

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

January 8, 2018

1. ROLL CALL

The meeting of the Board of Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art was called to order by the Chairperson, Melanie Judkins, at 10:30 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.

The following members answered roll call:	
Bridget Anderson	- Secretary
Sandra Christie	- Member
Vicki Criswell	- Vice-Chair
Lyra Faltys	- Member
Jacqueline Hornig	- Member
Melanie Judkins	- Chair
Marie Nordboe	- Member
Pamela Rowland	- Member
Becky Pettigrew	- Member
Members Absent:	
Gloria Harper	- Member
Others Present:	
Ami Huff, Assistant Attorney General	
Kris Chiles, Program Manager, Licensure Unit	
Nancy Herdman, Health Licensing Coordinator, Licensure Unit	
Trevor Klaassen, Investigator	
Dennis Scott, Investigator	
Kathleen Krueger, Investigator	
Jeff Newman, Investigator	
Anna Harrison, Compliance Monitor	

A quorum was present and the meeting convened.

2. ADOPTION OF AGENDA

MOTION: Faltys moved, seconded by Rowland, to adopt the agenda. A roll call vote was taken. Voting aye: Anderson, Christie, Criswell, Faltys, Hornig, Judkins, Nordboe, Pettigrew, Rowland (9). Voting nay: None (0). Absent: Harper (1). Motion carried.

3. APPROVAL OF MINUTES (12-4-17)

MOTION: Anderson moved, seconded by Pettigrew, to approve the minutes of 12-4-17. A roll call vote was taken. Voting aye: Anderson, Christie, Criswell, Faltys, Hornig, Judkins, Nordboe, Pettigrew, Rowland (9). Voting nay: None (0). Abstain: None (0). Absent: Harper (1). Motion carried.

4. INVESTIGATIONAL & CONFIDENTIAL INFORMATION/REPORTS – CLOSED SESSION

MOTION: Criswell moved, seconded by Faltys, to enter into closed session at 10:35 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. A roll call vote was taken. Voting aye: Anderson, Christie, Criswell, Faltys, Hornig, Judkins, Nordboe, Pettigrew, Rowland (9). Voting nay: None (0). Absent: Harper (1). Motion carried.

- 10:40 a.m. - Newman departed meeting
- 10:47 a.m. - Pettigrew departed meeting (conflict)

- 10:59 a.m. - Pettigrew entered meeting
- Krueger departed meeting
- 11:04 a.m. - Scott and Klaassen departed meeting

MOTION: Faltys moved, seconded by Christie, to return to open session at 11:30 a.m. A roll call vote was taken. Voting aye: Anderson, Christie, Criswell, Faltys, Hornig, Judkins, Nordboe, Pettigrew, Rowland (9). Voting nay: None (0). Absent: Harper (1). Motion carried.

Moved to agenda item 6.

6. NEW BUSINESS

a. Approval of the Method of Noticing Meeting Agendas

Chiles reported the current process for noticing meeting agendas is to place them on the Department website and post in the lobby of the Licensure Unit.

MOTION: Anderson moved, seconded by Rowland, to notice meeting agendas as previously done in 2017. A roll call vote was taken. Voting aye: Anderson, Christie, Criswell, Faltys, Hornig, Judkins, Nordboe, Pettigrew, Rowland (9). Voting nay: None (0). Absent: Harper (1). Motion carried.

b. 2018 Legislative Session

Chiles reported the legislative session started on 1-3-18, was a 60 day session, and would end on 4-18-18. Chiles presented bills relevant to this Board that had been introduced.

LB 705 – Change licensure requirements for an esthetician and an esthetician instructor. Proposes to remove the 600 credits for an esthetician and for esthetics instructor provides the option to obtain an instructor license if the individual holds current licensure as an esthetician in Nebraska and has two years of experience as an esthetician immediately prior to application for a license as an esthetics instructor.

The members expressed concern that an esthetician could become an instructor without any instructor training which they felt was a disservice to the students and the potential instructor. It was suggested a letter be written from the Board not supporting this instructor option which Criswell agreed to write.

MOTION: Anderson moved, seconded by Hornig, to write a letter on LB 705 not supporting the 2 years esthetics experience to become an esthetics instructor. A roll call vote was taken. Voting aye: Anderson, Christie, Criswell, Faltys, Hornig, Judkins, Nordboe, Pettigrew, Rowland (9). Voting nay: None (0). Absent: Harper (1). Motion carried.

