



Oregon Health Licensing Agency
Board of Cosmetology



9 am, Monday, July 25, 2011
700 Summer Street NE, Suite 320
Salem, Oregon

MINUTES

MEMBERS PRESENT

Debora Masten, Chair
Sharon Wisner, Vice-Chair
Shelly Couch
Tiffany Galvan
Heidi Zuniga
Lisa Bonner Brown

STAFF PRESENT

Randy Everitt, Director
Katherine Lozano, Assistant Attorney General
Sylvie McMillan, Fiscal Services and Licensing Manager
David Sparks, Regulatory Operations Manager
Callie Zink, Administrative Services Manager
Samie Patnode, Policy Analyst
Sinnamon Harris, Board Specialist

MEMBERS ABSENT:

Herb Hirst

GUESTS PRESENT:

Mike Snook
Peggy Zepp

*This meeting was live video streamed.

Call to Order

Debora Masten, Chair, called the meeting of the Board of Direct Cosmetology to order at 9:03 am, Monday, July 25, 2011, at the Oregon Health Licensing Agency (OHLA), Rhoades Conference Room, 700 Summer Street NE, Salem, Oregon. Roll was called.

Debora Masten welcomed new board member Lisa Bonner Brown to the Board of Cosmetology. Bonner Brown said she is a practitioner and a salon owner.

1. Approval of Agenda

MOTION:

Shelly Couch made a motion with a second by Heidi Zuniga to approve the agenda. Motion passed unanimously.

2. Approval of Minutes

MOTION:

Shelly Couch made a motion with a second by Tiffany Galvan to approve the minutes for April 25, 2011. Motion passed unanimously.

3. Reports

◆ Directors Report

Randy Everitt, Director, welcomed new board member Lisa Bonner Brown. Everitt also thanked Debora Masten for her years of service to the Board of Cosmetology as her terms ends with this board meeting. He said it had been a pleasure working with Masten as board chair and she has contributed greatly to the profession.

Everitt explained that due to staffing issues and a full slate of administrative rulemaking scheduled for this summer through the rest of 2011, rulemaking for certain OHLA regulated professions have been postponed. This allows the agency to focus on rulemaking for those professions with the most immediate and significant issues related to public health, safety and risk.

Everitt stated that the agency has developed a strategic plan that prioritizes administrative rulemaking for the next 18 months. He noted the plan is flexible and subject to change depending upon the agency's ability to address staffing issues. Everitt pointed out the agency is undergoing major changes to the makeup of its boards and councils and added the Board of Licensed Dietitians to the agency as a result of the 2011 Legislative Session.

Everitt stated that new professions, those with a temporary rule already in place, or those that are experiencing a significant risk to public safety, are top priority to undergo rulemaking in this strategic plan. Those that fall within these categories are assigned a Level 1 priority. It was noted that the Board of Cosmetology does not currently meet the criteria for immediate rulemaking. The Board of Cosmetology has just finished a primary revision of the administrative rules. The agency will address emergency issues as they arise.

Everitt asked the board to begin thinking about legislative concepts for 2013 as the agency would like to begin discussions in late September or early October. The agency will advise the board of any statutory issues that may need to be addressed.

◆ Statistical Report

Sylvie McMillan, Fiscal Services and Licensing Manager, presented an overview of statistics related to the board. Statistics included licensing, examination and regulatory statistics, active license trends, complaints, and website traffic.

◆ 2010-2011 Budget

McMillan presented the statements of cash flow for the 7/1/2009 – 6/30/2011 biennium, the 7/1/2011 – 12/31/2011 end of the year and 7/1/2011 – 6/30/2013 biennium. McMillan spoke about offering discounts for facility owners who renew their facility licenses online. She presented information about the "Platinum" cost allocation model for the 7/1/2011 – 12/31/2011 which breaks down the percentages of the services provided to the board. Please see chart below:

OREGON HEALTH LICENSING AGENCY COSMETOLOGY FUND 7520 STATEMENT OF CASH FLOW FOR THE PERIOD 07/01/11- 06/30/13	
11-13' Beginning Cash Balance	\$ 213,508.02
Revenues	\$ 5,857,702.41
Dept of Education Transfers In	\$ 8,400.00
Expenditures	\$ 5,203,800.76
Less: Accrued Expenditures	\$ -
Less: Total Expenditures	\$ (5,203,800.76)
Subtotal: Resources Available	\$ 875,809.67
Change in (Current Assets)/Liabilities	\$ -
Ending Cash Balance (Estimate)	\$ 875,809.67
Ending Cash Balance Goal	\$ 660,000.00
COSMETOLOGY, Platinum Allocation, 07/1/11 - 12/31/11	
License Volume Rate	91.95%
Small Board / Council Assessments	- 6.00%
Shared Cost Rate for ADMIN, FISCAL/LICENSING, REGULATORY	85.95%
Educational Services, Cost Rate	26.32%
Frontline and Customer Support, Cost Rate	91.95%
Cosmetology Support Staff, Direct	100.00%
Inspections, Cost Rate	93.24%
Cosmetology Investigations, Direct	100.00%
Cosmetology Regulatory Admin, Direct	100.00%
Other Direct Cosmetology Expenditures	100.00%

◆ **Regulatory Operations Division Report**

David Sparks, Regulatory Operations Manager, reported on enforcement activity. Sparks stated between July 2009 and June 2011, 381 complaints were filed with the agency. Twelve percent of those 381 remain open. The current regulatory reporting period is July 1, 2011, through July 25, 2011. The agency had received 12 complaints during this period. Sparks noted seventy-seven notices went out since the last April 25, 2011, board of Cosmetology meeting for approximately \$34,500 in civil penalties.

