

**CALIFORNIA  
BOARD OF BARBERING AND COSMETOLOGY**



**OCTOBER 14, 2024**

**LICENSING AND EXAMINATIONS COMMITTEE**

**Department of Consumer Affairs  
El Dorado Room, #220  
1625 North Market Blvd  
Sacramento, CA 95834**

**and**

**Public Teleconference**



# CALIFORNIA BOARD OF BARBERING AND COSMETOLOGY



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## **MEMBERS OF THE COMMITTEE**

Steve Weeks, Chair  
Tonya Fairley  
Dr. Yolanda Jimenez  
Colette Kavanaugh  
Tamika Miller  
Jacob Rostovsky

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## **LICENSING AND EXAMINATIONS COMMITTEE MEETING NOTICE AND AGENDA**

**October 14, 2024**  
**Department of Consumer Affairs**  
**El Dorado Room, #220**  
**1625 North Market Blvd**  
**Sacramento, CA 95834**

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

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**9:00 a.m. – Until Completion of  
Business**

The Committee will meet by teleconference in accordance with Government Code section 11123.5. Committee members will participate remotely from private, non-public sites. The public may participate in-person or remotely. To participate in the WebEx Events meeting, please log on to this website the day of the meeting:

<https://dca-meetings.webex.com/dca-meetings/j.php?MTID=med9028bcb1dd156383e23492268cc755>

Webinar number: 2482 790 3318  
Webinar password: BBC1014

**Instructions to connect to the meeting can be found at:**

[https://www.barbercosmo.ca.gov/about\\_us/meetings/how\\_to\\_join\\_webex\\_event.pdf](https://www.barbercosmo.ca.gov/about_us/meetings/how_to_join_webex_event.pdf)

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

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

As an alternative, members of the public who wish to observe the meeting without making public comment can do so (provided no unforeseen technical difficulties) at <https://thedcapage.wordpress.com/webcasts/>.

## AGENDA

1. Call to Order/ Roll Call/ Establishment of Quorum
2. Discussion and Possible Approval of the April 22, 2024, Committee Meeting Minutes
3. Discussion and Possible Action Regarding Manicurist Worker Classification Starting January 1, 2025 (AB 5)
4. Public Comment on Items Not on the Agenda  
*Note: The Committee may not discuss or take any action on any item raised during this public comment section, except to decide whether to place the matter on the agenda of a future meeting (Government Code Sections 11125, 11125.7(a))*
5. Suggestions for Future Agenda Items
6. Adjournment

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

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

The meeting is accessible to the physically disabled. A person who needs disability-related accommodation or modification in order to participate in the meeting may make a request by contacting: Monica Burris at (916) 417-4637, email: [Monica.Burris@dca.ca.gov](mailto:Monica.Burris@dca.ca.gov), or send a written request to the Board of Barbering and Cosmetology, PO Box 944226, Sacramento, CA 94244. Providing your request is a least five (5) business days before the meeting will help to ensure availability of the requested accommodations. TDD Line: (916) 322-1700.

*Agenda Item*  
*No. 1*  
*No Attachments*

**CALIFORNIA STATE BOARD  
OF  
BARBERING AND COSMETOLOGY**

**LICENSING AND EXAMINATIONS COMMITTEE MEETING**

**MINUTES OF APRIL 22, 2024**

**COMMITTEE MEMBERS PRESENT**

Steve Weeks, Chair  
Yolanda Jimenez  
Colette Kavanaugh  
Tamika Miller

**STAFF MEMBERS PRESENT**

Kristy Underwood, Executive Officer  
Carrie Harris, Deputy Executive Officer  
Allison Lee, Board Project Manager  
Sabina Knight, Legal Counsel

**COMMITTEE MEMBERS ABSENT**

Tonya Fairley  
Jacob Rostovsky

**1. AGENDA ITEM #1: Call to Order/ Roll Call/ Establishment of Quorum**

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

**2. AGENDA ITEM #2: Election of Committee Chair**

**Motion:** Yolanda Jimenez made a motion to nominate Steve Weeks as the Committee Chair. Tamika Miller seconded the motion.

