Isbell appreciated the move, adding that though it might not be meeting the criteria statewide, there are some jurisdictions in the State where it is a vital need.

On licensing, Ms. Underwood reported that the unit is almost entirely staffed. The positions remaining are the limited terms vacancies, where staff is looking to have additional staff to help with the vast number of emails and phone calls. These are not allocated positions and will come from the separate temp line item. A fully staffed licensing unit will reduce some processing times, particularly the exam applications, which are currently taking about six weeks to process.

A new manager was hired for the licensing unit. James Zimmerman was the lead of the licensing unit and had been promoted to management. The Board is still recruiting for one additional licensing manager position.

Emails are still coming in huge numbers. Last Friday, staff had another all-staff email day to respond to those emails and try to get them within a reasonable range. There is a delayed response of over eight days, and staff must balance between processing applications and answering emails continuously.

Mr. Weeks asked if other boards in California had the same issue with the number of emails. Ms. Underwood did not believe so. She stated that other boards don't have the same volume as the Board. Many applications come in daily, and most people apply online without attaching their proof of training, so they then have to send another email with the proof of training, which gets mixed up with all the other emails. Ms. Underwood stated that staff had recently held a town hall meeting with schools to walk students through the application process and show them how to attach the proof of training. She hoped that that would help reduce the number of emails received.

Mr. Weeks also asked if contractors have a standing telephone operation to answer questions. Ms. Underwood stated that contractors have their call centers. She further explained that the automated email response is amended weekly to let people know what the timeframe is in responding and the processing times and give information on how they can get help regarding their BreEze accounts.

Mr. Rostovsky wondered if there was a way to install software that would filter messages and create a curated response. Ms. Underwood stated that she was unaware of any state agency with such software. The Department of Consumer Affairs (DCA) would be the one to have it. She also mentioned that an additional email box had been set up expressly for proof of training because those need a quick response. Staff currently filters the emails manually. Mr. Weeks agreed that the email issue was a significant problem that had to be sorted out quickly to ensure people get a timely response.

Ms. Underwood reported that the new examination was released on July 1, 2022. She presented the quarterly applications received and noted that they were currently average. Exam pass rates had dropped in barbering and cosmetology, but they had maintained in aesthetics, manicuring, and electrology. Staff met with PSI and DCA's Office of Professional Examination Services to look at the low pass rates.

Ms. Underwood also looked at some schools with the highest failure rates to determine the problem. She found out that for one school with the highest number of individuals who had failed the barber test, they had completed 1500-hour programs. The required education was there, but the individuals took the test multiple times. This indicated that the number of individuals who took the test was lower than usual from a regular quarter. In another school with the highest failures, 18 individuals failed the barber exam and the majority of those 18 were transfer students. They were in another school for 800 hours and transferred to the school in question to complete 200 hours to finish the course with 1000 hours. The school that one completes a program from is what goes on their record of pass-fail rates. This means they might have received inaccurate education at the first school where they completed more hours.

Another reason for the dip was that many schools were not memorizing the tests anymore. Ms. Underwood stated that she had also looked at some of the schools performing well. She reiterated that staff is working with PSI and DCA to monitor the

results, and they had noted that they are gradually increasing by about 3% all the time, and they will continue increasing.

Ms. Fairley noted that the Spanish pass-fail rates were high, with one of the contributing factors being that some students chose to take the test in Spanish even though they completed the course in English. She asked if Ms. Underwood had discussed that issue with the schools to advise them to ensure that their students took the exam in the same language they took the course. Ms. Fairley further mentioned that changing the exam had not helped the licensees because she observed that the number of failures was even more than before the exam was changed. She felt that there could be a disconnect that should be addressed if people who were taking the exam multiple times were still failing. Ms. Underwood agreed that people were taking the exam multiple times and failing. She added that the exam was displayed in both languages and that the schools knew the problem. She indicated that she knew one school in particular that advised its students not to take the exam in Spanish, but it was up to the student to choose. Ms. Underwood further mentioned a survey carried out several years ago, where all the Spanish students were asked if they could take the exam in Spanish again. Most students had said they would take it in Spanish even though they had failed.