- 11:35 a.m. - 1 public person entered meeting

LB 706 – Bill relating to electrology. Proposes to remove the 600 credits and electrology establishment which the statutes currently do not provide authority to license electrology establishments.

MOTION: Nordboe moved, seconded by Rowland, to write a letter in support of LB 706 which Anderson will write. A roll call vote was taken. Voting aye: Anderson, Christie, Criswell, Faltys, Hornig, Judkins, Nordboe, Pettigrew, Rowland (9). Voting nay: None (0). Absent: Harper (1). Motion carried.

LB 790 – Bill relating to licensure of mobile cosmetology salons and mobile nail technology salons.

The members had questions about the ability to inspect a mobile unit and public safety and sanitation. After a lengthy discussion, the Board took a neutral position on LB 790 as currently written and determined no letter would be written.

Discussion moved to agenda item 5.

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

a. Initial Licensure/Reinstatement/Convictions/Administrative Penalties

Jill Beck – Cosmetologist Applicant

MOTION: Anderson moved, seconded by Nordboe, to deny the application based on failure to provide information requested, specifically an alcohol/drug evaluation and letter of explanation relating to the applicant's conviction history, and failure to report 9 convictions. A roll call vote was taken. Voting aye: Anderson, Christie, Criswell, Faltys, Hornig, Judkins, Nordboe, Pettigrew, Rowland (9). Voting nay: None (0). Abstain: None (0). Absent: Harper (1). Motion carried.

Alexandria Curran – Cosmetologist Applicant

MOTION: Rowland moved, seconded by Anderson, to recommend deferral and ask applicant to attempt to obtain a copy of the drug/alcohol evaluation from the probation officer. A roll call vote was taken. Voting aye: Anderson, Christie, Criswell, Faltys, Hornig, Judkins, Nordboe, Pettigrew, Rowland (9). Voting nay: None (0). Abstain: None (0). Absent: Harper (1). Motion carried.

Quynh Nguyen – Nail Technologist Renewal

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

Michael Smith – Tattoo Artist Applicant

MOTION: Rowland moved, seconded by Anderson, to recommend offering a probationary license with a 6 month probation to include the standard terms and conditions and complete the jurisprudence examination. Motion based on convictions, failure to report convictions, and practicing without a license. A roll call vote was taken. Voting aye: Anderson, Christie, Criswell, Faltys, Hornig, Judkins, Nordboe, Pettigrew, Rowland (9). Voting nay: None (0). Abstain: None (0). Absent: Harper (1). Motion carried.

Lindsey Steyer – Nail Technologist Applicant

MOTION: Pettigrew moved, seconded by Chriswell, to recommend issuance of the license with no terms or conditions. A roll call vote was taken. Voting aye: Anderson, Christie, Criswell, Faltys, Hornig, Judkins, Nordboe, Pettigrew, Rowland (9). Voting nay: None (0). Abstain: None (0). Absent: Harper (1). Motion carried.

Hillery Wranek – Cosmetologist Applicant

MOTION: Anderson moved, seconded by Rowland, to recommend offering a probationary license with a 6 month probation to include the standard terms and conditions and complete the jurisprudence examination. Motion based on convictions and failure to report 4 convictions. A roll call vote was taken. Voting aye: Anderson, Christie, Criswell, Faltys, Hornig, Judkins, Nordboe, Pettigrew, Rowland (9). Voting nay: None (0). Abstain: None (0). Absent: Harper (1). Motion carried.

12:08 p.m. - Break
12:26 p.m. - Meeting resumed

Discussion returned to agenda item 6b.

6. NEW BUSINESS

b. 2018 Legislative Session

LB 794 – Change provisions relating to intoxicating beverages in salons. Section 8 proposes not to allow employees to use or consume intoxicating beverages on the premises and Section 9 proposes not to permit employees or clients to use, consume or serve controlled substances on premises.

The members discussed that some salons from a business standpoint would like to do special events where alcohol could be served to customers and they felt that should be individual salon choice.

