

IOWA BOARD OF COSMETOLOGY ARTS & SCIENCES

November 25, 2013

Lucas State Office Building, 5th Floor Conference Room #526

Des Moines, Iowa

Open Session Meeting Minutes

Call to Order/Introductions:

The meeting was called to order at 10:32 a.m. by Chairperson Kimberly Page.

Roll Call:

MEMBERS PRESENT:

Rick Mosley, Licensed Cosmetologist

Nicole Schultz, Public Member

Don Nguyen, Public Member

Kimberly Page, Licensed Cosmetologist

Dana Atkins, Licensed Cosmetologist and Electrologist

Richard Sheriff, Licensed Cosmetologist

Mary Clausen, Licensed Cosmetologist

STAFF PRESENT:

Susan Reynolds, Board Executive

Barb Huey, Bureau Chief

Dave Van Compernelle, AAG

Barb Christiansen, Administrative Assistant

PUBLIC PRESENT:

Julie Mead, EQ School of Hair Design, Council Bluffs

Linda Ring, EQ School of Hair Design, Council Bluffs

Rebeka Berstler, Clinic of Electrology & Laser, Iowa City

Sylvia Feiganspar, Clinic of Electrology & Laser, Iowa City

Cynthia Hummel, La'James International College, Johnston

Travis Becher, La'James International College, Fort Dodge

Kent Hartwig, ICSA Lobbyist, Advocacy Strategies

Courtney Willits, Advocacy Strategies

Lois Leytem, Capri College, Dubuque

Review Agenda:

No changes to the agenda.

Public Comment:

No public comment received.

Approval of Minutes:

A motion was made by Atkins to approve the open session meeting minutes of July 8, 2013. A second was received from Sheriff. All ayes, opposed none, motion carried.

A motion was made by Atkins to approve the open session conference call minutes of August 15, 2013. A second was received from Clausen. All ayes, opposed none, motion carried.

Reports:

Chair: Kim Page announced the dates for the rule committee meetings in 2014. These dates are subject to change. Board executive will send out the dates to the distribution list.

AAG: Dave Van Compernelle reported on two issues that are outside the norm of what the board typically sees. Both issues are informational and no action is required by the board. The first issue is clarification of Iowa Code 147.3 that involves an esthetic student from Mexico that attended La' James College on a student visa. The applicant completed all of her requirements, including the test, but had no intention of staying within the country. A social security number is required as part of the application process. The few times this has occurred, a board usually enters into a consent agreement with the applicant where they can obtain a provisional license until all the paperwork is completed. In this case, the applicant has stated she has no intention of staying in the country. AAG Van Compernelle expressed concerns about how this student would be able to meet the continuing education requirements for renewal. Follow up will be done with this student before licensure is granted. The second issue is a graduate of H&M Nails that applied for licensure but has not graduated from high school. Iowa Code 157.3 requires a high school diploma or a GED equivalent. Licensee did not have either of these two things and the board office sent a denial. H&M Nails stated they did not find the requirement in rules. The requirement is found in code and not in rules. The student is eligible to re-apply for her license in May after she has graduated from high school.

Board Executive: No report.

Bureau Chief: Board financial reports will be ready in January. AMANDA will go live in January, 2014.

New Business:

PSI Incident Report, Applicant Van Nguyen: The PSI test site in Cedar Rapids reported they confiscated notes from a candidate during the exam. The candidate will not be allowed to re-test for one year.

Activation of PSI Test Site, Davenport: PSI reports they continue to look for a site to accommodate computer based testing of the national examination. PSI mentioned the possibility of offering the test in written form at a hotel conference room and requested direction from the board. During discussion the Black Hawk Community College was suggested as well as the Sylvan Learning Center. The contract with PSI provides for computer-based testing. Mosley suggested that PSI be allowed to use written testing temporarily until a computerized site can be found. Page suggested PSI supply a list to the board of facilities they have contacted. Item is tabled.

Dermaplaning – Allowed Under Esthetician’s Scope of Practice? The board office received an e-mail inquiring if it was legal to do dermaplaning. The e-mail also alleged that a cosmetology school was teaching the procedure. Iowa Code 157.2(3) & (4) prohibits anyone licensed under this chapter from using a razor-edge instrument to remove skin. Board members agreed that dermaplaning is not allowed. School representatives concurred the procedure is not being taught by the schools.

Old Business:

Request for Reconsideration of Two Tier School Inspection, La’ James International College, Cedar Rapids Campus: Cynthia Hummel and Travis Becher addressed the board about their request. During a committee meeting, it was mentioned that another school was allowed a two-tier inspection. After the reviewing the file and speaking to the former board member who conducted the inspection, a two-tier inspection was never done. The inspection for licensure was done a few months prior to the annually inspection. Board member reviewed the campus floor plans. AAG Van Compernelle reported the rules require that a new school must be fully operational in its entirety prior to inspection and licensure. That would require in his opinion a waiver request.

