

IOWA BOARD OF COSMETOLOGY ARTS & SCIENCES
January 10, 2012
Lucas State Office Building, 5th Floor Conference Room #517 & 518
Des Moines, Iowa

Open Session Meeting Minutes

Call to Order:

The meeting was called to order at 8:04 a.m. by Kimberly Setzer, Chairperson.

Roll Call:

MEMBERS PRESENT:

Richard Sheriff, Licensed Cosmetologist
Mary Clausen, Licensed Cosmetologist
Kimberly Setzer, Licensed Cosmetologist
Dana Atkins, Licensed Cosmetologist and Electrologist
Nicole Schultz, Public Member
Rick Mosley, Licensed Cosmetologist

MEMBERS ABSENT:

Jerry Talbott, Public Member

STAFF PRESENT:

Susan Reynolds, Board Executive
Marvin Firch, Outreach & Compliance Educator
Barb Huey, Bureau Chief
Barb Christiansen, Administrative Assistant
Scott Galenbeck, Assistant Attorney General
Rosemary Bonanno, Licensure Specialist

PUBLIC PRESENT:

Linda Ring, EQ School of Hair Design, Council Bluffs
Julie Mead, EQ School of Hair Design, Council Bluffs
Deb Hurtig, Aveda, West Des Moines
Patty Russo, Capri College, Cedar Rapids
Cindy Hummel, La' James International College, Johnston

Bonnie Renda, CBI

Lois Leytem, Capri College, Dubuque

Irene Richards, La' James College of Hairstyling, Mason City

Review Agenda:

Public Comment:

Public in attendance introduced themselves.

Lois Leytem, Capri College: Leytem referred to a letter from the Iowa Cosmetology Schools Association to Susan Reynolds. A copy is attached as Addendum A. Leytem requested a letter from the board stating that schools are registered with IDPH as a post-secondary educational institution. AAG Galenbeck stated the board could not declare the status of a school as post-secondary. Galenbeck advised the schools to seek legislation to register with the College Student Aid Commission. After they are registered with the commission that would be acceptable under the federal regulations. Leytem preferred not to seek legislation because the schools feel they are covered under Chapter 157.3. AAG Galenbeck said the board has no code authority to provide what Leytem is requesting. AAG Galenbeck asked Leytem to provide a definition of a post-secondary educational institution from the federal code. Leytem stated that cosmetology schools are considered post-secondary by the federal government at this time and it is imperative the state provide this letter as soon as possible.

Irene Richards, LA James College of Hairstyling, Mason City: Richards is employed by La James as an instructor. Richards asked that the Bureau update their web site with continuing education information on "hot" items that develop in the profession. Richards was informed the Bureau updates the web as needed and the information on the web is what the licensee needs to be knowledgeable about. Revisions to the curriculum are the responsibility of the schools.

School Inspection Assignments: Marvin Firch provided a new inspection form. The inspections need to be done and into the board office by April 30, 2012. A copy of the report will not be left at the school as in the past, but the bureau will mail the inspection report to the school within 14 business days of receipt from board members.

Year in review from Chairperson Setzer: Setzer reported the board has worked on many issues over that past year and will continue to work on sanitation, hybrid

learning, sterilization rules and, proper protection. Setzer reminded members the board is here to protect the public and to keep their best interest in mind.

Board Executive: The Department of Administrative Services has increased the per diem amount allowed for lodging to \$83.00 plus tax for board members. The increase was effective January 1, 2012.

Department of Revenue and Finance has posted a publication on their web site to assist salons and barber shop owners determine if a worker should be classified as an independent contractor or employee for tax filing purposes. A copy of the publication is attached as Addendum B.

Susan Reynolds provided a report on the October 31, 2011, rules committee.

1. The committee recommended amending the sanitation rules by removing tuberculocidal from rules 63.13, 63.15 and subrule 63.25(1). CDC and OSHA guidelines do not require a tuberculocidal disinfectant for TB which is an air-borne pathogen. Sanitization reduces the level of contamination on a surface, but is not considered safe. It was the committee's recommendation to strike this from the definition of rule 63.1.
2. Deferred judgments should be included in the licensure process but is finding resistance from the Administrative Rules Review Committee. This language affects all 19 Professional Licensure boards.
3. Paragraph 60.4(3)"b" was amended to allow an electrologist to administer laser treatment for toenail fungal infection.
4. Current rules prohibit an owner from selling a salon if there is pending disciplinary action. The committee expanded the rule to prohibit a sale if the salon is under suspension, revocation or probation. Owners are using the sale of the salon as a way to avoid compliance with disciplinary orders.
5. Continuing education providers will be required to ask licensees for a photo I.D.
6. An amendment to subparagraph 64.3(2)"g" (6) will allow estheticians to obtain continuing education from manufacturers of authorized physician based skin care.

Discussion on increasing esthetician fees was tabled for a future board meeting. Current fee is \$60.00 and an additional \$25.00 for each laser service.

