

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

May 6, 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:

Vicki Criswell, Chair
Jacqueline Hornig, Member
Ruth Lucas, Member
Melanie Judkins, Member
Becky Pettigrew, Member
Brandy Phillips, Member
Pam Rowland, Secretary
Shannon Bingham, Member

Members Absent:

Bridget Anderson, Vice-Chair (entered meeting 10:33 a.m.)
Ronald Banse, Member
Marie Nordboe, 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
Carla Cue, Investigations
Anna Harrison, Compliance Monitor

A quorum was present and the meeting convened.

Introductions were conducted as there was a new member, Shannon Bingham, filling the salon owner vacancy.

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

2. ADOPTION OF AGENDA

MOTION: Pettigrew moved, seconded by Rowland, to adopt the agenda. A voice vote was taken. Voting aye: Anderson, Criswell, Hornig, Judkins, Lucas, Pettigrew, Phillips, Rowland, Bingham (9). Voting nay: None (0). Absent: Banse, Nordboe (2). Motion carried.

3. APPROVAL OF MINUTES (3-4-19, 4-1-19)

MOTION: Anderson moved, seconded by Pettigrew, to approve the minutes of 3-4-19. A roll call vote was taken. Voting aye: Anderson, Criswell, Hornig, Judkins, Lucas, Pettigrew, Phillips, Rowland (8). Voting nay: None (0). Abstain: Bingham (1). Absent: Banse, Nordboe (2). Motion carried.

MOTION: Pettigrew moved, seconded by Rowland, to approve the minutes of 4-1-19. A roll call vote was taken. Voting aye: Anderson, Criswell, Hornig, Judkins, Lucas, Pettigrew, Phillips, Rowland (8). Voting nay: None (0). Abstain: Bingham (1). Absent: Banse, Nordboe (2). Motion carried.

4. INVESTIGATIONAL & CONFIDENTIAL INFORMATION/REPORTS – CLOSED SESSION

MOTION: Pettigrew moved, seconded by Judkins, to enter into closed session at 10:38 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, Criswell, Hornig, Judkins, Lucas, Pettigrew, Phillips, Rowland, Bingham (9). Voting nay: None (0). Absent: Banse, Nordboe (2). Motion carried.

10:55 a.m. - Lucas departed meeting (conflict)
 11:02 a.m. - Lucas entered meeting
 11:08 a.m. - Meyerson, Cue, and Klaassen departed meeting
 11:16 a.m. - Judkins departed meeting (conflict)
 11:20 a.m. - Judkins entered meeting
 11:29 a.m. - Break
 11:43 a.m. - Meeting resumed

MOTION: Judkins moved, seconded by Anderson, to return to open session at 11:45 a.m. A roll call vote was taken. Voting aye: Anderson, Criswell, Hornig, Judkins, Lucas, Pettigrew, Phillips, Rowland, Bingham (9). Voting nay: None (0). Absent: Banse, Nordboe (2). Motion carried.

11:45 a.m. - 2 public persons entered meeting

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

Conviction Reviews:

Erin Payne – Cosmetologist Reinstatement

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

Daylene Venable – Cosmetologist Applicant

MOTION: Pettigrew moved, seconded by Anderson, to recommend issuing the license with no terms or conditions. A roll call vote was taken. Voting aye: Anderson, Criswell, Hornig, Judkins, Lucas, Pettigrew, Phillips, Rowland, Bingham (9). Voting nay: None (0). Abstain: None (0). Absent: Banse, Nordboe (2). Motion carried.

Amanda Rader – Tattoo Artist and Permanent Color Technician Applicant

MOTION: Pettigrew moved, seconded by Anderson, to recommend issuing the license with 6 month probation to include the standard terms and conditions and successfully complete the jurisprudence examination within 90 days of license issuance. A roll call vote was taken. Voting aye: Anderson, Criswell, Hornig, Judkins, Lucas, Pettigrew, Phillips, Rowland, Bingham (9). Voting nay: None (0). Abstain: None (0). Absent: Banse, Nordboe (2). Motion carried.

Operation After Expiration or Prior to Submitting Application Reviews:

Bread N' Butter – Body Art Facility Applicant

MOTION: Rowland moved, seconded by Anderson, to recommend issuing the license with 6 month probation to include the standard terms and conditions and the owner successfully complete the jurisprudence examination within 90 days of license issuance. A roll call vote was taken. Voting aye: Anderson, Criswell, Hornig, Judkins, Lucas, Pettigrew, Phillips, Rowland, Bingham (9). Voting nay: None (0). Abstain: None (0). Absent: Banse, Nordboe (2). Motion carried.

6. UPDATES/REPORTS/STATISTICS

a. 2019 Legislation

LB 112: This bill waives the initial licensing fees for young workers, military families, and low income applicant; it was signed by the Governor on 3-21-19 and will go into effect 90 days after the session ends (early September).

LB 607: Rowland reported the bill moved out of Committee last week. She stated because there were so many priority bills that it would not likely be considered this year but would be next year. Rowland said a nice letter was received from the Board of Health. The bill was amended and Chiles suggested that some of the wording appeared unclear as to the intention or requirement. Rowland will talk to the Senator.

b. Regulation Review Update

Chiles reported the regulations had been forwarded for initial Legal review. If they have specific questions regarding content, those questions will be brought back to the Board.

Chiles explained the next steps:

- Upon completion of initial legal review and revisions, review by regulation coordinating attorney.
- Draft regulations go to Governor's Office and Director of the Division of Public Health for approval to request a public hearing.
- Schedule a public hearing which must be published 30 days prior to the hearing.
- Board review and approval following the hearing.
- Board of Health review and approval following final board review after the hearing.
- Director of the Division of Public Health review and approval.
- Attorney General's Office review and approval.
- Governor's Office review and approval.