**Public Comment:** There were no public comments submitted.

**Roll Call Vote:** Motion to approve Steve Weeks as Committee Chair carried: 4 yes, 0 no, and 0 abstain, per the following roll call vote:

- Committee Members voted "Yes": Steve Weeks, Yolanda Jimenez, Colette Kavanaugh, and Tamika Miller

**3. AGENDA ITEM #3: Discussion and Possible Approval of the January 22, 2024, Committee Meeting Minutes**

**Motion:** Yolanda Jimenez moved to approve the January 22, 2024 Committee Meeting Minutes. Colette Kavanaugh seconded.

**Public Comment:** There were no public comments received.

**Roll Call Vote:** Motion to approve the January 22, 2024 Committee Meeting Minutes carried: 4 yes, 0 no, and 0 abstain, per the following roll call vote:

- Committee Members voted "Yes": Steve Weeks, Yolanda Jimenez, Colette Kavanaugh, and Tamika Miller

**4. AGENDA ITEM #4: Discussion and Possible Recommendation Regarding Operating as a Corporation or Limited Liability Company (LLC) Member if a Personal License was Previously Disciplined**

Kristy Underwood discussed the current process for conducting licensing checks on officers of corporations or LLCs applying for establishment licenses. She explained that while initial checks are performed, the system does not track changes in corporate officers. Ms. Underwood proposed implementing new regulations to require corporations to notify the Board of any officer changes. She also noted the need for further research on the workload implications and mentioned the possibility of gathering information from other regulatory bodies with similar requirements.

Steve Weeks expressed concern about potential loopholes in the disclosure process for corporate officers and individuals managing establishments. He highlighted a scenario where a corporation might hire someone to act on its behalf without disclosing their identity or prior disciplinary history to the Board. Mr. Weeks suggested that establishment licensees, whether corporate or individual, should not employ anyone previously disciplined by the Board for management roles. He emphasized the importance of comprehensive disclosure, extending not only to corporations but also to proprietorships and partnerships.

Kristy Underwood remarked on the statute's requirement for a designated licensee in charge, noting that it does not mandate explicitly naming the individual. Sabina Knight raised concerns about potential barriers to employment due to previous disciplinary actions. Ms. Underwood added that past disciplinary measures do not automatically disqualify someone from serving as the licensee in charge. Steve Weeks emphasized the importance of disclosure, noting the new Corporate Transparency Act in California, which mandates disclosing beneficial owners' information. Ultimately, Ms. Underwood proposed conducting additional research and presenting a revised recommendation. Committee members agreed to await the forthcoming recommendation in an upcoming meeting.

**Public Comment:** No public comments were received.

**5. AGENDA ITEM #5: Public Comment on Items Not on the Agenda**

There were no public comments made for items not on the agenda.

**6. AGENDA ITEM #6, Suggestions for Future Agenda Items**

Yolanda Jimenez recognized that agenda item 4, involving the Discussion and Possible Recommendation Regarding Operating as a Corporation or Limited Liability Company Member if a Personal License was Previously Disciplined, would be included as a future agenda item for further deliberation.

**7. AGENDA ITEM #7: ADJOURNMENT**

There being no additional business to discuss, the meeting adjourned at approximately 9:17 a.m.



## MEMORANDUM

<b>DATE</b>	October 14, 2024
<b>TO</b>	Members, Licensing and Examinations Committee
<b>FROM</b>	Kristy Underwood, Executive Officer
<b>SUBJECT</b>	<b>Agenda Item 3 - Discussion and Possible Action Regarding Manicurist Worker Classification Starting January 1, 2025 (AB 5)</b>

### Background

In 2020, Assembly Bill 5 updated the Labor Code regarding employment classification to create an exemption for Board of Barbering and Cosmetology licensees. It established criteria that must be met for licensees to be considered an independent contractor by an establishment owner, including that they set their own rates, process their own payments, be paid directly by clients, and maintain their own business license. This Labor Code provision is expiring for manicurists on January 1, 2025. At that time, the employment status of Board-licensed manicurists will be determined by the “ABC” test in the Dynamex court decision.

Under the ABC test, a person providing services for compensation is considered an employee rather than an independent contractor unless the hiring entity demonstrates that the person is free from the control and direction of the hiring entity in connection with the performance of the work, the person performs work that is outside the usual course of the hiring entity’s business, and the person is customarily engaged in an independently established trade, occupation, or business.

