



**Oregon Health Licensing Agency
BOARD OF COSMETOLOGY**



9:00 am Monday, May 11, 2009
700 Summer Street NE, Suite 320
Salem, Oregon

Minutes

MEMBERS PRESENT:

Mike Snook, Chair
Debora Masten, Vice-chair
Linda Bergmann, Practitioner
Shelley Couch, Practitioner
Herb Hirst, Public Member

MEMBERS ABSENT:

Patricia Hall, Practitioner
Sharon Wisner, Practitioner

STAFF PRESENT:

Brian DeForest, Acting Director
Samantha Patnode, Policy Analyst
Trampus Schuck, Board Specialist
Sinnamon Harris, Board Specialist
Kraig Bohot, Public Information Officer
Mike Simpson, Quality and Statistical Analyst
Tim Molloy, Regulatory Operations Manager

GUESTS PRESENT:

Brenda Hoxsey
Kathy Cooney
Larry Peck
Heidi Zuniga
Tammy Kennedy
Cathy McKern
Damian Califf
Cindy Long

Call to Order

Mike Snook, Chair, called to order the meeting of the Board of Cosmetology at 9:06 am on May 11, 2009 at the Oregon Health Licensing Agency (OHLA), Rhoades Conference Room, 700 Summer Street NE, Salem, Oregon.

I - Approval of Agenda

MOTION:

Linda Bergmann made a motion and Herb Hirst seconded to approve the agenda for May 11, 2009. The motion passed unanimously.

II - Approval of Minutes

MOTION:

Debora Masten made a motion and Linda Bergmann seconded to approve the minutes for March 16, 2009. The motion passed with Mr. Snook, Ms. Masten, Ms. Bergmann, and Ms. Couch voting aye and Herb Hirst abstaining.

III - Reports

A. Director's Report

➤ 2009 Legislation

Brian DeForest, Acting Director, presented 2009 Legislation regarding HB 3232, which was introduced by Representative Mitch Greenlick after Governor's Office pulled the concept due to technical issues and provisions in the "Relating to Clause". DeForest stated that many of the changes are housekeeping measures to bring programs into uniformity with the central agency model. Such changes are standardized board member terms, and licensing cycles. Other areas include language to allow the agency to establish specialty fields of practice for cosmetology, strengthen consumer protection, and referral of impaired practitioners to treatment programs.

DeForest highlighted the agency's budget bill HB 5525 and fee bill HB 5526 which had a Public Hearing on April 9, 2009, in the Ways and Means Education Subcommittee. A work session is scheduled later in the month. Meetings were scheduled and held with both Co-Chairs of the committee to review the budget and answer any questions. The agency and the information given was well received.

Samantha Patnode provided an overview of legislation sponsored by Representative Mitch Greenlick explaining how the bills could affect the Board and the agency. She noted that specific bills add public members to health-related boards. Patnode explained other bills introduced by Greenlick address required terms in office, improved oversight with regards to impaired licensees, requirements for reporting incidence where scopes of practice may overlap, and restricting the liability of hearings and court fees to complainants.

Jim Markee, Government Relations, provided the board with updated information concerning HB 3232. He stated that the Democratic Caucus had questions and concerns with the provision related to the tattooing or piercing of minors as a criminal offense. They requested the bill be referred to the House Rules Committee for review. The committee will likely pass the bill with the removal of the tattoo and piercing provision.

➤ Administrative Rules

Patnode provided an overview of the temporary rules effective December 1, 2008, and the proposed rules which were filed simultaneously to allow for public comment which ends April 30, 2009. She said the agency is delaying filing permanent administrative rules in order to make changes to the application requirements, specifically, identification required to become an authorization holder. Patnode reported the proposed rules use the Department of Homeland Security Form I-9 as a model for identification

requirements. Upon further investigation the agency found the purpose for the Form I-9 is to verify employment eligibility rather than identity, which is not the intention of the agency. OHLA is revising the original proposed rule to reflect the Department of Motor Vehicle (DMV) Real ID Act requirements, put in place by the federal government in 2005. The DMV serves as an expert in the field of identification and determining its integrity.