Sparks said the regulatory staff was working on developing a civil penalties matrix so fines could be assessed more objectively. McMillan noted that if a contested case hearing is lost by the respondent during disciplinary proceedings, the respondent can be assessed the agency's attorney fees up to \$5,000.

Below is a table of complaints and the complaint type:

Open complaints	
Complaint Count	Complaint Type Description
1	Critical Complaint regarding licensing
21	Licensing Concern
13	Safety/Sanitation Issues
10	Services Provided

◆ **Policy, Legislation & Administrative Rules**

Samie Patnode, Policy Analyst, presented the permanent administrative rules certificate and order for filing. It includes protocols for authorization holders who are in active military status, definition of “appearance,” incompetence and negligence as used in the law. The administrative rule will become effective August 15, 2011.

4. Items for Board Action

The board was asked to determine additional training requirements for applicant Long Truong, prior to his taking the Nail Technology written examination for his eighth attempt. The recommendation of additional training hours was 33% or 115 hours of the initial 350 hours of training. Training hours would be reported via certification of completed hours signed by an authorized representative at a licensed career school.

The 33% or 115 hours would be as follows:

- 6% or 21 hours of Chemicals
- 2% or 7 hours of Standards
- 6% or 21 hours of Diseases
- 8% or 24 hours of Definitions
- 6% or 21 hours of Equipment
- 6% or 21 hours of General

MOTION:

Shelly Couch made a motion with a second by Tiffany Galvan to approve the agency’s recommendation to require Long Truong to complete the training hours as listed above, prior to taking the nail technology written examination for his eighth attempt. The motion passed unanimously.

The board was asked to determine additional training requirements for applicant Tuoi Nguyen, prior to her taking the Nail Technology written examination for her eighth attempt. The recommendation of additional training hours was 55% or 194 hours of the initial 350 hours of training. Training hours would be reported via certification of completed hours signed by an authorized representative at a licensed career school.

The 55% or 194 hours would be as follows:

- 11% or 39 hours of Chemicals
- 2% or 7 hours of Standards
- 9% or 32 hours of Diseases

10% or 35 hours of Definitions
11% or 39 hours of Equipment
12% or 42 hours of General

MOTION:

Shelly Couch made a motion with a second by Lisa Bonner Brown to approve the agency's recommendation to require Tuoi Nguyen to complete the training hours as listed above, prior to taking the nail technology written examination for her eighth attempt. The motion passed unanimously.

5. Public Comment

Mike Snook commented he had been contacted by a law firm regarding providing the state individual field-of-practice and Oregon Laws and Rules examinations in languages other than English.

6. Other Board Business/Board Interest

Patnode discussed two emails received from cosmetology stakeholders. One was an inquiry and suggestions made by Connie McArtor regarding various issues. Patnode responded with information regarding the Oregon Students Assistance Commission scholarship program for cosmetology students, as well as links to Family Health Insurance Assistance Program (FHIAP) and the Department of Education (DOE).

Renee Ford inquired how to "challenge" the state board to receive a certificate to only braid hair. Patnode responded noting the legal requirement to be certified in barbering or hair design is written in Oregon Revised Statutes Chapter 690, and cannot be changed by the Health Licensing Agency or by the Board of Cosmetology. Patnode provided Ms. Ford the relevant statutes ORS 690.005(1)(a) through (d) and ORS 690.005(10)(a) through (c). She also provided the information related to the Oregon State Legislature.

Sinnamon Harris, Board Specialist, presented four articles of interest to the board: *Program Helps Prevent Foot Infections, Dirt Under the Nails, Chemicals May Be Risky to Nail Salon Workers, and Calls for FDA to Regulate Hair Straighteners.*

7. Executive Session-Place Holder

Debora Masten called the committee into executive session under ORS 192.660(2)(f) "for the purpose of considering information or records exempt from public inspection" at 10:17 am.

Debora Masten reconvened open session at 11: 25 am and welcomed any audience members back into the room. No recommendations or decisions were made during executive session.

Patnode stated face-painting and temporary tattoos were found, by the agency's Assistant Attorney General Katharine Lozano, *not to be within the esthetics scope of practice* and thus did not require certification. Hair braiding is included in hair design scope of practice requiring certification. Since these are frequently asked questions from practitioners the agency will decide how best to communicate the legal advice to certificate holders and the public.

The meeting adjourned at approximately 11:26 am.