

**CALIFORNIA STATE BOARD
OF
BARBERING AND COSMETOLOGY**

BOARD MEETING

MINUTES OF JULY 17, 2023

BOARD MEMBERS PRESENT

Calimay Pham, President
Tonya Fairley, Vice President
Megan Ellis
Kellie Funk
Reese Isbell
Yolanda Jimenez
Colette Kavanaugh
Danielle Munoz
Jacob Rostovsky
Steve Weeks

STAFF MEMBERS PRESENT

Kristy Underwood, Executive Officer
Carrie Harris, Deputy Executive Officer
Alex Torkelson, Admin and Licensing Chief
Sabina Knight, Board Legal Counsel
Allison Lee, Board Project Manager
Natalie Mitchell, Board Analyst

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

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

2. AGENDA ITEM #2, PETITION FOR REINSTATEMENT HEARIN

- Frian Yamat, Petition for Reinstatement of License, Barber License #B80381

CLOSED SESSION

a. Pursuant to Government Code Section 11126(c) (3), the Board will meet in Closed Session to Deliberate on Disciplinary Matters.

The Board met in closed session as permitted by law to deliberate on disciplinary matters.

b. Adjourn Closed Session and Reconvene Open Session.

President Pham reconvened the meeting at approximately 11:00 a.m.

3. AGENDA ITEM #3, BOARD PRESIDENT'S WELCOME (Calimay Pham)

President Pham started her remarks by announcing that the hairstylist licensing type became effective as of July 1, 2023 and applicants may now apply for the licensing exam or reciprocity. She expressed her excitement and hope that it would reduce barriers to entry into the industry.

4. AGENDA ITEM #4, BOARD MEMBER UPDATES

Board Member Steve weeks commended President Pham for being president, practicing law, teaching at a university, and now welcoming a baby.

5. AGENDA ITEM #5, DISCUSSION AND POSSIBLE APPROVAL OF THE April 17, 2023, BOARD MEETING MINUTES

Board Member Reese Isbell proposed adding “office” after “city” on page 9, second paragraph, third sentence. Board Member Yolanda Jimenez proposed fixing the misspelling of “Carrie Harris” on page 2.

Motion: Mr. Weeks moved to approve April 17, 2023, Board Meeting Minutes with the two amendments mentioned above. Board Member Yolanda Jimenez seconded.

No comments were received from the public.

Motion to approve April 17, 2023, Board Meeting Minutes carried; 10 yes, 0 no, and 0 abstain, per roll call vote as follows:

The following Board Members voted “Yes”: Calimay Pham, Tonya Fairley, Megan Ellis, Kellie Funk, Reese Isbell, Yolanda Jimenez, Colette Kavanaugh, Danielle Munoz, Jacob Rostovsky, Steve Weeks.

6. AGENDA ITEM #6, EXECUTIVE MANAGEMENT REPORTS (KRISTY UNDERWOOD)

Ms. Underwood announced that the contractor that usually prepares the meeting minutes decided to close, so the Board is in the process of finding a new vendor. The next meeting minutes may be prepared by staff. Ms. Underwood introduced the chiefs and managers in attendance and thanked them for keeping the board functioning.

a) Administration and Operations

Ms. Underwood mentioned new staff for budgets and regulations. The Board’s budget is strong, and the next board meeting will have the full fiscal year budget. Board staff are continuing to review fees, but the fee analysis has not been completed at this time. It is likely that the re-examination fee will decrease.

b) Licensing, Examinations, and Disciplinary Review Appeals

Ms. Underwood reported that the Board has lost licensing staff due to promotions. Hiring is still an issue in the state, not just the Board. Emails continue to stay at a high number as staff must balance processing applications and answering emails.

Board Member Tonya Fairley asked if anything is being done to reduce barriers for candidates applying for state positions. Ms. Underwood answered that there aren’t many barriers for the licensing positions. They are typically entry level positions and there a continuous exam. Also, even though Staff Services Analyst positions no longer require a college degree, there has not been an increase in applications.

Board Member Jacob Rostovsky asked if there are flyers that can be shared, to which Ms. Underwood stated she would provide those to board members.

Mr. Weeks asked about the progress on the Board having its own call center as it is important and a need for the Board. Ms. Underwood explained it is being worked on, but it is difficult to hire staff.

Ms. Underwood shared that the Board has implemented the hairstylist license, but only a small number of schools requested approval for the hairstylist program.

Ms. Underwood reported that the Board is continuing to look at pass rates. She has had conversations with the National Accrediting Commission of Career Arts and Sciences (NACCAS) about accredited schools with low pass rates, and an update will be provided at the next board meeting.