The rules clearly contemplate a one-stop shop approval. An obvious reason is the extra expense the state would incur to conduct two inspections. If it is entertained, it will require a waiver request with a written ruling by the board approving or denying the waiver. La'James was given the option to either resubmit the application with a floor plan that meets the rules or to submit a waiver to the board for consideration. Schultz requested that a back-up plan be included if the upper level is not ready by May 2014.

A motion was made by Page to deny the application. A second was received from Atkins. Roll call was taken on the motion.

Dana - aye

Page - aye

Mosley - nay

Schultz - aye

Clausen - nay

Sheriff - nay

Nguyen - aye

Motion for denial was carried.

Additional Discussion of School Application, Advanced Academy For Electrology, Iowa City: Rebeka Berstler addressed the school's educational format. A half day on Thursday and another full 10-hour day on Friday would be set aside for student instruction. In the beginning of the course, instruction would be one-on-one. Student rotation would occur approximately every 13 weeks. Because of the nature of her business, Ms. Berstler needs to work five days a week to pay for the overhead on the salon. Following the core training, students would continue their education with videos, mentoring, etc. Berstler stated it is more of an apprenticeship program that would accommodate one student at a time. Five students are currently on the waiting list. There are no schools in Iowa that teach electrology at this time. Students will be able to observe Berstler working on clients in her salon. AAG Van Compernelle stated the request is a "specialty school" and dependent on how the school and the program are structured, there may be multiple rules impacted that would potentially need a waiver. In order to be brought forth properly before the board, there should be a proposal citing specific rule or rules that are asking to be waived. The board could considered an up or down vote with a written ruling and a reason why. Part of the justification for waiver would be undue hardship because this type of program or study is not offered in Iowa. There appears to be no problems with the physical and equipment requirements. The two rules that would be impacted by the waiver process

are 61.15(4)(c) and 61.23(1). Potentially the percentage requirement a student must meet to be eligible to participate in a mentoring program could also be impacted.

Van Compernelle advised the issue was listed on the agenda as a discussion item and that no action needs to be taken. A waiver application will be submitted for review at the January meeting.

Kent Hartwig with Advocacy Strategies cautioned board members on the use of waivers. Hartwig also advised the board they should write rules for single discipline schools.

Applications:

Capri College, Waterloo Campus, new school application; submitted by Lois Leytem: The application was reviewed and discussed by board members. The new school is scheduled to open in March 2014 and the inspection could be conducted in January 2014. All application requirements have been met.

A motion to approve the application was received from Page. A second was received from Atkins. All ayes, opposed none, motion carried.

A motion was made by Atkins to rescind the previous motion. A second was received from Clausen. All ayes, opposed none, motion carried.

A motion was made by Page to approve the application from Capri College based on a successful inspection in January 2014. A second was received from Atkins. All ayes, opposed none, motion carried.

Closed Session:

A motion was made by Page to go into closed session at 11:58 a.m. to discuss whether to initiate licensee disciplinary investigations or proceedings as allowed under Iowa Code section 21.5(1)d and to discuss records that are required to be kept confidential as allowed under Iowa Codes section 21.5(1)a. A second was received from Atkins. Roll call taken.

Motion carried.

Mosley - aye

Clausen - aye

Sheriff - aye

Atkins - aye
Page - aye
Schultz - aye
Nguyen - aye
Motion carried.

The board recessed.

Follow up from Closed Session:

A motion was made by Page to approve the confidential closed session meeting minutes from July 8, 2013. A second was received from Atkins. All ayes, opposed none, motion carried.

A motion was made by Sheriff to accept the Stipulation and Consent Order for case 09-074. A second was received from Page. All ayes, opposed none, one abstained (Nguyen), motion carried.

Motion was made by Sheriff to accept the Stipulation and Consent Orders for cases 11-062, 11-111 and 11-145. A second was received from Clausen. All ayes, opposed none, motion carried.

Motion was made by Sheriff to accept the Stipulation and Consent Order for case 11-082 with a 60-day modification. A second was received from Clausen. All ayes, opposed none, motion carried.

Motion was made by Mosley to accept the Settlement Agreement for case 13-008. A second was received from Atkins. All ayes, opposed none, motion carried.

Motion was made by Sheriff to close the following cases:

11-121	12-017
13-022	13-028
13-029	13-032
13-041	13-043
13-045	

A second was received from Shultz. All ayes, opposed none, motion carried.

Motion was made by Sheriff to adopt a combined settlement agreement for cases 13-021 and 13-036. A second was received from Atkins. All ayes, opposed none, motion carried.

Motion was made by Sheriff to adopt Statement of Charges against case 10-099. A second was received from Schultz. All ayes, opposed none, motion carried.

2014 Board Meetings:

January 13, 2014

April 7, 2014

July 7, 2014

October 13, 2014

Adjournment:

A motion was made by Page to adjourn the meeting at 1:00 p.m. A second was received from Atkins. All ayes, opposed none, motion carried.