

**BOARD OF COSMETOLOGY ARTS
AND SCIENCES
January 11, 2010, 9:30 AM
Room 517 & 518, Lucas State Office Building
Des Moines, Iowa 50319**

MINUTES

Call to Order: Chair, Jack Morlan, called the meeting to order at 9:32 a.m.

Roll Call

Board members present: Jack Morlan, Becky Brockmann, Kimberly Setzer, Richard Mosley, and Dana Atkins. Absent: 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.

Approval of Minutes

Motion: (MSC: Atkins/Morlan) move to approve minutes for October 5, 2009, with corrections as noted.

Motion: (MSC: Atkins/Morlan) move to approve minutes for November 2 and November 16, 2009, as drafted. Kimberly Setzer abstained.

Public Comment:

Present: Cynthia Hummel, La'James International College; Richard Sheriff, Ray Barker and Bonnie Renda, CBI; Linda Ring and Julie Mead, EQ School; Lori Greiner, American Hair Academy; Lynne and Justin Latham, Faust Institute; Deb Erickson and Cindy Van Polen, Aveda Institute; and Kyle Frette, ICSA; Christine and Vernon McClain; and Sherry Morton

Reports

Chair, Jack Morlan: Chairman Morlan suggested that the Board not move forward with plans to increase random salon inspections. Even though the board considers salon inspections very important, it would be impossible to increase the number of random inspections without increasing licensure fees. An increase in fees would not be advisable at this time due to the current economy. No objections were voiced by other board members.

Board Executive, Ella Mae Baird

1. NIC implemented a new nail technology examination on January 1, 2010.
2. Kirby Morris resigned his contracted duties as NIC Marketer and Examiner trainer. NIC assures everyone that NIC's services will continue as in the past. Michael Hill and Brenda Mathre are providing consultation and services for the NIC Examiner Training Program.
3. Three changes to Iowa Code 157 are part of Department of Public Health's Technical Bill. The proposed changes will add "threading" to the scope of practice of cosmetology and esthetics; revise 157.8 by clarifying that a student instructor cannot be used to meet the instructor/student ratio; and allow the board to determine instructor licensure requirements by rule.

Bureau Chief, Eileen Gloor: A copy of the full report is attached as an 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 Education Committee met by conference call January 4th, 2010 and discussed three school applications, the school survey process, and audit failures.

Rules Committee: No meeting.

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

Old Business:

Ear Candling: Ella Mae Baird reported that due to the questions the board received about ear candling and continuing education courses related to ear candling, the board drafted a policy statement to clarify that ear candling is not within the scope of practice of cosmetology. In October, the board approved by consensus to notify other boards and interested individuals about the proposed policy statement on ear candling. No comments were received on the proposed policy statement.

Motion: (MSC: Atkins/Mosley) move to adopt policy statement on ear candling.

New Business:

1. Administrative process for continuing education audits: Bureau staff audits five percent of the licenses annually and the audit is in process for licensees who renewed in 2009. Ms. Baird reported on the concern of the number of incomplete audits from 2008 and the approach of the 2010 renewals. The administrative process for incomplete audits are:
 - a. Returned/unknown address: 23 individuals failed the audit because they did not notify the board of a new address. Staff will administratively put a hold on the electronic record stopping the renewal. When the licensee calls the board office, the mailing address will be updated and the licensee may complete the online renewal. If the individual does not place the license on inactive or complete the audit process within 30 days, the issue will be handled through the discipline process.
 - b. Board rule allows for a 120 day extension: Outstanding incomplete audits from 2008 will be referred to the board and handled through the discipline process.
 - c. 2009 audit: If a licensee is sent an audit notice and does not respond, a second notice will be mailed, along with a form to place the license on inactive. If the licensee fails to respond to the audit within 30 days, the individual will not be eligible for the 120 day extension to make up credit.
 - d. Incomplete audits: Licensees that do not complete the audit will be referred to the board and a complaint will be opened.
2. Annual Report of disciplinary cases in 2009. The annual report shows the number of cases the board reviewed during 2009 and the actions taken on those cases. Actions taken in 2009 were taken on cases opened in 2007, 2008, and 2009. Many cases opened in 2009 are still pending. Formal actions include Revocations, suspensions, voluntary surrenders, settlements, final decisions, and consent agreements. Formal actions are posted on the web site. Two categories of informal action are close case with Letter of warning and close case with letter of education. These letters are retained in the licensee's permanent record.
3. Polish Remover Pens: Becky Brockman asked if Polish Remover pens are allowed under Iowa's sanitation rules. This issue will be discussed by the Rules Committee and reported on at the April board meeting.

Petition for Waiver:

Christine Hernandez/ HM Nail Academy petition: Board approved a temporary waiver for four students and two instructors. The building will have 870 sq. feet. Wavier is granted for six months. Rules Committee will draft rules for nail schools.

