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# OHIO STATE BOARD OF COSMETOLOGY

1929 Gateway Circle

Grove City, Ohio 43123

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**OFFICIAL BOARD MEETING MINUTES OF March 10, 2015**

**REGULAR BUSINESS MEETING**

**TRANSCRIPTION NOTE (Exhibit A):**

Anderson Reporting Service, 3242 West Henderson Road, Suite A, Columbus, OH 43220 was the transcription service for this meeting. Transcript is attached as **Exhibit A**.

**MEMBERS IN ATTENDANCE (Exhibit B):**

- Thomas Taneff, Chairman
- Steve Thompson
- Valerie Benfer
- Luke Hanks
- Tasha Sheipline
- Clara Osterhage
- Shalini Gupta, M.D. (arrived at 1:36 PM)

**Staff in attendance:**

- Christopher H. Logsdon, Executive Director
- Lori Pearson, Program Administrator 2
- Lori Flanery, Administrative Assistant

**Assistant Attorney General in Attendance:**

- Federico G. Barrera, III, Assistant Attorney General

**Others in Attendance:**

Liz Spencer, Moler Pickens Beauty Academy

John Feltman, Knox County Career Center

Don Martin, Penta Career Center

Grace Phillips, Penta Career Center

Mike Evans

Justin Crosier

Bunny Neal, CDHS

Elizabeth Murch, OSA

Rita Cook

Deborah More, Paramount

Emily Harrison, Kenneth's

Bobby Lott, Salon Schools

Don Yearwood, OACS

Mr. Taneff called the meeting order at 1:00 pm.

Agenda item 1a: Roll Call

Ms. Flanery took roll call and six members were present. Having noted a majority of members were present, Mr. Taneff proceeded to conduct business. Dr. Gupta was not present during roll call, but later arrived at 1:36 PM.

Agenda item 1b: Pledge of Allegiance to the Flag of the United States of America

Following the roll call, Mr. Taneff asked members to stand and recite the Pledge of Allegiance to the Flag of the United States of America. Members and audience rose and recited the Pledge of Allegiance.

Agenda item 1c: Approval of Meeting Agenda (Exhibit C)

Motion #1: Ms. Osterhage moved to approve the meeting agenda for the March 10, 2015 Board meeting. Mr. Thompson seconded the motion. Discussion: None. Roll call vote taken - motion carried: 6 – 0.

**Agenda item #2 (a): APPROVAL OF PREVIOUS MEETING MINUTES (Exhibit D)**

Mr. Taneff stated the next item of business is review and approval of the February 10, 2015 meeting minutes.

Motion #2: Mr. Thompson moved to approve the February 10, 2015 meeting minutes. Ms. Osterhage seconded the motion. Discussion: None Roll call vote taken - motion carried: 6 – Yes.

### **Agenda item #3: REPORTS**

#### Agenda item 3a: Executive Director's Report (Exhibit E)

Mr. Logsdon submitted a written report. He verbally reviewed the following issues:

1. FY 2015 Financial Report – Mr. Logsdon reported that the agency financial activity is currently within budget.
2. Mr. Logsdon reported that the Human Trafficking continuing education initiative was moving ahead and he hopes to announce substantial developments at the Board's next meeting.
3. Mr. Logsdon reported the Board is scheduled to testify on March 18, 2015 after session.
4. Mr. Logsdon reported that he is providing the Board with a final draft of the Tanning Services consent rules under H.B. 131. Mr. Logsdon reported the staff worked with the Ohio Department of Health to develop and prepare the draft rules and the consent forms.
5. Mr. Logsdon reported the Board's website is undergoing updates and transition to the State's webserver.
6. Last, Mr. Logsdon reported the Agency's policy manual had been updated and would be presented to the Board for approval.

#### Agenda item 3b: Officer and Staff Reports

None.

#### Agenda item 3c: Committee Reports

Ms. Osterhage reported the License Taskforce met during the prior week. Ms. Osterhage reminded the Board that the taskforce consists of stakeholders interested in addressing licensing issues involving traveling licensees. Ms. Osterhage reported the issue before the Taskforce in the transportability of the license and licensee picture ID from location to location. Ms. Osterhage reported the Taskforce is being chaired by Steve Thompson. Ms. Osterhage reported the Executive Director was working with the Taskforce to draft new rule language for consideration.

Ms. Sheipline reported the Curriculum Committee had not met for some time, but it was time to start the Committee work again. Ms. Sheipline proposed a meeting on May 12, 2015 at 10:00 AM. The Committee, she stated, would pick up the curriculum requirements for managers and also the 300 hour transitional course between hair design and full cosmetology.

The members discussed the scheduling of the Curriculum Committee. It was decided Ms. Sheipline would review her work schedule and propose a new date to the Board's Executive Director.

Motion #3: Ms. Osterhage moved to approve the Executive Director's report, Officer and Staff Report, and Committee Reports. Mr. Hanks seconded the motion. Discussion: None. Roll call vote taken - motion carried: 6 – Yes.

### **Agenda item #4: PUBLIC TESTIMONY**

None.

