



**Oregon Health Licensing Agency  
BOARD OF COSMETOLOGY**



9:00 am Monday, March 29, 2010  
700 Summer Street NE, Suite 320  
Salem, Oregon

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**Minutes**

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**MEMBERS PRESENT**

Mike Snook  
Linda Bergmann  
Sharon Wisner, Vice-Chair  
Shelley Couch  
Herb Hirst

**MEMBER ABSENT**

Debora Masten - Chair  
Patricia Hall

**STAFF PRESENT**

Randall Everitt, Director  
Sinnamon Harris, Board Specialist  
Kraig Bohot, Public Information Officer  
Tim Molloy, Regulatory Operations Manager  
Sylvie McMillan, Business Services Manager  
Cerynthia Murphy, Qualification Analyst  
Samantha Patnode, Policy Analyst

**GUESTS PRESENT**

Karen Dieckman  
Cindy Long  
Matt Markee  
Cynthia Shaw  
Judith Culp  
Alice Speight

**Call to Order**

Sharon Wisner, Vice-Chair, called the meeting of the Board of Cosmetology to order at 9:06 am on Monday, March 29, 2010, at the Oregon Health Licensing Agency (OHLA), Rhoades Conference room 700 Summer Street NE, Salem, Oregon.

**1. Approval of Agenda**

**MOTION:**

Herb Hirst made a motion to approve the agenda with a second by Linda Bergmann.  
The motion passed unanimously.

## 2. Approval of Minutes

### **MOTION:**

Linda Bergmann made a motion to approve the January 25, 2010 minutes with a second by Mike Snook. The motion passed unanimously.

## 3. Reports

### ○ **Director's Report**

Randall Everitt, Oregon Health Licensing (OHLA) Director, spoke about sub-stations for practical examinations. Everitt stated that particularly during the winter months, students were traveling great distances to come to Salem to take their tests. The suggestion, Everitt stated, came from stakeholders who were frustrated with an eight- or nine-hour drive to Salem. Everitt asked OHLA Qualification Analyst Cerynthia Murphy to head up the project of locating vendors to handle offsite examinations in outlying areas such as Baker City, Bend and Medford.

Murphy stated there are approximately 14 cosmetology schools that are located more than three hours away from Salem. The agency is looking at security measures and placing procedures in order to have the vendors administer the examinations to students at an offsite testing center. The process is in the bidding stage with vendors before contracting out. Murphy stated that the students would have to coordinate with the agency and receive an authorization number from the agency in order to take an examination at the offsite testing center. The vendor also would need to have approval for that student to sit for any tests.

### ○ **Outreach and Communication**

Kraig Bohot, Public Information Officer, reviewed recent memos that had been distributed to Oregon cosmetology colleges and posted on the agency Web site. The content of these memos were:

1. Fee changes that were originally scheduled for December 15, 2009, that have been delayed pending further review by the Oregon Legislature. OHLA and COS board are planning a series of committee meetings to review new budget scenarios, make recommendations, solicit public comment, in order to review and adjust the fees and resubmit to the Department of Administrative Services (DAS) by August 2010.
2. The agency has discontinued National-Interstate Council (NIC) examinations as of February 10, 2010. The agency administration of computer-based tests allows for same-day licensing for those who meet qualifications.
3. Bohot offered OHLA Web site links to the revised examination retake policy, the Just Graduated: How to Get Certified brochure, identification requirements, and tools for schools that feature current information and examples of transcripts, fax information, closures, and updates.
4. Due to regulatory limitations clarified upon legal review, OHLA no longer offers fitness-to-practice preauthorization for individuals prior to their graduation from an Oregon cosmetology college.

Everitt weighed in on the fitness-to-practice question and stated that he felt it unfair and not legally viable for the agency to charge for preauthorizations since nothing in rule precludes an individual from licensing. It is up to the probation officer to determine fitness to practice in the cosmetology setting or any other regulated profession for which no fitness-to-practice restrictions apply. Potential students should consult their probation officer if they have questions regarding their ability to work in the cosmetology field.

Bohot stated that OHLA does not regulate weight loss body wrap and referred to the position statement dated January 12, 2009, posted on the cosmetology Web page, entitled “Unregulated Services in Licensed Facilities Allowed if Facility Follows Health and Safety Requirements” at [http://www.oregon.gov/OHLA/COS/Position\\_Statements.shtml](http://www.oregon.gov/OHLA/COS/Position_Statements.shtml).

Bohot pointed out that there is currently a Web posting entitled, “What is Advanced Esthetics?” at the top of the Cosmetology Web page that also has a link for stakeholders to e-mail in their comments.

○ **Statistical Report**

Sylvie McMillan, Business Services Manager, presented statistics that included licensing and examination statistics, active license trends, and Web site traffic. For example, the Examination Report for 2009-2011 Biennium showed 410 state exams conducted for the first quarter with 31% passed, 479 for the second quarter with 90% passed, and 309 for the third quarter with a 905 pass rate. McMillan provided the board with the report, and a copy will be placed in board documents for retention.

○ **2009-11 Budget**

McMillan presented the board with the statement of cash flow for the 7/10/2009 – 2/28/2010 period. McMillan noted that the cost allocation had decreased from 7/1/2009 -1/31/2010 percentage of 76.39% to 75.35% for the 2/1/2010 – to present. This percentage decrease also was reflected in the cash flow projections for the same dates.

