

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

February 5, 2018

1. ROLL CALL

The meeting of the Board of Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art was called to order by the Secretary, Bridget Anderson, at 10:31 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
Lyra Faltys	-	Member
Jacqueline Hornig	-	Member
Marie Nordboe	-	Member
Pamela Rowland	-	Member
Becky Pettigrew	-	Member

Members Absent:

Vicki Criswell	-	Vice-Chair
Gloria Harper	-	Member
Melanie Judkins	-	Chair

Others Present:

Ami Huff, Assistant Attorney General
Kris Chiles, Program Manager, Licensure Unit
Trevor Klaassen, Investigator
Mark Meyerson, Investigator

A quorum was present and the meeting convened.

2. ADOPTION OF AGENDA

MOTION: Pettigrew moved, seconded by Rowland, to adopt the agenda. A roll call vote was taken. Voting aye: Anderson, Christie, Faltys, Hornig, Nordboe, Pettigrew, Rowland (7). Voting nay: None (0). Absent: Criswell, Harper, Judkins (3). Motion carried.

3. APPROVAL OF MINUTES (1-8-18)

MOTION: Rowland moved, seconded by Faltys, to approve the minutes of 1-8-18. A roll call vote was taken. Voting aye: Anderson, Christie, Faltys, Hornig, Nordboe, Pettigrew, Rowland (7). Voting nay: None (0). Abstain: None (0). Absent: Criswell, Harper, Judkins (3). Motion carried.

4. INVESTIGATIONAL & CONFIDENTIAL INFORMATION/REPORTS – CLOSED SESSION

MOTION: Faltys moved, seconded by Christie, to enter into closed session at 10:34 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, Faltys, Hornig, Nordboe, Pettigrew, Rowland (7). Voting nay: None (0). Absent: Criswell, Harper, Judkins (3). Motion carried.

10:43 a.m. - Klaassen and Meyerson departed meeting

MOTION: Faltys moved, seconded by Nordboe, to return to open session at 11:09 a.m. A roll call vote was taken. Voting aye: Anderson, Christie, Faltys, Hornig, Nordboe, Pettigrew, Rowland (7). Voting nay: None (0). Absent: Criswell, Harper, Judkins (3). Motion carried.

11:09 a.m. - Public person entered meeting

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

Michelle Larson – Cosmetologist Applicant

MOTION: Rowland moved, seconded by Horning, to recommend issuance of the license with no terms or conditions. A roll call vote was taken. Voting aye: Anderson, Christie, Faltys, Hornig, Nordboe, Pettigrew, Rowland (7). Voting nay: None (0). Abstain: None (0). Absent: Criswell, Harper, Judkins (3). Motion carried.

Bethani Putnam – Body Piercer Applicant

MOTION: Pettigrew moved, seconded by Christie, 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, Faltys, Hornig, Nordboe, Pettigrew, Rowland (7). Voting nay: None (0). Abstain: None (0). Absent: Criswell, Harper, Judkins (3). Motion carried.

Christina Barker – Cosmetologist Applicant

MOTION: Rowland moved, seconded by Pettigrew, 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 failure to report conviction and practice after license expired. A roll call vote was taken. Voting aye: Anderson, Christie, Faltys, Hornig, Nordboe, Pettigrew, Rowland (7). Voting nay: None (0). Abstain: None (0). Absent: Criswell, Harper, Judkins (3). Motion carried.

Christopher Fiala – Esthetician Applicant

MOTION: Nordboe 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, Faltys, Hornig, Nordboe, Pettigrew, Rowland (7). Voting nay: None (0). Abstain: None (0). Absent: Criswell, Harper, Judkins (3). Motion carried.

Candace Mills – Cosmetologist Reinstatement

MOTION: Rowland moved, seconded by Pettigrew, to recommend reinstatement 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 them. A roll call vote was taken. Voting aye: Anderson, Christie, Faltys, Hornig, Nordboe, Pettigrew, Rowland (7). Voting nay: None (0). Abstain: None (0). Absent: Criswell, Harper, Judkins (3). Motion carried.

Madyson Coughlon – Cosmetologist Applicant

MOTION: Pettigrew moved, seconded by Faltys, 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 failure to report convictions. A roll call vote was taken. Voting aye: Anderson, Christie, Faltys, Hornig, Nordboe, Pettigrew, Rowland (7). Voting nay: None (0). Abstain: None (0). Absent: Criswell, Harper, Judkins (3). Motion carried.

6. NEW BUSINESS

a. 2018 Legislative Session and Bills Introduced

LB 299 – Adopt the Occupational Board Reform Act and change procedures for rules and regulations, establish Sunrise and Sunset processes to ensure that legislation for new regulation and existing regulations are scrutinized, and give applicants with a criminal record to petition the board for a review to determine if past convictions will disqualify him or her from obtaining an occupational license.

LB 588 – Exempt reflexology from licensure under Massage Therapy.

LB 958 – Provide for licensure of a vehicle as a massage therapy establishment

11:20 a.m.
2 public persons entered meeting

LB 1042 – Proposes changes to the licensing requirements for nail technicians, salons, and schools.

LB 1107 – Proposes changes to the licensing requirements for cosmetologists, salons, and schools. Members of the Board discussed that the Barber Board voted to require an additional 850 hours for cosmetologists who wished to complete the barber program.