Mr. Isbell stated that the number of people who took the exam in Simplified Chinese shows how many people were in need and he was proud of staff for making this happen. Ms. Underwood shared that quite a few people previously applied for the exam and the Board allowed them to wait and take the exam in Simplified Chinese.

Mr. Weeks thanked staff for the new statistics on pass rates by exam attempt number. He asked if there was a statutory time to wait between taking exams. Ms. Underwood answered no and stated that the Board is caught up on processing re-examination applications. She would like to see if taking the exam again quickly after helps increase the pass rate, however it is up to candidates to choose when to schedule their re-examination.

Ms. Underwood directed the attention to the new chart showing examination and re-examination applications received per month indicating that the Board is busiest in June. She believes this is because state government's fiscal year ends in June and many schools tend to end in June.

Ms. Underwood shared that apprentice passing rates continue to be low and she has continued to have conversations with the Department of Consumer Affairs (DCA) and the Division of Apprenticeship Standards. She is waiting for a follow up meeting.

Ms. Underwood stated that the number of pending appeals is the lowest she has seen in all her years as the Executive Officer. She believes this indicates that the inspections program has improved in education licensees more. The Board is still seeing several practice of medicine cases. She will be meeting with DCA and other Executive Officers to discuss the overlapping issue of medical spas, body slimming, and what they can do – she will have an update at the next board meeting.

c) Enforcement, Inspections, and Cite and Fine

Ms. Underwood noted that the Board has 3 new analysts and 2 special investigators. The special investigators have a higher level of enforcement as they can interview consumers that have been harmed, interview establishments/licensees, and work with expert consultants. She stated that this quarter had the highest number of complaints received.

d) Outreach

Ms. Underwood has attended various outreach events. Recently she held a class in Las Vegas about the state of the industry for esthetics. There were new publications introduced and several email blasts were sent to promote upcoming events and townhall meetings. The first two townhalls were successful and the Board plans to hold them quarterly. Board Member Kellie Funk expressed that she was impressed with the social media posts, as were Mr. Isbell and Mr. Rostovsky.

e) SB 803 (Roth) Implementation Plan

Ms. Underwood noted that this would be the last time board members saw this section as the items are either fully implemented or discussed in other sections of the board meeting.

f) Strategic Plan Update

Ms. Underwood stated that the Board is working on the strategic plan tasks and each unit reports to her and Deputy Executive Officer Carrie Harris about their progress monthly.

g) Legislative Update:

- i. **AB 1328 (Gipson) Cosmetology Licensure Compact**
- ii. **SB 247 (Wilk) Alcoholic beverages: licensing exemptions: barbering and cosmetology services**
- iii. **SB 384 (Bradford) Barbering and Cosmetology**
- iv. **SB 451 (Nguyen) Worker classification: employees and independent contractors:licensed manicurists**
- v. **SB 544 (Laird) Bagley-Keene Open Meeting Act: teleconferencing**
- vi. **SB 817 (Roth) Barbering and cosmetology: application, examination, and licensing fees**

Ms. Underwood stated that the new format was borrowed from another Board as this simplified report is easier to see that status for bills the Board has already taken positions on.

Ms. Underwood anticipates AB 1328 will have a hearing in the fall. This would be the first compact bill in occupational licensing, so she believes Senator Roth wants to take a longer look at this bill and get more information on how compacts work. Ms. Underwood stating that SB 247 continues to move. SB 384 has had a positive response through the entire process, so she hopes it gets to the Governor’s office soon. SB 451 is a two-year bill. SB 544 continues to move, but there may be some amendments soon. SB 817 is to clarify that the Board has an application fee for the hairstylist license type.

Public Comment:

- Wendy Cochran with the California Aesthetics Alliance stated the townhalls were handled greatly by Ms. Underwood and Ms. Harris. She stated social media engagement is positive and hopes to have more posts clarifying different

services and specific devices. She also stated that Sunset is coming up and the Board needs control of schools.

7. AGENDA ITEM #7, OVERVIEW OF THE ESTHETICS SCOPE OF PRACTICE

Ms. Underwood provided an overview of esthetics. The memo provided the scope and listed some services estheticians may and may not provide. She will be meeting with other Boards and DCA to come up with a plan to address esthetics crossing over into the medical field.

Ms. Funk expressed her love of microdermabrasion because the effectiveness and minimal risk to the vast majority is huge.

Public Comment:

- Wendy Cochran recommended that the Board should receive esthetic services to understand what they are like. She stated the future of esthetics and Electrology should allow for medical oversight so licensees can collaborate with medical professionals.

