

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

March 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 10:31 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.

Members Present: The following members answered roll call:

Bridget Anderson, Vice-Chair
Vicki Criswell, Chair
Jacqueline Hornig, Member
Melanie Judkins, Member
Marie Nordboe, Member
Brandy Phillips, Member
Pam Rowland, Secretary

Members Absent:

Ronald Banse, Member (entered 10:33 a.m.)
Ruth Lucas, Member
Becky Pettigrew, Member

Others Present:

Ami Huff, Assistant Attorney General
Kris Chiles, Program Manager, Licensure Unit
Nancy Herdman, Health Licensing Coordinator, Licensure Unit
Trevor Klaassen, Investigations
Mark Meyerson, Investigations
Kathleen Kruger, Investigations
Teresa Hampton, Department Attorney

A quorum was present and the meeting convened.

2. ADOPTION OF AGENDA

MOTION: Anderson moved, seconded by Nordboe, to adopt the agenda. A voice vote was taken. Voting aye: Anderson, Criswell, Hornig, Judkins, Nordboe, Phillips, Rowland (7). Voting nay: None (0). Absent: Banse, Lucas, Pettigrew (3). Motion carried.

10:33 a.m. - Banse entered the meeting

3. APPROVAL OF MINUTES (2-4-19)

MOTION: Rowland moved, seconded by Nordboe, to approve the minutes of 2-4-19. A roll call vote was taken. Voting aye: Banse, Criswell, Hornig, Judkins, Nordboe, Phillips, Rowland (7). Voting nay: None (0). Abstain: Anderson (1). Absent: Lucas, Pettigrew (2). Motion carried.

4. INVESTIGATIONAL & CONFIDENTIAL INFORMATION/REPORTS – CLOSED SESSION

MOTION: Nordboe moved, seconded by Rowland, 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. Criswell repeated the motion purpose. A roll call vote was taken. Voting aye: Anderson, Banse, Criswell, Hornig, Judkins, Nordboe, Phillips, Rowland (8). Voting nay: None (0). Absent: Lucas, Pettigrew (2). Motion carried.

10:34 a.m. - Huff departed meeting
 10:46 a.m. - Huff entered meeting
 Hampton departed meeting
 11:01 a.m. - Meyerson departed meeting
 11:11 a.m. - Krueger departed meeting
 11:25 a.m. - Judkins departed meeting (conflict)
 11:28 a.m. - Judkins entered meeting
 11:32 a.m. - Klaassen departed meeting
 12:05 a.m. - Break
 12:17 a.m. - Meeting resumed

MOTION: Nordboe moved, seconded by Rowland, to return to open session at 12:39 p.m. A roll call vote was taken. Voting aye: Anderson, Banse, Criswell, Hornig, Judkins, Nordboe, Phillips, Rowland (8). Voting nay: None (0). Absent: Lucas, Pettigrew (2). Motion carried.

12:39 p.m. - 2 public persons entered meeting

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

Cecilia Paitz – Cosmetologist Reinstatement from Disciple (Early Release from Probation)

MOTION: Anderson moved, seconded by Nordboe, to recommend reinstatement of the license with no terms or conditions. Motion based on compliant with all probation terms and conditions, early release from court probation, has spoken at events regarding her sobriety, and no additional convictions. A roll call vote was taken. Voting aye: Anderson, Banse, Criswell, Hornig, Judkins, Nordboe, Phillips, Rowland (8). Voting nay: None (0). Abstain: None (0). Absent: Lucas, Pettigrew (2). Motion carried.

Connie Rogers – Cosmetologist Reinstatement from Disciple (Revocation)

MOTION: Horning moved, seconded by Rowland, to recommend reinstatement of the license with no terms or conditions. Motion based on 3 convictions were over 5 years ago and gone to school to obtain degree in social work. A roll call vote was taken. Voting aye: Anderson, Banse, Criswell, Hornig, Judkins, Nordboe, Phillips, Rowland (8). Voting nay: None (0). Abstain: None (0). Absent: Lucas, Pettigrew (2). Motion carried.

