

IDAHO BOARD OF COSMETOLOGY

Bureau of Occupational Licenses

700 West State Street, P.O. Box 83720

Boise, ID 83720-0063

Board Meeting Minutes of 2/9/2015

BOARD MEMBERS PRESENT: Debra J Hummel - Chair
Merrilyn Cleland
Bonnie D. Sermon
Linda Swope
Christy L Duplantie

BUREAU STAFF: Tana Cory, Bureau Chief
Dawn Hall, Administrative Support Manager
Lori Peel, Investigative Unit Manager
Eric Nelson, Board Prosecutor
Roger Hales, Naylor and Hales
Maurie Ellsworth, Legal Counsel

OTHERS PRESENT: Laurie Rowen, Rick Evans, Ryan Evans, Rick Fuger,
Peggy Foster, Ronda Clark, LaDonn Goodfellow,
Tyler Price, Laurie Rowen, Kathy Hopkins,
Wendy Florence, Lou Strata, George Brunt
Steve Rayborn –Nampa School District, Kris Ellis,
and Tony Smith

The meeting was called to order at 8:30 AM MST by Ms. Hummel.

APPROVAL OF MINUTES

Ms. Sermon made a motion to accept the minutes from October 6, 2014; October 27, 2014; November 3, 2014; and January 12, 2015 as written. It was seconded by Ms. Swope. Motion carried.

LEGISLATIVE REPORT

Ms. Cory gave the legislative report. She said that the proposed rules for simplifying processes for contiguous shops have been presented to the House Business Subcommittee and were sent to the full committee without recommendation. The full House Business and the Senate Commerce and Human Resources Committees approved the rules. The rules will go into effect at the end of the session after the Pro Tem and Speaker sign the concurrent resolution on rules.

The RS for the demonstration permit was presented in the House Business Committee. There were concerns regarding this proposed law. Ms. Cleland addressed the Board and said some of the concerns were related to compensation and the location of an event. There was a motion that failed to return the bill to the sponsor; then a motion to print the bill passed, but there were still noted concerns.

Ms. Cory reported that Mr. Smith was at the hearing on behalf of the School Owners Association. The Bureau inquired if the Association was in favor of the proposed law and was informed that the Association had not taken a position on it. Therefore, when the RS was presented the Bureau was not able to indicate that the Association had taken a position.

Also, Ms. Cleland reported that the Committee discussed sanitation. Based on this discussion, Ms. Cleland mentioned to the Board that Leslie Roste, RN, BSN National Director of Education BlueCo Brands has offered her services if needed to testify on the importance of sanitation. This may be a good option if the Legislature would like more information on sanitation.

Ms. Cory said that there are newly elected legislators on the House Business Committee and it might be helpful for the Board to send a letter with the PowerPoint regarding sanitation in the industry and to offer that Ms. Roste could present to the committee if they would like.

Ms. Cleland made a motion to send a letter to the committee with a PowerPoint regarding the importance of sanitation in the profession and note the offer from Ms. Roste with BlueCo Brands to speak with them if they have additional questions regarding sanitation. It was seconded by Ms. Duplantie. Motion carried.

FINANCIAL REPORT

Ms. Hall gave the financial report, which indicated that the Board has a cash balance of \$1,498,777.14 as of 02/9/2015.

MEMORANDUM

Mr. Nelson, Board Prosecutor, presented the Board a Memorandum regarding cases COS-2015-54, COS-2015-67, COS-2015-55 and COS-2015-66. The Board gave recommendations to Mr. Nelson.

Regarding Cases COS -2015-24, COS-2015-25, COS-2014-165, and COS-2014-166, Ms. Cleland made a motion to close the cases with a warning letter. It was seconded by Ms. Sermon. Motion carried.

