

**BOARD OF COSMETOLOGY ARTS  
AND SCIENCES  
April 5, 2010, 9:00 AM  
Room 517 & 518, Lucas State Office Building  
Des Moines, Iowa 50319**

**MINUTES**

**Call to Order:** Chair, Jack Morlan, called the meeting to order a 9:05 a.m.

**Roll Call**

Board members present: Jack Morlan, Becky Brockmann, Kimberly Setzer, Richard Mosley, Dana Atkins, Karen Thomsen and Jerry Talbott

Staff present: Board Executive, Ella Mae Baird; Bureau Chief, Eileen Gloor; AAG, Scott Galenbeck; Compliance and Outreach Consultant, Marvin Firch; and Cosmetology Licensure Secretary, Rosemary Bonanno.

**Hearing**

9:00 – Trahvae Pearson: Board agreed to reschedule hearing to July 12, 2010. Respondent did not realize it would be in his best interest to obtain legal counsel. Judge LaMarche suggested Mr. Pearson obtain counsel quickly to ensure his attorney is available on July 12<sup>th</sup>.

**Closed Session**

**Motion:** (MS:Atkins/Setzer) moved to go into closed session by unanimous roll call vote at 9:16 a.m. to discuss records and disciplinary issues that are required to be kept confidential according to Iowa Code 21.5(1)“a” & “d.”

**Open Session:** Board returned to open session at 10:22 a.m. and made the following decisions based on closed session discussion:

**Motion:** Close: 07-012, 08-006, 08-079, 09-088, 09-089, 08-101, 10-013, 10-014, 10-020, 09-066, and 10-023 (MSC: Setzer/Morlan)

**Motion:** File Statement of Charges and Notice of Hearing for 09-038,09-068,09-071,09-079,10-017, 10-022, 08-083, and 07-089 (MSC: Setzer/Morlan ) (Note: 07-089 removed from this motion later during the meeting.)

**Motion:** Release T-71 from probation (MSC: Setzer/Morlan).

**Motion:** File Statement of Charges as drafted by AAG for 08-076 (MSC: Setzer/Morlan).

**Motion:** Accept signed settlement presented to the Board. 08-082, 08-067, 09-057, 08-106, 09-053, and 09-058 (MSC: Setzer/Morlan)

**Hearing**

11:00 – Spa Nails, owner Huy Ngoc Hoang. The hearing was closed to the public at the Respondent’s request pursuant to 272C.6(1).

**Motion:** Thomson/Setzer moved to go into closed session by unanimous roll call vote at 11:43 a.m. for deliberation pursuant to Iowa Code 21.5(1) f.

Board returned to open session at 12:00 p.m.

**Motion:** Move ALJ draft decision and order based on the deliberation (MSC: Brockmann/Morlan).

The board recessed at 12:01 p.m.

The board reconvened in open session at 12:54 p.m.

### **Approval of Minutes**

**Motion:** move to approve minutes for January 11 and February 22, 2010 as drafted (MSC: Setzer/Mosley).

### **Public Present:**

Kevin Rentz, ICSA President; Susan Rentz, LaJames Mason City; Emily Everwood AIDM; Leah Coates, AIDM; Sarah Brom, AIDM; Kristie Ryburn, AIDM; Cynthia Burns, Zoe Institute; Jenny Wilkerson, Zoe Institute; Tara Knoche, Zoe Institute; Richard Sheriff, CBI; Bonnie Renda, CBI, Jeff and Lori Greiner, American Hair Academy; Cynthia Hummell, LaJames/Johnston; Deb Erixson, Aveda; Kent Nebel IBM; Sherry Morton, Zoe Institute; Charles Fiegen, Capri College; Justin Latham, Faust; Lois Leytem, Capri; Linda Ring, EQ; Julie Mead, EQ School; Ray Barker, CBI; Karol Thousand, LaJames and Mark Oswald, ISB.

