



**Oregon Health Licensing Agency
BOARD OF COSMETOLOGY**



9:00 am Monday, January 12, 2009
700 Summer Street NE, Suite 320
Salem, Oregon

Minutes

MEMBERS PRESENT:

Mike Snook, Chairperson
Debora Masten, Practitioner
Linda Bergmann, Practitioner
Sharon Wiser, Practitioner
Patricia Hall, Practitioner
Herb Hirst, Public Member
Shelley Couch, Practitioner

STAFF PRESENT:

Susan K. Wilson, Director
Tricia Allbritton, Policy Analyst
Samantha Patnode, Qualification Analyst
Dixie Bryant, Program Operations Manager
Trampus Schuck, Board Specialist
Callie Zink, Executive Assistant
Tim Molloy, Regulatory Operations Manager
Kraig Bohot, Communications Coordinator

GUESTS PRESENT:

Karen Dieckman, Phagan's School Owner

Call to Order

Mike Snook, Chairperson, called the meeting to of the Board of Cosmetology to order at 9:05 am on January 12, 2009, at the Oregon Health Licensing Agency (OHLA), Rhoades Conference room 700 Summer Street NE, Salem, Oregon.

Ms. Couch introduced herself explaining she is the Operations manager for five Great Clips locations in the Portland Metro Area. She said she had been in the cosmetology business for over 20 years.

I - Approval of Agenda

MOTION:

Herb Hirst made a motion with a second by Sharon Wiser to approve the agenda for January 12, 2009. Aye: Mr. Snook, Ms. Masten, Ms. Wiser, Ms. Hall, and Ms. Bergmann & Mr. Hirst. Nay: None. The motion passed.

II - Approval of Minutes

November 3, 2008
November 25, 2008

MOTION:

Herb Hirst made a motion with a second by Sharon Wiser to approve the minutes for November 3, 2008, & November 25, 2008. Aye: Mr. Snook, Ms. Masten, Ms. Wiser, Ms. Hall, and Ms. Bergmann & Mr. Hirst. Nay: None. The motion passed.

III - Reports

A. Director's Report

➤ **2009 Legislation**

Susan Wilson, Director, presented 2009 Legislation sponsored by Representative Greenlick and explained how the concepts could affect the Board and the agency. The board was provided the report for review.

Ms. Wilson discussed OHLA Legislative Concept 765 reporting it had been pulled by the Governor's Office due to technical issues and provisions in the "Relating Clause". The agency revised the areas in question but in doing so did not meet the deadline for completion. The Governor's Office and Department of Administrative Services, Budget and Management Division supported the concept and encouraged the agency to pursue introducing the legislation as a committee bill. The OHLA concept summary and language were provided to members.

B. Administrative Services Division

Mike Simpson, Program Analyst, presented an overview of statistics relating to the Board. His report included licensing, examinations, Web site traffic and regulatory statistics for 2008. The Board was provided with the report and a copy was placed in board documents for retention.

C. Regulatory Operations Division

Tim Molloy, Regulatory Operations Division Manager, stated that since the November 2008 meeting the board had received fourteen complaints, six of the complaints were critical status relating to licensing and infection control. Mr. Molloy provided the board with an overview of the investigation relating to individuals coming from Anthony's Beauty School and Portland Beauty School who were trying to become certified. The investigation began when the agency allegedly received falsified documents and identification from potential licensees. Mr. Molloy stated letters and detailed information had been sent to the Department of Education, Superintendent of Public Instruction advising them on the investigation.

Mr. Molloy showed the Board a Nail Salon Safety News segment which has been shown at the agency Safety and Infection Control class. Board member requested the video information be provided to schools to as an educational tool.

Executive Session

Mr. Snook convened Executive Session under ORS 92.660(1) (f) at 10:26 am for the purpose of considering information and/or records exempt from public inspection, and to discuss the issues related to interagency complaints. The substance of the discussion will remain confidential. Executive Session concluded at 10:55 am

Mr. Snook, Chairperson, reconvened regular session at 11:00 am No action or recommendations were made.

