

Board of Cosmetology

July 22, 2019 Board Meeting Minutes

10:02 AM to 1:43 PM

Board of Cosmetology Conference Room
1000 University Avenue West Suite 100, St. Paul, MN 55104

Present at Meeting:

Rhonda Besel, Chair

Chelsey Anderson, Vice Chair

Jodi Friendshuh, Member

Stephen Adams, Member

Marcie Smith-Fields, Member

Gina Fast, Executive Director

Jill Freudenwald, Chief of Staff

Diane DelaBarre, Senior Manager of Operations

Rebecca Gaspard, Policy Analyst

Alex Herbert, School Liaison

Jenna Bohl, Licensing Division Manager

Lene Kiser, Compliance Division Manager

Andrew Reding, Inspections Division Manager

Anthony de Sam Laza ro, Assistant Attorney General

Tami Thein, Executive Assistant

Cori Omundson, Leadership Team Assistant

I. Call to Order

- Meeting called to order at 10:02 AM.

II. Approval of Proposed Agenda

- Motion: Approve proposed agenda with flexibility.
- Seconded; 5 ayes, 0 nays; **Motion Carried.**

III. Approval of April 29, 2019 Board meeting minutes

- Motion: Approve April 29, 2019 meeting minutes.
- Seconded; 5 ayes, 0 nays; **Motion Carried.**

IV. New Business: Rule Variance Requests

- *Northeast Metro – Carol Bengtson*
 - **Request:** Variance of Minnesota Rule 2110.0630 A, which requires a minimum of two licensed instructors be on the school premises while students are present, and

Minnesota Rule 2110.0630 A (1), which requires unlicensed substitute instructors to hold a Salon Manager License. This request is based on hardship.

- **Motion:** Approve the variance request of Minnesota Rule 2110.0630 (A) and Minnesota Rule 2110.0630 A (1).
- **Decision:** On a vote of 5 ayes and 0 nays, the variance request was approved, based on the following:
 - Application of the rule would result in hardship or injustice to Northeast Metro 916.
 - It would be consistent with public interest.
 - It would not negatively impact the legal or economic rights of others.
 - The variance protects the public health, safety, and the environment.
 - The variance is granted until October 31, 2020.
 - Variance is granted with the stipulation that students will not perform clinical work or provide services to the public when only one licensed instructor is present.
- **Amended Motion:** Approve the discretionary variance request of Minnesota Rule 2110.0630 (A) and Minnesota Rule 2110.0630 A (1). **Seconded.**

Board Chair Rhonda Besel relinquished control of the meeting to Vice Chair Chelsey Anderson.

- *Federal Correctional Institution–Waseca/Riverland Community College – Rhonda Besel*
 - **Request:** Variance of Minnesota Rule 2110.0630 (A), which requires a minimum of two licensed instructors be on the school premises when students are present, and Minnesota Rule 2110.0630 (B) which prohibits students from accruing hours when there are less than two licensed instructors present. This request is based on medical hardship experienced by one of their two licensed instructors, hiring limitations in place for the correctional institution, and employment limits set by Riverland Community College.
 - **Motion:** Approve the discretionary variance request of Minnesota Rule 2110.0630 (A) and (B). **Seconded.**
 - **Decision:** On a vote of 4 ayes and 0 nays, the discretionary variance request was approved based on the following:
 - Application of the rule would result in hardship or injustice to Federal Correctional Institution – Waseca.
 - It would be consistent with public interest.
 - It would not negatively impact the legal or economic rights of others.
 - The variance protects the public health, safety, and the environment.
 - The variance is granted until August 19, 2019.

Vice Chair Chelsey Anderson relinquished control of the meeting to Chair Rhonda Besel.

- *Cutting Edge Salon – Jessica Miller*
 - **Request:** Variance of Minnesota Rule 2105.0360 Subp. 6 A, which requires each salon work area to contain at least one hand-washing sink, and Minnesota Rule 2105.0360 Subp. 6 B, which requires the hand-washing sink to be plumbed and have hot and cold potable water. This request was submitted on the basis of financial hardship.

