



Health Licensing Office  
Board of Cosmetology



April 6, 2015  
700 Summer Street NE, Suite 320  
Salem, Oregon

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**MINUTES**

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**MEMBERS PRESENT**

Heidi Zuniga, chair  
Peggy McJunkin, vice-chair  
Roger Wert  
Amber Starks  
Frank Whatley (phone)

**STAFF PRESENT**

Holly Mercer, Director  
Sylvie Donaldson, fiscal services and licensing manager  
Bob Bothwell, regulatory operations manager  
Samie Patnode, policy analyst  
Maria Gutierrez, board specialist  
Cerynthia Murphy, qualification analyst  
Sarah Kelber, Communications Coordinator

**MEMBERS ABSENT**

Mike Nurre  
Lisa Bonner Brown

**GUESTS PRESENT**

None

**Call to Order**

Heidi Zuniga called the meeting of the Board of Cosmetology to order at approximately 10:03 a.m.

Holly Mercer, Directors made the following revision to the agenda:

- Added two executive session on the agenda. One for investigative files, and the other for deliberation on cases.

**Approval of Agenda:**

**MOTION:**

Roger Wert made a motion with a second by Peggy McJunkin to approve the agenda as amended. Motion passed unanimously.

**Approval of Minutes:**

**MOTION:**

Roger Wert made a motion with a second by Peggy McJunkin to approve the minutes for January 26, 2015. Motion passed unanimously.

**Determine additional training requirements for retake examination**

Applicant number 029497

Sylvie Donaldson, fiscal services and licensing manager, reported that it is necessary for member of the Board to determine addition training requirements for applicant number 029497 prior to the individual taking the Oregon Laws and Rules Written Examination for the ninth attempt. Information related to the applicant's examination history was provided.

Donaldson explained that due to applicant number 029497 failing the examination on the eight attempt with an average failure rate of 57%, the office recommended that the applicant complete 57% or 85.5 hours of the initial 150 hours of training in Oregon Laws and Rules as follows.

- 7% or 10.5 hours related to chemicals
- 14% or 21 hours related to definitions
- 2% or 3 hours related to examinations
- 4% or 6 hours related to facility operations
- 22% or 33 hours related to facility standards
- 2% or 3 hours related to licensing/ certification
- 6% or 9 hours related to practice/ standards

**MOTION:**

Peggy McJunkin made a motion with a second by Amber Starks to adopt the recommendations as outlined for application number 029497. Motion passed with five ayes votes and one opposed vote from Roger Wert. Motion passed

Applicant number 100638

It was explained that due to applicant number 100638 failing the examination for the seventh attempt with an average failure rate of 28%, the office recommends applicant #100638 complete %28% or 98 hours of the initial 350 hour of training in Nail Technology in order to take the written examination for an eight attempt. The office recommended that the training hours be completed as follows:

- 2% or 7 hours related to chemicals
- 2% or 7 hours related to standards
- 5% or 17.5 hours related to diseases
- 4% or 14 hours related to definitions
- 5% or 17.5 hours related to equipment
- 1% or 35 hours related to general

**MOTION:**

Peggy Zepp made a motion with a second by Frank Whatley to adopt the recommendations as outlined for applicant number #100638. Motion passed with five ayes votes and one opposed vote from Roger Wert. Motion passed

Members, expressed concerns on whether applicants are not passing the written examination based on language barrier verses not fully understating the material covered in the curriculum of the field of practice.

**Approve Administrative Rules Schedule – Civil Penalties and Sanctions**

In late 2014 KATU Problem Solvers broadcasted an investigative report regarding nail salons in the Portland Metro Area. The broadcast exposed that inspection reports from 2012 to 2014 produced 301 safety and infection control violations. The broadcast also showed that follow-up inspections were not being done to ensure corrective action had been taken. As well there was no mechanism in place for consumers to check the last inspection report for their nail salon. Following the broadcast and after working with Health Licensing Office (HLO) staff several issues were resolved including having inspection information available on the HLO website dating back to inspections done in 2013. HLO has also instituted a follow-up inspection system for safety and infection control violations. During the January 26, 2015 Board of Cosmetology meeting HLO inquired on whether or not the board wanted to move forward with administrative rulemaking to increase civil penalties and ensure better ability to suspend and revoke authorizations for repeat offenders.

Review and approve administrative rule schedule which includes an extended public comment period from October 1 through November 30, 2015 to allow ample time for the public to provide input regarding the proposed administrative rules. A public administrative rule hearing is scheduled for October 28, 2015 at 9 am at HLO, Rhoades Conference Room. The board is expected to adopt permanent administrative rules at the January 2016 board meeting.

**Motion**

Roger Wert made a motion with a second by Peggy Zepp to approve administrative rules schedule for civil penalties and sanctions. Motion passed unanimously.

