

Board of Cosmetology

February 12, 2018 Board Meeting Minutes

10:08 AM to 2:58 PM

Board of Cosmetology Conference Room

1000 University Avenue West Suite 100, St. Paul, MN 55104

Present at Meeting:

Rhonda Besel, Chair

Jodi Friendshuh, Member

Mary Finnegan, Member (attended electronically)

Stephen Adams, Member

Chelsey Anderson, Member

Gina Fast, Executive Director

Catrina Mairose, Chief of Staff

Diane DelaBarre, Assistant Executive Director

Rebecca Gaspard, Rules Analyst

Alex Herbert, School Liaison

Jenna Bohl, Licensing Division Manager

Lene Kiser, Compliance Division Manager

Andrew Reding, Inspection Division Manager

Tami Thein, Assistant to the Executive Director

Cori Omundson, Leadership Team Assistant

Anthony de Sam Lazaro, Asst. Attny. Gen. (attended electronically)

I. Call to Order

RB: Called meeting to order at 10:08 AM.

II. Approval of Proposed Agenda

CA: Made a motion to pass the proposed agenda with flexibility.

SA: Seconded. 5 Ayes, 0 Nays. **Motion Carried.**

III. Approval of Minutes

CA: Made a motion to approve the minutes from the December 17, 2017 Board meeting

SA: Seconded. 5 Ayes, 0 Nays. **Motion Carried.**

IV. New Business: Waiver Requests

A. Tien Nguyen, accompanied by Lara Kelley of MN School of Beauty

AH: Summarized Tien Nguyen is requesting a waiver of Rule 2110.0550, which requires any licensure training hours that are transferred into another training program be no more than five years old. Tien wishes to apply 300 hours from her initial nail technician training toward a cosmetology program. Her request is based on financial hardship. Tien has been licensed since 2013 and is currently employed as a nail technician.

LK: Summarized that she evaluated the skill level that Tien came in under to ensure that she was at the same level of where they can just do 110 more hours. No written evaluation was completed, but a practical evaluation was done.

SA: Made motion to grant waiver of Rule 2110.0550 on the basis of financial hardship, giving Tien Nguyen the ability to apply 300 hours towards cosmetology training with the condition that she provide documentation of the practical evaluation given by MN School of Beauty.
MF: Seconded. 5 Ayes, 0 Nays. **Motion Carried.**

B. Jenii Phu, accompanied by Lara Kelley of MN School of Beauty

AH: Summarized Jenii Phu is requesting a waiver of Rule 2110.0550, which requires any licensure training hours that are transferred into another training program be no more than five years old. Jenii wishes to apply 300 hours from her initial nail technician training toward a cosmetology program. Her request is based on financial hardship. Jenii has been licensed and employed as a nail technician since her original licensing in 2007.

LK: Summarized that she completed Jenii's evaluation at the same time as Tien Nguyen's.

CA: Made motion to grant waiver of Rule 2110.0550 on the basis of financial hardship, giving Jenii Phu the ability to apply 300 hours towards cosmetology training with the condition that she provide documentation of the practical evaluation given by MN School of Beauty.

SA: Seconded. 5 ayes, 0 Nays. **Motion Carried.**

C. Hedra Pena

AH: Summarized that Hedra Pena is requesting a waiver of Rule 2105.0145 Subp.1 (B), which requires applicants for an initial license to provide evidence of completion of high school or equivalent with their license application. This request is based on financial hardship.

MF: Made a motion to grant waiver of Rule 2105.0145 Subp. 1 (B) based on financial hardship, with the condition she provide a copy of her accuplacer exam to the Board.

SA: Seconded. 5 ayes, 0 Nays. **Motion Carried.**

D. Anne Smith, She Fancy LLC

AH: Summarized that Anne Smith is requesting a waiver of Rule 2105.0360 Subp. 6 (A) which requires each salon work area to contain at least one hand-washing sink. This request is based on hardship.

Board members discussed Rule 2105.0360 Subp. 6 (B), which requires work area sinks to be plumbed in.

SA: Made motion to deny waiver of 2105.0360 Subp.6 (A) and (B) due to the loft work area being on a different level than the salon's existing sinks, and due to the Board not having enough information on portable sinks at the time of the Board meeting to make a recommendation on their use.

MF: Seconded. 5 ayes, 0 Nays. **Motion Carried.**

E. Brenda Totz, Buku Lashes LLC

AH: Summarized Brenda Totz is requesting a waiver of Rule 2105.0360 Subp. 6 (A), which requires each salon work area to contain a hand-washing sink, and Rule 2105.0360 Subp. 5a, which prohibits a restroom sink from being used as the dispensary sink. This request is based on financial hardship.

MF: Made motion grant waiver of Rule 2105.0360 Subp. 6 (A) and Rule 2105.0360 Subp. 5a on the basis of financial hardship. Waiver granted for six months only, and with the condition the salon provide evidence of compliance with both rules by the waiver expiration date.

