

IOWA BOARD OF COSMETOLOGY ARTS & SCIENCES
SPECIAL BOARD MEETING
March 11, 2013, 10:30 a.m.
Professional Licensure Conference Room 526
5th Floor, Lucas State Office Building

Open Session Meeting Minutes

Call to Order:

The meeting was called to order by Chairperson Kimberly Page at 10:37 a.m.

Roll Call:

MEMBERS PRESENT:

Kimberly Page, Licensed Cosmetologist – Joined meeting by teleconference
Dana Atkins, Licensed Cosmetologist and Electrologist – Joined meeting by teleconference
Richard Sheriff – Licensed Cosmetologist
Rick Mosley, Licensed Cosmetologist
Don Nguyen, Public Member - Joined meeting by teleconference
Nicole Schultz, Public Member

MEMBERS ABSENT:

Mary Clausen, Licensed Cosmetologist

STAFF PRESENT:

Susan Reynolds, Board Executive
Barb Huey, Bureau Chief
Rosemary Bonanno, Licensure Specialist
Dave VanCompernelle, AAG

PUBLIC PRESENT:

Kent Hartwig, Advocacy Strategies, Iowa Association of Cosmetology Schools
Representative Ako Abdul-Samad
Vernon McClain, H&M Nail Academy
Deborah Thompson, Legislative Liaison - IDPH
Cindy Hummel, La' James International College
Representative Dawn Pettengill – joined meeting at 10:50 a.m.

Review Agenda:

No changes to agenda.

Public Comment:

HF 388 did not make it through the funnel. Page asked the board to express their opinion of the 1500 square foot rule change, by saying yes to pursue the 1500 square foot rule or no to stay at the 1000 square foot requirement for single discipline schools.

Atkins - No

Nguyen - No

Schultz - No

Sheriff - No

Mosley - No

Page - No.

Page asked the board executive to tell them where they should go from here. If the board does not want to move forward with the rules they could be withdrawn. Nicole Schultz said she was part of the inspection of H&M Nail Academy, along with Mary Clausen and Don Nguyen. Schultz stated that she felt the space the school currently has is adequate. Nguyen also feels the space is adequate mostly because of the small number of students attending. Nguyen also felt that they had actually more space than what their needs are. Page asked if the board wants to move forward and amend the current rules for cosmetology. Atkins feels the board should leave the rule as is. Page asked the AAG if the board is allowed to grandfather in the school at this time or wait until the April meeting. Reynolds stated that the primary reason for the meeting today is to get a feel for where the board is at. Page asked how everyone feels about single discipline schools in general not specific to one school.

Atkins - for single schools

Nguyen - for single schools

Schultz - More questions regarding amount of students vs. square footage.

Sheriff - Not comfortable with having small schools around the state.

Mosley - Not fair to a student to attend a full discipline school if they want to study one discipline.

Page concluded the board members want to withdraw the rules for single discipline schools. The rules can be amended according to Reynolds. Deborah Thompson gave options of leaving the rules the way they are now at 1000 square feet, or the board could vote in the 1500 square feet rule and H&M Nail Academy would be grandfathered in on a permanent waiver. Atkins stated she thought the 1500 square feet rule was already voted on by the board. The rules were noticed but not formally adopted by the Board. Page advised to withdraw the current administrative rules at 1000 square feet and discuss further at the April meeting. Reynolds stated that some of the current provisions could be used in drafting a new rule. Page asked for any more comments: Nguyen asked if they could withdraw the 1000 square foot requirement and introduce an amended rule. Reynolds informed the Board the deadline to adopt the rules was April 29th. Nguyen suggested withdrawing the current rules and discussing the amendment at the April meeting. Page asked if 1500 square feet is the direction members want to go for single discipline schools.

Atkins - yes
Nguyen - amendment
Schultz - leave as is
Sheriff - 1500 square feet
Mosley - 1500 square feet

Majority of board voted to discuss further at the April 8th board meeting. Because of the public comments received regarding the 1000 square foot rule, the board feels the 1500 square foot rule needs to be taken into consideration.

Representative Ako Abdul-Samad spoke to the major issue regarding the square footage rules for single specialty schools. There is only one single discipline school in Iowa at this time and Abdul-Samad assumed H&M Nail Academy would be discussed at this meeting.

Page stated the H&M Nail Academy is not on today's agenda. Reynolds stated that the board wanted to talk about the proposed rules and where the members wanted to go with them.

Kent Hartwig commented it has been a long drawn out process and lots of mistakes were made along the way. Hartwig stressed that because of the length of time spent on the issue already he would like the board to ensure that H&M Nail Academy be allowed to continue working. Hartwig stated the association does not support single discipline schools. The board needs to take a step back and take care of the H&M Nail Academy licensing issues, and then go forward from that point to address what requirements besides the square footage would be appropriate. He stated this is not setting up a Starbucks but setting up an educational institute.

