

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

February 4, 2019

**1. ROLL CALL**

The meeting of the Board of Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art was called to order by the Chair, Vicki Criswell, 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.

**Members Present:** The following members answered roll call:

Ronald Banse, Member  
Vicki Criswell, Chair  
Jacqueline Hornig, Member  
Melanie Judkins, Member  
Ruth Lucas, Member  
Marie Nordboe, Member  
Becky Pettigrew, Member  
Brandy Phillips, Member  
Pam Rowland, Secretary

**Members Absent:**

Bridget Anderson, Vice-Chair

**Others Present:**

Ami Huff, Assistant Attorney General  
Kris Chiles, Program Manager, Licensure Unit  
Nancy Herdman, Health Licensing Coordinator, Licensure Unit  
Larry Wiehn, Investigations  
Mark Meyerson, Investigations

A quorum was present and the meeting convened.

**2. ADOPTION OF AGENDA**

**MOTION:** Pettigrew moved, seconded by Nordboe, to adopt the agenda. A voice vote was taken. Voting aye: Banse, Criswell, Hornig, Judkins, Lucas, Nordboe, Pettigrew, Phillips, Rowland (9). Voting nay: None (0). Absent: Anderson (1). Motion carried.

**3. APPROVAL OF MINUTES (1-7-19)**

There was a typing error correction on page 2 and page 6 of the minutes.

**MOTION:** Nordboe moved, seconded by Pettigrew, to approve the minutes of 1-7-19 as corrected. A roll call vote was taken. Voting aye: Criswell, Hornig, Lucas, Nordboe, Pettigrew, Phillips, Rowland (7). Voting nay: None (0). Abstain: Banse, Judkins (2). Absent: Anderson (1). Motion carried.

**4. INVESTIGATIONAL & CONFIDENTIAL INFORMATION/REPORTS – CLOSED SESSION**

**MOTION:** Pettigrew moved, seconded by Nordboe, to enter into closed session at 10:32 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: Banse, Criswell, Hornig, Judkins, Lucas, Nordboe, Pettigrew, Phillips, Rowland (9). Voting nay: None (0). Absent: Anderson (1). Motion carried.

10:50 a.m. - Wiehn and Meyerson departed meeting  
11:12 a.m. - Lucas departed meeting (conflict)

11:18 a.m. - Ruth entered meeting  
11:34 a.m. - Break  
11:51 a.m. - Meeting resumed

**MOTION:** Nordboe moved, seconded by Judkins, to return to open session at 12:12 p.m. A roll call vote was taken. Voting aye: Banse, Criswell, Hornig, Judkins, Lucas, Nordboe, Pettigrew, Phillips, Rowland (9). Voting nay: None (0). Absent: Anderson (1). Motion carried.

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

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

### Conviction Reviews:

#### Gerome McLaurin – Cosmetologist Reinstatement

**MOTION:** Judkins moved, seconded by Nordboe, to defer and request additional information. A roll call vote was taken. Voting aye: Banse, Criswell, Hornig, Judkins, Lucas, Nordboe, Pettigrew, Phillips, Rowland (9). Voting nay: None (0). Abstain: None (0). Absent: Anderson (1). Motion carried.

#### Lawrence Tran – Nail Technician Applicant

**MOTION:** Judkins 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 convictions. A roll call vote was taken. Voting aye: Banse, Criswell, Hornig, Judkins, Lucas, Nordboe, Phillips, Rowland (8). Voting nay: Pettigrew (1). Abstain: None (0). Absent: Anderson (1). Motion carried.

#### Kelly McCarthy – Cosmetologist Applicant

**MOTION:** Nordboe moved, seconded by Pettigrew, to defer and request additional information. A roll call vote was taken. Voting aye: Banse, Criswell, Hornig, Lucas, Nordboe, Pettigrew, Phillips, Rowland (8). Voting nay: Judkins (1). Abstain: None (0). Absent: Anderson (1). Motion carried.

#### Veronica Garcia – Cosmetologist Reinstatement

**MOTION:** Lucas moved, seconded by Pettigrew, to recommend reinstating the license with no terms or conditions. A roll call vote was taken. Voting aye: Banse, Criswell, Hornig, Judkins, Lucas, Nordboe, Pettigrew, Phillips, Rowland (9). Voting nay: Judkins (1). Abstain: None (0). Absent: Anderson (1). Motion carried.