CA: Seconded. 5 ayes, 0 Nays. **Motion Carried.**

F. Breanna Dickie, accompanied by Lara Kelley of MN School of Beauty

- AH:** Summarized Breanna Dickie is requesting a waiver of Rule 2110.0510 A which requires a cosmetology training program to consist of at least 1,550 hours of coursework. Her request is based on financial hardship.
- MF:** Made a motion to deny waiver of Rule 2110.0510 (A) requiring 1,550 hours of cosmetology training based on lack of evidence of financial hardship.
- SA:** Seconded. 5 ayes, 0 Nays. **Motion Carried.**

G. Sivilai Moua

- AH:** Summarized Sivilai Moua is requesting a waiver of Rule 2105.0145 Subp. 1 (B), which requires applicants for an initial license to provide evidence of completion of high school or equivalent with their license application. This request is based on financial hardship.
- MF:** Made a motion to grant Sivilai Moua's request of a waiver of Rule 2105.0145 Subp.1 (B) with the condition she continue working toward earning a high school credential, and that she provide evidence of the credential to the Board prior to her first license renewal date.
- SA:** Seconded. 5 ayes, 0 Nays. **Motion Carried.**

As of 12:19 pm, MF left the meeting leaving 4 Board members present. Short break called at 12:21 pm until 12:26 pm.

H. Sitha Kim

- AH:** Summarized Sitha Kim is requesting a waiver of Rule 2105.0145 Subp. D (1), which requires applicants for an initial license to submit a Course Completion Certificate with their license application. This request is based on financial hardship.
- CA:** Made motion to grant waiver of Rule 2105.0145 Subp. D (1) based on financial hardship.
- SA:** Seconded. 4 ayes, 0 Nays. **Motion Carried.**

V. New Business: Variance Requests

Note: The Board's Assistant Attorney General Anthony de Sam Lazaro attended this portion of the meeting electronically.

A. Model College of Hair Design

- AH:** Summarized Andy Smith, on behalf of Model College of Hair Design, is requesting a discretionary variance of Rule 2110.0320 Subp. 13, which requires instruction to take place within a licensed school building. The school is requesting a variance to utilize a secondary building on the school property for classroom instruction.
- GF on behalf of SA:** GF stated motion on behalf of the Board to grant Model College of Hair Design a discretionary variance of Rule 2110.0320 Subp. 13. The Board determined that application of the rule would result in hardship or injustice, the variance would be consistent with public interest, it would not negatively impact the legal or economic rights of others, and it would continue to ensure the protection of public health, safety, and environment. The variance was granted for the secondary building address only, and limits the use of the building to student-to-student or mannequin work. The variance remains in effect as long as the current owner remains licensed as a school by the Board and the license remains in good standing. As a supplement to the variance, the Board also requested the school provide a current school floor plan.
- CA:** Seconded. 4 Ayes, 0 Nays. **Motion Carried.**

B. Sara Seufzer

AH: Summarized that Sara Seufzer is requesting a discretionary variance of Rule 2105.0183 Subp. 4 (C), which requires at least 2,700 hours of licensed work experience in the three years prior to application for an initial Minnesota Instructor License. Sara is applying for licensure through transfer of her Tennessee Instructor license.

GF on behalf of JF: GF stated motion on behalf of the Board to grant Sara Seufzer a discretionary variance of Rule 2105.0183 Subp. 4 (C) to permit her to use work experience accumulated more than three years ago toward licensure. The Board determined that application of the rule would result in hardship or injustice, the variance would be consistent with public interest, it would not negatively impact the legal or economic rights of others, and it would continue to ensure the protection of public's health, safety, and environment. The variance requires Sara to comply with all other licensure requirements, including documentation of at least 2,700 hours of licensed practice.

SA: Seconded. 4 Ayes. 0 Nays. **Motion Carried.**

Note: The Board's Assistant Attorney General Anthony de Sam Lazaro left the meeting.

VI. New Business: Resolution Request

RG: Summarized that Board staff is requesting a motion for resolution to permit minor cleanup of rule language. A resolution is needed to start the process.

CA: Made a motion to approve the resolution that has been presented.

SA: Seconded. 4 Ayes. 0 Nays. **Motion Carried.**

VII. New Business: Executive Director Position Description Approval

GF: Summarized that the Board staff is requesting a motion to approve updates and submit documents to MMB. Provided list of staff delegations.

SA: Made a motion to accept delegations to the Executive Director position description; Board staff can make grammatical or non-substantive changes to the document.

CA: Seconded. 4 Aye 0 Nay. **Motion Carried.**

Break

RB: Called for recess at 1:07PM for 30 minutes.

RB: Meeting called to order at 1:43PM.

Note: Member JF left during recess, leaving three members in attendance for the remainder of the meeting. Since a quorum was no longer met, no decisions were made after this time.

VIII. New Business: Rulemaking Activity

A. Advanced Practice Esthetics Rules

RG: Summarized that a hearing was held on January 8, 2018. Comments, summary of comments, and rebuttal are provided in the Board packet. Modifications were proposed and most were approved at January 12, 2018 meeting. A few additional minor changes have been added and can be approved at a later meeting. The Judge's decision is expected by March 7, 2018 at the very latest; he has 30 days to submit report. More steps involved before final adoption happens in potentially late spring/early summer. It will still be a while before the Board is able to issue APE licenses and before schools will have programs in place.

