

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

These minutes were
approved by
the Board on
March 2, 2015

January 5, 2015

1. ROLL CALL

The meeting of the Board of Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art was called to order by the Chairperson, Lyra Faltys, at 10:37 a.m., Lower Level Conference Room F, 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:

Vicki Criswell	-	Member
Lyra Faltys	-	Chairperson
Melanie Judkins	-	Member
Jason Lassek	-	Secretary
David Newson	-	Member
Marie Nordboe	-	Member
Lisa Pfeil	-	Member
Pamela Rowland	-	Member

Members Absent:

Bridget Anderson	-	Member (entered meeting at 12:02 p.m.)
Ruth Lucas	-	Member
Becky Pettigrew	-	Vice-chairperson

Others present were:

Ed Vierk, Assistant Attorney General
Dennis Scott, Investigator
Russ Fosler, Investigator
Duane Newland, Investigator
Peggy Pursell, Investigations
Kris Chiles, Program Manager, Licensure Unit
Nancy Herdman, Health Licensing Coordinator, Licensure Unit

A quorum was present and the meeting convened.

The members introduced themselves to the new Board member, Pamela Rowland.

2. ADOPTION OF AGENDA

MOTION: Nordboe moved, seconded by Pfeil, to adopt the agenda. A roll call vote was taken. Voting aye: Criswell, Faltys, Judkins, Lassek, Newson, Nordboe, Pfeil, Rowland (8). Voting nay: None (0). Absent: Anderson, Lucas, Pettigrew (3). Motion carried.

3. APPROVAL OF MINUTES (11-3-14; 12-1-14 Conference Call)

Nordboe stated the times Lassek departed and returned to the meeting on page 4 did not appear correct and staff will make the corrections.

MOTION: Nordboe moved, seconded by Pfeil, to approve the minutes of 11-3-14 with the correction. A roll call vote was taken. Voting aye: Criswell, Faltys, Judkins, Lassek, Newson Nordboe, Pfeil, Rowland (8). Voting nay: None (0). Abstain: None (0). Absent: Anderson, Lucas, Pettigrew (3). Motion carried.

Approval of the December 2014 minutes was deferred until later in the meeting as some members did not recall receiving the December 2014 minutes and agreed to review a copy provided at the meeting.

4. INVESTIGATIONAL & CONFIDENTIAL INFORMATION/REPORTS – CLOSED SESSION

MOTION: Newson moved, seconded by Nordboe, to enter into closed session at 10:43 a.m. for the purpose of hearing discussions of a confidential nature and for the prevention of needless injury to the reputation of the individuals. A roll call vote was taken. Voting aye: Criswell, Faltys, Judkins, Lassek, Newson, Nordboe, Pfeil, Rowland (8). Voting nay: None (0). Absent: Anderson, Lucas, Pettigrew (3). Motion carried.

11:36 a.m. - Anna Harrison, compliance monitor, entered meeting
 11:37 a.m. - Harrison departed meeting
 12:02 p.m. - Anderson entered meeting
 12:12 p.m. - Break
 12:37 p.m. - Meeting resumed

MOTION: Newson moved, seconded by Judkins, to return to open session at 12:37 p.m. A roll call vote was taken. Voting aye: Anderson, Criswell, Faltys, Judkins, Lassek, Newson, Nordboe, Pfeil, Rowland (9). Voting nay: None (0). Absent: Lucas, Pettigrew (2). Motion carried.

5. APPLICATION REVIEW AND RECOMMENDATIONS – OPEN SESSION

a. Initial Licensure/Reinstatement/Convictions/Administrative Penalties

Molly Grigaitis - Esthetician

MOTION: Nordboe moved, seconded by Judkins, to recommend issuance of the license with no terms or conditions. A roll call vote was taken. Voting aye: Criswell, Faltys, Judkins, Lassek, Newson, Nordboe, Pfeil, Rowland (8). Voting nay: None (1). Abstain: Anderson (1). Absent: Lucas, Pettigrew (2). Motion carried.

Janeth Gonzalez – Esthetician

MOTION: Nordboe moved, seconded by Pfeil, to recommend offering a Probationary license with a 6 month probation, to include the standard terms and conditions and the following: pass jurisprudence examination. A roll call vote was taken. Voting aye: Criswell, Faltys, Judkins, Lassek, Newson, Nordboe, Pfeil, Rowland (8). Voting nay: None (0). Abstain: Anderson (1). Absent: Lucas, Pettigrew (2). Motion carried.

