

MINUTES OF THE MEETING OF
THE BOARD OF COSMETOLOGY, ELECTROLOGY, ESTHETICS,
NAIL TECHNOLOGY, AND BODY ART

January 7, 2019

1. ROLL CALL

The meeting of the Board of Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art was called to order by the Vice-Chair, Vicki Criswell, at 10:33 a.m., in Lower Level Conference Room B, Nebraska State Office Building, Lincoln, Nebraska. Copies of the agenda were mailed to the Board members and other interested parties in accordance with the Public Meeting Law.

Members Present: The following members answered roll call:

Sandra Christie, Member
Vicki Criswell, Vice-Chair
Jacqueline Hornig, Member
Ruth Lucas, Member
Marie Nordboe, Member
Becky Pettigrew, Member
Brandy Phillips, Member
Pam Rowland, Member

Members Absent:

Bridget Anderson, Secretary (arrived 11:25 a.m.)
Ronald Banse, Member
Melanie Judkins, Chair

Others Present:

Ami Huff, Assistant Attorney General
Kris Chiles, Program Manager, Licensure Unit
Nancy Herdman, Health Licensing Coordinator, Licensure Unit

A quorum was present and the meeting convened.

Board members and staff introduced themselves and the new member, Brandy Phillips, was welcomed.

2. ADOPTION OF AGENDA

MOTION: Rowland moved, seconded by Pettigrew, to adopt the agenda. A voice vote was taken. Voting aye: Christie, Criswell, Hornig, Lucas, Nordboe, Pettigrew, Phillips, Rowland (8). Voting nay: None (0). Absent: Anderson, Banse, Judkins (3). Motion carried.

3. APPROVAL OF MINUTES (11-5-18, 12-3-18)

MOTION: Rowland moved, seconded by Pettigrew, to approve the minutes of 11-5-18. A roll call vote was taken. Voting aye: Criswell, Hornig, Nordboe, Pettigrew, Rowland (5). Voting nay: None (0). Abstain: Christie, Lucas, Phillips (3). Absent: Anderson, Banse, Judkins (3). Motion carried.

MOTION: Rowland moved, seconded by Pettigrew, to approve the minutes of 12-31-18. A roll call vote was taken. Voting aye: Christie, Criswell, Lucas, Nordboe, Pettigrew, Phillips, Rowland (7). Voting nay: None (0). Abstain: Hornig (1). Absent: Anderson, Banse, Judkins (3). Motion carried.

4. INVESTIGATIONAL & CONFIDENTIAL INFORMATION/REPORTS – CLOSED SESSION

MOTION: Pettigrew moved, seconded by Lucas, to enter into closed session at 10:41 a.m. for the purpose of hearing discussions of an investigative/confidential nature and for the prevention of needless injury to the reputation of the individuals. Criswell repeated the motion purpose. A roll call vote was taken. Voting aye: Christie, Criswell, Hornig, Lucas, Nordboe, Pettigrew, Phillips, Rowland (8). Voting nay: None (0). Absent: Anderson, Banse, Judkins (3). Motion carried.

12:25 a.m. - Anderson entered meeting
11:27 a.m. - Break
11:45 a.m. - Meeting resumed
Huff departed meeting
Teresa Hampton, Department Attorney, entered meeting

MOTION: Nordboe moved, seconded by Christie, to return to open session at 11:55 a.m. A roll call vote was taken. Voting aye: Anderson, Christie, Criswell, Hornig, Lucas, Nordboe, Pettigrew, Phillips, Rowland (9). Voting nay: None (0). Absent: Banse, Judkins (2). Motion carried.

11:55 a.m. - Huff entered meeting

5. APPLICATION REVIEW, RECOMMENDATIONS AND REPORT OUT – OPEN SESSION

Conviction Reviews:

Sarah Sheppard – Cosmetologist Reinstatement from Discipline (Modification Request)

MOTION: Rowland moved, seconded by Nordboe, to recommend offering a probationary reinstated license with 2 year probation to include the same terms and conditions of the Agreed Settlement dated 9-6-13. Motion based on short period of sobriety. A roll call vote was taken. Voting aye: Anderson, Christie, Criswell, Hornig, Lucas, Nordboe, Pettigrew, Phillips, Rowland (9). Voting nay: None (0). Abstain: None (0). Absent: Banse, Judkins (2). Motion carried.