**Director Report:**

Holly Mercer, Director, reported on the following:

- Updated on transition to Oregon Health Authority (OHA), and possible movement under Public Health.
- Update on upcoming April, Association of Oregon Cosmetology Colleges in Eugene.
- Updated the members that, Cosmetology is the highest authorization volume board which generally means the cosmetology revenue helps sustain other programs within HLO.

**Licensing and Fiscal Statistical Reports:**

Sylvie Donaldson, fiscal services and licensing manager, presented an overview of statistics related to the Board. Statistics included licensing and examination, active license trends and license volumes.

The statement of cash flow for the period 07/01/2013 – 03/23/2015 was reviewed with an actual ending cash balance of 1,731,786.52. The ending cash balance for the period of 07/01/13- 06/30/2015 is projected to be 1,567,475.31

**Policy Report:**

Samie Patnode, policy analyst, updated the Board on the 2015 Legislative Session and the following:

- House Bill 2642 with the -4 amendment establishes the nine-member Board of Certified Advanced estheticians within the Health Licensing Office (HLO). The bill authorizes the HLO to certify the practice of advanced nonablative esthetics. The bill allows HLO to begin certifying individuals as of July 1, 2016, and reduces the grandfathering period from two years to 18 months. The – 4 amendment clarifies the definition of “nonablative,” adds two physicians or physician assistants as members of the board, specifies that certificates holders are required to disclose existence of professional liability insurance as part of their client records, and stipulates that a certificate holder must enter into an agreement with a health care professional who has schedule III, IV or V prescriptive authority. The – 4 amendment does not change the fiscal determination. HB 2642 had a public hearing and work session in the House Health Care Committee with a do pass with amendments recommendation. The bill has been referred to Ways and Means do to the potential fiscal impact.
- House Bill 2587 adds natural nail care as a field of practice within the Board of Cosmetology’s oversight and regulation. The bill generally defines natural nail care as manicuring and pedicuring for cosmetic purposes which includes cutting, polishing and cleansing of the nails of the hands and feet. To date HB 2587 had a public hearing in the House Health Care Committee on February 6, 2015. It does not appear that this bill will pass during the 2015 Legislative Session.
- SB 699 Broadens exemption to provisions regulating cosmetology disciplines for persons who prepare individual’s hair solely for professional photograph or theatrical performance including styling, curling and straightening without the use of chemicals. SB 699 had a public hearing and work session in the Senate Business and Transportation Committee on March 18, 2015 and moved out of committee with a do pass recommendation. SB 699 passed the Senate Floor with 30 Ayes and has been referred to the House Business and Labor Committee.

Members, voiced concerns that the public may have a difficult time understanding what practices are covered under the exemption.

**Education and Examination**

Cerynthia Murphy, qualification analyst, updated the Board on the following education and examination related information:

- HECC Advisory Committee Update
- Update on the examination item writing, HLO is currently working with subject matter experts to update the examinations.

Mercer, provided an updated on the possibility of having written examinations offered in multiple

languages. Updates to follow and, discussion to be continued after legislative session is over.

**Regulatory Report**

Bob Bothwell, regulatory operations manager, reported on enforcement activity including:

**2011-2013 Biennium**

Between July 1, 2011 and June 30, 2013, 384 complaints were received. Of the 384 complaints 2 remain open. A summary of allegations received by type of complainant was provided as stated below.

Anonymous	Client	Other
81	97	206

**2013-2015 Biennium**

Between July 1, 2013 and February 28, 2015, 338 complaints were received. Of the 338 complaints 82 remain open. A summary of allegations received by type of complainant was provided as stated below.

Anonymous	Client	Other
71	95	172

**Leaving Public Meeting:**

- The Board of Cosmetology left the public meeting to deliberate on a contested case under ORS 192.690(1) at 11:24 a.m. on April 6, 2015
- The public meeting reconvened at 12:10 a.m. It was noted that no decision were made and no votes were made.

**Public Comment**

No public comment was received.

**Executive Session**

- The Board of Cosmetology entered executive session pursuant to ORS 192-660(2)(f) at 12:12 p.m. on April 6,2015 for the purpose of considering information or records exempt from public inspection. Records to be considered related to legal advice.
- Executive session concluded and the board reconvened regular session at 12:17 p.m. It was noted that no decisions were made and no votes were made in executive session.

Donaldson, and Member of the board outlined the following recommendations:

In regards to investigation file 14-7553

- A notice of 1, 200 civil penalty to be issued.

**MOTION:**

Peggy McJunkin made a motion, with a second by Roger Wert. Motion passed unanimously.

**Other Board Business**

Members, discuss SB 699 and further clarification concerning what the exemption is for, and who is allowed to be covered under it.

The meeting adjourned at approximately 12:34 p.m.

Minutes prepared by: Maria Gutierrez, board specialist