Jennifer Maddocks – Esthetician

MOTION: Nordboe moved, seconded by Rowland, to defer the application and mail a second request for a letter of explanation regarding applicant's convictions with a 30 day deadline for response. A roll call vote was taken. Voting aye: Criswell, Faltys, Judkins, Lassek, Nordboe, Rowland (6). Voting nay: Newson, Pfeil (2). Abstain: Anderson (1). Absent: Lucas, Pettigrew (2). Motion carried.

Sharina Snyder – Cosmetologist

MOTION: Judkins moved, seconded by Criswell, to recommend offering a Probationary license with a 6 month probation, to include the standard terms and conditions and the following: pass jurisprudence examination. A roll call vote was taken. Voting aye: Criswell, Faltys, Judkins, Lassek, Newson, Nordboe, Pfeil, Rowland (8). Voting nay: None (0). Abstain: Anderson (1). Absent: Lucas, Pettigrew (2). Motion carried.

Shannon Whitley – Cosmetologist

MOTION: Lassek moved, seconded by Nordboe, to recommend offering a Probationary license with a 6 month probation, to include the standard terms and conditions and the following: pass jurisprudence examination. A roll call vote was taken. Voting aye: Anderson, Criswell, Faltys, Lassek, Newson, Nordboe, Rowland (7). Voting nay: Judkins, Pfeil (2). Abstain: None (0). Absent: Lucas, Pettigrew (2). Motion carried.

Returned to agenda item3 regarding approval of 12-1-14 minutes.

MOTION: Nordboe moved, seconded by Crowell, to approve the minutes of 12-1-14. A roll call vote was taken. Voting aye: Anderson, Criswell, Faltys, Judkins, Lassek, Newson Nordboe, Pfeil, Rowland (9). Voting nay: None (0). Abstain: None (0). Absent: Lucas, Pettigrew (2). Motion carried.

12:42 p.m. - Teresa Hampton, Department Attorney, entered the meeting

MOTION: Nordboe moved, seconded by Anderson, to enter into closed session at 12:44 p.m. for the purpose of hearing discussions of a confidential nature and for the prevention of needless injury to the reputation of the individuals and review of a reinstatement application requesting early release from probation. A roll call vote was taken. Voting aye: Anderson, Criswell, Faltys, Judkins, Lassek, Newson, Nordboe, Pfeil, Rowland (9). Voting nay: None (0). Absent: Lucas, Pettigrew (2). Motion carried.

12:44 p.m. - Harrison entered meeting

12:45 p.m. - Vierk departed meeting

MOTION: Nordboe moved, seconded by Judkins, to return to open session at 1:21 p.m. A roll call vote was taken. Voting aye: Anderson, Criswell, Faltys, Judkins, Lassek, Newson, Nordboe, Pfeil, Rowland (9). Voting nay: None (0). Absent: Lucas, Pettigrew (2). Motion carried.

Raul Longoria – Tattoo Artist (Reinstatement: Early Release from Probation)

MOTION: Anderson moved, seconded by Nordboe, to recommend maintaining all terms and conditions of current probation except body fluid screens. A roll call vote was taken. Voting aye: Anderson, Criswell, Faltys, Lassek, Newson, Nordboe, Rowland (7). Voting nay: Pfeil, Rowland (2). Abstain: None (0). Absent: Lucas, Pettigrew (2). Motion carried.

1:21 p.m. - Harrison departed meeting

6. Unfinished Business

a. Review/Revise Conviction Guidelines Relating to Application Reviews

Chiles stated the only change she made to the Conviction Guideline document previously distributed was that on page 6 the new DSM-5 diagnoses of substance use disorders were listed. Lassek asked about when an applicant had a couple of misdemeanors which were not addressed in the document. He stated he felt the Department could make more decisions. The members talked about all the different types of convictions. Chiles commented she had been sending less applications with convictions to the Board based on feedback she had received. Lucas had sent some comments to Chiles and her main concern was MIP's, specifically she felt going back 5 years was going back too far. Nordboe commented that she thought 5 years was a good starting point. Chiles stated each Board tailors the Guidelines to their profession and reminded the Board that it was a guideline document only and a starting point for discussion as no two cases were the same. Newson commented that it was important to look at individual cases and try not to get hooked into how some prior case was looked at. Anderson suggested moving it to 3 years instead of 5. Pfeil stated she felt the Board asked for too many evaluations which she did not find particularly helpful. Nordboe reminded the Board that they need to think about public safety. Lassek commented he felt this Board was more stringent than other Boards. Chiles commented that other boards do not see the number of convictions this Board sees. Chiles offered to provide the Guidelines used by the other areas in the Department and put this item on the agenda again for March.