Mr. Weeks asked if the transitional period of mixing the long hours with shorter hours could be part of the problem and will be a temporary one that will end quickly. Ms. Underwood stated that it could be so, adding that there was an improvement in the pass rates. She had received the pass rates for last week earlier and noted that they were up even more.

Ms. Underwood also stated that schools must look at the exams and compare them with how they teach. She mentioned that staff and PSI had scheduled a barber workshop with schools to review the exam's content to try to help some of the barber schools. Cosmetology is low too, but those are increasing faster. Ms. Fairley asked if there had been any school feedback concerning the pass-fail rates. Ms. Underwood stated that she had yet to receive any feedback. She added that there had been no complaints from any barber or cosmetology school.

Mr. Weeks requested Shawn Conder, the account manager of barbering and cosmetology at PSI, to give a summary of what was happening in other states. Mr. Conder stated that PSI has been working with staff to monitor the exam rates, mainly since it is a new exam. He stated that the psychometric people were saying that it was working fine. He also mentioned that the significant thing that changed with the exams was the concept, which went from many different things to strictly health and public safety. He expressed excitement about the upcoming barber workshop and added that he has been working on Spanish-speaking issues for many years and trying to figure out how to remove the barrier. Mr. Conder stated that other states have also seen pass rates plummet from the previous pass rates and then increase about 3 to 5% per month. He assured the Board that the pass rates would accelerate at a certain point to where they were in the past.

Mr. Weeks asked about how the exams are tweaked. Mr. Conder stated that the Psychometric Department test development looks at questions on a regular basis and flags them. An evaluation tells if many people need to include the questions or if everybody is getting the right. He added that six questions in the barber exam had been taken off the exam and replaced with other questions. He further mentioned that the exam was performing very well in California.

Mr. Isbell asked if the written exams were at a specific grade level for the language used. Mr. Conder stated that they were for 16 years old, and 10<sup>th</sup> grade. Mr. Isbell asked if the level could be lowered. Ms. Underwood stated that it could only be lowered in the statute.

Ms. Fairley inquired if the information provided to the schools is heavily focused on health and safety or if it is general information to help students pass the test. Mr. Conder stated that the content outline of the examinations usually shows the classifications where the questions lie. He added that better-educated barbers would come out of the exams if the schools listened to PSI and followed the content outline.

Ms. Fairley mentioned that most schools are focused on teaching skills rather than health and safety. She wondered if the exams focusing on health and safety meet the level of the people taking the test. Mr. Conder stated that schools are responsible for teaching people how to be successful. It is, however, the State's responsibility to ensure the people will be safe while they are becoming successful. He also stated that the questions are related to the skillsets, and things are essential health and safety factors that they need to follow daily.

Mr. Isbel pointed out that the issue was not about lowered health and safety concerns. It was about people's understanding of the questions and the words used there. He suggested discussing the statute at the next legislative committee meeting.

Mr. Rostovsky believed that with the change of the exam, the low pass rates might be a good thing since they indicated that people were memorizing instead of learning. He was optimistic that the pass rates would now go up since people would be focused on learning public health and safety.

Ms. Pham expressed concern for the first many students who had to take the new exam. She asked about the cost of a retake, how soon the retake could be taken, and how many locations were proctoring the exam. Ms. Underwood stated that a retake costs \$75 and can be applied right after a student fails. Some students opt to take more time and will book their re-exam after a few weeks. The processing time then takes around four to six weeks. Over 20 locations are proctoring the exams throughout the State.

Ms. Underwood further mentioned that staff was working with PSI on changing the data processes to provide schools with content areas where their students were performing

poorly. Schools can go into the PSI partner site and pull up their information. This will be rolled out on March 1.

Mr. Matos proposed reaching out to schools to solicit feedback from them. Ms. Underwood stated that the next town hall meeting would be hybrid. She hoped to get more interaction from the schools. She added that staff could also reach out to the schools.

