

**Oregon Health Licensing Agency
Board of Cosmetology
Minutes of September 17, 2007**

MEMBERS PRESENT

Mike Snook, Chairperson
Debora Masten, Practitioner
Judith Petersen, Practitioner
Patricia Hall, Practitioner

STAFF PRESENT

Susan Wilson, Director
Tim Molloy, Chief Enforcement Officer
Yvette Tamamoto, Compliance Specialist
Kraig Bohot, Communications Officer
Samantha Patnode, Program Coordinator
Karen Nelson, Administrative Assistant

MEMBER ABSENT

Linda Bergmann, Practitioner
George Robb, Public Member
Deely Klarr, Vice-Chairperson

GUESTS

Tatyana Capetz
Tisheenen Nansteth
Brian Maze
Loree Mayfield
Karen Wilson
Candace Fleener
Sharon Melter
Jessica Schubert

CALL TO ORDER

Michael Snook, Chairperson called the meeting of the Board of Cosmetology to order on September 17, 2007, at 9:05 a.m. at the Rogue Regency Inn, Rogue Valley Banquet Room, 2345 Crater Lake Highway, Medford, Oregon.

APPROVAL OF AGENDA

MOTION

Ms. Masten made a motion to approve the agenda for September 17, 2007. Ms. Hall seconded the motion. The motion passed with Mr. Snook, Ms. Masten, Ms. Hall and Ms. Petersen voting aye.

APPROVAL OF MINUTES

MOTION

Ms. Petersen made a motion to approve the meeting minutes of May 14, 2007. Ms. Masten seconded the motion. The motion passed with Mr. Snook, Ms. Masten, Ms. Hall and Ms. Petersen voting aye.

PUBLIC COMMENT

Jessica Schubert asked if Oregon would ever have advanced or clinical esthetics licensing. Mr. Snook stated each state determines licensing credentials and Oregon is currently reviewing advanced licensing for esthetics. This may be proposed during the 2009 Legislative Session.

Brian Maze asked if Oregon is looking at banning the use of high level disinfectants due to health hazards, similar to California's ban. Agency staff responded noting protecting consumers is the driving force behind the Board and currently it is required that all practitioners use an Environmental Protection Agency (EPA) high level disinfectant which has demonstrated tuberculocidal activity. If the EPA recommends something different the board will change their rules to meet the federal requirements.

A member of the audience stated that she had been involved in several medical research studies to determine if her exposures to chemicals while licensed as a practitioner contributed to her diagnosis of cancer. One of the studies performed may link artificial and natural nail dust to the diagnosis. Staff asked if they could contact her for more information regarding the results. She agreed to provide the information.

Additional public comments were addressed later in the meeting.

REPORTS

Revenues & Expenditures

Director Wilson reported that the Business Services Division is streamlining processes to gain efficiency and ensure accountability, by evaluating and revising its processes, procedures and accounting structures. Once these streamlining efforts have been made the agency will be better equipped to project its revenues and expenditures.

Director Wilson addressed the agency budget, revenues, standardization and fees. He reported that OHLA has a budget of \$6,131,235. OHLA's objective in reorganization is geared toward efficiencies -- eliminating unnecessary or redundant processes and improving completed staff work and centralizing work around function to best serve the needs of our customers. She stated that the more efficiencies the agency implements the less additional staff is required, which will have a beneficial affect on license fees. The agency is reviewing every process and position and that by October 1, 2007 the agency's new cost allocation plan will be completed.

The internal review will draw on outside resources and other agencies expertise and assistance to recommend efficiencies in restructuring OHLA. Restructuring is an important step in preparing for future growth and expansion without having to increase fees and add staff when a new program is added to the central agency's administrative oversight.

Advanced Esthetics

Oregon Health Licensing Agency (OHLA) is reviewing the training and education for the esthetics and its increased scope of practice. The current definition was probably defined in the 1930's and the practice has expanded significantly. Since the addition of skin care, the following questions continue to be asked:

- what is safe to the public;
- what education and training matches abilities to practice on the public;
- if the current education is applicable to industry practices;
- identify what is applicable within each practice area; and
- is additional training necessary.