**Agenda item #5: UNFINISHED BUSINESS**

Agenda item 5a: Out-of-State Military Application (Exhibit F collective)

Mr. Logsdon reported the staff was tasked to look into waiving the out-of-state application fee for active duty military personnel. Mr. Logsdon instructed the members to consider two versions of the same form. Mr. Logsdon informed the Board that the rule governing out-of-state military applications contains a provision that requires a fee (if applicable). Mr. Logsdon instructed that membership that adoption of the form that waives the fee would be in compliance with the rule, which would address the applicability of the fee.

Motion #4: Ms. Shepline moved to approve the Out-of-State Military Application (COS022) with fee waived. Ms. Osterhage seconded the motion. Discussion: None. Roll call vote taken - motion carried: 6 – Yes.

**Agenda item #6: NEW BUSINESS**

Agenda item 6a: John Feltman – Knox County Career Center (Exhibit G collective)

Mr. Feltman provided members with a packet. Mr. Feltman informed the members he had received an email from the Board office after his last visit, which advised him that the Board is looking at the rules regarding career based intervention (CBI), but until amendments are enacted, the rule must be followed as written. Mr. Feltman explained the CBI program at his school. Mr. Feltman read paragraph (G)(1) of OAC rule 4713-5-02. Mr. Feltman expressed difficulty, given the structure of his program, with providing equal participation in theory and clinical lessons. Mr. Feltman noted that the rule contained language allowing the Board to make an exception to the rule by a majority vote by a quorum of the Board. Mr. Feltman proposed allowing his teachers to prepare written material for his students that they could do outside of the classroom, but still contain material that meets the requirement of the law. Mr. Feltman stated that it was important to recruit new students into the program. Mr. Feltman asked the Board if they could help him make the decision to implement his proposal.

Ms. Shepline stated that the Board worked on a piece of the rule that would allow theory to be taught in a clinical setting. Ms. Shepline expressed support for CBI programs. Ms. Shepline gave Mr. Feltman a few other suggestions. Mr. Hanks expressed some concern that the methods being discussed may leave a student without a full understanding of the demands of the full program. Ms. Shepline stated the school needs to take the time to educate people about what they are getting into and what the program expectations are. Mr. Feltman stated that the students are not asking to not do the academics, but just asking for a different way to meet the requirements.

Mr. Taneff inquired if Mr. Feltman was asking the Board to work on the word “equally” that is contained in paragraph (G)(1) of the rule. Mr. Feltman stated he was asking the Board to consider an alternative that would allow students to work on theory and practical lessons while they are in the lab. Mr. Hanks inquired if the issue was a scheduling conflict. Mr. Feltman affirmed that it was a scheduling issue, stating the students cannot get out of academic course to take the cosmetology clinic, so they cannot reach an equal split between theory and clinical courses. Mr. Feltman stated he was asking for an interpretation of the rule that would allow students that are working through a packet containing theory material to do so in the laboratory setting. Mr. Taneff recognized the Executive Director. Mr. Logsdon asked Mr. Feltman if he would rather identify a specific exception to the rule that he would like the Board to consider. Mr. Logsdon proposed an example. Mr. Feltman said the exception he wants from the Board is to allow students to work on alternative packets in the laboratory setting. Ms. Shepline inquired of Mr. Feltman if he knew of other schools with the same problem. Mr. Feltman stated an inspector of the Board told him the student must have theory before lab classes and the student could not do theory in the lab. Mr. Logsdon stated the Board is looking at these rules and there may be changes “down the road.” Ms. Shepline stated the Board did review and passed some changes. Ms. Pearson affirmed that rule 4713-5-17 was in the process of being amended. Mr. Logsdon stated the rule in question is due for final filing. Mr. Feltman stated he was asking for an exception until the rule goes into effect.

Board counsel, Mr. Barrera, advises that there needs to be specific conduct before the Board can apply an exception to the rule. Mr. Feltman asked if Mr. Barrera meant the Board could not interpret the rule. Mr. Barrera stated there needs to be discrete conduct at issue before the Board can apply an exception. Mr. Barrera stated the issue is one of interpretation and the exception component does not apply to the interpretation of the rule. Ms. Shepline suggested that the Board could interpret the rule in a manner to address Mr. Feltman's packet concept, because the rule does not specifically address the proposal. Mr. Taneff clarified Ms. Shepline's suggestion. Ms. Pearson interjected that there would be a conflict with OAC 4713-5-17 regarding theory and clinic being conducted concurrently. Ms. Pearson stated new rule 4713-5-17 that will soon go into effect would change the requirement.

Motion #5: Ms. Shepline moved to make an exception to OAC 4713-5-2 (G)(1) for Knox County Career Center so that the program may conduct the 50% requirement for CBI students in theory and practical within the clinical setting. Ms. Benfer seconded the motion. Discussion: Ms. Osterhage pointed out the violation in this instance was against a different rule – OAC 4713-5-17. Ms. Osterhage stated the exception cannot coexist with the other rule. Ms. Osterhage clarified her position. Ms. Shepline suggested that the program may be better off to wait for the rule to be final filed and become effective. Ms. Shepline stated the exception would be null when the new rule became effective.