Conviction Reviews:

Kathryn Ryder – Tattoo Artist Applicant

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

Sara O’Neill – Esthetician Applicant

MOTION: Nordboe moved, seconded by Judkins, to recommend offering a probationary license with a 1 year probation to include the standard terms and conditions and the following: no handling money, no solo practice, quarterly employer reports. Motion based on conviction history. A roll call vote was taken. Voting aye: Anderson, Banse, Criswell, Hornig, Judkins, Nordboe, Phillips, Rowland (8). Voting nay: None (0). Abstain: None (0). Absent: Lucas, Pettigrew (2). Motion carried.

Kelly McCarthy – Cosmetologist Applicant

MOTION: Nordboe moved, seconded by Anderson, to recommend offering a probationary license with a 2 year probation to include the standard terms and conditions and the following: abstain from alcohol, quarterly employer reports, and random body fluid screens for alcohol. Motion based on conviction history and diagnosis. A roll call vote was taken. Voting aye: Anderson, Banse, Criswell, Hornig, Nordboe, Phillips, Rowland (7). Voting nay: Judkins (1). Abstain: None (0). Absent: Lucas, Pettigrew (2). Motion carried.

Gerome McLaurin – Cosmetologist Reinstatement

MOTION: Nordboe moved, seconded by Anderson, 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 report.

A roll call vote was taken. Voting aye: Anderson, Banse, Criswell, Hornig, Judkins, Nordboe, Phillips, Rowland (8). Voting nay: None (0). Abstain: None (0). Absent: Lucas, Pettigrew (2). Motion carried.

Dana Drees – Cosmetologist Reinstatement

MOTION: Nordboe moved, seconded by Rowland, to recommend offering a probationary license with a 3 year probation to include the standard terms and conditions and the following: random alcohol/drug body fluid screens, abstain from drugs and alcohol, follow the evaluation recommendations and any future recommendations, quarterly employer reports, no solo practice, no handling money, and complete jurisprudence examination within 90 days of issuance of the license. Motion based on conviction history, failure to report convictions, and diagnosis. A roll call vote was taken. Voting aye: Anderson, Banse, Criswell, Hornig, Judkins, Nordboe, Phillips, Rowland (8). Voting nay: None (0). Abstain: None (0). Absent: Lucas, Pettigrew (2). Motion carried.

Lacey Arfmann – Cosmetologist Reinstatement

MOTION: Nordboe moved, seconded by Anderson, to recommend offering a probationary license with a 2 year probation to include the standard terms and conditions and the following: complete jurisprudence examination within 90 days of issuance of the license, no solo practice, no handling money, and quarterly employer reports. Motion based on conviction history and failure to report convictions. A roll call vote was taken. Voting aye: Anderson, Banse, Criswell, Hornig, Judkins, Nordboe, Phillips, Rowland (8). Voting nay: None (0). Abstain: None (0). Absent: Lucas, Pettigrew (2). Motion carried.

Tania Kilkenny – Cosmetologist Reinstatement

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 jurisprudence examination within 90 days of issuance of the license. Motion based on conviction history and failure to report 2 convictions. A roll call vote was taken. Voting aye: Anderson, Banse, Criswell, Hornig, Nordboe, Phillips, Rowland (7). Voting nay: Judkins (1). Abstain: None (0). Absent: Lucas, Pettigrew (2). Motion carried.

Allison Marsh – Cosmetologist Applicant

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

Angela Phipps – Esthetician Applicant

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

Robert Stukenholtz – Tattoo Artist Applicant

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

6. REGULATION REVIEW

- a. Body Art (Chapter 44, 45 and 46)

Chiles stated that revised draft Chapter 44 now includes combined content from Chapters 44, 45 and 46. The members reviewed all the sections of draft Chapter 44 and made recommendations for changes.

- 2:11 p.m. - 1 public person entered the meeting
- 4:13 p.m. - Huff departed meeting
- 4:14 p.m. - Horning departed meeting

4:17 p.m. - Horning entered meeting
4:25 p.m. - Break
4:40 p.m. - Meeting resumed

b. Board Approval and Next Step

The Board supported the recommendations discussed and the draft regulations will be submitted to the Legal Department for review.