### Recent Related Bills

#### **AB 2444 (Lee)**

- This bill would have required the Department of Industrial Relations, to develop and, by July 1, 2025, disseminate, a notification to all board-licensed establishments and licensed manicurists that includes specified statements to inform those licensees of a change in the law relating to the employment classification of manicurists and of the legal consequences of employment classification as an employee or misclassification of a worker.
- This bill would have required the board, in consultation with the Department of Industrial Relations and community-based organizations, to develop a language-appropriate and culturally-appropriate posts on basic labor laws, as prescribed, on the board’s internet website or other accessible platform.
- The Board took an Oppose position due to the unclear logistics and the large cost impact to the Board.
- The bill died 05/17/2024.

**SB 451 (Nguyen)**

- This bill would have extended the January 1, 2025, inoperative date for licensed manicurists to January 1, 2030.
- The Board took a support position as it would allow manicurists to remain exempt from the ABC test like the other Board license types.
- The bill died 02/01/2024.

**Industry Comments**

- At board meetings, the Board received public comments from the California Healthy Nail Salon Collaborative, which was a cosponsor of AB 2444.
- Vietnamese manicurists provided public comments stating they supported AB 2444 as it would provide necessary information in Vietnamese.
- The Professional Beauty Federation of California stated that all license types should be treated equally and if hair and skin establishments can be exempted, nail salons should be too.

**The Board's Plan**

- The Board with the Department of Industrial Relations on a statement (See Attachment A). It is being translated and then will be translated and physically mailed to all establishment owners and manicurists.
- The Board is in process of updating the “Understanding Workers Rights and Responsibilities” brochure to be split into two versions – one directed to establishment owners, and one for individual licensees.
- The Board is currently responding to emailed questions regarding worker classification with the following:

The Board of Barbering and Cosmetology does not oversee the laws regarding employment status and therefore we cannot answer any questions regarding manicurists no longer being allowed to booth rent. We recommend that you contact the Labor Commissioners Office and are providing the link below:

<https://www.dir.ca.gov/dlse/DistrictOffices.htm>

**Discussion and Possible Action**

- The Committee shall discuss whether a manicurist can be their own business owner within a licensed establishment.
- The Committee may make a recommendation to the full Board to make a statement about a position regarding manicurists' worker classification.



## IMPORTANT INFORMATION REGARDING MANICURISTS

The following message is being provided to you on-behalf of the Department of Industrial Relations.  
The Board of Barbering and Cosmetology cannot answer questions regarding labor laws.

A worker that is considered an “employee” or “W-2 worker” is entitled to many workplace protections under State labor laws.

Generally, a person providing nail services in a nail salon is an “employee” and the employer must follow certain rules in CA law. For example, employees must be paid at least minimum wage, allowed meal and rest breaks, able to earn overtime and are entitled to sick leave, among other rights and protections under CA law.

An “independent contractor” (sometimes referred to as a “1099”) does not have the same protections as an employee under State labor laws. Just because your boss calls you an independent contractor, does not make you one. An independent contractor must hold a local business license, set their own service rates and schedules, and be paid directly by the client. An employer may be subject to penalties for misclassifying a worker.

**Beginning in January 2025, the rules for manicurists regarding independent contractors will slightly differ from those applied to other BBC licensees.**

Beginning January 1, 2025, the ABC test (Labor Code sec. 2775(b)(1)), will apply to manicurists,

According to the ABC test, manicurists working at a nail salon will be presumably an employee, unless the employer can prove ALL of the following are true:

- A. The worker is free from the control and direction of the business owner in connection with the performance of the work;
- B. The work provided is outside the usual course of the hiring business owner;
- C. The worker is customarily engaged in an independently established trade, occupation, or business of the same type as that involved in the work performed.

So for instance, beginning January 1, 2025, if you are a licensed manicurist, and you provide manicure services at a salon, you are an employee, and must receive all the rights and protections of that employment status including minimum wage, sick pay, meal and rest breaks, overtime pay and workers compensation insurance coverage.

For general information, please visit the frequently asked questions on the website:

<https://www.dir.ca.gov/dlse/DLSE-FAQs.htm> or contact the Labor Commissioner’s Office at 833-526-4346.

*Agenda Items*

*No. 4-6*

*No Attachments*