D. Program Operations Division

➤ OHLA Emergency / Proposed Administrative Rules

Tricia Allbritton, Policy Analyst provided an overview of the agency proposed administrative rules which include temporary rules filed and effective December 1, 2008. They addressed requirements for completion of a fingerprint and criminal background check to determine fitness of individuals applying or renewing an authorization. The rules are used to clarify requirements for acceptable documentation and personal identification of applicants to strengthen applicant licensure qualification criteria. These rules are needed to mitigate use of false identification and/or misrepresentation of personal information, to reduce potential agency liability and secure license issuance and renewal procedures.

New rules prescribing requirements for submitting an “Affidavit of Licensure” are being proposed to clarify documentation requirements for substantiating licensure in another state. The agency proposed to adopt rules pertaining to licensing for out-of-state practitioners/professionals during a declared emergency situation to remedy potential shortages in Oregon.

Other technical amendments were made relating to procedure of model rules, rulemaking, definitions, and Oregon Accounting Manual requirements. Corrections to statute citations and agency name were made.

Ms. Allbritton provided copies of temporary and proposed rule information including the schedule for filing rules as follows:

December 1, 2008	Temporary Rules Filed and Effective
January 7, 2009	Rescheduled - Rules Advisory Committee Meeting – 1:30 pm
February 1, 2009	Notice of Proposed Rulemaking published in <i>Oregon Bulletin</i>
March 2, 2009	Last Day for Public Comment
March 2, 2009	Public Rule Hearing
April 1, 2009	Permanent Administrative Rules effective

➤ Outreach and Communication

Kraig Bohot, Communications Coordinator highlighted the revised Facial Forward Campaign which included new information from the December 5, 2008, Product Safety Committee. It was suggested that items were added to Facial Forward for supervision and procedures which should be in place if working outside scope of practice. These procedures include evaluation, consultation, and emergency treatment as well as distance of the supervisor.

Mr. Bohot provided an overview of the new Frequently Asked Questions section relating to Fingerprinting and the requirements and purpose behind the new administrative rule. This will allow OHLA to perform fingerprinting and criminal background checks on applicants and current licensees. Mr. Molloy provided a brief synopsis of reasons why the agency would have an individual provide

fingerprints or conduct a criminal background check. Mr. Bohot stated the information is posted to the Web site.

The OHLA ten-year report and a nail salon safety news broadcast was reviewed by the Board.

Debora Masten, board member, introduced information on micro-needling; a technique using a roller with small needles meant to penetrate the skin and stimulate skin renewal. Ms. Masten felt that this fell under the scope and practice of esthetics. The board took no official action regarding Micro-needling at this time. The board was provided a copy of the information and a copy was placed in board documents.

➤ **Committees and Reports**

1. Product Safety Committee Report

Motion:

Herb Hirst made a motion with a second by Patricia Hall to approve the December 5, 2008, Product Safety Committee report. Aye: Mr. Snook, Ms. Masten, Ms. Wisner, Ms. Hall, and Ms. Bergmann & Mr. Hirst. Nay: None. The motion passed.

The report contained recommendations relating to laser hair enhancement, laser skin resurfacing, nurse practitioners overseeing an esthetician, Thermage © and equivalent devices, as well as unregulated practices in a licensed facility. The board was provided the report for review and discussion.

2. Customer Connection Committee Report

Ms. Allbritton presented the Customer Connection Committee report from January 7, 2009.

3. Rules Advisory Committee Report

The board discussed the Board of Cosmetology proposed administrative rules. She stated the Rules Advisory Committee met on January 7, 2009, and discussed the rules in depth. A report of the committee was provided.

IV - Items for Board Action

A. Proposed Administrative Rules

Samantha Patnode, Program Analyst provided an overview of the agency proposed administrative rules which include temporary rules filed and effective December 1, 2008, that addressed requirements for completion of a fingerprint and criminal background check to determine fitness of individuals applying or renewing an authorization. Rules clarify requirements for acceptable documentation and personal identification of applicants to strengthen applicant licensure qualification criteria. These rules are needed to mitigate use of false identification and/or misrepresentation of personal information, to reduce potential agency liability and secure license issuance and renewal procedures.