#### Raylene Johnston – Cosmetologist Applicant

**MOTION:** Rowland moved, seconded by Hornig, to recommend issuing the license with no terms or conditions. A roll call vote was taken. Voting aye: Banse, Criswell, Hornig, Judkins, Nordboe, Phillips, Rowland (7). Voting nay: Pettigrew (1). Abstain: Lucas (1). Absent: Anderson (1). Motion carried.

#### Jenny Nguyen – Permanent Color Technician Applicant

**MOTION:** Judkins moved, seconded by Rowland, to recommend issuing the license with no terms or conditions. A roll call vote was taken. Voting aye: Banse, Criswell, Hornig, Judkins, Lucas, Nordboe, Pettigrew, Phillips, Rowland (9). Voting nay: None (0). Abstain: None (0). Absent: Anderson (1). Motion carried.

#### Daylene Venable – Cosmetologist Applicant

**MOTION:** Rowland moved, seconded by Pettigrew, to defer and request a pre-licensure investigation. A roll call vote was taken. Voting aye: Banse, Criswell, Hornig, Judkins, Lucas, Nordboe, Pettigrew, Phillips, Rowland (9). Voting nay: None (0). Abstain: None (0). Absent: Anderson (1). Motion carried.

Alexander White – Body Piercer Reinstatement

**MOTION:** Nordboe moved, seconded by Pettigrew, to defer and request a pre-reinstatement investigation. A roll call vote was taken. Voting aye: Banse, Criswell, Hornig, Judkins, Lucas, Nordboe, Pettigrew, Phillips, Rowland (9). Voting nay: None (0). Abstain: None (0). Absent: Anderson (1). Motion carried.

Chiles reported she had received a new school application from No Limit Academy of Nails, Omaha.

Lucas announced that she was selling her school.

**6. NEW BUSINESS**

a. Regulation Review and Timeframes

Chiles reminded the Board that in 2017 there was a Governor's Executive Order that placed a moratorium on promulgating and adopting regulation, and asked that a thorough review and report be completed of all regulations. The review included identifying the following:

- Is there a statute that requires the regulation?
- If the regulation restates the statutory requirements, the language should be eliminated in order to remove duplicity.
- Is the current regulation the least restrictive regulatory alternative? If not, repeal or revise.
- Does the Rule and Regulation impact the ease of doing business with the agency?

The Governor's office reviewed those reports. Last week the Department was directed to promulgate regulations by the end of summer incorporating the review outcomes where possible. Chiles will put the draft regulations previously reviewed in the required format and send them to the Board for further review at the next meeting. These regulations will not contain duplicative statutory language. Chiles reported that there Chapter 10 is in process that will contain information generic to all professions. The Board has already approved draft Chapters 34, 36, 37, and 43; Board input is still required for body art and body art facility sanitation (chapter 44, 45, and 46).

b. 2019 Legislative Session

LB 112 – Proposes to waive initial licensing fees for military, low income and young workers (18-25). The public hearing is 2-6-19. It was discussed that the Licensure Unit is cash funded and this will impact revenue collected. Chiles was asked approximately how many applicants would this affect; she stated that looking at year 2018, there were approximately 2545 licenses (all professions within Licensure under the Uniform Credentialing Act) issued to young workers. The Board opposes the bill and Criswell will write the letter.

LB 140 – Proposes that no one 18 years of age or under can tan. Pettigrew and Rolland testified at the hearing. There were several doctors at the hearing who talked about the dangers of tanning.

LB 449 – Proposes to prohibit scleral tattooing except by medical health providers. Judkins commented that nationally this is not considered tattooing by body art professionals. The Board supports the prohibition but desires to clarify that scleral tattooing does not fall under the practice of body art. Judkins will write the letter.

1:14 p.m. - Lucas departed meeting

LB 507, 508 and 162 – These bills relate to taxing skin, hair, nail, and body art services. The Board opposes the bills and Nordboe will write the letter.

1:18 p.m. - Lucas entered meeting

LB 607 – Proposes to add a body art guest artist and temporary body art facility. Also proposes to add nail technology apprentice salon and include manicuring and pedicuring within the definition of nail technology. The tentative hearing date is 3-20-19 at 1:30 p.m. The Board supports the bill and Rowland will write the letter. Nordboe, Pettigrew, Criswell and Hornig plan to testify.