Public testimony was received from attorney Jim Francesconi regarding the use of an Individual Taxpayer Identification number (ITIN) in lieu of a Social Security number. His concern was that many people are not eligible for a Social Security number (SSN), and therefore could not qualify for certification. Patnode explained this information would be used for collection purposes related to Department of Justice Child Support Enforcement and Department of Revenue tax administration. She said based on public comment applicants will be allowed to use an ITIN or SSN when applying for certification; however applicants would still be required to provide two forms of government issued identification, one being photographic. Herb Hirst, Debora Masten, and Mike Snook expressed concerns that illegal aliens may be able to obtain certification. DeForest assured the Board that the agency would further review the issue and notify board members promptly.

Patnode stated the permanent administrative rules are scheduled to be filed on or before May 15. A revised administrative rule schedule was provided.

B. Administrative Services Division

Mike Simpson, Quality and Statistical Analyst, presented an overview of statistics relating to the Board. His report included licensing, examinations, Web site traffic and regulatory statistics for the 2007-09 biennium. The Board was provided with the report and a copy was placed in board documents for retention. Hirst voiced concern regarding the low passing score for the esthetics examination. Snook reported that often students attempt to take all four examinations on one day. He recommends to his students they take the esthetics examination on a different day and their passing rates increase. All statistics account for students taking examinations a second or third time. Patnode clarified questions from the Board regarding the examination process.

C. Regulatory Operations Division

Tim Molloy, Regulatory Operations Division Manager, presented an overview of regulatory activity. He discussed complaint investigation and final order statistics including critical, licensing and safety and infection control complaints.

D. Program Operations Division

1) Outreach and Communication

Kraig Bohot, Public Information Officer, discussed the difference between fitness to practice and qualifications. He said OHLA is partnering with state's criminal justice system – specifically probation and parole officers – to determine if an applicant's criminal background may pose a risk to public health and safety within the work environment. Currently Regulatory Operations is working with probation and parole officers to “pre-authorize” applicants prior to their enrolling in a cosmetology college. He noted the goal is to ensure that applicants will be “fit” to practice on the public in the cosmetology setting prior to their becoming qualified to practice.

OHLA is also working with the State Board of Parole and Post-Prison Supervision to pre-authorize candidates for the Department of Corrections cosmetology program and with the Oregon Youth Authority for a similar program for youth offenders.

Bohot addressed the increase of fees set for July 1, 2009, noting originally the increase was scheduled for October 1, 008, but due to public comment against the increase the agency agreed to postpone the increase. Staff clarified questions from the Board.

Bohot thanked Sharon Wisner for sharing information about proposed legislation in Massachusetts related to medical spa regulation.

IV - Items for Board Action

There was no board action at this time.

V - Executive Session

There was no executive session at this time.

VI - Other Board Business

Recognition of Service: retirement celebration for Brenda Hoxsey. Board members and staff thanked Hoxsey for her years of service, noting that she has been an advocate for students, licensees and consumers.

VII - Public Comment

Tammy Kennedy, Coffee Creek Correctional, expressed concerns regarding the criminal background checks conducted by OHLA which may preclude her students, who are currently incarcerated, from obtaining certification. DeForest opened the discussion by stating OHLA's commitment to ensure public safety. He responded that OHLA is unable to give a "blanket approval" or guarantee that an inmate will be able to obtain certification because of the variables in parole and probation conditions.

MOTION:

Debora Masten made a motion and Herb Hirst seconded to defer the discussion of pre-authorize of candidates for the Department of Corrections cosmetology program and with the Oregon Youth Authority to the Public Safety/Public Protection Sub-committee. The motion passed unanimously.

VIII - Miscellaneous

A. Board Interest File

The meeting adjourned at approximately 12:05 pm