

**Oregon Health Licensing Agency (OHLA)
Board of Cosmetology
Minutes of November 3, 2008**

This set of minutes is a draft version from the Board of Cosmetology meeting held on November 3, 2008, and must be approved by the Board at the next regularly scheduled board meeting.

MEMBERS PRESENT

Debora Masten, Practitioner
Linda Bergmann, Practitioner
Sharon Wiser, Practitioner
Patricia Hall, Practitioner

STAFF PRESENT

Susan K. Wilson, Director
Tim Molloy, Regulation Manager
Dixie Bryant, Program Operations Manager
Sarah K. Hoggatt, Board & Qualifications Specialist
Sammie Patnode, Examination & Qualification Analyst
Kraig Bohot, Communications Coordinator
Tricia Allbritton, Senior Policy & Strategic Analyst

MEMBER ABSENT

Herb Hirst, Public Member
Mike Snook, Chairperson

GUESTS

Ramesh Nagul
Nag Namburi
Morgan Johnston
Cynthia Shaw
Judith Culp
Pamela Alford
Victoria Lee
Jim Markee

CALL TO ORDER

Ms. Masten, Vice-Chair, called the meeting of the Board of Cosmetology to order at 9:12 a.m. on November 3, 2008, at the Oregon Health Licensing Agency, Rhoades Conference Room, 700 Summer Street NE, Salem, Oregon.

Ms. Masten welcomed Sharon Wiser to the board who was appointed by the governor to serve as a practitioner.

APPROVAL OF AGENDA

MOTION

Ms. Bergman made a motion with a second by Ms. Hall to approve the agenda for November 3, 2008, with a revision to move threading to 4A. Aye: Ms. Masten, Ms. Wiser, Ms. Hall, and Ms. Bergmann. Nay: None. The motion passed.

APPROVAL OF MINUTES

MOTION

Ms. Hall made a motion with a second by Ms. Wisner to approve the minutes for September 22, 2008. Aye: Ms. Masten, Ms. Wisner, Ms. Hall, and Ms. Bergmann. Nay: None. The motion passed.

REPORTS

ADMINISTRATIVE SERVICES DIVISION

Mr. Simpson, Program Analyst, reported the statistics for the board's website traffic.

- Page hits: 35,622
- Average hits a day: 1,149
- Visitors to the Board of Cosmetology web site: 5,759
- Top three most viewed pages: Cosmetology Home Page, How to Get Licensed, Bacterial Skin Infection.

Mr. Simpson discussed statistics for the number of licenses issued and renewals for September 2008.

- Permanent licenses issued: 595
- Renewals over the counter or by mail: 1,962
- Renewals online: 427

Mr. Simpson reported the regulatory statistics for September 2008.

- Complaints received: 8
- Inspections: 993
- Proposed Orders: 52
- Final Orders: 39

REGULATORY OPERATIONS DIVISION

Mr. Molloy, Regulatory Operations Division Manager, reviewed the Complaint Flow Chart breaking down the process of disciplinary action. He noted a place for emergency suspension had been added. He also showed the board a map of Oregon illustrating where inspections have been completed. Mr. Molloy anticipates all facilities will be inspected by the end of 2008.

PROGRAM OPERATIONS DIVISION

OREGON ADMINISTRATIVE RULES

The agency will issue a policy statement regarding examination qualifications to clarify changes to who is required to pass the "Oregon Laws and Rules" examination for Oregon practitioner certification.

- Out-of-state credentialed / non-credentialed applicants for Oregon practitioner certification must take and pass the Oregon Laws & Rules examination.
- Certified practitioners who complete training in a **new** field of practice (post initial certification) must take and pass the Oregon Laws & Rules examination in addition to the "*Field(s) of Practice*" (*FOP*) examination(s). Retake of the Laws & Rules examination is required only if the examination was taken/passed more than **two years** prior to date of application for certification in the **new** FOP.

- An individual, who did not attain certification in any FOP, must take and pass all written and practical examination sections qualified for, regardless of a previously passing score if they failed to obtain a certificate within **two years** from the date of their most recent examination attempt.
- An individual, who attained certification but failed a FOP, must take and pass the failed FOP and Oregon Laws & Rules (even if previously passed) if **two years** or more have lapsed since the most recent examination attempt.