Gregory Hunt – Tattoo Artist Applicant

MOTION: Pettigrew moved, seconded by Lucas, to recommend issuing the license with no terms or conditions. A roll call vote was taken. Voting aye: Christie, Criswell, Hornig, Lucas, Nordboe, Pettigrew, Phillips, Rowland (8). Voting nay: None (0). Abstain: Anderson (1). Absent: Banse, Judkins (2). Motion carried.

12:02 p.m. - 2 public persons entered meeting

Loren Forest – Tattoo Artist Applicant

MOTION: Nordboe moved, seconded by Rowland, to recommend offering a probationary license with a 6 month probation to include the standard terms and conditions and the following: complete the jurisprudence examination within 90 days of issuance of the license. Motion based on conviction history and failure to disclose 1 conviction. A roll call vote was taken. Voting aye: Christie, Criswell, Hornig, Lucas, Nordboe, Pettigrew, Phillips, Rowland (8). Voting nay: None (0). Abstain: Anderson (1). Absent: Banse, Judkins (2). Motion carried.

Jose Gomez – Tattoo Artist Applicant

MOTION: Rowland moved, seconded by Christie, to recommend offering a probationary license with a 6 month probation to include the standard terms and conditions and the following: complete the jurisprudence examination within 90 days of issuance of the license. Motion based on conviction history and failure to disclose 1 conviction. A roll call vote was taken. Voting aye: Christie, Criswell, Hornig, Lucas, Nordboe, Pettigrew, Phillips, Rowland (8). Voting nay: None (0). Abstain: Anderson (1). Absent: Banse, Judkins (2). Motion carried.

Jill Hall – Esthetician Reinstatement

MOTION: Nordboe moved, seconded by Pettigrew, to recommend offering a probationary reinstated license with a 6 month probation to include the standard terms and conditions and the following: complete the jurisprudence examination within 90 days of issuance of the license. Motion based on conviction history and failure to disclose convictions. A roll call vote was taken. Voting aye: Christie, Criswell, Hornig, Lucas, Nordboe, Pettigrew, Phillips, Rowland (8). Voting nay: None (0). Abstain: Anderson (1). Absent: Banse, Judkins (2). Motion carried.

Jennifer Martin – Esthetician Applicant

MOTION: Rowland moved, seconded by Nordboe, to recommend offering a probationary license with 1 year probation to include the standard terms and conditions and the following: complete the jurisprudence examination within 90 days of issuance of the license, follow the evaluation recommendations and any treatment recommendations, abstain from controlled substances, quarterly employer reports, body fluid screens. Motion based on substance use disorder diagnosis, convictions history, and failure to report convictions. A roll call vote was taken. Voting aye: Christie, Criswell, Hornig, Lucas, Nordboe, Pettigrew, Phillips, Rowland (8). Voting nay: None (0). Abstain: Anderson (1). Absent: Banse, Judkins (2). Motion carried.

Nikki Greenough – Cosmetologist Applicant

MOTION: Hornig moved, seconded by Lucas, to recommend issuing the license with no terms or conditions. A roll call vote was taken. Voting aye: Christie, Criswell, Hornig, Lucas, Nordboe, Pettigrew, Phillips, Rowland (8). Voting nay: None (0). Abstain: Anderson (1). Absent: Banse, Judkins (2). Motion carried.

Un-Licensed Practice Reviews

Wax and Relax – Esthetics Salon Applicant

MOTION: Lucas moved, seconded by Nordboe, to recommend offering a probationary license with a 6 month probation to include the standard terms and conditions and the following: owner complete the jurisprudence examination within 90 days of issuance of the license. Motion based on operating without a license. A roll call vote was taken. Voting aye: Christie, Criswell, Hornig, Lucas, Nordboe, Pettigrew, Phillips, Rowland (8). Voting nay: None (0). Abstain: Anderson (1). Absent: Banse, Judkins (2). Motion carried.