New Business:

Quarterly reports – Susan Reynolds would like the board to review the effectiveness of the quarterly reports. AAG Galenbeck suggested on line quarterly reporting. Nichole Schultz suggested designing a form for specific information. Members of the discipline committee will discuss the issue further at the next committee meeting.

Susan Reynolds requested the schools to send her their esthetician training schedules for 2012.

Closed session procedures for board members were reviewed. A laminated handout will be provided at each meeting with the correct language of the motion to enter into closed session.

Marvin Firch discussed the post cards for salons with the reminder not to hire unlicensed people. Schools will also receive the post cards.

A motion was made by Setzer to approve the December 5, 2011, minutes. A second was received from Atkins. Six ayes, opposed – none, absent – one, motion carried.

Theresa Nguyen, salon application - Nguyen submitted an incomplete salon application and opened the salon before licensure was granted. Nguyen addressed the board about approving the salon license. A motion was made by Atkins to grant a salon license to Nguyen. A second was received from Sheriff. Six ayes, opposed- none, absent – one, motion carried.

Nikki Prevail, cosmetology application - Prevail has felony convictions and is currently on probation until 2013. A motion was made by Atkins to issue a license with a consent order to run concurrently with the probation. A second was received from Mosley. Six ayes, opposed – none, absent – one, motion carried.

Tyra Nguyen, salon application – Nguyen has been disciplined twice for violating salon sanitation rules. A motion was made by Mosley to deny the salon licensure on the basis

of past practices and customer complaints. A second was received from Clausen. Six ayes, opposed - none, absent - one, motion carried.

Board meeting suspended to conduct close session hearing.

Board returned to open session at 12:02 p.m.

A motion to direct ALJ LaMarche to draft a decision and order on the deliberations discussed in closed session was made by Setzer. A second was received from Atkins. Six ayes, opposed-none, absent - one, motion carried.

Board members took a recess.

The meeting was called back to order by Setzer at 12:54 p.m.

A motion was made by Setzer to accept the Stipulation and Consent Order for Case 10-049 and 10-056. A second was received from Atkins. Six ayes, opposed-none, absent - one, motion carried.

A motion was made by Setzer to issue a license to T-126. A second was received from Atkins. Six ayes, opposed - none, absent - one, motion carried.

A motion was made by Setzer to approve the Consent Order for Prevail. A second was received by Clausen. Six ayes, opposed - none, absent - one, motion carried.

Rescind motion on Statement of Charges for 09-074 made by Setzer. A second was received from Mosley. Six ayes, opposed - none, absent - one, motion carried.

A motion was made by Setzer to enter into closed session to discuss confidential material related to applications and complaints according to Iowa Code § 21.5(1) (a), (d) & (f) at 1:00 p.m. A second was received from Atkins. Roll call. Six ayes, opposed - none, absent - one, motion carried. Roll call

Atkins - aye

Setzer - aye

Mosley - aye

Clausen - aye

Schultz - aye

Sheriff - aye

Talbott - absent
Motion Carried.

Board returned to open session at 1:02 p.m.

A motion was made by Setzer to approve the Findings of Facts, Conclusions of Law, Decision and Order for 10-081 Foxy Nails and 10-082 Glory Nails. A second was received from Schultz. Six ayes, opposed - none, absent - one, motion carried.

A motion was made by Setzer to rescind the Statement of Charges on 11-036. A second was received from Mosley. Six ayes, opposed - none, absent - one, motion carried.

A motion was made by Atkins to close the following cases.

11-023 11-012
11-021 11-194
11-201

A second was received from Setzer. Six ayes, opposed - none, absent - one, motion carried.

A motion was made by Setzer to draft Statement of Charges for Cases 11-027 and 11-089. A second was received from Sheriff. Six ayes, opposed - none, absent - one, motion carried.

Failed Audits:

A motion was made by Setzer to draft Statement of Charges for the following failed audit cases:

11-079	11-094	11-105	11-116	11-132
11-080	11-095	11-106	11-117	11-133
11-081	11-096	11-107	11-123	11-134
11-082	11-097	11-108	11-124	11-135
11-083	11-098	11-109	11-125	11-136
11-084	11-099	11-110	11-126	11-137
11-085	11-100	11-111	11-127	11-138
11-090	11-101	11-112	11-128	
11-091	11-102	11-113	11-129	
11-092	11-103	11-114	11-130	
11-093	11-104	11-115	11-131	

A second was received from Atkins. Six ayes, opposed - none, absent - one, motion carried.

Next board meeting is February 20, 2012, at 8:30 a.m. First hearing will begin at 9:00 a.m. Due to scheduling conflicts the April 2nd board meeting was rescheduled to April 9th at 10:30 a.m. The Rules Committee will meet February 6th at 8:00 a.m.

A motion was made by Atkins to adjourn the meeting at 1:09 p.m. A second was received from Setzer. Six ayes, opposed - none, absent - one, motion carried.