Ms. Allbritton reviewed the changes to the Certificate of Identification application as follows:

- CID applicants **do not** have to complete the 10 written questions at the time of application;
- CID applicants may be subject to completion of an Oregon Laws & Rules examination under specific circumstances as clarified on the attached grid.
- The eLITE system record of any previously completed 10 question CID exam is invalid hereafter (10-01-08), and cannot be used in lieu of completion of Oregon Laws & Rules exam;
- CID applicants do not have to provide OHLA staff with a copy of the business card or other identifier;
- CID applicants must attest that they understand and are in compliance with the safety/infection control and licensing requirements;
- CID is issued for a two year period;
- CID may be renewed upon application, fees, meeting practitioner status requirements.
- CID renewal applicants will be required to retake Oregon Laws & Rules examination or complete the OHLA sponsored/provided infection control class – applicant can sign up in advance for training class, take the examination at time of renewal on-site at OHLA, or submit application for renewal and test through Laser Grade testing site.
- CID holders will be subject to random audit to verify compliance with requirements.

Ms. Allbritton clarified questions.

OUTREACH AND COMMUNICATIONS

Mr. Bohot, Communications Coordinator, overviewed the draft position statements on issues discussed at the Product Safety Committee meeting on October 10, 2008, including threading, laser hair enhancement, fish pedicures, ear candling, Aqua-chi foot baths, disinfecting storage boxes, laser skin resurfacing, and unlicensed practices in licensed facilities.

He previewed the website for the Oregon Collaborative for Healthy Nail Salons of which the Oregon Health Licensing Agency is a member. The Collaborative's focus is to improve the health and safety of nail salon workers and customers.

Mr. Bohot brought forth a question from a licensee whether nurse practitioners could be in a supervisory role for advanced esthetic procedures in a licensed facility. Ms. Masten suggested we refer this to the Product Safety Committee and examine the laws and rules. The need to keep the medical board informed was noted.

COMMITTEES AND REPORTS

PRODUCT SAFETY COMMITTEE REPORT

The Product Safety Committee met on October 10, 2008 and discussed threading, laser hair enhancement, fish pedicures, ear candling, Aqua-chi foot baths, disinfecting storage boxes, laser skin resurfacing, and unlicensed practices in licensed facilities. Each issue will be discussed under items of board action.

ITEMS FOR BOARD ACTION

THREADING

The agency was contacted by licensees inquiring whether the Board of Cosmetology allowed threading in licensed facilities.

On October 10, 2008, the Product Safety Committee reviewed threading and recommended it is within the esthetician's scope of practice as the practice involves temporary removal of hair from the skin for beautification purposes and can only be provided by a licensed esthetician.

Ramesh Nagul and Nag Namburi gave a PowerPoint presentation on threading, taking the position that threading should not require a full esthetic license since threading is not taught in any United States beauty schools. Judy Culp noted threading is taught in the advanced esthetics textbook.

MOTION

Ms. Bergman made a motion with a second by Ms. Hall to approve the position statement on threading. Aye: Ms. Masten, Ms. Wisner, Ms. Hall, and Ms. Bergmann. Nay: None. The motion passed.

LASER HAIR ENHANCEMENT

The agency was contacted by Craig Black, the President of Salon Lasers, to inquire whether the Board of Cosmetology allowed laser hair enhancement treatment within any of the cosmetology fields of practice.

At the Board of Cosmetology meeting on September 22, 2008, the board referred the issue to the Product Safety Committee. On October 10, 2008, the Product Safety Committee reviewed laser hair enhancement and recommended it is within the hair design, barbering, and esthetic scope of practice as it deals with the stimulation of the scalp and hair treatment. Standard sanitation rules apply for the equipment used.

The board had several questions concerning scopes of practice, the specific laser technology, and the verbiage used in the position statement. It was recommended laser hair removal be sent back to the Product Safety Committee for further review.

MOTION

Ms. Hall made a motion with a second by Ms. Wisner to send the position statement on laser hair enhancement to the Product Safety Committee to clarify the language in the position statement. Aye: Ms. Masten, Ms. Wisner, Ms. Hall, and Ms. Bergmann. Nay: None. The motion passed.

EAR CANDLING

The agency was contacted by licensees inquiring whether the Board of Cosmetology allowed ear candling in licensed facilities and if it is within any cosmetology fields of practice.