b. Board Advisory Position Relating to Cupping Services

Criswell stated she had 'cupping services' done on her face and back and she had marks on her back for a week but they did not hurt. She talked to past students who both do cupping and they felt it could fall under cosmetology or esthetics but they felt it was more relevant to esthetics. Both felt more education was needed if a person was going to do cupping. Criswell commented that she felt it belonged with massage therapy. Criswell was asked if it was going into the dermis and she responded she felt it was. She was asked the purpose of cupping and she responded release of stress, detoxification and muscle release. The cosmetology

scope of practice was reviewed and it refers to using an appliance for personal beauty. There was a question that if going below the surface was really for personal beauty. **The Board's position is that cupping is not within the scope of practice of esthetics or cosmetology because it goes into the dermis.**

2:04 p.m. - Lassek departed meeting
 2:06 p.m. - Lassek entered meeting
 2:08 p.m. - Judkins departed meeting
 2:10 p.m. - Judkins entered meeting

7. NEW BUSINESS

a. Correspondence/Issues/Other

Booth rental business names: Nordboe asked if the issue of booth rental business names being different from the salon name had been resolved. Chiles responded that it is of concern that booth owners are advertising the name of their business differently from that of the licensed salon and said name is not in the Department licensure records. The Board determined that if the person is working in a licensed salon, they were not concerned what the rental booth was called but it would be better to advertise as cosmetologist A at salon B.

b. Body Art, Cosmetology, Electrology, Esthetics, Nail Technology

There were no further discussion items regarding body art, electrology, esthetics, or nail technology. Newson commented he heard that states were trying to deregulate cosmetology. It was discussed that Missouri had gone through several attempts of deregulation and some states had lowered their education requirements.

c. Legislative Session 2015

Chiles reported the legislative session begins 1-9-15 and she was not aware of any possible bills for the professions regulated by this Board.

8. REPORTS/UPDATES

a. Disciplinary/Non-Disciplinary Action Report

Chiles passed around the list of disciplinary and non-disciplinary actions from 1-1-14 to 1-1-15.

2:40 p.m. - Break
 2:56 p.m. - Meeting resumed

b. Statistics: Examinations/Renewal/Licensing/Administrative Penalties

Chiles provided the following information:

- The Cosmetology renewal date was 12-31-14 and as of that date approximately 3,000 cosmetologists had not yet renewed.
- As of today, 2081 cosmetologists and 51 cosmetology instructors had not renewed. There were several renewal options including renew on online, print off the renewal application from the web and mail it in or request a paper copy of the renewal application to be mailed to them to be completed and returned. The online renewal had some problems with questions being answered incorrectly and scrolling down on the application which affected responses.

Chiles reported the following administrative fees had been collected:

Cosmetologist	\$ 7,010
Cosmetology Salon	\$30,045
Esthetics Salon	\$ 360
Nail Technician	\$ 610
Nail Technician Salon	\$ 1,770

Chiles reported the following administrative fees assessed but unpaid:

Body Piercer	\$ 550
Cosmetologist	\$ 720
Cosmetology Salon	\$ 1,050

Chiles reported the following examination information for 1-1-14 to 1-1-15:

Nail Technology:	44 passed, 37 fail, 13 no show
Nail Technology Instructor:	1 pass
NT Jurisprudence – probation	5 pass, 1 fail
Cosmetology	360 pass, 33 fail, 31 no show
Esthetics	70 pass, 8 fail, 8 no show
Esthetics Instructor	3 pass, no fail

Chiles was asked how a home service permit worked and she responded that it had to be associated with a licensed salon, there was an application process, and a home service kit is required. Additionally, the home service permit is only authorized for services to individuals who cannot leave their home due to an injury or illness or immobilization.

9. ELECTION OF OFFICERS/APPOINTMENTS

a. Officer Elections (Chairperson/Vice-Chairperson/Secretary)

MOTION: Nordboe moved, seconded by Anderson, to retain the current officers for 2015. A roll call vote was taken. Voting aye: Anderson, Criswell, Faltys, Judkins, Lassek, Newson, Nordboe, Pfeil, Rowland (9). Voting nay: None (0). Absent: Lucas, Pettigrew (2). Motion carried.

The 2015 officers are:

Faltys, Chairperson
Pettigrew, Vice Chair
Lassek, Secretary

b. Complaint Consultant & Continuing Education Reviewer Appointments

- Body Art
- Cosmetology
- Electrology
- Esthetics
- Nail Technology

The Board agreed to retain the same complaint consultant and continuing education reviewer for body art, cosmetology, electrology, esthetics, and nail technology.

10. ADJOURNMENT

Faltys declared the meeting adjourned at 3:15 p.m.

Respectfully submitted,

Jason Lassek, Secretary
Board of Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art

Summarized by Nancy Herdman, Health Licensing Coordinator