MOTION: Nordboe moved, seconded by Faltys, to support Section 8 of LB 794 and to not support Section 9 and Anderson will write the letter. A roll call vote was taken. Voting aye: Anderson, Christie, Criswell, Faltys, Hornig, Judkins, Nordboe, Pettigrew, Rowland (9). Voting nay: None (0). Absent: Harper (1). Motion carried.

12:59 p.m. - Teresa Hampton, Department attorney, entered the meeting
1:00 p.m. - Harrison entered meeting

Discussion moved to agenda item 5.

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

MOTION: Anderson moved, seconded by Christie, to enter into closed session at 1:01 p.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. A roll call vote was taken. Voting aye: Anderson, Christie, Criswell, Faltys, Hornig, Judkins, Nordboe, Pettigrew, Rowland (9). Voting nay: None (0). Absent: Harper (1). Motion carried.

1:01 p.m. - Huff and public person departed meeting

MOTION: Nordboe moved, seconded by Anderson, to return to open session at 1:14 p.m. A roll call vote was taken. Voting aye: Anderson, Christie, Criswell, Faltys, Hornig, Judkins, Nordboe, Pettigrew, Rowland (9). Voting nay: None (0). Absent: Harper (1). Motion carried.

1:14 p.m. - Harrison departed meeting
Huff and public person entered meeting

Amanda Reischl – Cosmetologist Reinstatement following Discipline (early release from probation)

MOTION: Pettigrew moved, seconded by Criswell, to deny the reinstatement application based on lack of sufficient evidence to warrant early release. A roll call vote was taken. Voting aye: Anderson, Christie, Criswell, Faltys, Hornig, Nordboe, Pettigrew, Rowland (8). Voting nay: Judkins (1). Abstain: None (0). Absent: Harper (1). Motion carried.

Discussion moved to agenda item 6b.

6. NEW BUSINESS

LB 838 – Relating to Indoor Tanning Facility Act. The bill proposes that a tanning facility may not allow any person less than eighteen years of age to use tanning equipment at a tanning facility.

Pettigrew stated currently 16 year olds can use with parental or guardian consent. She commented there had been no civil penalty violations since the original bill passed.

Pettigrew stated she had been in contact with the national association and they are willing to come to Nebraska to oppose the bill. She commented that in 2017 there were bills in other states to raise the age and it was opposed in 11 states and the opposition was successful. She stated two states have 18 years of age – Oklahoma and West Virginia.

MOTION: Rowland moved, seconded by Anderson, to oppose LB 838 based on the increase of age to 18 years and there have been no Nebraska civil penalty violations and Pettigrew will write the letter. A roll call vote was taken. Voting aye: Anderson, Christie, Criswell, Faltys, Hornig, Judkins, Nordboe, Pettigrew, Rowland (9). Voting nay: None (0). Absent: Harper (1). Motion carried.

LB 834 – Relating to the Uniform Credentialing Act and waiver of fees. The bill proposes to waive fees as follows:

“(3) Low-income individual means an individual enrolled in a state or federal public assistance

program, including, but not limited to, the medical assistance program established pursuant to the Medical Assistance Act, the federal Supplemental Nutrition Assistance Program, or the federal Temporary Assistance for Needy Families program, or whose household adjusted gross income is below one hundred thirty percent of the federal income poverty guidelines, or a higher threshold to be set by the Licensure Unit of the Division of Public Health of the Department of Health and Human Services;

(4) Military families means active duty service members, honorably discharged veterans, spouses of active duty service members or honorably discharged veterans, and un-remarried surviving spouses of deceased service members;

(6) Young workers mean an applicant under section 2 of this act who is between the ages of eighteen and twenty-five years.”

There was a discussion on how was the Licensure Unit to cover its expenses for processing applications if fees were to be waived.

MOTION: Horning moved, seconded by Anderson, to oppose LB 834 based on it not being fiscally responsible and Horning will write the letter. A roll call vote was taken. Voting aye: Anderson, Christie, Criswell, Faltys, Hornig, Judkins, Nordboe, Pettigrew, Rowland (9). Voting nay: None (0). Absent: Harper (1). Motion carried.

7. CONTINUED BUSINESS

a. Legislative Review Hearing Relating to LB 343 Update

Rowland reported that it was decided by the senators to break this bill down into the different practices with separate bills and then LB 343 will just go away.