LB 790 – Licensure of mobile cosmetology and nail technology salons.

LB 834 – Waiver of initial license fees for individuals identified as low income, part of a military family or a person between the ages of 18 and 25.

LB 838 – Prohibits an operator, an owner of a tanning facility or a lessee of a tanning facility to allow any person less than eighteen years of age to use tanning equipment at the tanning facility (current age is 16 with parental/guardian consent and attendance).

LB 705 – Clarifies that for licensure as an esthetician, the program of studies consists of a minimum of 600 hours, and not 600 hours and 600 credits. Proposes to add that for licensure as an esthetics instructor, the individual have a current esthetician license in Nebraska and two years of experience as an esthetician immediately prior to application for an esthetics instructor license.

12:08 p.m. - Break
12:24 p.m. - Meeting resumed

b. Dry Tattooing – Does it Fall Within Body Art and/or Esthetics

The Board reviewed an e-mail from Ron Hendon who is an educator in the field of paramedical tattooing also known as micro-pigmentation. Mr. Hendon's e-mail states the following:

Body- Artists (Tattoo Artists) are employed to cover scars with body art designs on a very regular basis all around the world . We as Paramedical Tattooists are not doing anything at all different except that Paramedical Tattooists are using flesh tone pigments exclusively verses a rainbow assortment used in body-art applications. There is actually a lesser risk factor with Paramedical Tattooing in regards to pigments as we use a much much smaller color palate therefore fewer pigment allergy possibilities (although allergies are very rare even in body art).

Some licensing boards that I have addressed in the past have express a concern over a procedure erroneously referred to by some in the industry as “dry needling “ this is actually a misuse of terms. Dry Needling is a procedure used by some medical aestheticians and does not use the same type needles, equipment or depth used by Paramedical Tattooists. The procedure used by medical aestheticians goes a great deal deeper into the dermal layer as much as 3mm thereby penetrating the reticular dermis. Paramedical Tattooing procedures never go anywhere near this layer in fact the tattoo machines equipped with the specific needle groupings used by Paramedical Tattooists can never go beyond the papillary dermal layer, less than .05 mm in depth , this depth is the equivalent to a Body-artist doing very light shading on a body art design. Body- Artists go into the skin much deeper during the outlining process of a design up to 1.5 mm or more. Micro blade technicians also penetrate the dermis deeper than Paramedical Tattooists. The entire basis for Paramedical Tattooing is to glide the needle groupings across the very surface of the skin to add a light dispersion of flesh tone color to camouflage the blemish . Paramedical Tattooing done properly also NEVER uses dry needles. If no pigment coverage is required a Paramedical Tattooists will use a base vegetable glycine which is the base mixing ingredient for most all commercially produced Tattoo colors used in body-art, permanent cosmetic pigments, and Microblading pigments, so the Paramedical Tattooists is doing the exact same process as the body artist doing while shading just leaving out one possibly allergenic element.

Paramedical Tattooing is a much more gentile process than standard Body-Art but still very much the same by process.

A by product of tattooing over any tissue that has generated elastin due to a scar it that the elastin fibers spread and the tattoo process stimulates new, normal skin cells that naturally normalize the skin surface texture. This simple process, no different than light body-art shading (the least aggressive technique used in tattooing) changes the lives of clients such as burn victims who may not want body art all over a burned area such as the face .

The Board also reviewed the definition of Dry tattooing (also known as MCA Micro Needling), which has been defined on the web as an alternative treatment that works directly on damaged skin, relaxing and smoothing scars, also reducing stretch marks. Any micro needling treatment essentially brings new life into damaged skin, and using a digital tattoo machine is a very quick way and precise way of making this happen. **No pigment is tattooed into the skin**, however pigmentation begins to normalise as a result.

Statutory Definitions of permanent color technology and tattoo:

38-1044. Permanent color technology, defined.

Permanent color technology means the process by which the skin is marked or colored by insertion of nontoxic dyes or pigments into or under the subcutaneous portion of the skin upon the body of a live human being so as to form indelible marks for cosmetic purposes.

38-1053. Tattoo, defined.

Tattoo means the indelible decorative mark, figure, or design introduced by insertion of nontoxic dyes or pigments into or under the subcutaneous portion of the skin upon the body of a live human being.

After much discussion and reviewing the definition of tattoo and permanent color technology; it is the Board's advisory statement that **paramedical tattooing falls within the scope** of practice for tattooing or permanent color technology. Further it is the Board's position that **dry tattooing is NOT** within the scope of practice.

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. The advisory opinions define acts, which in the opinion of the board, are or are not permitted in the practice of body art.

7. CONTINUED BUSINESS

- a. Regulation Review and Discussion (schools, Sanitation and individuals)

The Board agreed to meet at 10:30 a.m. on the following dates for work sessions to review the regulations:

March 19, 2018
April 16, 2018
May 21, 2018

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 – There was no report.

Nail Technology – There was no report.

Indoor Tanning Facilities – There was no report.

b. National-Interstate Council of State Boards of Cosmetology

There was nothing to report.

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

There were no reports.

9. ADJOURNMENT

Anderson declared the meeting adjourned at 1:18 p.m.

Respectfully submitted,

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

Summarized by Nancy Herdman, Health Licensing Coordinator