



Health Licensing Office
Board of Cosmetology



August 17, 2015
700 Summer Street NE, Suite 320
Salem, Oregon

MINUTES

MEMBERS PRESENT

Heidi Zuniga, chair
Peggy Zepp, vice-chair
Mike Nurre
Roger Wert

MEMBERS ABSENT

Frank Whatley
Lisa Bonner Brown
Amber Starks

STAFF PRESENT

Holly Mercer, Director
Sylvie Donaldson, fiscal services and licensing manager
Samie Patnode, policy analyst
Maria Gutierrez, board specialist
Cerynthia Murphy, qualification analyst
Sarah Kelber, communications coordinator
Trampus Schuck, investigator/ inspector
Janet Bartel, investigator/ inspector
Joanna Tucker Davis, assistant attorney general, Oregon
department of justice

GUESTS PRESENT

Karen Dieckman
Judith Culp
Cynthia Shaw
Alene Tamerius

Call to Order

Heidi Zuniga called the meeting of the Board of Cosmetology to order at 10:04 a.m. Roll was called.

Approval of Agenda:

MOTION:

Roger Wert made a motion with a second by Mike Nurre to approve the agenda. Motion passed unanimously.

Approval of Minutes:

MOTION

Roger Wert mad a motion with a second by Mike Nurre to approve the minutes for April 6, 2015. Motion passed unanimously.

Determine additional training requirements for retake examination:

Applicant number 092725

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 092725 prior to the individual taking the Nail Technology Examination for the ninth attempt. Information related to the applicant's examination history was provided.

Donaldson explained that due to applicant number 092725 failing the examination on the eight attempt with an average failure rate of 33% the office recommended that the applicant complete 33% or 115.5 hours of the initial 350 hours of training in Nail Technology as follows.

- 5% or 17.5 hours related to chemicals
- 1% or 3.5 hours related to standards
- 0% or 0 hours related to diseases
- 4% or 14 hours related to definitions
- 10% or 35 hours related to equipment
- 13% or 45.5 hours related to general

MOTION:

Roger Wert made a motion with a second by Peggy Zepp to adopt the recommendations as outlined for application number 092725. Motion passed unanimously.

Applicant number 092725

It was explained that due to applicant number 092725 failing the examination for the seventh attempt with an average failure rate of 54% on the applicant's last attempt, the office recommends the applicant complete 27% or 81 hours of the initial 150 hours of training in Oregon Laws and Rules as follows.

- 8% or 12 hours related to chemicals
- 10% or 15 hours related to definitions
- 1% or 2 hours related to examinations
- 4% or 6 hours related to facility operations
- 24% or 36 hours related to facility standards
- 3% or 5 hours related to licensing/ certification
- 3% or 5 hours related to practice standards

MOTION:

Roger Wert made a motion with a second by Mike Nurre to adopt the recommendation as outlined for application number 092725. Motion passed unanimously.

Application number 75200

It was explained that due to applicant number 75200 failing the examination for the ninth attempt with an average failure rate of 26% on the applicant's last attempt, the office recommends the applicant complete 26% or 39 hour of the initial 150 hours of training in Oregon Laws and Rules as follows.

- 5% or 7.5 hours related to chemicals
- 2% or 3 hours related to definitions
- 1% or 1.5 hours related to examinations
- 3% or 4.5 hours related to facility operations

- 14% or 21 hours related to facility standards
- 1% or 1.5 hours related to licensing / certification
- 0% or 0 hours related to practice standards

MOTION:

Roger Wert made a motion with a second by Mike Nurre to adopt the recommendations as outlined for applicant number 75200. Motion passed unanimously.

Applicant number 106733

It was explained that due to applicant number 106733 failing the examination for the ninth attempt with an average failure rate of 27% on the applicants last attempt, the office recommends applicant complete 27% or 40.5 hours of the initial 150 hours of training in Oregon Laws and Rules as follows.

