

**Oregon Health Licensing Agency (OHLA)
Board of Cosmetology
Minutes of May 12, 2008**

MEMBERS PRESENT

Mike Snook, Chairperson
Linda Bergmann, Practitioner
Deely Klarr, Practitioner
Judith Petersen, Practitioner
Herb Hirst, Public Member

STAFF PRESENT

Susan Wilson, Director
Richard McNew, ASD Manager
Kathryn Helton, Board & Qualification Specialist

MEMBER ABSENT

Patricia Hall, Practitioner
Debora Masten, Practitioner

GUESTS

Cynthia Shaw
Tiffany Lippold
Brittney Welch
Hillary Davis
Ms. Miller
Garner Davis
Cynthia Davidson

CALL TO ORDER

Michael Snook, Chair, called the meeting of the Board of Cosmetology to order at 9:04 a.m. on May 12, 2008, at the Rhoades Conference Room, located in the Oregon Veterans' Affairs Building, 700 Summer Street NE, Salem, Oregon.

APPROVAL OF AGENDA

MOTION

Mr. Snook made a motion and Ms. Klarr second to approve the agenda for May 12, 2008. The motion passed with Mr. Snook, Ms. Klarr, Mr. Hirst, Ms. Petersen, Ms. Masten, and Ms. Bergmann voting aye.

Mr. Snook requested a change in meeting agenda to move the Public comment right after the approval of the minutes and Mr. Hirst second the motion. Motion passed with Mr. Snook, Mr. Hirst, Ms. Petersen, Ms. Masten, and Ms. Bergmann voting aye.

APPROVAL OF MINUTES

MOTION

Mr. Hirst made a motion and Ms. Peterson seconded to approve the minutes from March 3, 2008, and Ms. Peterson second the motion. The motion passed with Mr. Snook, Mr. Hirst, Ms. Petersen, Ms. Klarr, and Ms. Bergmann voting aye.

PUBLIC COMMENT

Hillary Davis, a licensed esthetician, presented concerns about changes in 2009 regarding the use of lasers, the level of experience required, certain laser services that estheticians will no longer provide and questions about grandfathering current licensees providing laser services.

Mr. Snook stated currently an esthetician can use a laser without a supervision of a doctor, but is required to have training from the manufacturer. He said the Board found the level of training from different manufacturers varies and does not provide the consistency required for core competency in the use of lasers.

Mr. Snook stated the Board and OHLA are researching examination and qualification information for providing laser services and other cosmetology services. He stated there is a wide variety of training but, if services are not performed properly it may result in permanent damage. He stated OHLA proposed 2009 legislation will require advanced education beyond what is required for an esthetician's license. Once the law is changed subcommittees will research parameters, rules and testing for laser services. Sue Wilson stated that the bill for rulemaking is in draft form at the governor's office, so stakeholders and the public will have opportunity for input after December 2008.

Ms. Miller, an educator, voiced her concern about current curriculum guidelines teaching laser services. She stated other teachers and schools are not sure what to teach and how to teach it. She also said there is not enough information available on safety and sanitation with lasers. Ms. Miller said more clarification is needed, especially for instructors.

Garner Pool commented on how proud he is of what the Board is presently doing and has accomplished since the Barber and Hairdresser Boards combined in 1977.

REPORTS

DIRECTOR'S REPORT

Sue Wilson, Director, expressed appreciation for the participation at the April 18th All Board Meeting held at the Red Lion Inn, Salem, Oregon. At the meeting board members had an opportunity to meet with the Assistant Attorney General and view a presentation covering the Agency reorganization and the new cost allocation methodology.

Ms. Wilson provided an overview of the agency-wide legislative concept, LC 831-01, which continues to conform and streamline agency standards, regulations and requirements for the professions regulated by the agency. She stated the agency is trying to eliminate artificial barriers for people in each profession and is concentrating on putting people to work in a manner that is not restrictive in getting their license to practice. She reported the legislation will allow recognition of post graduate education or additional training that is applicable in protecting the public.

The proposed legislation is broad and not explicit to allow board specific details to be developed through administrative rules pertaining to their specific field of practice needs to be addressed.

Mr. Snook added the post graduate training is beyond entry to practice certification requirements. This would allow changes to be made within the scope of practice in regards to advanced education requirements.