The process must start over if at any step there is not an approval. There could be a second public hearing if there are significant changes made after the initial public hearing.

Chiles reported a new Chapter 10 was created which covers processes and procedures that apply to all professionals under the Uniform Credentialing Act (UCA). Therefore, the same language in chapter 10 will not be repeated in 40 some other UCA profession's regulation chapters. The public hearing was held in March and Chapter 10 is now at the Attorney General's Office. Two comments made at the public hearing were; 1) Why make the fee non-refundable if credential is not issued? This is being changed given the UCA requires we refund all but \$25. 2) Why need all the court records when an applicant reports a conviction, specifically if they occurred in Nebraska and office staff has access to this background information? Will be changed to require court records if the conviction is out-of-state.

Chiles reported a Chapter 9 will be created that will cover processes and procedures that apply to all businesses under the UCA.

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

Body Art – Judkins is working on the Heritage Tattoo Conference scheduled for May 23rd. The event relates to Human Trafficking & the Tattoo Industry and is sponsored by the University of Nebraska Medical Center – College of Public Health. She commented the profession is looking to using more eco-friendly products. She talked about a body artist who had concerns about allowing service animals in the procedure room due to a hygiene concern. It was suggest a contact be made with an attorney who specializes in ADA requirements.

Cosmetology – Anderson saw a flyer advertising barbershop quartets at Haymarket Park where they will be giving free haircuts. Barbering does not fall within the oversight of the board, but if it were cosmetologists providing free haircuts at a sporting event, this practice falls within a statutory exception, specifically:

38-1075 The Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act does not apply to or restrict the activities of the following: . . .(4) Any person when engaged in domestic or charitable administration;

Chiles asked if a cosmetology instructor could teach nail technology instructor training in a cosmetology school. It was the board's position that they could.

Electrology – There was no report.

Esthetics - Criswell indicated she was not going to pursue a medical esthetics license at this time as she did not feel it would move forward.

Nail Technology – Pettigrew spoke about a special needs girl in Iowa who was denied service. Chiles asked about nail dips and if they fell under nail technology. The Board discussed that they use acrylic powder so it is within the definition of nail technology.

Indoor Tanning Facilities – Pettigrew reported she will be attending a tanning convention. She indicated that she wants to apply for the indoor tanning representative on the Board when her nail technology position on the Board expires this fall.

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

The next convention would be in Milwaukee on September 7-9, 2019.

- e. 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 – 91 pass, 34 fail
- Esthetics – 50 pass, 7 fail
- Cosmetology Instructor – 1 pass, 1 fail
- Jurisprudence (probation) – 6 pass, 3 fail
- Jurisprudence (CE) – 3 pass, 9 fail

- Nail Technology – 20 pass, 18 fail
- Nail Technology Instructor – 1 fail
- Nail Technology Jurisprudence (probation) - 1 pass, 1 fail

Active licenses

Cosmetology:

- Apprentice Training Salon – 1
- Cosmetologist – 7882
- Cosmetology Instructor – 137
- Cosmetology Salon – 2078
- Cosmetology Salon Consideration Certificate – 7
- Electrologist – 14
- Esthetician – 949
- Esthetics Instructor – 17
- Esthetics Salon – 90
- Esthetics Salon Consideration Certificate - 3
- Home Service Permit – 4
- Mobile Salon Consideration Certificate - 1
- Cosmetology School – 15
- Temporary Cosmetologist – 10

Temporary Esthetician - 1

Body Art:

Body Art Facility – 157
Body Brander – 0
Body Piercer – 83
Permanent Color Technician – 131
Tattoo Artist – 290

Nail Technology:

Nail Technician – 1313
Nail Technology Instructor – 14
Nail Technology Salon - 212
Nail Technology School – 4
Temporary Nail Technician - 0

MOTION: Pettigrew moved, seconded by Anderson, to enter into closed session at 12:58 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. Criswell repeated the motion purpose. A roll call vote was taken. Voting aye: Anderson, Criswell, Hornig, Judkins, Lucas, Pettigrew, Phillips, Rowland, Bingham (9). Voting nay: None (0). Absent: Banse, Nordboe (2). Motion carried.

12:58 p.m. - 2 public persons departed the meeting

MOTION: Rowland moved, seconded by Hornig, to return to open session at 1:10 p.m. A roll call vote was taken. Voting aye: Anderson, Criswell, Hornig, Judkins, Lucas, Pettigrew, Phillips, Rowland, Bingham (9). Voting nay: None (0). Absent: Banse, Nordboe (2). Motion carried.

Nicholas Yager – Tattoo Artist Reinstatement

MOTION: Anderson moved, seconded by Hornig, to recommend reinstatement of the license with no terms or conditions. A roll call vote was taken. Voting aye: Anderson, Criswell, Hornig, Lucas, Pettigrew, Phillips, Rowland (7). Voting nay: Judkins (1). Abstain: Bingham (1). Absent: Banse, Nordboe (2). Motion carried.

Chiles was asked about hiring an inspector. She responded that personnel is working on updating the classification from 1986; the current pay has resulted in previous offers being declined. Chiles is also working on contracting for an inspector in central Nebraska using the new procurement process.

8. ADJOURNMENT

Criswell declared the meeting adjourned at 1:29 p.m.

Respectfully submitted,

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

Summarized by Nancy Herdman, Health Licensing Coordinator