- 3% or 4.5 hours related to chemicals
- 5% or 7.5 hours related to definitions
- 2% or 3 hours related to examinations
- 2% or 3 hours related to facility operations
- 11% or 16.5 hours related to facility standards
- 3% or 4.5 hours related to licensing/ certification
- 1% or 1.5 hours related to practice standards

MOTION:

Roger Wert made a motion with a second by Peggy Zepp to adopt the recommendations as outlined for applicant number 106733. Motion passed unanimously.

Applicant number 082185

It was explained that due to applicant number 082185 failing the examination for the ninth attempt with an average failure rate of 26% on the applicants last examination, the office recommends applicant complete 26% or 39 hours of the initial 150 hours of training in Oregon Laws and Rules as follows.

- 3% or 4.5 hours related to chemicals
- 3% or 4.5hours related to definitions
- 2% or 3 hours related to examinations
- 2% or 3 hours related to facility operations
- 11% or 16.5 hours related to facility standards
- 3% or 4.5 hours related to licensing/ certification
- 2% or 3 hours related to practice standards

MOTION:

Peggy Zepp made a motion with a second by Roger Wert to adopt the recommendations as outlined for applicant number 082185. Motion passed unanimously.

Approve examination blueprints:

The Health Licensing Office contracted with Ergometrics and Applied Personnel Research Inc. to conduct a job task analysis for each cosmetology field of practice and to conduct a statistical and content evaluation of all current examination items. The goals of the job task analysis were to document content validity of the written exams and to identify weighting of test components. Content validity was demonstrated through documentation of the relationship between test content and job demands.

Ergometrics provided proposed blueprints and test weights based on information collected in the job task analysis. All suggested knowledge areas identified as important in the job task analysis were mapped into broad content areas, specific knowledge areas and item counts for each broad content area.

The cosmetology item writing committee, comprised of subject matter experts (SME's) from the cosmetology industry, including school owners and educators, received training from Ergometrics for item review and test writing. SME's have spent most of the last year reviewing and writing examination questions, and mapping the questions into the blueprints to ensure full examination content coverage.

Review and approve the cosmetology field of practice written examination blueprints as recommended by Cosmetology Item Writing Committee.

MOTION:

Roger Wert made a motion with a second by Peggy Zepp to approve examination blueprints. Motion passed unanimously.

Approve proposed administrative rules- civil penalties

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.

Patnode provided a summary of the draft proposed administrative rules including an increased fine schedule and action plan for multiple and repeat offenses. The proposed administrative rules, if approved, would be open for 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 proposed administrative rules for civil penalties and sanctions. Motion passed unanimously.

Directors Report:

Holly Mercer, Director, reported on the following:

- Update on Department of Veterans Affairs authorization fee paid.
- Update on HECC meeting.

- Update on executive appointments
- Update on examination passage rate by school.
- Update on multi-language examinations – obtaining further legal advice
- Update on potential move or expansion of the office.

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 7/1/13-6/30/15 was reviewed with an actual ending cash balance of 1,897,743.60. The ending cash balance for the period of 7/1/13-6/30/15 is projected to be 1,897,743.60

Policy Report

Sarah Kelber, communications coordinator, updated the Board on the following:

- Revamp of the new website.
- Customer service surveys
- New York article on nail salons
- Social media to be added to the website in the future

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

- House Bill 2296 changes the name of the Board of Body Art Practitioners to the Board of Electrologist and Body Art Practitioners.
- House Bill 2305 allows applicants to obtain a polysomnographic technologist license if the applicant meets a combination of education or training and hold an active credential as a registered polysomnographic technologist through the Board of Registered Polysomnographic Technologist. House Bill 2305 defines “education” as including a self-study program approved by the Board of Registered Polysomnographic Technologist as of march 1, 2013.
- House Bill 2796 creates the Music therapy Licensing Program within the Health Licensing Office of the Oregon Health Authority. House Bill 2796 specifies criteria for licensure and prohibits the practice of music therapy within Oregon with a license. House Bill prohibits the use of the title of “Music Therapist” without a license. As of Jan. 1,2016 individuals may not practice music therapy or use the title “music therapist” in Oregon unless they are license
- Senate Bill 696 incorporates the Behavior Analysis Regulatory Board (BARB) under the health professional regulatory boards and the Health Licensing Office (HLO) provisions. The bill permits insurance reimbursement through July 2018 to individual’s actively practicing applied behavior analysis as of August 2013. Senate Bill 696 increases board membership from seven members to nine, change the types of Board members, and provides for Senate confirmation of board members. The bill also eliminates the BARB requirement to register other licensed health care professionals. Further, Senate Bill 696 allows health benefit plans to establish credentialing requirements for provision of behavior analysis.
- House Bill 2642 establishes the Board of Certified Advanced Estheticians (Board) within the