1:25 p.m. - Judkins departed meeting  
1:32 p.m. - Break  
1:50 p.m. - Meeting resumed  
Judkins entered the room

Chiles suggested the Board review the following sections of LB 607:

- Page 3, line 15 – Does nail technology include massaging below the elbow and below the knee? Rowland responded that was correct and the language was just missed on this line.
- Page 3, lines 21-24 – Would a cosmetology instructor be able to teach in a nail technology apprentice salon? Rowland responded they would.
- Page 14, line 8-13 –Bill usually becomes effective 90 days after the bill is passed and wondered if this would provide enough time to successfully pass the nail technology examination for those who currently are not licensed nail technicians, but are allowed to provide manicuring and pedicuring services on natural nails. Rowland responded that the intent was to give more time with likely would be until January of next year.

There was a discussion regarding the requirements to obtain a temporary body art facility, and it appeared that the requirements are the same as those for a permanent body art facility. Judkins commented the intent was to place the specifics in regulations. Chiles commented that if the bill passes, a temporary body art facility may not be able to be implemented immediately since there were no specifics in the bill. There was also a discussion about the temporary facilities being required to be inspected within 24 hours, and if that could be accomplished within the short timeframe.

Chiles asked for confirmation that if a body art guest artist is not credentialed in another jurisdiction, then they cannot be a guest artist in Nebraska; however, they could still apply for the body art license in order to practice. Judkins confirmed that was the intent. There was a discussion that a body art guest artist would need to also meet the Uniform Licensing Act requirements such as age and criminal history review.

## **7. 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 – Judkins stated she had worked with the University Medical Center, College of Public Health, on a grant regarding human trafficking and what type of tattoo a body artist may be asked to provide or see during a procedure; next steps are to hold a conference for body artists. Judkins commented she had done work covering up trafficking markings on individuals.

Cosmetology – Inquiry from a permanent color technician regarding Keratin to infuse brow hair to maximize its volume and enhance the shape of the brow. The board's position is that cosmetologists and estheticians can provide this service.

NOTE: Advisory statements are issued by the Board of Cosmetology, Electrology, Esthetics, Nail Technology and Body Art for informational purposes only; they are NOT legal opinions and are non-binding.

Electrology – There was no report.

Esthetics – Judkins asked if there was any interest in creating a master esthetician license as she knew someone who was interested. Criswell responded she was interested but it would require more hours of education than what is required for the current esthetician license, and would require a statute change.

Nail Technology – Pettigrew commented that Mike Foley had visited her shop and had nice things to say. This was in response to a letter she had sent the Governor expressing her unhappiness about comments made about the profession.

Indoor Tanning Facilities – Pettigrew commented the FDA wants to raise the age to tan to 21 and have concerns about spray tanning. Pettigrew discussed red light therapy and the availability of red light tanning beds. Criswell commented that red light therapy is currently used in esthetics.

It was discussed that with a Russian Manicure there were no enhancements attached to the nail bed and it was done by manicurists on the natural nail. It was the Board's position that it does not fall under nail technology.

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b. National-Interstate Council of State Boards of Cosmetology

Nordboe asked if there were any questions relating to her written report relating to her attendance at the October 2018 NIC convention. The convention had discussions relating to: competency based education, human trafficking, and a lawsuit about treating students as employees. The public person commented that in her school the students cannot be asked to clean unless it is under their sanitation training.

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

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

Examination results beginning 1-1-19:

Cosmetology – 28 pass, 9 fail  
Esthetics – 10 pass, 1 fail  
Cosmetology Instructor – 1 fail  
Jurisprudence (CE) – 4 fail

Nail Technology – 4 pass, 6 fail  
Nail Technology Jurisprudence (probation) - 1 pass, 1 fail

Active licenses

Cosmetology:

Apprentice Training Salon – 1  
Cosmetologist – 7600  
Cosmetology Instructor – 133  
Cosmetology Salon – 2047  
Cosmetology Salon Consideration Certificate – 7  
Electrologist – 14  
Esthetician – 879  
Esthetics Instructor – 16  
Esthetics Salon – 81  
Home Service Permit – 5  
Cosmetology School – 15  
Temporary Cosmetologist – 15

Body Art:

Body Art Facility – 233  
Body Brander – 1  
Body Piercer – 123  
Permanent Color Technician – 165  
Tattoo Artist – 408

Nail Technology:

Nail Technician – 1276  
Nail Technology Instructor – 13

Nail Technology Salon - 207  
Nail Technology School – 4  
Temporary Nail Technician - 2

Chiles stated renewals for body art expire 3-31-19.

**8. ADJOURNMENT**

Criswell declared the meeting adjourned at 3:14 p.m.

Respectfully submitted,

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Pamela Rowland, Secretary  
Board of Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art

Summarized by Nancy Herdman, Health Licensing Coordinator