Mr. Snook stated that the current training standards are not adequate. Estheticians are required to get the basic esthetics training and licensure, then training by a manufacturer on other advanced modalities, machines and devices. This method has proved to have no quality control and no qualifier or threshold for the agency to ensure the public is being protected. Mr. Snook added that changes were tentatively scheduled for the 2009 Legislative Session.

Director Wilson stated the agency will host a symposium in Portland with the states of Washington, Utah, Arizona and several states that are interested in developing uniform standards.

PUBLIC COMMENT

In response to questions from the audience:

- An independent Contractor is responsible for meeting safety/infection control requirements in their own space.
- A Facility owner is responsible for the common areas.
- Liability insurance is not required, but recommended for facility owners.
- Distinctions exist between barbering and hair design. Hair stylists perform chemical services and barbers do not.
- Sterilization process studies show minimal health risk outcomes.
- It is a matter of personal business preference for obtaining the clients signature on their record at each appointment.
- "Double dipping" wax sticks at any temperature is prohibited.
- A log sheet for recording cleaning of the pedicure chairs is not required but a good practice.
- Ventilation down-draft tables are not required, provided general ventilation standards are met.

Board Member Background

Ms. Wilson gave the audience a brief background on the history of the board and its membership. She stated all the board members:

- are appointed by the governor of the State of Oregon
- are on the board because of their expertise
- are appointed for three years
- can be reappointed for another three years
- not to go beyond 2 terms of 3 years
- receive training from both our office and the governor's office.

Board members that were present then introduced themselves and stated their affiliation. They are listed as follows:

- Debora Masten, Practitioner – Salem Lazer Skin Remaintenance Center
- Susan Wilson – Director of Oregon Health Licensing Agency
- Mike Snook, Chairperson – owner of the Academy of Hair Design (a Salem beauty school)
- Judith Petersen, Practitioner – licensed hairdresser but currently works for a large corporation
- Patricia Hall, Practitioner - shop owner in Pendleton, Oregon

Online Renewals

Director Wilson reported to the audience that if the license is not late and has no disciplinary action it can be renewed online. The agency is working towards a system to pay late fees and civil penalties online.

Enforcement

Tim Molloy, Chief Enforcement Officer, introduced himself to the board. He replaces Mike Tryon, who recently retired. Mr. Molloy reported that they are in the process of hiring more investigators.

The Oregon Health Licensing Agency's ***Complaints and Enforcement Section*** conducts statewide, onsite inspections for licensed facilities and responds to and investigates complaints. Onsite facility inspections include surveillance and monitoring businesses, independent contractors and practitioners. Special Investigations are based on the result of citizen complaints or cases involving critical issues – both civil and criminal, such as bacterial/viral infection outbreaks, unlicensed or illegal practice, prohibited acts, fraud or trade practice violations, incompetence or violations of practice standards and other critical issues involving the health and safety of consumers. The ***Complaints and Enforcement Section*** is responsible for taking disciplinary action against licensees who are found in violation and or non-compliance of state laws.

Mr. Molloy reported the Board of Cosmetology percentage of overall OHLA complaints received for July 1, 2007 through July 31, 2007.

July 1 through July 31, 2007:

- Total number of licenses – 64,644
- Total number of complaints – 81
- Overall percent of OHLA complaints – 70%

He provided statistics for complaints from January 1, 2007 to date.

- Total Number of Inspections - 4912
- Proposed Orders – 952
- Final Orders – 819

Complaint files

Mr. Molloy drew the Board's attention to a summary of enforcement actions noting there were 49 complaint files closed since the last board meeting.

- Services Issues "No Action Taken"- 7
- Licensing Issues "Action Taken"– 7
- Licensing Issues "No Action Taken" - 19
- Safety and Infection Control "Action Taken" – 2
- Safety and Infection Control "No Action Taken" – 14

He pointed out two interesting consumer protection cases regarding failure to adhere to infection control standards for tools and implements. The consumer generated complaints were relational to reusing of tools and implements. Both licensees where found to be in violation and where cited accordingly.