B. School Rules Chapter 2110

RG: Summarized that the Board staff is starting on the school rules overhaul. It looks like a minimum 24 month process and that is optimistic. Starting with focus groups. Board staff will host listening sessions to get preliminary information from instructors and schools. Sometime next summer a formal request for comments will be made. An advisory group will be put together possibly next fall. Interim goal in about a year is to be ready to have a first draft to circulate with the dual notice.

IX. New Business: Division Reports: Administrative, Compliance, Inspections, Licensing, and Policy Division

A. Administrative Division Report

GF: Provided overview of Administrative Division. Explained a decision was made to not move forward with a permanent HR person, instead have put out a quick call contract for an HR Consultant to handle a variety of tasks. Discussed 2018 Committee elections with remaining Board members; decision made to keep chair and committee assignments as-is until the May Board meeting. AH and GF working to look over the Board bylaws which have not been changed and will put out a draft.

B. Compliance Division Report

LK: Provided overview of Compliance Division. Currently working on filling a 4th investigator position. At the December 11, 2017 Complaint Committee meeting, a total of 230 cases were presented. 204 were heard as part of an accumulated volume of complaints; 8 were dismissed for reasons including the complaint was non-jurisdictional, insufficient or no violations were found, or the Complainant declined the release of information; 18 cases resulted in disciplinary action in the form of a civil penalty and/or Cease and Desist Order. In the fourth quarter, 35 new complaints were filed. Board staff currently have 191 open complaints and are tracking 205 closed complaints by waiting for either completion of the infection control course or payment of civil penalties.

C. Inspection Division Report

AR: Provided overview of Inspections Division. Inspections Division performed inspections of 687 Cosmetologist Salons, 60 Esthetician Salons, 138 Nail Tech Salons, and 19 schools for a total of 904 inspections performed in the fourth quarter of 2017. As of January 9th, 42% of Salons were inspected within the last year and 72% of inspections were completed within the last two years. The fourth quarter legislative report was sent out on January 12, 2018 to committee chairs and ranking minority members. There are currently eight inspectors employed by the Board's inspection division, three of whom were hired and were in training during the fourth quarter.

D. Licensing Division Report

JB: Provided overview of Licensing Division. Eyelash Technician Grandfathering period ended 1/31/2018. There were 168 licenses issued through grandfathering: 102 operators and 66 salon managers. In the final week of January, all cosmetologist, esthetician, and nail technician salon licenses were changed over to generic salon licenses and over 5,200 license certificates were mailed out with a flyer explaining the change. Prior to the change there were approximately 5,400 current salon licenses. Because approximately 130 salons previously held two salon licenses (esthetician and nail technician) and were changed over to just one, we now have approximately 5,270 current salon licenses. In the fourth quarter of 2017, the Licensing Division maintained an average processing time of about eight business days. There were an average of 55 licenses issued per day and 277 issued per week.

E. Policy Division Report

CM: Provided overview of Policy Division including:

- a. PSI Pass Rate Discussion – CM provided a short presentation regarding exam pass rates.
- b. Practical Skills Task Force – All PSTF subcommittees have met.
 - a. Eyelash Technician Subcommittee: This subcommittee’s work is currently complete, but they may reconvene as needed.
 - b. Advanced Practice Esthetics Subcommittee: This subcommittee has developed an initial draft of the Advanced Practice Esthetics Practical Skills Test and quotas. After the AP Esthetics rules are passed, the subcommittee’s proposals will be brought to the Board for approval.
 - c. Cosmetology, Esthiology and Nail Technology Subcommittee (CENT): Board staff are currently compiling suggestions from the CENT subcommittee’s first meeting, which include several modifications and improvements to the current PST. After these suggestions are compiled, the CENT subcommittee will reconvene.
- c. Legislative Forecast – The 2018 legislative session begins on February 20, 2018. At this time there is no board-driven legislation planned. This is a supplemental (non-budget) year. Staff are aware of the following outside legislative initiatives:
 - a. Hair Braiding Initiative – As the Board is aware, the Institute of Justice plans to propose legislation to fully exempt hair braiders from registration and any educational requirements. At the December meeting, the Board decided to remain neutral on this bill.
 - b. Continuing Education Providers – Staff are aware of a potential proposal from Great Clips Corporate regarding a change to professional practice continuing education providers. The current statute allows for salons to provide continuing education, but Great Clips Corporate does not own any salons (as they are all franchised.) They wish to have statute explicitly allow salon franchises to provide education so that they can continue their current education structure.
- d. Other State Legislation – Many state legislatures are already in session and several have cosmetology deregulation bills introduced.

X. Executive Director Performance Review (closed session)

Session closed at 2:30PM and re-opened at 2:58PM.

RB: Summarized Executive Director’s Performance is excellent and may be eligible for all pay increases and achievement awards for the next year.

XI. Adjournment

RB: Adjourned the meeting at 2:58PM.