At the Board of Cosmetology meeting on September 22, 2008, the board referred the issue to the Product Safety Committee. On October 10, 2008, the Product Safety Committee reviewed ear candling and is recommending it is not within the cosmetology scope of practice as the practice is not for beautification but is intended to remove wax from the inner ear.

MOTION

Ms. Hall made a motion with a second by Ms. Bergman to approve the position statement on ear candling. Aye: Ms. Masten, Ms. Wisner, Ms. Hall, and Ms. Bergmann. Nay: None. The motion passed.

AQUA-CHI

The agency was contacted by licensees inquiring whether the Board of Cosmetology allowed use of the Aqua-Chi machine in licensed facilities.

At the Board of Cosmetology meeting on September 22, 2008, the board referred the issue to the Product Safety Committee. On October 10, 2008, the Product Safety Committee reviewed the Aqua-Chi machine and determined the product is within any cosmetology fields of practice as it is a cleansing of the feet. If provided as part of nail technology services as a footbath prior to a pedicure or as a skin care treatment as part of esthetics practice, aqua-chi is allowed if practitioners follow all health, safety, and infection control requirements.

MOTION

Ms. Bergman made a motion with a second by Ms. Wisner to approve the position statement on the aqua-chi. Aye: Ms. Masten, Ms. Wisner, Ms. Hall, and Ms. Bergmann. Nay: None. The motion passed.

DISINFECTING STORAGE BOXES

The agency was contacted by licensees inquiring whether the Board of Cosmetology has approved use of disinfecting storage boxes as a means of disinfecting in licensed facilities.

At the Board of Cosmetology meeting on September 22, 2008, the board referred the issue to the Product Safety Committee. On October 10, 2008, the Product Safety Committee reviewed the disinfecting storage boxes and determined the product does not replace the proper and required method for cleaning and disinfecting reusable tools and is not allowed as a disinfecting method in a licensed facility.

MOTION

Ms. Hall made a motion with a second by Ms. Bergman to approve the position statement on disinfecting storage boxes. Aye: Ms. Masten, Ms. Wisner, Ms. Hall, and Ms. Bergmann. Nay: None. The motion passed.

LASER SKIN RESURFACING

The agency was contacted by licensees inquiring whether laser skin resurfacing was allowed in licensed facilities.

At the Board of Cosmetology meeting on September 22, 2008, the board referred the issue to the Product Safety Committee. On October 10, 2008, the Product Safety Committee reviewed ablative laser skin resurfacing and recommended based on the intended use statement for Pearl Lasers that laser skin resurfacing falls under the dermatologist's scope of practice, not estheticians.

Ms. Allbritton stated it would be better if the board examined the intended use statements for additional lasers and wrote one broad position statement for all laser skin resurfacing tools instead of writing one for each brand. It was recommended laser skin resurfacing be sent back to the Product Safety Committee for further examination.

MOTION

Ms. Bergman made a motion with a second by Ms. Wisner to send the position statement on laser skin resurfacing back to the Product Safety Committee for further review. Aye: Ms. Masten, Ms. Wisner, Ms. Hall, and Ms. Bergmann. Nay: None. The motion passed.

ROLL-ON WAX SYSTEM

On September 22, 2008, the Board reviewed the roll-on wax position statement which stated roll-on wax applicators may not be re-used unless they have a built-in mechanism that prevents 'flow-back'.

At the Board of Cosmetology meeting on September 22, 2008, the board discussed roll-on waxing and pointed out some applicators can be disinfected between clients if immersed in a high level disinfectant according to OAR 871-010-0068. The position statement was revised to reflect this change.

MOTION

Ms. Hall made a motion with a second by Ms. Wisner to approve the position statement on the roll-on wax system. Aye: Ms. Masten, Ms. Wisner, Ms. Hall, and Ms. Bergmann. Nay: None. The motion passed.

EXECUTIVE SESSION

No executive session.

DIRECTOR'S REPORT

Ms. Wilson, Director, stated the agency's budget has been submitted to the Governor's office and accepted after the agency provided clarification on technology projects during the general appeal process.

Ms. Wilson attended the National-Interstate Council of State Boards of Cosmetology Conference in Jacksonville, Wyoming in late October along with the board chair, Mike Snook. There were some questions raised by directors from state agencies regulating cosmetology about the NIC's budget, contract costs, and how they utilize their staff. The agencies at the conference discussed having a computer based platform containing an item bank for all questions thereby bringing tests into uniformity for easier reciprocity from one state to another.