CONSENT ORDERS

Mr. Nelson, Board Prosecutor, presented the Board several Stipulation and Consent Orders on cases COS-2013-140, COS-2014-102, COS-2014-105/106, COS-2014-126/127, COS-2014-130/131, COS-2014-139, COS-2014-145/146, COS-2014-147/148, COS-2014-149/150, COS-2014-155/156, COS-2014-162, COS-2014-163, COS-2014-164, COS-2015-9 and COS-2015-10. Ms. Sermon made a motion to accept the Stipulation and Consent Orders as signed and authorize Ms. Hummel to sign on behalf of the Board. It was seconded by Ms. Swope. Motion carried.

FINAL ORDER

COS-2014-117 Ms. Sermon made a motion to approve the Findings of Facts, Conclusions of Law and Final Order and authorize Ms. Hummel to sign on behalf of the Board. It was seconded by Ms. Cleland. Motion carried.

INVESTIGATIVE REPORT

Ms. Peel presented the investigative report which is linked above.

FOR BOARD DETERMINATION

Ms. Duplantie made a motion to accept the recommendations of the Bureau to authorize closure in the following cases with a warning letter I-COS-2015-25; I-COS-2015-29 and I-COS-2015-39. It was seconded by Ms. Sermon. Motion carried.

Ms. Duplantie made a motion to accept the recommendations of the Bureau to authorize closure in cases I-COS-2014-131 and I-COS-2014-132; I-COS-2014-137; I-COS-2014-200; I-COS-2014-204; I-COS-2015-38. It was seconded by Ms. Sermon. Motion carried.

DISCIPLINARY ACTION

Ms. Peel presented the Board several Settlement Orders regarding case numbers, COS-2015-17/18, COS-2015-37/38, COS-2015-46/47, COS-2015-48/49, COS-2015-50/51, COS-2015-56/57/58, COS-2015-73, COS-2015-76, and COS-2015-77. Ms. Sermon made a motion to accept the Settlement Orders as signed and authorize Ms. Hummel to sign on behalf of the Board. It was seconded by Ms. Swope. Motion carried.

COS-2015-29 Ms. Swope made a motion to reject the request to have probation removed from the proposed settlement. It was seconded by Ms. Cleland. Motion carried.

COS-2015-30, COS-2015-31, COS-2015-32, COS-2015-33, COS-2015-34, COS-2015-35, COS-2015-36 Ms. Sermon made a motion to close with a warning letter. It was seconded by Ms. Duplantie. Motion carried.

MEMORANDUM

Ms. Peel presented the Board a Memorandum. Regarding cases COS-2014-122 & COS-2014-123; COS-2014-141 & COS-2014-142; COS-2014-157 & COS-2014-158; COS-2015-13 & COS-2015-14; and COS-2015-19, & COS-2015-20, Ms. Swope made a motion to close the cases with a warning letter. It was seconded by Ms. Sermon. Motion carried.

REQUEST FOR PAYMENT ARRANGEMENTS

The Board reviewed requests for payment arrangements in cases COS-2012-34/35; COS-2013-102; COS-2014-119; COS-2014-34/35 and COS-2014-65/66. Ms. Sermon made a motion to approve the payment proposals. It was seconded by Ms. Duplantie. Motion carried.

REPORTS FROM ECHO LUNDEBERG

The Board reviewed reports submitted by Echo Lundeborg.

FOAM NAIL FILES

Ms. Peel discussed the use of foam nail files and whether they can be disinfected. Discussion was held that some shops use the files only once and some disinfect and re-use them. The Board asked Ms. Peel to research whether foam files can be disinfected.

OLD BUSINESS

TO DO LIST

The Board reviewed the to do list.

SUBCOMMITTEE

A report was given regarding online education and theatrical makeup.

Mr. Hales discussed with the Board information that was received from other states regarding online education. The states that do allow it seem to limit it to theory or a percentage of the overall number of hours. Discussion was held. Ms. Cleland will follow-up with other states during the National Interstate Regional meeting.

Mr. Hales discussed with the Board information that was received from other states regarding theatrical makeup. Some states have an exemption in law. It is up to the Board how it wants to handle it. The subcommittee will continue to research this.

