



Oregon Health Licensing Agency
ADVISORY COUNCIL FOR ELECTROLOGISTS, PERMANENT COLOR AND
TATTOO ARTISTS



1:00 pm Monday, May 18, 2009
700 Summer Street NE, Suite 320
Salem, Oregon

Minutes

MEMBERS PRESENT:

Molly Ballew, Chair
Charity Bray
Weisha Mize, Vice-chair
Brenda Cox

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

AUDIENCE MEMBERS PRESENT:

Annette O'Mally
Kevin O'Mally
Sean Johnston
Darlene Muldrow
Diane Gruver
Brad Barnes
Emanuel Stockton
Joshua McBurnett
Ian McKay
Eric Laseter
Tyler Johnson
Chad Williams

AUDIENCE MEMBERS PRESENT:

Jaimee Bloom
Sheila Ahern
Carol Sutherland
Thomas Major
Esmeralda Canela
Danielle Baca
Justin Zapata
Amy Vincent
Ashley P. Howell
Ross Ferrie
Michelle Carter
Ami Perry

Call to Order

Molly Ballew, Chair, called to order the meeting of the Advisory Council of Electrologists, Permanent Color and Tattoo Artists at 1:06 pm on May 18, 2009, at the Oregon Health Licensing Agency (OHLA), Rhoades Conference Room, 700 Summer Street NE, Salem, Oregon. She introduced two new board members: Charity Bray and Weisha Mize.

I - Approval of Agenda

MOTION:

Weisha Mize made a motion and Brenda Cox seconded to approve the agenda for May 18, 2009. The motion passed unanimously.

II - Approval of Minutes

MOTION:

Weisha Mize made a motion and Brenda Cox seconded to approve the minutes for November 17 2008. The motion passed unanimously.

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. He stated 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. An overview of all amendments was made to the Council.

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, Policy Analyst 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.

➤ 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 by attorney Jim Francesconi regarding the use of an Individual Taxpayer Identification Number (ITIN) in lieu of a social security number, (testimony was provided to the Board). 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

Patnode also discussed fingerprinting and criminal history background checks, which would need to be more specific for each program. OHLA will have a more concrete plan on how to handle each issue as it comes up in the licensing process. She fielded questions regarding the procedures from the audience and explained more thoroughly the reason behind the background checks and the criteria for performing the checks.

Patnode stated the permanent administrative rules are scheduled to be on or before May 20. A revised administrative rule schedule was provided.

In response to an audience member's question, Patnode discussed the possibility of allowing a temporary license for out-of-state "practitioners" to allow them to perform services at conventions, fairs and shows. Changes to the rules would begin in late 2009, in preparation for the January 1, 2010 effective date of the law.

B. Administrative Services Division

Mike Simpson, Program Analyst, presented an overview of statistics relating to the Council. His presentation included separate reports for Electrologist and Permanent Color/Tattoo Artists through April of 2009. Statistics included were: Licensing, inspection (with both proposed and final orders), active license trends, graphs of percentages of examinations passed, facility breakdowns by counties, age diversities, continuing education audit results, and Web site traffic. The Council was provided with the report and a copy was placed in council documents for retention. Audience members asked about the percentage of pass/fail for the examinations and candidates repeatedly failing the exam. Patnode stated a candidate can request a "Strengths and Weaknesses" report which would show the percentage of examination questions in each domain which were passed. This is a new report, so students may need to inquire if the report isn't offered readily at the front customer service desk.

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. He said 25 complaints had been received since the last meeting. One is scheduled for a hearing in June, involving an individual who was allegedly operating and/or purporting to practice without a tattoo license.