Regarding licenses issued, Ms. Underwood reported that fiscal year 21/22 increased compared to the last five years. This is because 2021 was so low. The licensed population held steady at over 600,000. The number is expected to stabilize with the current volume coming in.

Ms. Underwood stated that the next Disciplinary Review Committee hearings would be scheduled in January.

### **(c) Enforcement, Inspections, and Cite and Fine**

Ms. Underwood stated a new manager, Tiffany Moore, was hired for the Inspections and Cite and Fine unit. There's also a new probation analyst and a new inspector in the unit who will be helping in the Orange County area. Two manager positions are still vacant in the Enforcement team. Announcements will be made in the next few days to fill those positions.

Ms. Underwood directed board members to a chart of vacant inspector positions and their counties. Ms. Munoz provided contacts at the Sacramento State Career Development team that staff had met with to try and get the word out about the vacant positions. So far, the candidates received for those positions have yet to be successful. Ms. Underwood reported that staff wants to change inspector positions to higher-level special investigators. These investigators would do a more extensive inspection than regular inspectors. The process has to go through the State's Department of Human Resources. More information will be provided at the next Board meeting.

Ms. Underwood further presented some charts showing the types of complaints received. Health and safety remain the biggest, followed by unlicensed activity. The enforcement statistics indicated that the number of complaints received for the first quarter was slightly above 1300.

An extern chart was added to the report. The goal is to track the number of schools that have an agreement with an establishment for externs. Ms. Underwood stated that SB 803 increased the ability for externs to learn more hours and be paid, so the number of externs were increasing. Staff is currently working with the Licensing Committee on some potential regulations that might strengthen the extern program.

On request for payment notices and payment plans, Ms. Underwood reported a success rate of 40% in collecting outstanding fines.

#### **(d) Outreach**

Ms. Underwood listed the recent outreach events:

- Face and Body Skin Care and NailPro Show in San Jose
- East Bay Refugee and Immigrant Community Consultation presentation to assist Afghan refugees on how they can get licensed. These people had been licensed in their own country and are now refugees in California. Staff is looking to have something similar for Ukrainian refugees.
- Jazz Z Beauty and Barber Trade Show in Anaheim.
- Virtual Townhall meeting on how to apply for the examination

Ms. Underwood provided updates on new/updated publications. A new fact sheet on home salons was created and the illegal tools flyer and skin care machines/devices industry bulletin were updated.

Ms. Underwood stated that three email blasts were sent to licensees regarding the Personal Service Permit (PSP), industry bulletins, and home salons.

Mr. Weeks asked why no increase was seen in the number of people getting the PSP. Ms. Underwood stated that many people did not need another certificate since they were already working from home. The enforcement division was looking into this matter. Cases will be sent straight to the investigation division for in-home establishments that were not doing things correctly.

#### **(e) SB 803 (Roth) Implementation Plan.**

Ms. Underwood stated that most of SB 803 has been implemented. Staff is still working on the hairstylist's license, which is projected to be ready in July 2023. Exam development is still in process. The pre-apprentice training is in the process of being developed by the Board. Four more schools were approved for thousand-hour courses. Staff will work on regulations for externs and provide them at the next Board meeting. Staff are developing the language for updated health and safety regulations and the impact of fines.

### **6. AGENDA ITEM #6, PROPOSED BOARD MEETING DATES AND LOCATIONS FOR 2023.**

Board members agreed with the proposed dates provided in the meeting materials.

#### **Public Comment:**

Parisa Mohamadi stated that her husband was a barber for over 30 years but has had problems with the exam. He speaks and understands English reasonably well, however, since he is Arabic-speaking, understanding exam questions has been challenging for him. This is also the case with many other Arab-speaking barbers. She recognized the importance of safety, but she noted that some questions were asked about the human body that was of no importance to barbers. She also stated that they have been looking for a translator for the past two years. She noted that the exam is not offered in



languages other than those that have met the required level of 5%. She wondered what would happen to the rest of the languages that could not pass the exams in the languages that it was being offered.