Mr. Rayborn, Director of Technical Programs for the Nampa School District addressed the Board regarding a cosmetology program that is offered in the Nampa School District. Students take the curriculum at the high school level. The school would like to offer dual credit agreements with post-secondary institutions to count toward cosmetology education. Mr. Rayborn presented a slide show to the Board regarding the setup of the classroom and said they currently have a PTE certified instructor.

Ms. Hummel asked if this instructor is a licensed Cosmetologist Instructor and Mr. Rayborn said she is a Licensed Cosmetologist.

Ms. Cleland asked for clarification on student demonstrations. Mr. Rayborn said they would have a licensed cosmetologist come into the school with a client to show the students what they can expect once they get into the postsecondary environment. Ms. Cleland asked about color and sanitation and it was stated that they would be learning that as well.

Mr. Rayborn asked the Board what the high school would need to do to have the training in the high school be accepted by the cosmetology schools.

The Board determined that the program would need to be a licensed school and the training would need to be given by a licensed instructor under Title 54 Professions, Vocations, and Businesses or could work with licensed schools to be part of their curriculum which would be submitted to the Board for approval. Mr. Rayborn said the program will pursue licensure and he understands that it cannot offer anything for dual credit or credited hours until the program receives the Board's approval.

INSPECTIONS/INSPECTORS

Ms. Peel asked for direction regarding classification cards if the proposed rule changes to a contiguous license pass.

The Board determined that once an inspection is done, the licensee will take the inspection card with them if they move to another station within the contiguous area.

Discussion was held on adding additional inspectors to the Cosmetology Board and how many would need to be added to ensure each shop is inspected every year. The Bureau will research inspection numbers and bring them back to the Board at its next meeting.

NEWSLETTER SURVEY

The Bureau reported on a survey to licensees regarding receiving the Board's newsletter. Eight comments were received. Discussion was held. It was noted that there were no negative comments, but many comments positively referenced the postcards that are sent regarding proposed law and rule changes. The Board took no action.

SCHOOL OWNERS ASSOCIATION

Ms. Ellis, on behalf of the School Owners Association and the Northwest Career Colleges Federation, presented to the Board proposed legislation to lower the number of hours of instruction in a cosmetology school that are required for a cosmetology license from 2,000 hours to 1,600 hours.

Ms. Ellis shared the results of a survey of school owners related to lowering the hours. The Board requested in October 2014 that Ms. Ellis share the results of the survey with the Board. Ms. Ellis said that, out of the schools that they contacted, fourteen (14) were an adamant yes in support of lowering the number of hours and five (5) were a no. In two cases the owner of the school was yes and the director of the school was a no or maybe. Those responses were counted as a yes because the School Owners Association felt the owner would have the final say and possibly a more global view of trends across the country.

Ms. Ellis said that five (5) remaining schools were deemed to be "on the fence" because of their comments, such as: "when the changes come we will comply, to lowering the hours doesn't solve the problem of inconsistency in training."

Ms. Ellis stated that it was the School Owners Association's impression that regardless of the specific response concerning lowering the number of hours, everyone surveyed wanted stricter regulations and oversight of the licensure process, such as more testing to include nails and esthetics. Ms. Ellis said that there is a feeling that the Board has become somewhat complacent, and in one person's words "lazy," by focusing on the areas of safety and sanitation rather than on student training and capabilities. Other comments on the survey reportedly said that separating hairdressing from nails and esthetics might be a potential idea but only because the training is slighted in the areas that are not being tested, such as nails and esthetics, and that even adding additional hours, over 2,000 hours, would not necessarily resolve that if students are not held accountable by testing. Finally, Ms. Ellis reported that the greatest frustration seems to be a perception that some schools do not adequately prepare students in the areas of nail technology and esthetics but the cosmetology license indicates the licensee is competent in all areas.