The Board reviewed the nail technology proposed changes to the statutes that Rowland has been working with the senator on and hopefully will be introduced. There were some word smithing suggestions made. The Board members supported the proposal.

The Board reviewed the Cosmetology, Electrology, Esthetics, Nail Technology and Body Art Practice Act proposed changes. There was a lengthy discussion about lowering the cosmetology license hours to 1800 hours and giving the option of allowing a barber to attain the cosmetology license by taking 300 hours of cosmetology education. There was some back and forth as to whether 300 additional hours for a barber to become a cosmetologist would be enough. The public person (Ken Allen of the Barber Board) said he had spoken with his instructors and they felt that for a cosmetologist to become a barber that they would need 600 to 800 barber hours above their cosmetology hours.

2:58 p.m. - Break
3:11 p.m. - Meeting resumed

Chiles asked Ken Allen what the barber's scope of practice allowed that the cosmetologist' scope does not include. He responded shaving.

MOTION: Anderson moved, seconded by Nordboe, to reduce the cosmetology hours to 1800 hours. A roll call vote was taken. Voting aye: Anderson, Christie, Criswell, Faltys, Hornig, Nordboe, Pettigrew (7). Voting nay: Judkins (1). Abstain: Rowland (1). Absent: Harper (1). Motion carried.

MOTION: Anderson moved, seconded by Rowland, to transfer from a barber program of study to a cosmetology program of study 1500 hours (if the hours were reduced to 1800). A roll call vote was taken. Voting aye: Anderson, Christie, Criswell, Faltys, Hornig, Judkins, Pettigrew, Rowland (8). Voting nay: Nordboe (1). Abstain: None (0). Absent: Harper (1). Motion carried.

Under the esthetic program, Criswell requested that the ratio of student to instructor be 1 to 20 to match the other practices.

Chiles suggested some revised language in 38-1074, #5 which would read "Licensure as a temporary practitioner shall expire eight weeks following the date of issuance or upon receipt of examination results, whichever occurs first. The Department may extend for an emergency or other valid circumstances." For 38-1075, Chiles suggested a (13) be added to read "Any person applying cosmetics is considered exempt." She indicated that this language is similar to language previously include in LB 343.

b. Regulatory Reform Executive Order #17-04 Update

Chiles reported the executive order which suspended all rulemaking ended on 12-31-17 and the Department has not heard what the next steps will be. She stated that as part of the order, regulations were submitted with removal of all duplicative statutory language.

c. Regulation Review and Discussion (schools, sanitation and individuals)

Criswell presented a proposed Esthetics Class Curriculum. The only change was under the Clinical & Practical Requirements where Nebraska Statutes, Rules & Regulations was renamed Infection Control Practices to better reflect current practice.

8. UPDATES/REPORTS/STATISTICS

a. Professional Updates: Body Art, Cosmetology, Electrology, Esthetics, Nail Technology and Indoor Tanning Facilities

Body Art – There was no report.

Cosmetology – There was no report.

Electrology – There was no report.

Esthetician – Criswell reported there were a lot of upcoming shows including small classes.

Nail Technology – Pettigrew attended a human trafficking training and provided a written report and summary.

Indoor Tanning Facilities – There was no report.

4:09 p.m. - Faltys departed meeting

4:14 p.m. - Faltys entered meeting

b. National-Interstate Council of State Boards of Cosmetology

Faltys reported the regional meeting would be in Charlotte, North Carolina, in April and the convention would be in Seattle, Washington, in October.

c. Disciplinary/Non-Disciplinary Action Report / Examinations / Renewals / Licensing Statistics / Administrative Penalties

Chiles presented statistics on the number of licenses issued in 2017:

Cosmetologist – 404

Cosmetologist Instructor – 11

Electrologist – 0

Esthetician – 100

Esthetician Instructor – 2

Temporary license – 131

Nail Technologist – 73

Nail Technologist Instructor – 2

Salons - 695

Rowland reported she had been contacted by an attorney to testify on a case regarding nails.

9. ADJOURNMENT

Judkins declared the meeting adjourned at 4:24 p.m.

Respectfully submitted,

Bridget Anderson, Secretary
Board of Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art

Summarized by Nancy Herdman, Health Licensing Coordinator