Fred Jones, Professional Beauty Federation of California, stated that the licensing exam had been continuously going down. He mentioned that in the past, the aggregate score ensured that students who were not good at written knowledge could prove their skills in the practical. SB 803 had done away with the practicals and had reduced the number of education hours. Now with the new exams mainly focusing on health and safety, Mr. Jones was concerned that students would start focusing more on health and safety and nothing else, which would end up hurting the industry and consumers.

## **7. AGENDA ITEM #7, REVIEW AND POSSIBLE APPROVAL OF THE BOARD'S PROPOSED STRATEGIC PLAN (2023-2027)**

Ms. Underwood stated that the Board and staff developed the goals and objectives of the strategic plan through the strategic planning process with the Department of Consumer Affairs (DCA). If the Board adopts the proposed strategic plan, staff will work with DCA to create an action plan. Status updates will then be regularly provided to the Board in future meetings. Mr. Weeks mentioned that the strategic plan needed to be followed up with a financial plan. Ms. Underwood clarified that a standard strategic plan does come with a financial plan.

**MOTION:** Ms. Pham moved to adopt the proposed strategic plan for 2023 to 2027. Ms. Fairley seconded.

No comments were received from the public.

Motion to adopt the proposed strategic plan for 2023-2027 carried; 8 yes, 0 no, and 0 abstain, per roll call vote as follows:

The committee members voted "Yes": Steve Weeks, Calimay Pham, Megan Ellis, Tonya Fairley, Kellie Funk, Reese Isbell, Derick Matos, and Jacob Rostovsky.

## **8. AGENDA ITEM #8, OVERVIEW OF THE BOARD'S ENFORCEMENT PROCESSES**

### **(a) Probation**

- A case is forwarded to the Attorney General for formal discipline.
- The Enforcement unit starts planning for settlement. They submit terms of settlement if they see fit. If they refuse a settlement, they go straight for revocation. Most cases, however, look to settle.
- Deputy Attorney General works with the licensee to determine if a settlement is an option. Some licensees opt to argue their cases and so go to court.
- If the decision is to settle, it is sent to the Board members with the terms the enforcement analyst has provided for a mail vote.
- If the Board does not approve or adopt the decision by mail vote, it is brought in a Board meeting. This rarely happens with this Board. The vote is usually unanimous in adopting the decision that was made.

- If the Board adopts the decision, the licensee is put on probation. A new case is opened and given to the probation monitor. Around 133 cases are currently on probation.
- The probation monitor schedules an orientation with the licensee. He explains all the details of the final decision and ensures the licensee understands what is required of them.
- The probationer ensures that all terms are followed during the probation period. They provide quarterly reports and are in quarterly contact with the probation monitor.
- If the probationer fails to follow the terms, staff files a case with the attorney general to revoke the probation.

### **(b) Reinstatement**

The reinstatement process occurs when a license is revoked, and the licensee asks for the license back after one year.

- The licensee will reach out to the Board. They're provided a reinstatement packet. The packet recommends that the individual submit any letters of reference, community service documentation, remedial education, proof of fine payments, and any evidence of rehabilitation.
- Upon receipt of the petition, the case is reviewed and determined if it is eligible for reinstatement. The probation analyst will coordinate the reinstatement hearing at the next Board meeting if they are. An administrative law judge will be present to oversee the hearing. A deputy attorney general will present the case.
- Board members hear the case in an open session and then decide in a closed session.
- The administrative law judge then prepares that Board's decision, and the decision goes back to the Board for adoption. The petitioner is then provided with the decision.

Ms. Underwood stated that when licensees come before the Board to ask for their licenses back, the Board usually asks if the licensee got some remedial education. The licensee would argue that they were not told to do remedial education. Ms. Underwood pointed out that it is not within the Board's authority to ask someone to do remedial education. She further mentioned that there had been much confusion and thus proposed that the Enforcement Committee determine whether the Board can recommend remedial education.