### **Public Comment:**

Distance Learning, Iowa Cosmetology Schools Association (ICSA): Kevin Rentz and Chuck Fiegen questioned how the use of distance learning will apply to Iowa statute and rules, i.e. excused absences, completion of hours, and supervision.

### **Reports**

Chair, Jack Morlan: Mr. Morlan stated that he felt fortunate to have served on the board. Highlights of his term included working with the Board of Medicine and the Iowa Medical Association to include laser services in the scope of practice and recently he represented the Board at the Legislative Rules Review Committee and also met with a Legislative committee regarding the instructor/student ratio. He expressed his appreciation of the industry and said it had been a rewarding nine years.

#### Board Executive, Ella Mae Baird

1. Thank you to Jack Morlan for his nine years of exceptional service to the board. She introduced the new board member, Richard Sheriff, and also announced that she was retiring and her last day would be June 18.
2. All state employees are required to take unpaid furlough days and she will be out of the office April 12 through April 16.
3. Future board meeting dates:
  - July 12, 2010, Monday
  - October 4, 2010, Monday
  - January 5, 2011, Wednesday
  - April 6, 2011, Wednesday
  - July 6, 2011, Wednesday
  - October 5, 2011, Wednesday
4. Legislative actions relating to the board: Public Health's Technical Bill included revisions to cosmetology statute: (1) addition of threading to the scope of practice; and (2) instructor/student

ratio. ICSA proposed reducing the number of instructors required in a school setting. Schools with less than 15 students in attendance may have one licensed instructor on site if the school has less than 30 students enrolled and offers only clinical services or only theory instruction in a single classroom. Schools with more than thirty students enrolled must continue to meet the instructor/student ratio of a minimum of two instructors for up to 30 students. If the technical bill is signed by the Governor, the bill will be effective July 1, 2010.

5. During the 2009 Legislative Session, ICSA introduced a Code change to allow cosmetology schools to obtain pass/fail results for its students. Iowa Code section 157.3B was revised and the 2009 Code version is available on the Internet.
6. The board recently completed a revision of its administrative rules that were effective March 17. The amended administrative rules have generated more interest than usual; partially due to the legislative action regarding the instructor/student ratio and partially due to the reorganized and revised chapter 63. On March 8, Jack Morlan, Eileen Gloor, and Ella Mae Baird attended the Rules Review Committee meeting in response to ICSA's objection to the deletion of the phrase "make every effort" from subrule 61.15(3). The revised rule would have required schools to ensure that two instructors are always on duty during schools hours. The Rules Review Committee put a 70-day hold on this rule based on pending legislation that would potentially reduce the instructor/student ratio.
7. Sterilization became an issue of discussion following the revision of the sanitation chapter even though the sterilization rules were not revised. The board plans to do more research on disinfectants and sterilization and will make a decision on rule requirements following the study. Recently, Balkowitsch Enterprises, Inc. sent a flyer to schools and salons telling them that schools and salons are required to have sterilizers for sterilizing cuticle nippers. The flyer was not authorized by the board.
8. We received a request for all records relating to the application process for Zoe Institute and Southeastern Community College. When such a request is received, we have 10 working days to accumulate documents. These requests may include e-mails as well as hard copy documentation.
9. In February, I received a notice from NIC that Texas licensees received a letter from a company calling itself "Professional Certification Services" requesting payment for "professional certification renewal." The solicitation letter contained the name and logo of the National Cosmetology Association (NCA). NCA has no affiliation with the Professional Certification Services and states that the company is using the NCA logo and name without authorization.
10. Licenses up for renewal in 2010 lapsed on March 31. Ninety percent of the licensees renewed online. There were 8,694 individuals scheduled to renew their licenses in 2010, and 7,167 have completed the renewal process, leaving 1,528 individual who did not complete the renewal.
11. Pass rates of individuals completing NIC examination between October 1, 2009 and December 31, 2009 was 87 percent: Cosmetology—87.10%; esthetics—25%; nail technology—41.46%; and instructor 100%. A copy of the school report was sent to each school.
12. I received a letter of concern from a licensed esthetician who objects to the limitations placed on continuing education that eliminate classes sponsored by manufacturers and national organizations. In her opinion, the choices of continuing education classes offered by state schools for estheticians is limited and the information is not new or challenging. National organizations offer wonderful classes; but they are expensive. She has found classes sponsored by a manufacturer more educational.