The temporary rule suspends the use of interpreter assisted examinations

Proposed changes are as follows:

- Correct definition citations; amend the definition of “epidermis”;
- Clarify safety/infection control practices regarding cleaning and disinfecting foot spa equipment;
- Streamline facility licensing requirements – reformat text to improve readability and require submission of the filed Assumed Business Name at the time of initial application and renewal;
- Clarify application, examination and certification criteria and process, especially the identification and documentation requirements of applicants (temporary rule);
- Recognize distinctions may exist between Oregon and other states fields of practice and a blended education and licensing category, i.e. cosmetology and stipulate qualification review as appropriate.
- Require applicants to pass Oregon Laws and Rules under specific conditions and time lines;
- Repeal Interpreter Assisted Examinations to address security issues;
- Improve readability and format of certification and licensing rules;
- Revise criteria and requirements for practitioners working under a Certificate of Identification, i.e. “*freelance authorization*”.
- Require independent contractor registration include submission of the filed Assumed Business Name at the time of initial application and renewal.
- Include links with agency rules regarding notification of changes.

Mr. Snook raised concerns regarding Oregon laws and rules testing requirements for Certificate of Identification (CID) licensure. He stated if a CID had to take the examination every two-years then why don't all practitioners have to do the same (noting that they have the same training). Ms. Masten pointed out that CID license holders are not subject to annual inspection and therefore have no incentive to keep up with laws and rules. If a person is inspected annually then the agency can ensure that the licensure has been trained by an inspector in areas of weakness i.e. safety and infection control. After further discussion the board agreed with the testing requirements for CID holders was adequate.

Mr. Snook raised concerns regarding amendments to OAR 817-030-0005 (5), (6) and (7). He asked who would determine which state blended programs would be equivalent to Oregon's. He suggested Oregon use the “Cosmetology” license so that persons coming by reciprocity could enter Oregon with ease. Likewise, if someone from Oregon wanted to move to another state where a blended license could be attained they could do so without hassle. Ms. Patnode stated that to allow a “cosmetology” license would take a statutory change. She stated that the agency would draft a matrix which would show the equivalency by state; based on ORS 690.005 and provide it to the Licensing Subcommittee for review and recommendations. Board members concurred.

Ms. Patnode stated that the proposed administrative rules needed to be approved for filing on January 15, 2009, to be posted in the February 2009 Oregon Bulletin.

Motion:

Herb Hirst made a motion with a second by Sharon Wiser to approve the proposed rules as presented. Aye: Mr. Snook, Ms. Masten, Ms. Wiser, Ms. Hall, and Ms. Bergmann & Mr. Hirst. Nay: None. The motion passed.

B. Unlicensed Practices in a Facility Position Statement

Ms. Patnode discussed the Product Safety Committees recommendation to approve the unregulated services in licensed facilities position statement. She noted that as new devices and services are reviewed and deemed unregulated they will be appended to the position statement.

Motion:

Herb Hirst made a motion with a second by Sharon Wisner to approve the position statement Unregulated services in licensed facilities. Aye: Mr. Snook, Ms. Masten, Ms. Wisner, Ms. Hall, and Ms. Bergmann & Mr. Hirst. Nay: None. The motion passed.

C. 2009 Subcommittee

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. The board shall nominate committee members.

Enforcement: Patricia Hall, Mike Snook; **Industry Liaison:** Linda Bergmann, Mike Snook; **Item Writing:** Debora Masten, Sharon Wisner, Shelley Couch; **Legislation / Rules:** Herb Hirst, Debora Masten, Mike Snook; **Product Safety / Public Protection:** Herb Hirst, Debora Masten, Mike Snook, alternant Shelley Couch; **Scholarship / Education:** Linda Bergmann, Mike Snook, Sharon Wisner; **Customer Connection:** Patricia Hall, alternant Shelley Couch

MOTION:

Herb Hirst made a motion with a second by Herb Hirst to approve the 2009 subcommittee appointments. Aye: Mr. Snook, Ms. Masten, Ms. Wisner, Ms. Hall, and Ms. Bergmann & Mr. Hirst. Nay: None. The motion passed.

V - Executive Session

Executive Session was held earlier in the meeting under reports.

VI - Other Board Business

Ms. Patnode presented a matrix which was provided by National Interstate Council for State Boards of Cosmetology that contains state cosmetology licensing information and whether or not they use a proprietary licensing system or a general system used by many agencies.

VII - Public Comment

No public comment was taken.

VIII - Miscellaneous

A. Board Interest File
Staff provided

The meeting adjourned at approximately 2:19 pm

Prepared by: Trampus Schuck, Board Specialist