Mr. Rostovsky asked if the Board could suggest remedial education. Ms. Fairley stated that if the Board cannot guide the licensees, then suggesting remedial education would be like setting them up for failure. She felt that if the Board cannot provide remedial education, it should be removed from the reinstatement process.

Ms. Pham asked if it could be rephrased to ongoing education. She believed that would be a better way to determine if the licensee had done anything to stay engaged in the industry. Ms. Fairley reiterated that there are no guidelines for any education concerning reinstatement, not even on the Board site. Ms. Sabina Knight agreed that the word

remedial should be removed. She also proposed having a section of frequently asked questions on the website, particularly regarding reinstatement. Ms. Fairley stated that it would still go back to the issue of the Board asking for some form of continuing education without providing any guidelines. She suggested that the Board find a way of removing itself from that direction. Mr. Weeks proposed pushing the matter to the Committee for them to come up with some recommendations.

**(c) Inspections**

- A complaint is received. Staff determines if it is within its jurisdiction. If it's not, it is referred to the appropriate agency, and the complainant is notified.
- A case is opened and forwarded to an enforcement analyst if it is within the Board's jurisdiction.
- The enforcement analyst looks at the complaint and determines if it needs an immediate inspection or not.
- If it needs immediate inspection, the analyst requests a directed inspection right away. If not, they do further research to obtain more information from the person who complained.
- The information goes out to the inspector. Inspection is conducted, and results are mailed back to Sacramento.
- If inspection is not needed, an enforcement decision is made immediately.

**(d) Cite and Fine**

- The inspection report is received in the cite and fine unit if an inspection is done.
- The report is reviewed along with all provided photographs. Staff look at history and determine if the violations warrant a citation. If there's no violation, the licensee is informed.
- If the inspection report has violations, the cite and fine analyst looks at the history of prior offenses, if any, and then issues a citation.
- The citation is mailed to the licensee. The licensee has 30 days to appeal.
- If an appeal is received, it goes to the Disciplinary Review Committee, where hearings are done.
- If no appeal is received, the citation is final, and the payment is due.

**Public Comment:**

Wendy Cochran, licensed esthetician, inquired about the process for retaliation reports for inspection. She mentioned that she had been reported to the Board for wrong labels and dirty items, and the report was made for an establishment that closed down during the pandemic. She had not worked in that establishment for several years. Ms. Cochran stated that she got a call from the Board in August and had yet to receive a response. She had no way of knowing if she was still under investigation. Ms. Cochran stated that there were many retaliation cases in the market and asked about a follow-up process and knowing what would happen afterward.

## **9. AGENDA ITEM #9, REVIEW AND DISCUSSION OF CURRENT MATERIALS THE BOARD DISTRIBUTES DURING:**

### **(a) Establishment License and Renewal Issuance**

The following materials are provided with an establishment license or a renewal:

- Message to the Consumer
- Owners Must Know This flyer
- Gender-Based Discrimination policy
- Self-Inspection Worksheet.
- Most Common Violations Cited During an Inspection
- Schedule of the Administrative Fines
- Fee Relief Information

Mr. Isbell noted that the Owners Must Know This sheet stated “Notice to limited-English individuals.” He suggested that that language be changed to something like “Language notice” as the statement assumed that California is an English-only state, which is not the case.

Ms. Pham asked if the website had a central place where someone could find all the materials in the language they wanted. Ms. Underwood stated that currently, the materials appear in Spanish, Vietnamese, and Korean. Additional information, such as the health and safety regulations, is provided in Arabic, Farsi, Simplified Chinese, and traditional Chinese.

Mr. Rostovsky suggested that trans, non-binary, and LGBTQ be included under the gender-based discrimination policy. Ms. Underwood stated that the form belongs to the DCA, but she will contact them and see if they will agree to that addition.