13. Becky Brockmann attended the NIC Regional Conference in Las Vegas on March 19-21, 2010. An abbreviated summary of her report is attached as an addendum to these minutes.

Bureau Chief, Eileen Gloor: A copy of the full report is attached as addendum to these minutes.

AAG: Scott Galenbeck introduced himself and gave an overview of his background and his current assignments within state government. He provided a report to the board on the distinction between statutes and administrative rules. Iowa Code requires legislative action and administrative rules are established by the departments. It is difficult and time consuming to revise statute. Administrative rules cannot go beyond the scope of statute or go in a different direction from statute.

### **Committee Reports**

Education Committee: The committee reviewed and approved five applications for licensure since January.

Rules Committee: The rules committee met on March 15<sup>th</sup> and discussed disinfectant/sterilization standards; distance learning, physical requirements of nail and esthetic schools; demonstration of products; air-brush tanning; and school applications.

Discipline Committee: The Discipline Committee met prior to the board meeting and made its recommendation to the board during closed session.

### **Old Business:**

Polish remover pens: The rules committee discussed polish remover pens on March 15<sup>th</sup>. The general consensus of the Board is that polish remover pens are not acceptable because they cannot be disinfected.

### **New Business:**

1. Medical Esthetic services: Kent Nebel on behalf of the Iowa Board of Medicine provided a copy of draft rules covering medical directors, medical spas delegations and supervision of medical aesthetic services performed by qualified licensed and certified non-physician persons. Jack appointed Kimberly Setzer, Becky Brockmann and Dana Atkins to review the draft rules and to work with the Iowa Board of Medicine.
2. Demonstration for sale of product versus providing services: The board does not regulate the sale of products or demonstrations of a product that is for sale based on Iowa Code section 157.2.
3. Guidelines reported by applicants and licensees: The guidelines for reviewing reported felonies and misdemeanors have been in effect since 2007. Ella Mae Baird suggested revising the standards to alleviate staff time and also based upon the actions taken by the board during these past three years.

**Motion:** Motion to accept the recommended administrative guidelines for reviewing applications when the individual reports a prior crime. (MSC: Brockmann/Talbott)

4. Complaint process overview: Marvin Firch explained the complaint process:
  - a. All complaint information is confidential.
  - b. Most boards have a discipline committee that reviews complaints and reports to board members.
  - c. The full board reviews discipline committee recommendations and determines if the licensee should be sanctioned.

- d. The board discusses complaints in closed session and comes to a consensus decision and then returns to open session. If based on the preponderance of the evidence the board decides to issue formal sanctions, it becomes public information.

### **School Applications**

1. Zoe Institute, Keokuk: The board received a copy of the curriculum, the student policy and other supporting documentation. Jack Morlan completed an inspection of the school on March 12<sup>th</sup>.

**Motion:** Application approved for school licenses. (MSC: Morlan/Talbott)

2. Iowa School of Beauty, Ankeny: The board recently received an application, curriculum, and supporting documentation.

**Motion:** Application approved for school license subject to inspection. (MSC: Brockmann/Atkins)

### **School Inspections**

1. Annual inspection: Everyone has completed their inspections with the exception of Jack Morlan, who will have his finished by the end of this month.
2. School Review Process: Marvin Firch provided information about the school pilot review process for four cosmetology schools and thanked the four schools that participated in the pilot program: Iowa School of Beauty, Davenport Academy, EQ School, and Faust Institute. He will provide a formal recommendation later.