- **Motion:** Deny the discretionary variance request of Minnesota Rule 2105.0360 Subp. 6 A and B. **Seconded.**
- **Decision:** On a vote of 5 ayes and 0 nays, the discretionary variance request was denied based on the following:
 - Application of the rule would not result in hardship or injustice to Cutting Edge Salon.
 - It would be inconsistent with public interest.
 - It would negatively impact the legal or economic rights of others.
 - The discretionary variance would not protect the public health, safety, and the environment.
 - The discretionary variance is denied based on lack of documentation.
 - Cutting Edge Salon may re-apply with more documentation (including a quote from a plumber, a diagram of the salon, information on other tenants in the building and/or information on the age of the building).
- *Wright Technical Center – Shaun Karson*
 - **Request:** Variance of Minnesota Rule 2110.0630 A, which requires a minimum of two licensed instructors be on the school premises while students are present. This variance request is due to declining student enrollment and school budget constraints.
 - **Motion:** Approve the discretionary variance request of Minnesota Rule 2110.0630 A. **Seconded.**
 - **Decision:** On a vote of 5 ayes and 0 nays, the variance request was approved based on the following:
 - Application of the rule would result in hardship or injustice to Wright Technical Center.
 - It would be consistent with public interest.
 - It would not negatively impact the legal or economic rights of others.
 - The discretionary variance would protect the public health, safety, and the environment.
 - The discretionary variance is granted until the end of the school cycle ending October 31, 2020.
 - **Amended Motion:** Discretionary variance to include 20 students or fewer per block. **Seconded.**

V. New Business: Rule Waiver Requests

- *Phia Vang*
 - **Request:** Waiver of Minnesota Rule 2105.0145 Subp. 1 D (1), which requires applicants for an initial operator license to submit a Course Completion Certificate with their license application. This request is based on hardship.
 - **Motion:** Approve the waiver request of Minnesota Rule 2105.0145 Subp. 1 D (1). **Seconded.**
 - **Decision:** On a vote of 5 ayes and 0 nays, the waiver request was approved.

- *Jalyce Alexander*
 - **Request:** Waiver of Minnesota Rule 2105.0145 Subp. 1 (C), which requires applicants for an initial operator license to submit passing results from written examinations that are not more than one year old with their application. This request is based on medical hardship.
 - **Motion:** Approve the waiver request of Minnesota Rule 2105.0145 Subp. 1 (C) to extend the expiration date of passed exams until August 31, 2019. **Seconded.**
 - **Decision:** On a vote of 5 ayes and 0 nays, the waiver request was approved.

- *Marissa Suhon*
 - **Request:** Waiver of Minnesota Rule 2105.0145 Subp. 1 (C), which requires applicants for an initial operator license to submit passing results from written examinations with their application. This request is based on medical hardship.
 - **Motion:** Approve the waiver request of Minnesota Rule 2105.0145 Subp. 1 (C) to extend the expiration date of the passed exam until July 31, 2020 to allow additional time to pass remaining exams. **Seconded.**
 - **Decision:** On a vote of 5 ayes and 0 nays, the waiver request was approved.

- *Teri Mirtz*
 - **Request:** Waiver of Minnesota Rule 2105.0183 Subp. 2 (B), which requires applicants for an initial operator license who have less than the required training and who are licensed in another state to provide evidence of an active current license for at least three years, or an original course certificate from a Minnesota-licensed cosmetology school documenting completion of additional training hours and the Practical Skills Test. This request is based on financial hardship.
 - **Motion:** Approve the waiver request of Minnesota Rule 2105.0183 Subp. 2 (B) with conditions. **Seconded.**
 - **Decision:** On a vote of 5 ayes and 0 nays, the request to waive three years of active licensure or additional school training was approved based financial hardship, with the condition an otherwise complete application be received at the Board office by January 31, 2020.

Assistant Attorney General Anthony de Sam Lazaro departed the meeting at 11:12am.

- *Madison Simon*
 - **Request:** Waiver of Minnesota Rule 2105.0145 Subp. 1 D (1), which requires applicants for an initial operator license to submit proof of training via a Course Completion Certificate with their license application. This request is based on medical hardship.
 - **Motion:** Approve the waiver request of Minnesota Rule 2105.0145 Subp. 1 (D) (1). **Seconded.**
 - **Decision:** On a vote of 5 ayes and 0 nays, the waiver request was approved based on medical hardship, allowing the submission of a Course Completion Certificate upon initial application for licensure that does not include a passing score from the eyelash

extension service section of the Practical Skills Test, and without a total number of eyelash extension clinical service exercises.

- *Michelle Chaplin*
 - **Request:** Waiver of Minnesota Rule 2105.0145 Subp. 2 A (2), which requires applicants for a salon manager license to have 2,700 hours of licensed practice within the three years prior to application. This request is based on medical hardship.
 - **Motion:** Approve the waiver request of Minnesota Rule 2105.0145 Subp. 2 A (2) with conditions. **Seconded.**
 - **Decision:** On a vote of 5 ayes and 0 nays, the waiver request was approved based on medical hardship, to allow hours acquired more than three years prior to application, and with the condition an otherwise complete application be received at the Board office by December 31, 2019.