7. UPDATES/REPORTS/STATISTICS

a. 2019 Legislation

LB 112 – The bill related to waiving initial licensing fees for young workers, military families, and low income advanced to select file on 2-28-19 and then on 3-1-19 an amendment (526) was added which included young workers between 17 and 25 years of age. Questions were asked about the amount of fees this would impact; Chiles suggested the members look at the fiscal note on the Nebraska Unicameral site. Banse testified at the hearing.

LB 140 – LB 140 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 an indoor tanning device at the tanning facility. The bill is still in committee.

LB 607 – LB 607 provides for a new definition of "nail technology" which includes Natural Nail care, defines "pedicuring," and allows for licensure of nail technology apprentice salons. Creates a license for Temporary Body Art Facility and Body Art Guest Artist licenses and updates definition for cosmetic tattooing. LB 607 also allows for all practices licensed under the statute to take licensing examinations in multiple languages. The bill is still in committee.

LB 449 – The scleral tattooing bill was amended to move the proposed language into the Uniform Credentialing Act and includes a civil penalty of \$10,000 for unlicensed practice.

Rowland reported all the bills relating to taxing services were still in committee.

Regarding LB 607, Rowland asked the members to lobby for the bill. She said there is a senator who wants the Board to apply for a 407 review in order to change the scope of practice and include manicuring and pedicuring; the application fee is \$500. Rowland wants to pursue lobbying first rather than the 407 process. She has requested to be on the Board of Health agenda. Chiles suggested Rowland speak with Matt Gelvin, Program Manager within the Licensure Unit, who works with the 407 process.

b. Profession Updates: Body Art, Cosmetology, Electrology, Esthetics, Nail Technology and Indoor Tanning Facilities

Body Art – Judkins is hosting the Heritage Tattoo Conference which will be held on 5-23-19.

Cosmetology – There was no report.

Electrology – There was no report.

Esthetics - Criswell stated there was interest for a medical esthetics license but felt she needed to talk to the Derm Board as a first step. She commented that estheticians were obtaining the education. Such a license would require legislative changes.

Nail Technology – There was no report.

Indoor Tanning Facilities – There was no report.

c. National-Interstate Council of State Boards of Cosmetology

Nordboe reported the next convention would be in Milwaukee on September 7-9, 2019.

Chiles reminded the Board that body art was currently in renewal with the renewal date of 3-31-19.

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

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

Examination results beginning 1-1-19:

Cosmetology – 40 pass, 20 fail
Esthetics – 27 pass, 2 fail
Cosmetology Instructor – 1 pass, 1 fail
Jurisprudence (probation) – 4 pass, 1 fail
Jurisprudence (CE) – 1 pass, 4 fail

Nail Technology – 7 pass, 7 fail
Nail Technology Instructor – 1 fail
Nail Technology Jurisprudence (probation) - 1 pass, 1 fail

Active licenses

Cosmetology:

Apprentice Training Salon – 1
Cosmetologist – 7702
Cosmetology Instructor – 134
Cosmetology Salon – 2063
Cosmetology Salon Consideration Certificate – 7
Electrologist – 14
Esthetician – 903
Esthetics Instructor – 16
Esthetics Salon – 82
Home Service Permit – 5
Cosmetology School – 15
Temporary Cosmetologist – 12
Temporary Esthetician - 1

Body Art:

Body Art Facility – 236
Body Brander – 1
Body Piercer – 126
Permanent Color Technician – 172
Tattoo Artist – 414

Nail Technology:

Nail Technician – 1280
Nail Technology Instructor – 13
Nail Technology Salon - 208
Nail Technology School – 4
Temporary Nail Technician - 3

8. ADJOURNMENT

Criswell declared the meeting adjourned at 5:07 p.m.

Respectfully submitted,

Pamela Rowland, Secretary

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

Summarized by Nancy Herdman, Health Licensing Coordinator