### **Iowa Code and Administrative Rules**

1. Legislative action affecting cosmetology laws and rules were addressed during the board executive's report.
2. Disinfectant/sterilization is much more complicated than whether or not a salon should purchase a sterilizer from Balkowitsch Enterprises. The entire issue relating to disinfectant and sterilization standards needs further research. Jack appointed Rick Mosley, Kimberly Setzer and Becky Brockmann to study this issue and bring its recommendations to the July Board meeting.
3. Discussion of distant learning: The Rules Committee will review this matter and report back to the board. Jack Morlan stated the initial thought of the Rules Committee was to allow distance learning for only about 150 hours.
4. Discussion of nail school and esthetic school requirements: Rules committee is reviewing and will report at the July board meeting.
5. The bureau is proposing an amendment to bureau chapter 4. The amendments revise the audit administrative procedures for all 19 boards. The amendments clarify that audit information must be submitted within 30 days after the audit letter is sent. Licensees have been allowed 120 days to obtain make-up credit and that timeframe is being reduced to 90 days.

**Motion:** Move to withhold filing statement of charges against case 07-089 (MSC: Setzer/Morlan).

### **Future Board Meetings**

July 12, 2010

October 4, 2010

**Adjournment**

**Motion:** move to adjourn meeting at 2:32 p.m. (MSC:Setzer/Brockmann )

Respectfully submitted by:

Kimberly Setzer, Board Secretary

**Bureau of Professional Licensure  
Bureau Chief Report  
4/01/10 – 6/30/10**

- 1. Legislation and rulemaking** The 2010 legislative session adjourned March 30. Both the IDPH Omnibus Bill and the Technical Bill passed successfully and have been signed by the Governor. No new boards were created within the Bureau of Professional Licensure. Rulemaking will continue throughout the year to better define statutory changes and in response to new board actions. When administrative rule changes are reviewed by the Administrative Rules Review Committee, the Board Executives provide information about the content of each change, outcome of every public hearing, and summary of public comments received. In some instances, Board members participate in the meetings to provide a professional perspective and articulate how rule changes proposed by the board benefit public protection.
- 2. Board appointments** Within the Bureau of Professional Licensure, Governor Culver appointed 19 new board members. All have been confirmed by the Senate and will begin serving their first terms on May 1, or earlier if they are filling a vacancy. Additionally, 23 board members were reappointed to second or third terms. Almost an equal number of board members have completed one or more terms of service, including 10 who served the maximum 9 years on a single board.  
The Department has published a press release and new board member names will be posted on the individual boards' websites on May 1.
- 3. AAG reports** At the first meeting of each board following May 1 the board's AAG will present and discuss a handout entitled *Guidelines for Board Members*. This is an opportunity to reinforce the information provided to new board members in their orientation binders and face-to-face orientation with the Bureau Chief. It also gives current board members an opportunity to discuss new information and ask their AAG questions that may have arisen about their role during the previous year. The seven AAGs who provide legal guidance to our boards will also present a brief educational session at each quarterly public meeting on a topic selected with the input of the board executives. The topic this quarter, *Policy Statements by Professional Licensing Boards*, is based on a Memorandum prepared by Julie Pottorff, Deputy Attorney General.
- 4. Budget** The Department continues to evaluate and respond to the impact of the overall state budget on public health services and workforce. Bureau staff members are completing either 5 or 7 mandated unpaid days before the end of FY10 on June 30, 2010. The staff is staggering their furlough time as creatively as possible to minimize the impact on productivity. Travel restrictions remain in effect for Board members and staff. Memberships in

professional organizations continue to be approved based on justification of their necessity to assure access to national licensure examinations and maintain licensure functions. Director Newton and the IDPH Executive Team continue to evaluate and respond to budget mandates.