He stated that currently there are 23 complaints under investigation for the Board of Cosmetology.

Licensing

Samie Patnode, Program Coordinator, provided the Board with statistics from April 16, 2007, which included a breakdown for each field of practice;

- Total number of **active** – 64,644
- Total number of **inactive** – 33,157
- Total number of **expired** – 65,399

Ms. Patnode presented a four year comparison report detailing transactions from 2004 to 2006, including a comparison of information that reflects January 1, through July 1, 2006 and 2007:

- Increase in practitioners licenses - 1
- Increase in barbers licenses – 29
- Hair design licenses – 66
- Esthetics licenses – 76
- Total increase of licenses - 172

Examinations

Ms. Patnode presented a four-year comparison report detailing the increase and decrease in pass/fail rates including the number of examinations administered and the percent passing from 2004 to date.

She reported the examination results for January 1, 2006 through December 31, 2006:

- Oregon Laws and Rules
Number Conducted – 1,620
Percent Passing – 85%
- Hairdresser Exam
Number Conducted – 1,015
Percent Passing – 74%
- Barber Exam
Number Conducted – 15
Percent Passing – 80%
- Esthetics Exam
Number Conducted – 1,273
Percent Passing – 56%
- Nail Technology Exam
Number Conducted – 1,087
Percent Passing – 66%
- Certificate of Identification Exam
Number Conducted – 191
Percent Passing – 92%

Ms. Patnode then reported the examination results for January 1, 2007 to date:

- Oregon Laws and Rules
Number Conducted – 1076
Percent Passing – 92%
- Hairdresser Exam
Number Conducted – 640
Percent Passing – 77%
- Barber Exam
Number Conducted – 15
Percent Passing – 80%
- Esthetics Exam
Number Conducted – 1094
Percent Passing – 51%
- Nail Technology Exam
Number Conducted – 641
Percent Passing – 88%

- Certificate of Identification Exam
Number Conducted – 62
Percent Passing – 69%

Mr. Snook asked why the certificate of identification examination had a 69% percent passing rate, since it was an open book test. Ms. Patnode responded noting that data entry errors during the change over to an open book test are cause for the low passing rate. The data will be corrected prior to the next meeting.

Practical Examination Evaluation 2005/2007 Biennium

Ms. Patnode referred the audience to the report titled, "Practical Examination Evaluation Schedule – 2005-2007 Biennium."

Ms. Patnode stated that all practical evaluations were completed for cosmetology career schools in the 2005-2007 biennium. In response to an audience member's question, she explained that a practical evaluation entailed a staff and agency contractor going to each school and evaluating the proctor and ensuring the Oregon Department of Education (ODE) requirements of the practical examination are met.

Ms. Patnode noted that all schools met the ODE criteria for the 2005-2007 biennium. During the 2003-2005 biennium four schools did not meet the criteria, but these issues have since been corrected.

New policy on retaking exams

Effective July 11, 2007 a new policy was established for applicants retaking the Board of Cosmetology written examination. Discussion focused on recertification of training after an applicant fails any examination section(s) three successive times and other related issues. As a result, a waiting period from 7-30 days after two or more successive failed attempts of any section(s) of the state written examination was established.

Mr. Snook clarified the policy was established to ensure that applicants will no longer be able to take the examination multiple times in quick succession. This will reduce the potential answering questions based on the process of elimination. He stated that future plans include providing the applicant feedback on problem areas that will be useful to study for future exam attempts.

OUTREACH & COMMUNICATION

OHLA Web Site

Kraig Bohot, OHLA Communications Officer, provided a tour of the new 3.0 version of the Oregon.gov web site, which added features that are compliant with the Americans with Disabilities Act. He highlighted some of the new features such as scrolling topics, navigation panes and other details. Mr. Bohot pointed out that the OHLA web site "License Inquiry" had been updated to add the current disciplinary status of a license and to remove personal address information.

The Safe Salons public education campaign, was launched on the main page of www.oregon.gov on Friday, July 20, 2007 and was featured for a full week. It will continue with two full pages of content and multiple links featured on www.oregon.gov/OHLA/COS and under Current Topics on all main pages of www.oregon.gov/OHLA.