PUBLIC COMMENT

Jim Markee, Government Relations Consultant, stated the Legislative Health Committee will be discussing scope of practice during the 2009 Legislative Session. He noted Senator Mark Anderson and Representative Mitch Greenlick are particularly concerned with overlapping scope of practice issues as new products and services enter the marketplace. A pilot project is being proposed to establish a screening committee to examine scopes of practice issues and make recommendations to the Legislative Health Committee and 2009 Legislature. He said the legislature is interested in regulatory issues and having more public members on the boards. He advised the board to keep in mind the 2009 Legislature will also be looking at the congruency between training and practice.

Ms. Wilson noted each practitioner has to have the appropriate training and education for each service offered, prove their competency to offer the service, and work under regulatory boards assuring safety and sanitation for their clients, and continued competency in providing the service. Mr. Markee urged the board to keep looking at the intended use of each product and whether practitioners have received enough training to use the device safely.

OTHER BOARD BUSINESS

LASERGRADE TESTING

Ms. Patnode, Examination & Qualification Analyst, stated when a student decides they want to use LaserGrade testing, they need to turn in their application to the agency, pay the application fee, and insure the agency has their transcripts before they can sit for the test. The applicant will then receive notification of permission to test. The agency is currently putting a system in place to let the LaserGrade Centers know who is qualified to test thereby streamlining the process. These new policies will be in place by the end of November. Ms. Patnode clarified questions from the board.

UNLICENSED PRACTICES

Mr. Bohot wrote a draft position statement on performing unlicensed services in licensed facilities which the Product Safety Committee referred back to the board on October 10, 2008, to be discussed further. Mr. Molloy clarified a licensee is not prohibited from providing an unregulated service in a licensed facility as the practice does not fall under the scope of practice with another regulatory agency. Mr. Bohot will revise the position statement including information on safety and sanitation to be voted on at the next board meeting.

MASSAGE THERAPY

Ms. Allbritton noted the Board of Cosmetology has a close affinity to the Oregon Board of Massage Therapy (OBMT). The 2007 Legislature brought forth Senate Bill 170 to change their scope of practice though the bill died in committee. During the 2009 Legislative session, the board is bringing forth a similar legislative concept while also streamlining definitions, revamping training standards and core competencies, and clarifying a professional code of conduct. Ms. Allbritton clarified questions from the board.

Ms. Allbritton informed the board the legislative concepts for the Oregon Health Licensing Agency are on the drafter's table and will soon be returned to her so she can make a few changes.

2009 SUBCOMMITTEES

Ms. Wiser, the new board member, needed to be appointed to the 2009 subcommittees.

Subcommittees provide review and discussion of specific issues, which usually require more in-depth fact-finding and deliberation than can be scheduled at periodic board meetings. It was noted at the first meeting in the fall, new standing committee members are voted upon who will review and respond to ongoing issues and questions.

2009 Subcommittees	
Enforcement Committee	Mike Snook; Patricia Hall
Industry Liaison Committee	Mike Snook; Linda Bergmann
Item Writing / Examination Committee	Debora Masten; Sharon Wiser
Legislative / Rules Committee	Debora Masten; Mike Snook; Herb Hirst
Product Safety / Public Protection Committee	Debora Masten; Herb Hirst; Mike Snook
Scholarship / Education Committee	Judith Petersen; Linda Bergmann; Mike Snook; Sharon Wiser
Customer Connection Committee	Patricia Hall

MOTION

Ms. Bergman made a motion with a second by Ms. Hall to approve the subcommittee appointments for 2009. Aye: Ms. Petersen, Ms. Masten, Ms. Wiser, and Ms. Bergman. Nay: None. The motion passed.

BOARD INTEREST FILE

Contents made available to members.

MEETING ADJOURNMENT

MOTION

Ms. Bergman made a motion with a second by Ms. Wiser to adjourn the meeting. Aye: Ms. Masten, Ms. Wiser, Ms. Hall, and Ms. Bergmann. Nay: None. The motion passed.

The meeting was adjourned at 12:58 pm.

I attest that the Board of Cosmetology minutes of November 3, 2008, are a true and accurate reflection of the matters discussed and the views of the participants.

Sarah K. Hoggatt, Board Specialist

Date