Motion: (MSC: Brockmann/Atkins) move to grant license by petition for waiver subject to final approval by Chairman Morlan.

Ora Farmer, waiver of national examination: The board considered the Petition for Waiver of rule 60.2(1), paragraph “c” submitted by Ora Farmer. Based on the adoption of amendments to 645—60.7 by the board, a petition is not necessary as she meets the requirements of the amended rule.

School Applications

1. Zoe Institute/Southeastern Community College, Keokuk: Additional information needed on the definitions of lab/practical/ theory. Representative from school will have information at the next board meeting on February 22nd.¹
2. Ownership change of Faust Institute of Cosmetology, Storm Lake and Spirit Lake reviewed.

Motion: Applications approved for school licenses. (MSC: Brockmann/Atkins)

3. HM Nail Academy, Des Moines: School license approved subject to conditions of petition for waiver identified above.

School Inspections

1. Jack Morlan reminded board members to have inspections completed by the April board meeting.
2. School Review Process: Marvin Firch provided information about the school pilot review process for four cosmetology schools: Iowa School of Beauty; Davenport Academy; EQ School; and Faust Institute.

Iowa Code and Administrative Rules

1. The proposed amendments to board chapters 60, 61, 63, and 64 were noticed as ARC 8330B and published on December 2 in the Iowa Administrative Bulletin. Interested parties were provided an opportunity to comment on the proposed amendments prior to noticing the rules and given another comment period following the notice of the amendments. Cynthia Hummel on behalf of La’James International College attended the public hearing on December 2nd and presented written comments on the elimination of the 10 percent excused absence. La’James International College requested the Board create an ad hoc committee to further research definitions and other states’ statutes, laws and regulations before proceeding. The Board did not appoint an ad hoc committee because 2100 hours are required by statute.

Justin Latham asked about the elimination of instructor training. Board clarified that the elimination of instructor training was in earlier drafts, but was not part of the adopted amendment.

Motion: (MSC: Setzer/Mosley) Move to adopt amendments filed as ARC 8330B.

2. The proposed amendments to chapter 4 and the rescinding of chapters 14 and 15 were published as Notice of Intended Action, ARC 8334B, on December 2nd. The proposed amendments incorporate into Chapter 4 the adoption by reference of Department of Public health

¹ Discussion of the school license for Zoe Institute was not discussed at the February 22nd board meeting and was held until the next regular board meeting on April 5, 2010.

administrative rules relating to child support noncompliance, and noncompliance of loan repayment. Interested parties were invited to submit written comments; but none were received.

Motion: (MSC: Brockmann/Morlan) move to adopt bureau rules noticed as ARC 8334B.

Closed Session

Motion: (MS: Morlan/Mosley) moved to go into closed session by unanimous roll call vote at 12:24 p.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 12:45 p.m. and made the following decisions based on closed session discussion:

Motion: (MSC: Setzer/Brockman)

Close: 07-046, 08-093, 09-036, 09-042, 09-061, 09-062, 09-076, 09-077, 09-081, 09-082, 09-083, 09-084, 09-091, 09-092, 09-094, App. 1 and App. 2

Motion: (MSC: Setzer/Morlan) File Statement of Charges and Notice of Hearing for 08-082, 08-062, 08-068, 08-078, 09-005, 09-007, 09-048, 09-055, 09-060, 09-067, 09-074 and 08-044

Motion: (MSC: Setzer/Morlan).released Happy Nails, 07-024 from probation.

Future Board Meetings

February 22, 2010 (Hearings)²

April 5, 2010

2010 board meeting schedule: Ella Mae Baird asked board members which day of the week, they preferred to hold board meetings. Most of the board members preferred Monday. Becky Brockmann preferred Wednesday. Some members said they could make Wednesday work.

Board recessed at 12:55 p.m.

Board reconvened in open session at 1:07p.m.

Hearings:

1:00 Macie McCoy

Motion: Morlan/Atkins moved to go into closed session by unanimous roll call vote at 1:16 p.m. for deliberation pursuant to Iowa Code 21.5(1) “f.”

Motion: The board returned to open session at 1:18 p.m. and moved the ALJ draft the decision and order for Macie McCoy based on the deliberation (MSC: Setzer/Morlan).

2:00 Wonder Nails, Owner Ly Tran:

Motion: Brockmann/Setzer moved to go into closed session by unanimous roll call vote at 2:47 p.m. for deliberation pursuant to Iowa Code 21.5(1) f.

Motion: The board returned to open session at 3:00 p.m. and moved the ALJ draft the decision and order for Wonder Nails based on the deliberation (MSC: Brockmann/Morlan)

² Hearings scheduled for February 22nd were continued and the board met by conference to discuss disciplinary and confidential items pursuant to Iowa code 21.5(1).

Adjournment

Motion: (MSC: Morlan/Atkins) move to adjourn meeting at 3:20 p.m.

Respectfully submitted by:

Kimberly Setzer, Board Secretary