Mr. Bohot pointed out that the Web site was not only designed for public information but also for practitioners. He stated that he was originally communicated that cosmetologists typically did not use web sites; however, he found out that the two states that did provide licensing renewals online had a 70% online renewal rate. Director Wilson stated that cosmetology online licensing renewal rate was already at 28%.

Indoor Air Quality Requirements

Mr. Bohot reported that news on www.Oregon.gov/OHLA/COS of OHLA's participation in a proposed project aimed at improving the indoor air quality and reducing worker and public exposure to toxic fumes and products in nail salons generated an e-mail from Albert Shields, a housing inspector and building codes enforcement officer. Mr. Shield's e-mail stated that new state-wide requirements for ventilation were imposed for nail salons in 2007. Mr. Bohot stated he thought this was a good indication that the Web site could be used effectively for improved communication channels. The Board pointed out that enforcing air quality requirements would involve other agencies.

Portland Institute for Contemporary Art

Mr. Bohot reported a spirited discussion over the regulatory ramifications of Portland Institute for Contemporary Art's request to allow fifth-grade students to cut hair for artistic expression. This resulted in a one-time variance and approval.

Oregon State Nursing Board

Mr. Bohot then referred to an article in the Oregonian regarding the Oregon Board of Nursing. The article stated that investigators found that the board, which regulates the practice, licensing and education of nurses in the state, "appeared to lack an acute sense of urgency to protect the public."

The article stated "Months, sometimes years, may pass before action is taken" against a nurse and potential criminal behavior is not always quickly reported to law enforcement," the Department of Administrative Services found in its five-page review.

Governor Kulongoski, requested a review in July 2007, to monitor board activities and regulation. Mr. Bohot added this resulted in an audit by a special legislative committee and the result was that the long-time director of the Board of Nursing resigned.

Mr. Bohot said that this incident has spurred Legislation to look at regulation and the traditional way of overseeing professions and boards in Oregon.

2007 NIC Conference – South Dakota

Mr. Bohot said he spoke at the National Interstate Council of the State Board of Cosmetology (NIC) conference.

Debora Masten gave a brief report about a seminar they attended on how to prevent cheating on the exams. Ms. Wilson stated that Lasergrade is a testing company dedicated to eradicating cheating as much as possible, so that people who are pursuing training, receiving education and studying for the exams are not being undercut by people that are trying to beat the system. Ms. Wilson added that state regulators were provided with a book on the subject.

Advanced Training for Esthetics

Ms. Masten also attended a seminar on second-tiered licensing. She reported on her meeting with several states representatives who expressed interest in pursuing advanced or higher level training. Some of the topics discussed were as follows:

- The National Coalition of Esthetic and Related Associations' (NCEA) certification program, which has NIC endorsement,
- recognizing certification programs like this program that are already in existence,
- establishing a school in the State of Oregon that has a recognized program and
- infection control.

Board Orientation Video

Mr. Bohot then presented the OHLA Board and Council Orientation video. He explained that the volunteer citizens that serve on eight different board and councils are invaluable regulatory resources, providing professional knowledge and a consumer perspective. Mr. Bohot stated that the video and handbook highlights the roles and responsibilities of volunteer citizen boards, council members, the OHLA regulatory model, professions, legislation, administrative rulemaking and additional resources.

Legislative Report

Director Wilson stated that the agency is planning for the 2009 Legislative Session early, with the focus on cleaning up statutes.

It is the agencies' goal to be ready to oversee and regulate advanced training in esthetics in order to protect the public, in an industry that is rapidly evolving. In the 1990s the trend was pedicures and manicures; today it is spa treatments. The agency will address as part of 2009 legislation housekeeping measures. She added that the Board will address and oversee the process to align with the nationwide standards.

Director Wilson pointed out that Debora Masten and Mike Snook are members of the Legislative Subcommittees, noting that additional members would be appointed.

ITEMS FOR BOARD ACTION

2008 Subcommittees

Appointment of board members to serve on specifically designated subcommittees.