- *Jenna Aasen*
 - **Request:** Waiver of Minnesota Rule 2105.0145 Subp. 2 A (2), which requires applicants for a salon manager license to have 2,700 hours of licensed practice within the three years prior to application. This request is based on medical hardship.
 - **Motion:** Approve the waiver request of Minnesota Rule 2105.0145 Subp. 2 A (2). **Seconded.**
 - **Decision:** On a vote of 5 ayes and 0 nays, the waiver request was approved based on medical hardship, to allow hours acquired more than three years prior to application.

- *Grissel Hintz*
 - **Request:** Waiver of Minnesota Rule 2105.0145 Subp. 2 A (2), which requires applicants for an initial salon manager license to have 2,700 hours of licensed practice within the three years prior to application. This request is based on medical hardship.
 - **Motion:** Approve the waiver request of Minnesota Rule 2105.0145 Subp. 2 A (2). **Seconded.**
 - **Decision:** On a vote of 5 ayes and 0 nays, the waiver request was approved based on medical hardship, to allow hours acquired more than three years prior to application.

- *Madeline Rindahl – Represented by Amanda Scott-Lerdal*
 - **Request:** Waiver of Minnesota Rule 2105.0145 Subp. 1 D (1), which requires applicants for an initial operator license to submit proof of training via a Course Completion Certificate with their license application. This request is based on medical hardship.
 - **Motion:** Approve the waiver request of Minnesota Rule 2105.0145 Subp. 1 D (1). **Seconded.**
 - **Decision:** On a vote of 5 ayes and 0 nays, the waiver request was approved based on medical hardship, allowing the submission of a Course Completion Certificate upon initial application for licensure that does not include a passing score from the eyelash extension service section of the Practical Skills Test, and without a total number of eyelash extension clinical service exercises.

- *Lennox Thornswood*
 - **Request:** Waiver of Minnesota Rule 2105.0145 Subp. 1 D (1), which requires applicants for an initial operator license to submit proof of training via a Course Completion Certificate with their license application. This request is based on medical hardship.
 - **Motion:** Approve the waiver request of Minnesota Rule 2105.0145 Subp. 1 D (1). **Seconded.**
 - **Decision:** On a vote of 5 ayes and 0 nays, the waiver request was approved based on medical hardship, allowing the submission of a Course Completion Certificate upon initial application for licensure that does not include a passing score from the eyelash extension service section of the Practical Skills Test, and without a total number of eyelash extension clinical service exercises.

- *Isabelle Drinkwine*
 - **Request:** Waiver of Minnesota Rule 2105.0145 Subp. 4 C, which requires applicants for an initial instructor license to have 2,700 hours of licensed practice within the three years prior to application. This request is based on medical hardship.
 - **Motion:** Grant waiver of Minnesota Rule 2105.0145 Subp. 4 D & E. **Seconded.**
 - **Decision:** On a vote of 5 ayes and 0 nays, the waiver was granted based on medical hardship, extending the expiration date of passing test results and the instructor training course to December 31, 2019, allowing additional time to acquire the required number of work hours.

Recess from 11:48am to 11:56am

VI. New Business: Rulemaking Activity

- Licensing and Practice Updates, Revisor's Draft 0-4552
 - The Rules Committee met on July 9, 2019 to review a revised rules draft and SONAR. Additional rule changes were made related to providers of skills courses and the posting of licenses and inspection reports. The committee approved the rules draft with changes and approved the SONAR.
 - **Motion:** Approve rulemaking activity and changes in rules as discussed in committee meeting. **Seconded.**
 - **Decision:** On a vote of 5 ayes and 0 nays, motion was passed.

 - **Motion:** Approve SONAR RD 4552 and move forward. **Seconded.**
 - **Decision:** On a vote of 5 ayes and 0 nays, motion was passed.

 - **Official Resolution:** Motion to approve the resolution for proposed amendments to rules governing licensing and practice of cosmetologist, estheticians, advanced practice estheticians, nail technicians, eyelash technicians, instructors, salon managers, salons, and schools, chapter 2105 and chapter 2110, Revisor's # 4552, OAH Docket 71-9013-36146. The Board resolves the Executive Director of the Board of Cosmetologist Examiners is authorized and directed to give Notice of the Board's Intent to Adopt Rules With or Without a Public Hearing with the rules draft as approved today by the Board, identified as Revisor's Draft 4552 and to proceed with completing statutory requirements to adopt or amend rules, including notifying the Governor's office, seeking

approval for an additional notice plan, and is authorized and directed to do anything else needed to complete this Notice. **Seconded.**

- **Decision:** On a vote of 5 ayes and 0 nays, motion was passed.
- School Rules Overhaul, Revisor's Draft 0-4456
 - Preliminary work still in progress.