Ms. Ellis said that after the survey and discussions with national associations and accrediting bodies, the Associations decided to move forward with legislation to lower the required instructional hours from 2,000 to 1,600 because the associations felt they had strong support for lowering the hours and allowing schools to offer additional training if they choose and the proposed legislation accomplishes those two points.

Ms. Cleland asked Ms. Ellis why the proposal was not brought to the Board before it was presented to the Legislature as a proposed bill. Ms. Ellis explained that the Board did not have a meeting scheduled prior to the legislative session. Ms. Cleland indicated that the Board could have scheduled a conference call if it had been notified of the proposal.

Ms. Ellis stated that the first draft was sent to the Bureau in December; however, Ms. Cory clarified that the draft was sent in January 2015, and a revised draft was sent the previous week.

Ms. Ellis said the first draft was taken to school owners and legislators and it was changed to the draft that the Board has. When asked why the Board was not included in any of the discussions, Ms. Ellis explained that although the Board could have been notified, it was felt that the Board had been discussing the issue for a long time and that she felt she knew what the Board's position would be on the legislation.

Ms. Duplantie stated that she had served on the Board for a year and this was the first she had heard of it. Ms. Ellis responded by referencing the conversation at the Board's last meeting. Ms. Cleland said to Ms. Ellis that the Board's direction was to request the results of the survey. Ms. Cleland stated that the Board had not been involved in the proposed legislation and did not have the survey results until today. Ms. Cleland asked, if there was going to be a proposed bill before the Legislature why the Board was hearing of it for the first time that day. Ms. Ellis said she did not know why the Board had not received the draft of the legislation three weeks prior. Ms. Cory stated that the draft was received through email by the Bureau on a Saturday and was forwarded to the Board's Chair that day and placed on the agenda for the next meeting.

It was also clarified that issue was raised in the Board's last meeting as the result of a constituent letter expressing concern about a survey regarding lowering the required instructional hours that the School Owners Association was conducting. The Board's expectation from the last meeting was that the Board would have a chance to review the survey results at its February meeting and there would be a discussion of the issue, and therefore the Board was surprised to see proposed legislation three weeks ago.

Ms. Ellis stated that the Board was aware that this issue has been a topic of discussion for a couple years and this is not a totally new issue. Ms. Swope

acknowledged that the issue had been generally discussed but that the proposed legislation had not been discussed. The Board also expressed concern that the proposed legislation not only impacts schools, but that licensees and salon owners are also impacted. Ms. Ellis assured the Board that if the licensees had a professional association, the association's lobbyist would have been contacted about the proposal, but she told the Board that she does not represent the licensees. Ms. Hummel noted that the Board must consider the impact on all licensees and interested parties.

Ms. Foster with Headmaster School of Hairdesign in Lewiston addressed the Board. She indicated that she had not previously heard the results of the survey or that legislation was being proposed. Ms. Foster stated that she is a paid member of the School Owners Association. She also stated that she personally contacted six schools in the past day that are adamantly opposed to the legislation and that she is also adamantly opposed to lowering the instructional hours.

Ms. Florence with Academy Di Firenze addressed the Board. She said that she was the person who wrote the letter that initiated the conversation at the last Board meeting. She stated she contacted the Board about the issue because she is not a member of the School Owners Association. She stated that she was surprised to learn that there is legislation being proposed now. She is opposed to lowering the required instructional hours

Ms. Hummel made the request to Ms. Ellis to pull back this bill and give the Board a chance to receive comments and feedback from salon owners, licensees, and others on the proposed change. Ms. Ellis informed the Board that her job is to represent the School Owners Association, and she acts at the School Owner Association's direction. She said that the School Owners Association, at the Board's request, included in the survey schools that were not part of the Association. Ms. Ellis indicated that she could go back to the organizations she represents and convey the Board's request to pull back the legislation, but at this point, she has been directed to move forward with it.