### **(b) Inspections**

The following materials are provided during inspections:

- Self-Inspection Worksheet
- Most Common Violations Cited During an Inspection
- Disinfection Fact Sheet
- Illegal Tools flyer
- Foot Spa Cleaning Guides
- Sample instructions for foot spa logs
- Message to the Consumer
- Gender-Based Discrimination policy
- Department of Industrial Relations required posting
- Apprentice information

Mr. Isbell asked if the materials to be posted have been updated to include the human trafficking one. Ms. Underwood answered no.

### **(c) Citation Mailing**

A sample of a citation was provided.

### **(d) Enforcement Case Correspondence**

The enforcement analyst determines what to send out based on the complaint. The materials include various industry bulletins, the Self-Inspection Worksheet, Most Common Violations Cited During an Inspection, Schedule of Administrative Fines, Esthetics Scope of Practice Tri-Fold, Foot Spa Cleaning Guides, Sample instructions for foot spa logs, and Reinstatement Information packet.

### **10. AGENDA ITEM #10, REPORT ON THE SEPTEMBER 26, 2022, HEALTH AND SAFETY ADVISORY COMMITTEE MEETING**

Chair Pham stated a very productive meeting was held in which members discussed standardizing fine levels according to risk for consumer harm, updating regulatory language to reflect current practices and services in the industry, and updating language to make things more transparent for licensees. Staff is currently working on the information from the meeting and will provide an update to the Board soon.

### **11. AGENDA ITEM #11, REPORT ON THE OCTOBER 10, 2022, LICENSING AND EXAMINATION COMMITTEE MEETING**

Chair Matos stated the committee discussed the following:

- The number of applications that were received and those that were pending.
- The number of candidates that were scheduled at PSI.
- Examination pass rates.
- Application processing time is currently about six to seven weeks. The goal is to bring it down to four weeks.
- The struggle with the high number of emails.
- Spanish language exam pass rates. Ms. Underwood will discuss with other states to try and gather information on how to reduce the fail rate.

### **12. AGENDA ITEM #12, REPORT ON THE OCTOBER 10, 2022, EDUCATION AND OUTREACH COMMITTEE MEETING**

Chair Fairley shared that the Committee discussed the following:

- Recent and upcoming outreach events and plans.
- The Board created a new fact sheet and updated the illegal tools flyer.
- Email blasts are being sent out to licensees monthly.
- The Committee recommended that staff research whether the Board can require licensees to provide their emails and phone numbers, explore the possibility of sending mass texts, and find ways to help improve the website.

### **13. AGENDA ITEM #13, REPORT ON THE OCTOBER 10, 2022, ENFORCEMENT AND INSPECTIONS COMMITTEE MEETING**

Ms. Underwood provided the Committee update as Chair Munoz was not present. The Committee went over the cite and fine process chart flow. They also discussed the possibility of offering remedial education to reduce or remove an administrative fine. Staff will bring back recommendations to the Committee on moving forward with that concept.

#### **Public Comment:**

Peter Westbrook from the Riverside Community College District recognized the presence of his students at the Board meeting. The students are all licensed professionals and are currently in a training program developing pedagogical methodologies for cosmetology students.

### **14. AGENDA ITEM #14, LEGISLATIVE UPDATE**

#### **a) AB 646 (Low) Department of Consumer Affairs: Board: Expunged Convictions**

Ms. Underwood stated the bill died and did not move forward.

#### **b) AB 1601 (Holden) The Upward Mobility Act of 2022: Board and Commissions: Civil Service: Examinations: Classifications**

Ms. Underwood stated the Governor signed the bill. It required that boards be diverse. It will have minimal impact on this Board since this is one of the most diverse boards.

#### **c) AB 1661 (Davies) Human Trafficking: Notice**

Ms. Underwood stated the bill was signed. The Board will be providing the notice with the initial establishment licenses.

#### **d) AB 1773 (Quirk) State Bodies: Open Meetings**

Ms. Underwood stated the bill died, but some language was put in a trailer bill that allows virtual meetings until June 30<sup>th</sup>, unless something else is enacted. The January Board meeting will be hybrid. It will be held in Sacramento, and the hybrid ability will allow people who will not be able to get to Sacramento to participate.