within the Health Licensing office of the Oregon Health Authority. The Board is made up of nine members appointed by the Governor.

- Senate Bill 699 broadens an exemption for individuals performing certain temporary hair design services for the sole purpose of professional photography, professional film or video performance, or a theatrical performance. Senate Bill 699 clarifies that for the purpose of the exemption, hair styling includes: combing, brushing and braiding hair, applying hair spray or holding cream, or the use of barrettes, ties, clips, ribbons and other hair accessories that will not alter the keratin of the hair. Senate Bill 699 allows the Health Licensing Office to develop and disseminate guidelines based on these new requirements, but does not require rule making.
- Update on practice clarification process revisions.

Regulatory Report:

Trampus Schuck, investigator/ inspector, reported on enforcement activity including:

2011-2013 Biennium

Between July 1, 2011 and June 30, 2013, 384 complaints were received. Of the 384 complaints 1 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, 387 complaints were received. Of the 387 complaints 45 remain open. A summary of allegations received by type of complainant was provided as stated below.

Anonymous	Client	Other
79	103	205

Donaldson, reported on the 20 most common final order civil penalties.

Public/ Interest Parties Feedback

Alene Tamerius, stated her affiliation to the board, and expressed concern about teeth whitening in salons. She also suggested adding the name of the school with passage rate to identify where the student graduated from to the website.

Mercer, responded, to her questions and concerns by stating the following:

- Teeth whitening in salon concerned would be address at a later time and reported back to a future meeting date.
- She also clarified that the resource pertaining to schools with passage rate is already available on the website.

Karen Dieckman, stated the importance of having passage rates by school available to the website for

individuals to access.

Executive Session:

- The Board of Cosmetology entered executive session pursuant to OR 192-660(2)(f) at 12:54 p.m. on August 17, 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 3:12 p.m. It was noted that no decisions were made and no votes were made in executive session.

Mercer, and members of the board outlined the following recommendations:

In regards to investigation file 14-7390

- A notice of intent to be issued for \$5,000 civil penalty, and a 1 year suspension.

MOTION:

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

In regards to investigation file 14-7394

- A notice of intent to be issued for \$3,800 civil penalty.

MOTION:

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

In regards to investigation file 14-7590

- A notice of \$1,000 civil penalty be issued, but stayed if no violations of Cosmetology laws and rules occur for a 1 year period.

MOTION:

Roger Wert made a motion, with a second by Mike Nurre. Motion passed unanimously.

In regards to investigation file 14-7713

- A notice of intent to be issued for \$2, 000 civil penalty.
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MOTION:

Peggy Zepp made a motion with a second by Mike Nurre. Motion passed unanimously.

In regards to investigation file 14-7744

- A Notice of intent to be issued for \$750. Civil penalty.

MOTION:

Peggy Zepp made a motion with a second by Peggy Zepp. Motion passed unanimously.

In regards to investigation file 14-7674

- A notice of intent to revoke the practitioner's license, and be issued a civil penalty of 7,600.

MOTION:

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

The Board delegate to the board chair the authority to consult with the office regarding settlement of Cosmetology cases.

MOTION:

Roger made a motion with a second by Peggy Zepp. Motion passed unanimously.

Other Board Business:

The meeting adjourned at approximately 3:12 p.m.

Minutes prepared by: Maria Gutierrez, Board Specialist