ADMINISTRATIVE SERVICES

Richard McNew, Administrative Services Division Manager, explained the changes on the revenue verses expenditures chart the cost of doing business has increased. He showed the revenues for Cosmetology are not covering the expenditures and that there will be increases on the September 1, 2008 fee schedule since the expenditures have increased over the last 3 to 4 years. Mr. McNew reported the 2007-09 current agency-wide revenue was \$1,843,618. He pointed out the new reporting tools for agency-wide expenditures and revenues are based on actual figures. He noted the board members will be provided reports on a monthly basis. Mr. McNew also said that the Agency will be giving a discount to those that renew their licenses online. Mr. McNew went over the cost of the Agency doing business with Department of Administrative Services (DAS), Technology Support Center (TSC), and other agency's contract services. OHLA also has an internal computer support specialist. He stated other factors that make costs change are risk management and legal council fees.

Mr. McNew reported the Agency will be charging new applicants an application fee for each field of practice. The Agency will be reviewing reciprocity fees and non-credentialed application costs. Cost allocations were reported at the April 18, 2008 meeting. The Agency is trying to get most licenses to a two year renewal to make services more efficient.

Mr. Simpson, Program Analyst, explained the percentage of new licenses issued and renewals completed online July, 2007 through January, 2008 and pointed out the increase for the months of February and June 2008. He explained the agency is encouraging online renewals and is considering providing incentives using the online system. Mr. Simpson reviewed the statistic reports for enforcement, examinations, active licenses, and inspections.

Mr. Simpson stated there are concerns on examination pass rates, number of retakes and the length of time between retakes. The Board discussed the education provided by schools and the success rate in passing the national examination and the state test for esthetics. Mr. Snook discussed the guidelines used by instructors for students to meet test requirements and the overall expense of text books. He stated the National-Interstate Council of State Boards of Cosmetology (NIC) is also looking at this issue.

A member of the audience asked why was there an increase in the number of inspections from July 2007 to March 2008 on the Enforcement Report. Mr. McNew responded it was a result of hiring new inspectors and streamlining the inspection process. She asked if the average monthly inspections would be 1000-1500. Mr. Molloy replied his goal is to bring the inspection cycle to a yearly basis in lieu of the present 1 ½ to 2 year cycle. Mr. Molloy stated as a result of the increase in inspections overall public protection will improve.

Mr. Snook requested a report showing individual pass/fail ratios. He stated some students come in and take the test just to get a feel for it, not caring whether they fail it the first time. He said with statistics on individuals he would know the relationship to the scores for pass and fail rates.

Mr. Hirst commented he felt it was unfair that the applicant could take the exam in the morning and not pass, then retake the test in the afternoon and pass it. He stated by conducting the test that way, passing it would not necessarily be based on training. He suggested students be required to wait a least a day before being allowed to take a second test. Mr. Hirst explained schools need to better prepare students for the tests. His biggest concern is some people are simply good testers who can pass the test the first try instead of really knowing the subject versus what is the best protection for the public.

Ms. Wilson explained the test requirements and how many times they can take and retake the tests. Ms. Wilson will look into the testing parameters.

Mr. McNew explained the office is now open during the lunch hour and that same day testing is available which could result in enough time available for test takers to have a second chance on the same day. The allotted time to take an examination is one hour and 30 minutes therefore the latest time to retake an exam is 3:00 p.m.

Mr. Simpson presented the remaining statistic reports.

REGULATORY OPERATIONS

Mr. Molloy explained in more detail the specifics of the reports for regulatory operations. He reviewed how the Agency was implementing a plan to streamline the Regulatory Operation Division (ROD). Mr. Molloy also explained how the division is currently encouraging licensees who are issued citations to attend the diversion class, as opposed to just paying the fine; the goal being to prevent future violations of Oregon laws and rules. Discussion centered on recouping costs associated with providing training, especially if the classes are offered at various sites throughout the state and expanded to allow access to anyone interested in attending the training class, i.e. school personnel, business owners or licensees who were not cited for any violations of laws/rules. The Board also discussed repeat offenders. Mr. Molloy explained if a licensee has one violation which became a diversion in the new program a second violation occurrence would turn automatically into a citation no matter what. Board members want to know if the diversion classes are improving the issue.

Board also discussed if the violations are still occurring and if people are still not following the laws, and what they can do to stop this. Mr. Malloy stated the classes are free for the first offense, and violation maybe expunged with a \$25 fee assessment to cover investigation and field time. He stated the main objective is licensees know the laws and are protecting the public and following CDC standards. As a result of the diversion process and the ROD, the Agency is seeing less repeat offenses. Violations for further offenses in infection control, safety and safety and infection control will be cited no questions asked.

Mr. Molloy discussed several forms available online regarding client records for facility owners, updated cosmetology inspection processes, self-inspection check lists for licensees. He stated cross training is provided to all inspectors to improve efficiency. He reported the division has streamlined the complaint process from the initial complaint all the way through issuing citations (if applicable) after the inspection is completed. He noted the key to success in ROD is constant communication.