- 5. State early retirement incentive** The Bureau is impacted by the State's early retirement program which is designed to reduce personnel and replacement costs. The departments are permitted to replace no more than 50% of positions vacated through the program, and must demonstrate a 50% cost saving when doing so. Employees who leave employment under the program must do so by June 24, 2010 and agree not to be employed by the State of Iowa in any capacity other than appointment to a board or commission. Eligible employees submitted their applications by April 15, 2010. The Department submitted a plan that has been approved by the Department of Administrative Services. For Professional Licensure, this would allow the Bureau to fill the positions vacated by one board executive and the discipline office coordinator with no pay reductions. Marvin Firch will serve as interim Bureau Chief effective June 25. Dates for filling the positions vacated under the program will be determined pending approval of the plan by the Department of Management. This plan leaves one board executive position vacant.
- 6. Outreach and compliance** Marvin Firch is working with the boards to increase compliance through outreach and education. He has prepared and presented information throughout the state on the complaint process, participated in in-state meetings of professional organizations upon request, assisted to develop and implement a pilot project to survey licensed cosmetology schools, published an article in the Des Moines Register about the purpose of the boards, and assisted the Department to issue press releases. He is currently completing a project is to create CDs with PowerPoint slides and a voice-over option for inclusion in new board member orientation binders, and for use by board members and board chairs regarding the role, processes, and informational resources of the 19 professional licensure boards.
- 7. Semi-annual meeting with DIA investigators** On April 22, 2010, the Bureau will host an educational meeting with the four investigators who are employed by the Department of Inspections and Appeals, and supported by licensee fees, to conduct an average of 21 investigations each month for the licensure boards. These semi-annual meeting are valuable to the Bureau and DIA as an opportunity to identify the best methods to conduct investigations and provide inclusive and timely reports to the boards so they make fully informed decisions.
- 8. Guidelines for meal receipts** Board members are requested to adhere to the guidelines for submitting meal receipts fully in order to receive

reimbursements. The guidelines identify the seven items that must be included with every meal receipt. Because credit card receipts are not acceptable, board members must be diligent in requesting and reviewing receipts at the time of service. The guidelines will be available at meetings and upon request at any time.

9. **Bureau relocation** The schedule for relocation to the building that was previously Mercy Capitol on the Capitol Complex has been delayed. Professional Licensure is still anticipated to share physical space with the Plumbing Board and Emergency Medical Services when the move occurs.

## NOTES FROM THE NATIONAL INTERSTATE COUNCIL OF STATE BOARDS OF COSMETOLOGY REGIONAL CONFERENCE LAS VEGAS MARCH 19- 21, 2010.

65 attendees from 17 states converged in Nevada to share ideas and concerns. Nevada has changed all sanitation wording to “Infection Control” and all 4 hours of con ed must be on this topic. Their BOD had a retreat to be able to have free discussion about the direction they wanted to go which was good for the Board President and Director to be able to put personalities in perspective.

President Jackie Dahlquist requested a visit to Iowa to discuss NIC Practical Testing and what Iowa would have to do to implement it in our state.

Distance Learning was discussed and most all states said they did not allow or would not allow it as it must be closely monitored by schools.

Combining Cosmetology and Barber Boards was discussed and the majority agreed it is not feasible or workable.

Fraudulent Documentation is out there so do background checks when someone wants to be licensed in your state that has a license from another state school.

Most states have board fines or sanctions from \$100 - \$5000 and those who have a smaller cap should try to get the limits raised as those small fines are not severe enough to prevent repeat offenders.

Esthetics in doctor’s offices and spas was discussed and the general consensus was be properly licensed and stay within your scope of practice.

Iowa obtained guidelines from Georgia and South Carolina for the increase of Esthetics and Nail Technicians hours that could be applied to the current hour requirements.

Disinfections of all types were reviewed and stressed to pass on proper universal precautions to everyone.

All attendees were involved with practical testing for cosmetology, nails and esthetics which was very enlightening and Professional, and would be a wonderful requirement asset to Iowa licensees.

The new Pivot Point textbooks will be out in June and handed out at the NIC conference in Seattle Washington August 28, 29, 30, 2010.

The above are Abbreviated notes from  
Becky Brockmann