8. AGENDA ITEM #8, DISCUSSION OF THE DIVERSITY, EQUITY, AND INCLUSION COMMITTEE'S ROLE AND FOCUS

Ms. Underwood explained that the last board meeting established the Diversity, Equity, and Inclusion (DEI) Committee, but members wanted to talk about the purview and direction of the committee. She would like the Committee to think of messages to share with schools about teaching textured hair.

Ms. Fairley and Mr. Isbell questioned how we would know which underrepresented communities to direct attention to. Ms. Munoz suggested inviting licensees and individuals from communities to meetings. Mr. Rostovsky stated the Committee should first assess the need.

Ms. Underwood stating staff would move forward with setting the meeting date so the Committee could further discuss.

Public Comment:

- Jaime Schrabek, Precision Nails, stated that as a licensee and salon owner, it would be useful if the Board would educate about gender pricing, making establishments accessible to disabled persons, and other existing state and federal laws about preventing discrimination in businesses.

9. AGENDA ITEM #9, DISCUSSION AND UPDATE REGARDING RULEMAKING PROPOSALS:

- a) **Discussion and Possible Action to Consider Changes to Previously Proposed Text and Reauthorization of a Regular Rulemaking to Amend Title 16, California Code of Regulations (CCR) sections 904, 909, 931, 932, 937, 962, and 988, and Repeal sections 928, 934, 950.1, 950.2, 950.3, and 950.4 (SB 803 Clean Up)**
- b) **Update Regarding 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)**
- c) **Update Regarding Rulemaking to Amend Title 16, CCR section 950.10 (Transfer of Credit)**
- d) **Update Regarding Rulemaking Proposal to Amend Title 16, CCR sections 940, 941, 950.10, 950.12, 962, 962.1, 962.2 (Schools and Externs)**
- e) **Update Regarding Rulemaking Proposal to Amend Title 16, CCR section 972 (Disciplinary Guidelines)**

Ms. Underwood stated that staff and regulation counsel made additional edits to the SB-803 package. The updated language and forms were provided. Processing times were removed, “good standing” was defined, pre-applications were removed, language was added to the interpreter application regarding consent to record, along with other minor changes.

Motion: Ms. Munoz moved to rescind the Board’s prior January 23, 2023 motion and approve the proposed regulatory text and changes for Title 16, CCR sections 904, 909, 931, 932, 937, 962, 998, 928, 934, 950.1, 950.2, 950.3, and 950.4 as provided in the meeting materials at Attachment 2, 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 and adopt the proposed regulations at Sections 904, 909, 931, 932, 937, 962, and repeal sections 928, 934, 950.1, 950.2, 950.3, 950.4 and 998 as noticed. Ms. Fairley seconded.

Public Comment

- Jaime Schrabec, Precision Nails, stated that mobile units should be required to have a ramp and it should not be an option.

Board Regulation Counsel, Kristy Schieldge, clarified that the language regarding mobile unit ramps was already existing text.

Motion to rescind the Board’s prior January 23, 2023 motion and approve the proposed regulatory text and changes for Title 16, CCR sections 904, 909, 931, 932, 937, 962,

998, 928, 934, 950.1, 950.2, 950.3, and 950.4 as provided in the meeting materials at Attachment 2, 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 and adopt the proposed regulations at Sections 904, 909, 931, 932, 937, 962, and repeal sections 928, 934, 950.1, 950.2, 950.3, 950.4 and 998 as noticed carried; 10 yes, 0 no, and 0 abstain, per roll call vote as follows:

The following Board Members voted "Yes": Calimay Pham, Tonya Fairley, Megan Ellis, Kellie Funk, Reese Isbell, Yolanda Jimenez, Colette Kavanaugh, Danielle Munoz, Jacob Rostovsky, Steve Weeks.

Ms. Underwood noted that the apprenticeship, schools and externs, and disciplinary guidelines packages were being worked on by staff. The Transfer of Credit package was submitted to the Office of Administrative Law (OAL) on June 29, 2023, and OAL has 30 working days to review.

10. AGENDA ITEM #10, PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA

Alexander Krainiy, a Ukrainian and Russian Interpreter, stated that he has interpreted for 6 exams and had to decline others because the Board's two-year restriction for interpreters. The only justification he has received is that this requirement is to prevent coaching/cheating, but he would like the Board to review this policy.

11. AGENDA ITEM #11, SUGGESTIONS FOR FUTURE AGENDA ITEMS

Mr. Rostovsky proposed adding a discussion regarding interpretation of exams. President Pham reminded staff to add discussion of trends at Disciplinary Review Committee hearings.

No comments from the public were received.

12. AGENDA ITEM #12, ADJOURNMENT

There being no further business to discuss, the meeting adjourned at approximately 12:49 p.m.