OUTREACH AND COMMUNICATION

Mr. Bohot presented the position statement on the roll on waxing systems, addressing the concern of cross-contamination. He stated according to Administrative Rule 817-010-0055 (1) *all chemical substances, including paraffin wax, used within a field of practice shall be dispensed from containers in a manner to prevent contamination of the unused portion*, roll on wax containers can only be used one time.

The Board members discussed using the roll on waxers for just waxing legs, using the pot wax for all other areas, or giving each client the wax container to bring in each time.

MOTION

Mr. Hirst made a motion and Ms. Bergmann seconded to notify users that roll on wax systems (container part) shall only be used one time per Administrative Rule 817-010-0055, and to state the applicator must be properly sanitized. The motion passed with Mr. Snook, Ms. Klarr, Mr. Hirst, Ms. Petersen, Ms. Masten, and Ms. Bergmann voting aye.

Mr. Bohot stated the position statement for laser tattoo removal. It is not within the scope of practice for Estheticians under the Oregon Revised Statutes. A dermatologist needs to perform this procedure because it is a medical procedure. Any questions or concerns should be forwarded to the Oregon Medical Board.

Mr. Bohot discussed the Laser model 3600 hair enhancement laser and where it falls in the scope of practice for Hair Designers and Barbers. It is FDA approved and states it is a Cosmetology device because it's intended use for beautification. The Salon Lasers company marketing this device wants the Board to make a decision if this service would be within the scope of practice. The Board will require more information. This product will be referred to the Product Safety Committee to research: the intended use, how it is used, the training and safety video and any information the FDA has.

Mr. Bohot stated the member biographies have been updated and if there are any changes please let him know by end of May. He informed the Board there will be a special insert in the NW Stylist in June will also be mailed to stakeholders as an outreach.

Mr. Snook asked, "when will the OHLA rule changes be added to the examination?" Ms. Wilson replied the NIC will follow the process for changing examinations and notification will be sent out to schools prior to any changes made to the exams. Mr. Snook was concerned questions were still on the exam could not be sourced. Ms. Wilson stated questions are removed from the exam, but kept in a bank and NIC has control over removing them. Ms. Wilson suggested a Board member take the exam (sample) as a means of quality check and to see if the questions are coming from the Esthetics book the schools are now using.

Mr. Bohot stated the Oregon Collaborative for Healthy Nail Salons, which started last April, is researching information on worker safety, air quality control and long term effects on Nail Salon workers. The committee meets regularly and Kraig provides information from OHLA to the group on Nail Salon Safety. The Collaborative is currently looking for ways to provide information to workers and the public.

Mr. Bohot reviewed the Web statistics. The OHLA Web page had 15,000 visitor hits and 35,000 page visits; Cosmetology had 10,000 page visits with the fourth most visited page (overall) was Airbrush Tanning. The Cosmetology main page was the second most visited page. He noted Safe Salons-Bacterial Infections was the sixth most visited page which shows people are looking at the information on the Web site.

SYMPOSIUM

Ms. Allbritton, PSPD Manager, provided the report on the March 17th symposium in Portland, OR. She stated handouts were given to Board members, attendance was high and that the main focus was on the growing field of practice and training that is currently available.

Debora Masten attended the Regional NIC meeting in Salt Lake City. In her report she stated three key points from the conference. Researching continuing education requirements for Cosmetologists, providing distance learning and online training and information was provided on the Real ID act and lawful presence and have strict standards to obtain a license to work in the state, must be a legal citizen.

ITEMS FOR BOARD ACTION

Proposed Rules

Ms. Murphy, reviewed the proposed administrative rules. The public comment closes on May 21, 2008. The Board deliberated how to place a “regulatory fence” around the use of laser and light-based devices. Rules filed in 2006 were amended for manufacturers, the scope of practice and public protection. The new language will address both manufacturer and practice standards. Ms. Masten suggested using terminology of “laser hair reduction” instead of “laser hair removal” in the rules to align with the U.S. Food & Drug Administration standards. Ms. Murphy stated the proposed rules will become effective June 1, 2008.

MOTION

Mr. Hirst made a motion and Ms. Bergman seconded to accept the proposed administrative rules, the motion passed with Mr. Snook, Mr. Hirst, Ms. Petersen, Ms. Masten and Ms. Bergmann voting aye.

The meeting adjourned at 1:26 p.m.

I attest that the Board of Cosmetology minutes of May 12, 2008, is a true and accurate reflection of the matters discussed and the views of the participants.

Lisa Murphy, Board and Qualification Specialist

Date