#### **e) AB 2196 (Maienschein) Barbering and Cosmetology: Instructional Hours**

Ms. Underwood stated this is the cleanup bill. More additional cleanup language is needed. The Board will work this session to get some of that included. The implementation of the bill goes to the implementation of SB 803. The bill also cleaned up some of the statutes.

## **15. AGENDA ITEM #15, DISCUSSION AND POSSIBLE ACTION REGARDING RULEMAKING PROPOSALS**

- a) **Discussion and possible action to initiate a Rulemaking to Amend Title 16, California Code of Regulations (CCR) sections 904, 909, 931, 932, 937, and 962, and Repeal sections 928, 934, 950.1, 950.2, 950.3. and 950.4 (SB 803 Clean Up)**

Ms. Underwood stated that a version of the SB 803 cleanup language had been provided to the Board in January and now the forms are being provided to the Board for review and possible approval. The proof of training document was cleaned up. It was an extensive cleanup because the pre-application process and the practical exams had been removed. The cleanup also removed information that was no longer accurate. A new proof of training was developed and provided to the Board. Ms. Underwood assured the Board that the cleanup would not impact the Board's current processes.

**MOTION:** Ms. Pham moved to direct staff to submit the text to the director of the Department of Consumer Affairs and the Business Consumer Affairs and Housing Agency for review. If no adverse comments are received during the 45-day comment period, and no hearing is requested, authorize the executive officer to take all steps necessary to complete the rulemaking and adopt the proposed regulations at sections 904, 909, 931, 932, 937, and 962, and repeal sections 928, 934, 950.1, 950.2, 950.3, 950.4 as noticed. And if no adverse comments are received, authorize the executive officer to take all steps necessary to initiate the rulemaking process, make any non-substantive changes to the package, and set the matter for a hearing if requested.

Ms. Fairley seconded the motion.

### **Public Comment:**

Fred Jones, Professional Beauty Federation of California, stated that Section 962 (e) referenced externship vis-à-vis cosmetology only. He believed that in light of the recent statutory change in AB 2196, it should also be referencing barbering. Ms. Underwood agreed.

Ms. Pham amended her motion to include the additional change proposed by Mr. Jones. Ms. Fairley amended her second.

Motion carried; 8 yes, 0 no and 0 abstain, per roll call vote as follows:

The committee members voted "Yes": Steve Weeks, Calimay Pham, Megan Ellis, Tonya Fairley, Kellie Funk, Reese Isbell, Derick Matos, and Jacob Rostovsky.

- b) **Rulemaking Proposal to Amend Title 16, CCR sections 913, 913.1, 914.1, 914.2, 915, 917, 918, 918.1, 919, 919.1, 920, 921, 921.1, 921.2, 922, 924, 924.1, 925, 926, 927 (Apprenticeship)**

This is a big package that is currently being worked on. Staff is working with legal on the

program and will present it at the next Board meeting.

**c) Discussion and Possible Action to Consider Changes to Previously Proposed Text and Reauthorization of a Regular Rulemaking Proposal to Amend Title 16, CCR section 950.10 (Transfer of Credit)**

Ms. Underwood explained that the language allows transferring from one course to another. The language had been updated after various corrections and reviews by the legal counsel.

**MOTION:** Ms. Fairley moved to rescind the Board's prior July 25, 2022 motion and approve the proposed regulatory text for Section 950.10 as provided in the meeting materials, direct staff to submit the text to the Director of the Department of Consumer Affairs and the Business, Consumer Services, and Housing Agency for review and if no adverse comments are received, authorize the Executive Officer to take all steps necessary to initiate the rulemaking process, make any non-substantive changes to the package, and set the matter for a hearing if requested. If no adverse comments are received during the 45-day comment period and no hearing is requested, authorize the Executive Officer to take all steps necessary to complete the rulemaking process and adopt the proposed regulations at Section 950.10 as noticed.

Ms. Ellis seconded the motion.