Discussion

Ms. Patnode stated the purpose of subcommittees is to provide review and discussion of specific issues, which usually require more in-depth fact-finding and deliberation than can be scheduled at periodic board meetings. Ms. Patnode gave the board members an overview of previous subcommittee members.

MOTION

Debora Masten made a motion to keep the subcommittees the same and to revisit this again at the November, 2008 meeting. Judith Petersen seconded the motion. The motion passed unanimously.

The subcommittee assignments for 2008 are as follows:

2008 Subcommittees	
Enforcement Committee	Deely Klarr; Mike Snook; Patricia Hall
Industry Liaison Committee	Mike Snook; Linda Bergmann
Item Writing/Examination	Debora Masten; Deely Klarr
Legislative/Rules Committee	Debora Masten; Mike Snook
Product Safety/Public Protection Committee	Debora Masten; Deely Klarr; George Robb
Scholarship/Education Committee	Judith Petersen; Linda Bergmann; Mike Snook

2008 Board Meeting Dates

Review and approve proposed board meeting dates for 2008.

Discussion

Ms. Patnode stated the meetings have traditionally been scheduled every other month on Mondays, beginning at 9 a.m. The board usually holds meetings at the Health Licensing Agency, which is a centralized location, to accommodate and to allow extended participation in the board meetings. Approve the proposed meeting dates for 2008 and add additional meetings as necessary. Conduct board meetings at the Agriculture Building. It was noted that the November meeting may or may not occur based on what information is out there to look out.

MOTION

Debora Masten made a motion to accept the proposed meeting dates and the new location of the meetings (Agriculture Building). Judith Petersen seconded the motion. The motion passed unanimously.

The Oregon Health Licensing Agency Board of Cosmetology meetings will be held on Mondays on the following dates:

2008 Board Meeting Dates

- January 7, 2008, 9:00 a.m.
- March 3, 2008, 9:00 a.m.
- May 12, 2008, 9:00 a.m.
- September 22, 2008, 9:00 a.m.
- November 3, 2008, 9:00 a.m.

2008 Chairperson and Vice-chairperson

The Board of Cosmetology shall elect a chairperson and vice-chairperson for 2008.

Discussion

Mike Snook served as chairperson during 2007.

Deely Klarr served as vice-chairperson during 2007.

Recommendation

It was recommended that the Board nominate and select a board chairperson and vice-chairperson for 2008.

MOTION

Debora Masten made a motion to keep the chairperson and vice-chairperson the same until the November meeting. Patricia Hall seconded the motion. The motion passed unanimously.

The Board's chairperson and vice-chairpersons for 2008 are as follows:

2008 Chairperson and Vice-chairperson

- Chairperson – Mike Snook
- Vice-chairperson – Deely Klarr

PUBLIC COMMENTS

A member of the audience expressed her thanks for receiving notice of the meeting in the mail. In response the agency staff stated notices are sent to anyone who has requested to be on the mailing list; when meetings are held at alternative locations notices are sent to a wider audience. Mr. Snook said requests to be put on a mailing list could be made at the end of the meeting.

Mr. Bohot said they also produce Licensing Online, which is a bi-monthly, on-line agency newsletter. It contains general information about the agency. It is free. If you want to sign up for this, it is the third line on the Web site after publications and resources.

A member of the audience asked why continuing education is not required especially for the stylists working inside their home. She voiced concern that many purchasing supplies; selling them at a discount and undercutting other professionals. Mr. Snook said that if continuing education was imposed it would be for all practitioners. He noted that the Board has discussed the issue of requiring continuing education and it is very difficult to justify at the legislative level.

Mr. Snook said the Boards main concern is public protection safety. If a practitioner is doing something illegal, then a complaint can be made. A complaint will prompt an investigation and the practitioner will be cited if violations are found.

An audience member asked for clarification regarding regulations for an additional sinks used for the cleanup of chemical products in a nursing home. Staff stated that a water source which is

I attest that the Board of Cosmetology minutes of September 17, 2007, are a true and accurate reflection of the matters discussed and the views of the participants.

The meeting adjourned at 12:22 p.m.

Samantha Patnode, Program Coordinator