Mr. Fuger with Idaho State University addressed the Board. Mr. Fuger stated that, in the past, membership in the School Owners Association only cost \$150, but the cost is now \$1000 and not every school or entity can afford that. It was Mr. Fuger's opinion that the increase in cost was to allow the School Owners Association to retain a lobbyist for legislative matters, which he understood. Mr. Fuger expressed his disappointment about the lack of consultation with the Board and licensees on this legislation. Mr. Fuger stated that he is not a member of the School Owner's Association and does not receive email or correspondence from the Association. He stated that he had been contacted by the University's lobbyist about the legislation approximately one month ago and that was the first time he became aware of the proposed legislation. He stated that he was opposed to the proposed legislation. Mr. Fuger expressed his sense

that most of his students at the 1,600 hour mark are just beginning to feel confident practicing on individuals, and it is his experience that students do not feel they have a true grasp until that final month. Mr. Fuger stated he would like to see more discussion on the issue and broader representation from the entire industry in any surveys done on the issue.

Ms. Ellis responded that the proposed legislation specifically allows schools to continue teaching 2,000 hours. Ms. Ellis indicated that it would be a business decision for school owners regarding whether to continue to operate with a 2,000-hour course of curriculum or whether to lower it to 1,600 hours.

Ms. Cory stated that the concern is that the Board feels it had requested the School Owners Association bring a proposal to the Board, and the proposal would be discussed. It was reiterated that the Board's intention from the last meeting was that once the survey results had come back, the Board would convene a subcommittee to consider the School Owners Association's proposal and to discuss the issues, concerns, and work with all the interested parties. It was noted that typically the Legislature prefers that agencies bring proposals that represent solutions to issues once the industry, agency, and all other interested parties have fully discussed the issue.

Ms. Ellis stated that, for at least the 14 schools and the majority of members that are represented by the School Owners Association, the lower hours represent a better business model that moves students into practice sooner with less student loan debt, and the School Owners Association felt this proposed legislation could not wait another year.

Ms. Sermon expressed her concern about some information that was circulating regarding federal mandates that impact funding, particularly for large schools, which might motivate schools to lower hours in order to produce more graduates. Ms. Ellis clarified that there is a conversation going on, but schools can only put out so many students that can be hired. She mentioned that the gainful employment law requires schools to maintain a rate of 70% employment of graduates in order to maintain the school's accreditation. Ms. Duplantie inquired further regarding the motivations in lowering the hours. Ms. Ellis explained there are many factors including efficiencies in education, instructors that report that students get bored when they get to 1,600 hours, and that student loan debt is always an issue. She stated that 36 or 38 states now require 1,600 hours or less and acknowledged that national-chain schools have a business interest in maintaining consistency in the curriculum across states.

Mr. Fuger expressed concern and said that when the issue was brought up a few years ago, he did his own research into states that only had 1,600 hours and that 1,600 hours covered general practice, but if they are trying to get students out of the program as a money issue, the schools would also tell the student if they wanted more of a chemical license or nail or esthetics license, the student would

have to pay extra and come back to the school for those extra things, and the student could end up with almost 3,200 hours in that school. Mr. Fuger indicated he was unsure of the economic benefit to students of a 1,600 hour program.

Ms. Sermon made a motion to ask the School Owners Association to pull the currently proposed legislation. The motion was seconded by Ms. Duplantie. Motion carried. The Board reiterated its willingness to work with the School Owners Association on this issue but that the Board wanted to have the opportunity to take the proposal through its process to ensure a full discussion on the issue.

NEW BUSINESS

NEXT MEETING

Ms. Cleland made a motion to schedule the next meeting for June 1, 2015 at 8:30 AM MST at the Bureau of Occupational Licenses 700 West State Street Boise, Idaho 83702. It was seconded by Ms. Sermon. Motion carried.

Mr. Hales addressed the Board regarding a letter to be sent out to licensees notifying them of the new contiguous process. The Bureau would like the Board to allow the subcommittee of Ms. Hummel and Ms. Swope to work with the Bureau on the application process regarding the contiguous licenses.