D. Program Operations Division

1) Outreach and Communication

Kraig Bohot, Public Information Officer, spoke about the OHLA Partners with Industry: "Oregon Ink" convention. He thanked Regulatory Operations Division for spearheading what was one of the most successful outreach efforts in the agency's 10-year history and the largest tattoo convention in Oregon's history. Bohot provided photographs of the convention. The Eugene Register-Guard had an article that was posted to its website on Friday, April 10, 2009, and appeared in print Saturday, April 11, 2009, page B2. There was a question from the audience concerning the use of saran-wrap by tattoo artists at the convention. Molloy commented that the widespread use was a surprise to inspectors. The convention was used as an opportunity to inform and educate practitioners, including a safety and infection control class. Molloy offered solutions for ongoing education of practitioners which included the use of a self-inspection sheets located on the OHLA website.

Bohot stated he attended the Oregon Association of Licensed Electrologists (OALE) meeting on Sunday April 26, 2009 in Portland, presenting to more than 40 association members. He said that besides new OHLA rule requirements, new fees and corresponding continuing education alignment and current agency legislation, topics covered included regulatory requirements related to another OHLA-regulated profession that provides services in direct competition to electrologists: estheticians and laser hair removal.

Bohot noted Massachusetts Senate Bill 836, which sets guidelines and requirements for medical spas. The bill references laser and lightbased hair removal performed by electrologists and advanced estheticians. He said the agency would be watching the bill closely in the future.

Bohot 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 the Regulatory Operations is working with probation and parole officers to "pre-authorize" applicants prior to their enrolling in a private career school. 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.

Bohot showed the Council the new Regulatory Compliance resource page on the OHLA Web site. Bohot explained this is a page to help licensees through the disciplinary process. He presented the Board with OHLA's 10 report and explained it would be a virtual presentation.

Bohot provided an overview of the new "Frequently Asked Questions" section relating to fingerprinting and the requirements for the new administrative rules. This will clarify the agency's rule regarding fingerprinting and criminal background checks on applicants and current licensees.

IV - Items for Board Action

1) 2009 Vice-Chair and Sub-committees

The Advisory Council of Electrologists, Tattoo Artists and Permanent Color Technicians shall elect a chairperson and vice-chairperson for completion of 2009. The Council nominated that following member to serve as Vice-Chair.

- Weisha Mize

Patnode stated sub-committees provide review and discussion of specific issues, which usually require more in depth fact-finding and deliberation than can be scheduled at periodic council meetings. Patnode also pointed out that Jaimee Bloom, currently in the audience, was appointed to the board in the electrologist board position, so she should be considered in forming the 2009 Sub-committees. The Council nominated the following committee members.

2009 Sub-committees	
Legislation / Rules	Charity Bray, Jaimee Bloom Alternate: Weisha Mize
Enforcement	Molly Ballew, Weisha Mize
Examinations	Weisha Mize, Charity Bray Alternate: Jaimee Bloom
Licensing	Molly Ballew, Charity Bray
Public Protection/Safety	Jaimee Bloom, Molly Ballew
Customer Connection	Charity Bray, Molly Ballew

MOTION

Charity Bray made a motion and Brenda Cox seconded to approve the sub-committees and Mize as vice- chair. The motion passed unanimously.

V - Executive Session

Executive Session - ORS 192.660(2)(b)

Molly Ballew convened Executive Session under ORS 192.660(2)(b) at 3:11 pm for the purpose of reporting the dismissal or disciplining of, or to hear complaints or charges brought against, a public officer, employee, staff member or individual agent. Executive Session concluded at 3:22 pm.

Regular Session

Ballew reconvened regular session at 3:22 pm. No action or recommendations were made.

VI - Other Board Business

The Council and audience discussed the relationship between body piercing and the Advisory Council including facility licensing, mobile facilities and the lack of body piercer representation.

VII - Public Comment

Discussion was held about sending postcards to every licensee with council meeting information. Ballew responded that this method of outreach is cost prohibitive. Patnode noted that the meetings are all posted on the OHLA Web page a year before the meeting. DeForest noted that other means of outreach need to be looked at including methods to obtain email addresses, especially for currently licensed facilities

VIII - Miscellaneous

A. Council Interest File

The meeting adjourned at approximately 3:40 pm.

Prepared by: Sinnamon Harris, Board Specialist