Chiles reported the Capitol School in Omaha had a new owner.

Mail ballot report: Dakota Scheffler, Tattoo Artist Applicant, majority recommendation was 6 month probation with completion of the jurisprudence examination.

12:08 p.m. - Hampton departed the meeting

6. Regulations Review & Discussion (172 NAC 34, 36 and 40)

Chiles asked the Board to focus on content areas (rather than wordsmithing) as they reviewed the regulations. Following are the major areas discussed:

Chapter 26

002.01 Under Examples of Similar Practices, number 2: Change wording to “Applying, coloring, or curling eyelashes using a chemical solution.”

002.01 Under Examples of Similar Practices, number 4: Change wording to “Mild peels (equal to or less than 30% concentration).”

12:27 p.m. - Break
12:33 p.m. - Meeting resumed
1 public person entered meeting

002.05, number 2: Have it read “nail bed or nail plate” and make this change where it appears elsewhere in the regulations.

004 Reciprocity: Leave the 16 hours of instruction on operating an electric file.

011.02, Instructor Hours: Board supports the 12 hours of continuing education.

014.02 (B): Board supports removing medical as a waiver of continuing education option.

Chapter 40

002 Definitions: Remove 002.02 and 002.05.

005 Program of Study: Under Nail Technology theory, number 8: Add “and Electricity.”

008.01 Nail Technology Schools: Remove 008.01(B) Teaching Tools. The discussion was the schools could determine what tools they need.

008.01(C) Library: Take it out of here and add it to 009.01, documents that must be available or posted in the school.

009.02(A) Student equipment kit: Add nipper and add foot files.

011 Closing School: Add statement that schools must maintain records for 5 years.

Chapter 42

005.01 Training Curriculum: Under Cosmetology Advance Theory, #9b, change title to “Infection Control Practices.”

005.01 Training Curriculum: Under Cosmetology Optional Hours, a public person commented that some salons want to provide some of the 100 hours by having a student work on clients. It was discussed that this could be done if the salon was an Apprentice Salon and they had an instructor on site. Otherwise it could not per the statutes. Some members and another public member voiced they were not in favor of a student performing services in a salon as part of the optional hours. There was support for schools and salons working together.

005.01 Training Curriculum: Under Freshman Esthetic Curriculum, #1d, change it to “Skin types” and remove “Basic 5.” Under number 2, take out “Fitzpatrick Scale” because falls under skin types under skin analysis.

005.01 Training Curriculum: Under Advance Esthetic Curriculum, #8, take out “d. Skin Care Business & Marketing,” because that is not part of the practice of esthetics. Chiles will talk with Legal to determine if “Salon Business and Management” can be retained under #10.

009.01(B) and 009.01(C): The Teaching Tools and Library were changed the same as in Chapter 40.

009.02(B) School Equipment: Number 6 was changed to “hair” dryers instead of “hooded” dryers.

011 Closing School: Changed the same as in Chapter 40.

Chiles will make the changes discussed and forward to Legal.

7. NEW BUSINESS

- a. 2019 Legislative Session

Rowland reported she met with Senator Kolterman and the Governor to discuss licensing manicurists and pedicurists as nail technicians and body art proposed changes. A draft bill has been drafted.

Body art proposal:

- Add a guest body artist.
- Add a temporary body art facility

Nail technology proposal:

- Add a nail technology apprentice salon
- Nail technology includes manicuring and pedicuring on the natural nail

The following changes were suggested by Board Members:

- On page 2, line 27, add "nail plate."
- On page 3, line 10, remove "with the use of acetone or similar products."
- There was a question asked if a cosmetology salon could apply to be an apprentice salon and the response was "yes."
- Regarding page 5, line 14, there was the comment that there is no fee for a temporary body art facility.
- Page 5, line 24, it was discussed that there are no requirements to be registered as a guest body artist.
- Page 7, lines 9-11, no longer need to take the examination in English.
- Page 12, lines 6-18, the comment was made that there were no requirements to be a temporary body art facility. Also question about how can do an inspection when the temporary body art facility is only for 72 hours once issued.
- On page 12, lines 3-6, it does not include a cosmetology apprentice salon as a program graduated from to qualify for a nail technology license.
- Page 12, line 6 says a licensed esthetician meets the education qualifications for a nail technology license. The Board discussed this and recommended esthetician be taken out. It was discussed that while some estheticians do manicuring and pedicuring, they have not performed other nail technology services.
- Page 13, lines 15-22 regarding nail technology apprentice salons was recommended to be removed. It was suggested that the drafters look at the cosmetology school requirements.
- Page 13, line 23, it was recommended the evaluation scale be removed from the draft.

3:21 p.m. - Lucas departed meeting

Rowland will present the changes recommended by the Board to the Senator's Office and the plan is to have the draft bill done by Friday of this week.

MOTION: Rowland moved, seconded by Anderson, to approve the body art/nail technology draft bill with the changes recommended. A roll call vote was taken. Voting aye: Anderson, Christie, Criswell, Hornig, Nordboe, Pettigrew, Phillips, Rowland (8). Voting nay: None (0). Abstain: None (0). Absent: Banse, Judkins, Lucas (3). Motion carried.

b. Approval of Method of Noticing Meeting Agendas

Chiles reported agendas are currently noticed on the Department's website, posted on the bulletin board in the lobby of the Licensure Unit, and provided to individuals who request a copy.

MOTION: Rowland moved, seconded by Nordboe, to maintain the same process in 2019 as have done for noticing meeting agendas. A roll call vote was taken. Voting aye: Anderson, Christie, Criswell, Hornig, Nordboe, Pettigrew, Phillips, Rowland (8). Voting nay: None (0). Abstain: None (0). Absent: Banse, Judkins, Lucas (3). Motion carried.

8. UPDATES/REPORTS/STATISTICS

- a. Profession Updates: Body Art, Cosmetology, Electrology, Esthetics, Nail Technology and Indoor Tanning Facilities
 - Russian Manicure – nail technology/manicuring position

Body Art – There was no report

Cosmetology – Nordboe reported she and others had problems printing their wallet card.

Electrology – There was no report.

Esthetics - There was no report

Nail Technology - There was no report.

Indoor Tanning Facilities – There was no report

Criswell reported that a Russian Manicure was mostly cuticle work. The Board will further research Russian Manicures and defer for discussion at the next meeting.

- b. National-Interstate Council of State Boards of Cosmetology

Nordboe provided a written report of additional content presented at the October 2018 convention.

- c. Disciplinary/Non-Disciplinary Action Report, Examinations, Renewals, Licensing Stats, and Administrative Penalties

Chiles distributed the Disciplinary/Non-Disciplinary Report beginning January 1, 2019:

Chelsey Kubes, Probation 1-4-19 to 7-4-19

Brian Spencer, Probation 1-2-19 to 1-2-21

Examination results beginning 1-1-19:

Jurisprudence (CEU) – 1 fail

Chiles reported \$7,740 was assessed for administrative penalties in 2018.

To date, of the 8994 cosmetologists who were sent renewal postcards, 6064 renewed. For instructors, 177 were sent renewal postcards and 116 renewed.

9. ELECTION AND APPOINTMENT

- a. **Officer Elections: Chair, Vice-Chair, Secretary**

MOTION: Pettigrew moved, seconded by Hornig, to elect Criswell as chair, Anderson as vice-chair, and Rowland as secretary. A roll call vote was taken. Voting aye: Anderson, Christie, Criswell, Hornig, Nordboe, Pettigrew, Phillips, Rowland (8). Voting nay: None (0). Abstain: None (0). Absent: Banse, Judkins, Lucas (3). Motion carried.

- b. **Appointment: Complaint Consultant**

Horning was appointed as the complaint consultant.

10. ADJOURNMENT

Criswell declared the meeting adjourned at 4:35 p.m.

Respectfully submitted,

Pamela Rowland, Secretary

Board of Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art

Summarized by Nancy Herdman, Health Licensing Coordinator