McMillan stated a board committee needs to start the process of fee adjustments in order to spread out the costs through the entire biennium. One scenario to review and discuss may be to change business licenses from two-year to one-year renewals.

○ **Regulatory Operations Division Report**

Tim Molloy, Regulatory Operations Manager, reported enforcement activity for the January 5, through March 5, 2010 period. Since the last board meeting held January 25, 2010 the agency has received 23 complaints.

Molloy broke down the complaints into four categories: four classified as critical licensing concerns, 12 classified as licensing concerns, four classified as safety and sanitation concerns, and three classified as service concerns.

One critical licensing concern was determined to have violations and was issued a notice of assessing civil penalty, and three have not been completed at this time.

Four licensing concerns were determined unfounded, two have violations and were issued a notice of assessing a civil penalty, and six investigations have not been completed at this time.

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Two safety and sanitation concerns were unfounded, one has violations and a notice of assessing a civil penalty was issued, and one of the investigations has not been completed at this time.

One service concern was unfounded, one has violations and a notice of assessing a civil penalty was issued, and one of the investigations has not been completed at this time.

- **Legislative/Rules Committee Report for 3/11/2010**

Samantha Patnode, Policy Analyst, reviewed and discussed the report that stemmed from the March 11, 2010 Legislation/Rules Committee meeting (please see full report posted to the agency Web site). Staff and committee members were charged with research projects whose findings will be brought to the next committee meeting on April 12, 2010. Patnode suggested at the March 11, 2010, committee meeting the committee consider setting dates for an Ad Hoc Examination committee to meet with Cerynthia Murphy, to start considering the new curriculum for advanced esthetics. Patnode reiterated that once the curriculum is set then the committee can determine how to incorporate current licensees already providing advanced services.

#### **4. Items for Board Action**

- Adopt Permanent Administrative Rules

Patnode discussed further consideration by OHLA and Department of Administrative Services of the fees and the cost allocation showed that continued review and foresight of the overall agency budget and the Board of Cosmetology budget was necessary. It was determined that an extensive review of all agency programs cost, fees and renewal cycles was needed before further changes in fees could be done. Therefore, adopting the temporary administrative rules put in place on December 26, 2009, with the inclusion of the agency wide late fee of \$50 per year for up to two years is necessary to sustain revenue for the Board of Cosmetology.

#### **MOTION:**

Herb Hirst mad a motion with a second by Shelley Couch to adopt the permanent administrative rules effective April 1, 2010. The motion passed unanimously.

- Approve Revised Rulemaking Schedule

On January 25, 2010, the board approved the 2010 Administrative Rulemaking Schedule to begin the rulemaking process. Due to the issues that need to be addressed and discussed the agency is recommending an additional Legislative and Rules Committee meeting in April and a full board meeting via conference call in August.

#### **MOTION:**

Linda Bergmann made a motion with a second by Herb Hirst to approve the revised administrative rulemaking schedule for 2010.

- Board Approve Item Writing & Examination Committee Meeting

The Oregon Health Licensing Agency, Board of Cosmetology currently recognizes the final practical examinations administered at Oregon licensed career schools as the qualifying examination for applicants seeking certification.

The Oregon Department of Education, in collaboration with the board, establishes standard examination criteria and testing protocols. The agency evaluates, biennially, the administration of each licensed career school's final practical examinations to ensure standard criteria and testing protocols are being met.

To ensure legal defensibility and objectivity of the final practical examination, an overall assessment needs to be conducted by the Board of Cosmetology Examination Committee. The assessment will include the following: review of standards and safety, scoring viability, proctor training and alternative practical examination options.

**MOTION:**

Herb Hirst made a motion with a second by Linda Bergmann to approve an overall assessment of the final practical examination by the Board of Cosmetology Examination Committee {committee meeting is April 19, 2010}. The motion passed unanimously.

**5. Public Comment**

None

**6. Executive Session**

No executive session was held.

**7. Other Board Business**

Everitt commented that a legislative concept "placeholder" for the creation of a cosmetology field of practice has been filed and the agency will need to assess how this field of practice will affect the agency's budget.

McMillan suggested the testing for the cosmetology field of practice, which may include barbering, hair design, nails, and basic esthetics, should be kept in separate tests the way the tests are given now so students may take the tests in stages. One large cosmetology field of practice examination may prove to be overwhelming for students. McMillan also mentioned that there should be a grandfathering process set in place.

Snook explained that the one cosmetology field of practice license will make it easier for licensees to move from state to state and he has had a lot of feedback from practitioners and stakeholders in the field urging the board to implement the cosmetology field of practice.

A discussion concerning continuing education credits was brought up. Patnode stated there is no authority for continuing education outside of advanced esthetics.

○ Board Interest

Sinnamon Harris, Board Specialist, presented information concerning the National-Interstate Council of State Boards of Cosmetology (NIC) Annual Administrators Meeting, to be held in Seattle, WA, August 26 & 27, 2010.

Snook commented that the board may wish to send someone to the meeting as it provides one of the only venues to meet with administrators from other states in person and discuss issues of common interest.



The board meeting was adjourned at approximately 11:16 a.m.

Prepared by Sinnamon Harris, Board Specialist