Ms. Sermon made a motion to have the subcommittee work with the Bureau on correspondence to licensees and the application for the transition of contiguous shops. It was seconded by Ms. Duplantie. Motion carried.

DL ROOPE CONTRACT

Ms. Swope made a motion to accept the DL Roope Administrations, Inc. testing contract for FY2016 and authorize Ms. Cory to sign on behalf of the Board. It was seconded by Ms. Cleland. Motion carried.

EXECUTIVE SESSION

Ms. Swope made a motion to go into executive session per Idaho Code 67-2345 (1) (d), to consider records that are exempt from disclosure under the Idaho Public Records Law. The purpose of the executive session was to discuss licensure applications. It was seconded by Ms. Sermon. Motion carried. The vote was: Ms. Hummel, aye; Ms. Cleland, aye; Ms. Duplantie, aye; Ms. Sermon, aye; and Ms. Swope, aye.

Ms. Cleland made a motion to come out of executive session. It was seconded by Ms. Sermon. Motion carried. The vote was: Ms. Swope, aye; Ms. Hummel, aye; Ms. Cleland, aye; Ms. Sermon, aye; and Ms. Duplantie, aye.

DEMONSTRATION PERMITS

Ms. Swope made a motion to accept the demonstration permit for Razzle Dazzle College of Hair Design and Toni and Guy Hairdressing Academy and to note that individuals only get credit for hands-on time, not travel time. It was seconded by Ms. Sermon. Motion carried.

APPLICATIONS FOR LICENSE

Ms. Cleland made a motion to accept the application for Danielle Smania, Jami Mathews and Alayna Powell and issue licenses. It was seconded by Ms. Duplantie. Motion carried.

Ms. Swope made a motion to deny the application for Stacy Sorensen. It was seconded by Ms. Cleland. Motion carried.

Ms. Duplantie made a motion to put the application for applicant 901136703 into pending and request additional information. It was seconded by Ms. Cleland. Motion carried.

Ms. Swope made a motion to accept the application for Thuan Nguyen, Hung Nguyen and Chi Nguyen and issue licenses. It was seconded by Ms. Duplantie. Motion carried.

Ms. Swope made a motion to accept the application for Mary Garcia and issue a license. It was seconded by Ms. Sermon. Motion carried.

Ms. Sermon made a motion to have Linda Giltner and Erica Castro and Parisa Hassan Gorji take the full examination and issue licenses once the examination has been passed. It was seconded by Ms. Duplantie. Motion carried.

Ms. Sermon made a motion to accept the application for applicant 901135301 pending additional information. It was seconded by Ms. Duplantie. Motion carried.

APPRENTICESHIPS

Ms. Sermon made a motion to accept the apprenticeship applications for Amy Vo and Thuy Nguyen at Allay Spa, and Kenia Rayon and Amy Kelly at LA Nails LLC. It was seconded by Ms. Swope. Motion carried.

CURRICULUM REVIEW

Ms. Sermon made a motion to accept the curriculum for applicant 901095207 pending the approval of the laws and rules being added to the curriculum. It was seconded by Ms. Duplantie. Motion carried.

Ms. Sermon made a motion to have the Bureau draft a letter for the Chair's signature and send it to the Senate Commerce and Human Resources Committee Chairman and all Committee Members informing them that the legislation regarding lowering the instructional hours for a cosmetology license was not discussed with the Board prior its presentation in the Legislature. It was seconded by Ms. Duplantie. Motion carried.

The Board also requested that, if the bill on lowering hours goes to print, then the Bureau send a postcard to licensees notifying them of the legislation.

ADJOURNMENT

Ms. Sermon made a motion to adjourn the meeting at 2:35 PM MST. It was seconded by Ms. Duplantie. Motion carried.

Debra J Hummel, Chair

Merrilyn Cleland

Bonnie D. Sermon

Linda Swope

Christy L Duplantie

Tana Cory, Bureau Chief