**Public Comment:**

Wendy Cochran, California Aesthetic Alliance, questioned if this package would allow schools to turn down students for not attending their school as the primary school. She was concerned schools were making these determinations and not accepting outside prior education.

Ms. Parisa Mohamadi asked why there is difficulty transferring an out of State license to California when taking the exam.

Motion to rescind the Board's prior July 25, 2022, motion and approve the proposed regulatory text for Section 950.10 as provided in the meeting materials, direct staff to submit the text to the director of the Department of Consumer Affairs and the Business Consumer Services and Housing Agency for review. And if no adverse comments are received, authorize the executive officer to take all steps necessary to initiate the rulemaking process, make any non-substantive changes to the package, and set the matter for a hearing if requested. If no adverse comments are received during the 45-day comment period, and no hearing is requested, authorize the executive officer to take all steps necessary to complete the rulemaking process and adopt the proposed regulations as Section 950.10 as noticed, carried; 7 yes, 1 no, and 0 abstain, per roll call vote as follows:

The following Committee Members voted "Yes": Steve Weeks, Calimay Pham, Megan Ellis, Tonya Fairley, Kellie Funk, Reese Isbell, and Jacob Rostovsky.

The following Committee Members voted "No": Derick Matos.



**d) Rulemaking Proposal to Amend Title 16, CCR section 961 (Instructional Materials)**

Ms. Underwood stated the instructional material language has been approved and finalized. It was adopted by OAL and will go into effect on January 1. It explains in the regulation that schools must have a textbook. Notices will be sent out to schools.

**e) Rulemaking Proposal to Amend Title 16, CCR sections 962, 962.1, and 962.2 (Externs)**

Ms. Underwood stated the package is being worked on. Staff hopes that the new regulations analyst will make things move faster.

**f) Rulemaking Proposal to Amend Title 16, CCR section 972 (Disciplinary Guidelines)**

Ms. Underwood stated updates on the package have yet to start. Staff had initial conversations with the regulations' legal counsel to get things moving.

**g) Rulemaking Proposal to Amend Title 16, CCR section 974.1 (Disciplinary Review Committee)**

Ms. Underwood stated the Board talked about the Disciplinary Review Committee in 2020. The Committee used to meet monthly for three days, but that stopped during COVID. It was an informal process in front of three Board members who serve on the Committee to have someone come in and appeal their citation. The challenge was that it took much time for people's days to come and sit in hearings for three days. The regulation required that it be Board members, but this proposed regulation would allow non-Board members appointed as DRC Committee members to hear the hearings. Ms. Underwood asked if the Board would like to move forward with the regulations or leave them as they are.

Ms. Fairley opposed the changes. She was in support of having Board members only servicing the DRC. Mr. Isbell and Mr. Weeks echoed her sentiments. They stated that more people had come on the Board, so it would be easier to serve in the DRC. Mr. Isbell asked if there was another DRC planned for the South soon. Ms. Underwood stated that none had been planned yet. It will be done next year.

**16. AGENDA ITEM #16, PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA**

No comments were received from the public.

**17. AGENDA ITEM #17, SUGGESTIONS FOR FUTURE AGENDA ITEMS.**

Ms. Funk suggested discussing changes in extraction training in schools. She proposed using cotton-tipped wood applicators, which are disposable, effective, and have minimal tissue damage, instead of gloved fingers. She offered to present her suggested model at the next meeting and discuss it as a school adjustment.

Ms. Fairley requested another update on the PSI testing and the Spanish fail rates. She proposed that the Board discuss the language issue and how it affects the industry.

Mr. Rostovsky proposed discussing the accessibility and affordability of education training and requirements. He mentioned that many lower socioeconomic communities could not afford to attend school and become licensed.

**18. AGENDA ITEM #18, CLOSED SESSION:**

**Pursuant to Section 11126 of the Government Code, the Board will meet to Conduct the Executive Officer's performance review in a Closed Session.**

**19. AGENDA ITEM #19, ADJOURNMENT**

With no further to discuss, the meeting adjourned at approximately 11:35 a.m.