Representative Ako Abdul-Samad stated he felt that this meeting was a bait and switch and he is offended about this. He stated the legislature is willing to work with the board to get this issue settled. He stated that H&M Nail Academy can be added to the agenda with consensus of the board. AAG VanCompernelle stated that H&M Nail Academy can comment on the issue today but it is not on the agenda as an action item. AAG apologized for Abdul-Samad's misunderstanding of what was going to be discussed at this meeting. Abdul-Samad stated the reason for this meeting was because of H&M Nail Academy, nothing else. AAG felt it was very important to have this discussion in an open setting instead of individuals talking about this behind closed doors. Abdul-Samad was still frustrated with H&M Nail Academy not being listed on the agenda today. Deborah Thompson stated that the 1000 square foot rules would have captured H&M Nail Academy and because of public comment the rules are now possibly going to be 1500 square feet. Thompson spoke that this issue could be solved today. AAG VanCompernelle again stated that action should not be taken today. It should be listed on the agenda for the next meeting as an action item.

Representative Dawn Pettengill stated that the cosmetology association has a long running disagreement with the single discipline schools and do not support the recommended 1000

square feet requirement. Pettengill filed the legislation stating they were told by the association to file the changes. H&M Nail Academy has increased their building size to comply with the 1000 square feet rule. H&M has worked hard to comply with the rules bringing the school up to compliance. H&M is the subject here today and they are the reason we are even having this discussion. Pettengill would hope that the board would be able to grandfather them in and then deal with the footage requirements and single discipline schools going forward.

Vernon McClain, owner of H&M Nail Academy commented he has spent 3 1/2 years battling for his school. He stated they were hopeful they would be grandfathered in from the beginning. They bought another property to comply with the 1000 square footage. The school only teaches four students per session. The space in his school is enough.

Abdul-Samad stated adding an action item could be legally done if a board member made a motion to add it to the agenda as an action item today. AAG VanCompernelle asked that the issue not be added as an action item for consideration today. AAG would prefer that the board have time to think about this and H&M Nail Academy would be put on the April agenda. AAG stated that after each waiver granted to H&M it was acknowledged that this would be the last waiver. H&M had to hire an attorney for an appeal. Vernon stated he was not notified of the rules being changed to 1500 square feet. Vernon stated he wants the board to grandfather his school in today.

Representative Ako Abdul-Samad asked the AAG about the waivers because there is nothing in the rules governing single discipline schools. Abdul-Samad stated the board is telling a small business in the community they may still be noncompliant with the rules and wants to know what would happen between now and April 8th that couldn't happen now, Abdul-Samad stated this needs to be ironed out now. He asked if the same people would be in attendance at the April board meeting and if so, why couldn't the decision be made today? Page asked AAG what he would recommend doing at this point as legal counsel to this board. The AAG again advised that H&M Nail Academy be listed on the next meeting agenda. Deborah Thompson again commented that the board needed to conclude the issue today by grandfathering in the school. She stated the board has three options that could be voted on in April. Sheriff asked where the bill would be if H&M Nail Academy was grandfathered in and move forward with amending the rules, Abdul-Samad answered this question stating the bill would be dead. AAG VanCompernelle also stated that the rules could be scuttled and the board could entertain a new waiver from H&M Nail Academy and make it permanent. Page asked members to state if they wish to wait for action until April or make a decision today.

Dana - decision today

Don - decision today

Nichole - decision today

Richard - decision today

Rick - decision today

Nicole has question: Are there any other single schools in Iowa? Answer: No, decision today.

Kent Hartwig stated one school is affected currently but will affect other schools going forward.

Page stated that the board approves moving forward with decision on H&M Nail Academy today even though AAG advised the board to wait.

Page stated that 5 members wish to decide today, 1 member would prefer to wait until April 8, 2013 meeting, as AAG VanCompernelle advised.

AAG gave some recent history regarding the most recent waiver that was denied by the board. H&M Nail Academy filed a petition to review, because of the lawsuit which is now dismissed the board decided to review the waiver again. AAG wants to make sure that the Iowa Code was followed before re-deciding something that could reopen the door to a lawsuit.

Atkins - today

Nguyen - today

Schultz - today

Sheriff- today

Mosley - today

A motion was made by Mosley to grant a permanent waiver to H&M Nails Academy. A second was received from Schultz. Roll call taken

Atkins - Nay

Nguyen - Aye

Sheriff - Aye

Mosley - Aye

Schultz - Aye

Page - Nay

Motion carried.

Kim Page wants to discuss the administrative rules, and have board members state if they want to withdraw, amend or keep rules as proposed at 1000 square feet

Atkins - Withdraw

Nguyen - Withdraw

Schultz - Wants to discuss further in April - No other board members were asked for a reply since a motion for adjournment was made and seconded.

A motion was made by Sheriff to adjourn the meeting. A second received by Mosley. All ayes, opposed none, motion carried.