Break for lunch at 12:14pm

Board meeting called to order at 1:00pm

VII. New Business: Division Reports

- Administrative Division
 - Board Appointments
 - Governor Walz re-appointed Rhonda Besel and Jodi Friendshuh to the Board
 - Public member position is still vacant
 - Administrative Service Unit (ASU) retirements and resignations
 - NIC Annual Conference – Milwaukee, WI
 - September 4-9th, 2019
 - Gina Fast, Jill Freudenwald and Alex Herbert will be attending the conference
- Compliance Division
 - Complaint Committee meeting was held on April 8, 2019. The committee reviewed 62 complaints.
 - In the second quarter of 2019, 78 new complaints were filed. Board staff currently have 120 open complaints and are tracking 324 closed complaints.
- Inspections Division
 - In the second quarter of 2019, 1034 salons and 35 schools were inspected.
 - Andrew Reding will be out on extended military leave from October 2019 through late 2020/early 2021. An opening for a temporary Inspections Division Manager has been posted.
 - The legislative report was sent to ranking members of the State Government Finance Committee and State Government Finance, Policy, and Elections Committee. A copy of the report is included with the Board packet.
- Licensing Division
 - In the second quarter of 2019, licensing maintained an average processing time of fifteen business days with an average of 57 licenses issued per day and 286 licenses issued per week.
 - Board staff have had numerous discussions with individuals who have reported extreme difficulty with passing the AP esthetician written exams to qualify for grandfathering. Board staff request a discussion on the possibility that many individuals may request waivers of the AP esthetician grandfathering deadline and whether the Board would like to establish a Licensing Committee to hear these requests in the case that numerous

requests are submitted. The Licensing Committee would bring waiver recommendations to the full Board.

Decision:

- If more than 10 waiver requests regarding the AP esthetics grandfathering deadline are received for the October 7, 2019 Board meeting, the Licensing Committee will meet to discuss the waivers first, then will bring recommendations to the full Board for a final determination.
- Policy Division
 - Legislative Update
 - The 2019 legislative session has ended. The State Government Finance Omnibus bill was signed into law on May 28, 2019. A legislative update is posted on the Board's website.
 - Staff are beginning to plan for the 2020 legislative session.
 - Testing Vendor Update
 - The contract the Board has with our current testing vendor, PSI, will be ending in the fall. The Board is required to go out for bid to enter into a new contract for the next 5-year period. A request for proposal was posted in the Minnesota State Register on July 1, 2019 to solicit bids from possible testing vendors. The deadline for companies to submit a proposal is July 26, 2019.
 - PSI Exam Review Committee
 - In May, Board staff met with PSI, our testing vendor, to evaluate current exam questions. All exams are evaluated on a yearly basis by an Exam Review Committee of Minnesota licensed subject matter experts, Board staff, and PSI staff. The next exam re-launch date is 9/1/2019.
 - Schools Update
 - A second school liaison position has been posted through July 29, 2019.
 - Practical Skills Task Force
 - The Practical Skills Task Force met on May 6 and May 20 to finalize the Practical Skills Test (PST) Guide and clinical service exercise (CSE) requirements for cosmetology, esthiology, nail technology, and eyelash technology. The PST Guide for eyelash technology was incorporated into the PST Guide for cosmetology, esthiology, and nail technology. Both the PST Guide and CSE requirements must be approved by the Board in order to be implemented and required as part of the training curriculum for students.
 - **Motion:** I, Stephen Adams, make a motion to adopt the Practical Skills Test (PST) Guide and clinical service exercise (CSE) requirements for cosmetology, esthiology, nail technology, and eyelash technology, as proposed, and allow staff to make technical changes as needed. As such, the PST Guide and CSE requirements will be required for completion of any cosmetology, esthiology, nail technology, and eyelash technology curriculum offered in licensed schools. **Seconded.**
 - **Decision:** On a vote of 4 ayes, 0 nays, and 1 abstain, motion passed.

VIII. New Business: Public Comment

- *Lara Kelley*

- Commented that the deadline for submitting request to get on a Board meeting agenda is too far in advance and should be shortened. Commented on the recommendations of the Practical Skills Task Force and the opportunity to make changes and provide comments.

IX. Adjournment

- Meeting was adjourned at 1:43pm.