Dr. Gupta arrived at 1:36 PM.

Mr. Logsdon asked for a two minute recess to confirm the rule filing date.

The Board recessed at 1:39 PM and then rejoined public session at 1:41 PM.

Mr. Logsdon read the new rule language. Mr. Hanks inquired if the Board could waive the rule. Mr. Barrera stated the Board could not, unless the rule contained a specific provision, like OAC 4713-5-02, which allowed the Board to vote on an exception to the rule. Mr. Taneff inquired if OAC 4713-5-17 contained such a provision. It was determined it did not. Mr. Taneff inquired what it would take to include such a provision. Mr. Hanks informed the Chair that it would take about 180 days. Mr. Taneff inquired if the new rule would address Mr. Feltman's issue. Mr. Feltman indicated it would.

Ms. Shepline withdrew her motion.

#### Agenda item 6b: Mike Evans and Justin Crosier – Buckeye Fitness

Mr. Evans stated he was appearing to bring to the Board's attention OAC 4713-1-07. Mr. Evans stated that he recently purchased a new full-service gym, which has a tanning facility. Mr. Evans stated the previous owner had infractions and fines imposed by the Ohio State Board of Cosmetology. Mr. Evans pointed out that the rule would not permit the Board to issue a license to the company until all violations were paid. Mr. Evans stated he was asking the Board to issue his company a license.

Mr. Crosier informed the Board that they did not know about the violations and inquired if the Board could forgive the fines and issue the license. Dr. Gupta inquired if anyone knew what the violations were. Mr. Evans answered that the sanctions dealt with not having a permitted operator. Mr. Taneff inquired about the circumstances of the business purchase and if the owners had legal representation. Mr. Evans affirmed they had an attorney and the previous owner assumed any existing responsibilities. Mr. Taneff inquired if their attorney inquired about pre-existing fines. Mr. Crosier stated that he did not, because they were not aware of the fine. Mr. Taneff inquired further about the new owner's understanding of assuming existing liabilities of the business. Mr. Thompson inquired about the certification of the new owners to operate tanning equipment. Both owners affirmed they were certified. Dr. Gupta inquired if the owners were providing tanning service prior to the purchase of the business. The owners stated they did not provide services and cannot until the new license is issued. Mr. Taneff inquired of staff if they had any prior experience with the owner's issue. Ms. Pearson stated the staff followed the rule and explained the procedure for new owners. Ms. Osterhage inquired about the specifics of the prior violations and the amount of the existing fine. Ms. Osterhage inquired if a new owner could call the Board office to determine if a business had any pre-existing issues. Mr. Logsdon affirmed it was publicly available information. Ms. Osterhage stated that she has purchased businesses, but did not contact the Board in advance to determine if any violations existed. Ms. Osterhage inquired about the nature of the rule. Mr. Logsdon read the rule at Mr.

Taneff's request. Mr. Hanks stated it was a good rule, but inquired if it was possible to stay the order. Board counsel, Mr. Barrera, cautioned the Board about revisiting board orders that were properly served.

After considerable discussion, the Board found no exception to the rule existed and advised Mr. Evans and Mr. Crosier that they would have to pay the liability before the license would be issued.

#### Agenda item 6c: Proposal to Realign Exam Questions and Exam Survey

Mr. Logsdon was asked to present the proposal. Mr. Logsdon explained that the office is currently undertaking a process of reviewing the examination maintenance for each examination currently created by the Board and administered in-house. Part of the process, Mr. Logsdon stated, is developing and testing examination questions. Mr. Logsdon stated that new questions must be placed in the database and tested to determine if the questions perform as expected. Mr. Logsdon explained the examination software has a module that was designed to test new questions; however, the Board has used the module for laws and rules questions. Mr. Logsdon stated staff is proposing to move the laws and rules questions into the general population of test questions and to use the pilot module as it was intended, which is to test new questions. Members inquired about any issues with moving the laws and rules questions.

Motion #6: Ms. Shepline moved to approve removing ten OSBC laws and rules questions from the pilot section of the examination, realign the ten OSBC laws and rules questions within the overall examination content and add ten new questions, not point value, test questions on a rotating based, as required, to the pilot section of the examination for the purpose of testing the new question's performance. Dr. Gupta seconded the motion. Discussion: Ms. Osterhage inquired if some of the laws and rules questions covered infection control. Ms. Pearson replied that the general examination covers the topic. Ms. Pearson stated there were 25 questions that covered the topic of sanitation. No further discussion. Roll call vote taken - motion carried: 7 – Yes.

Mr. Hanks inquired about the proposed survey. Mr. Logsdon stated the staff would like to include an electronic survey at the end of the examination, which would have no point value.

Motion #7: Ms. Osterhage moved to approve adding an electronic survey to the examination. Dr. Gupta seconded the motion. Discussion: Mr. Hanks inquired if the survey would address the influence the individual's school had on their preparation for the examination. Ms. Pearson addressed his inquiry. Ms. Osterhage inquired if a motion was needed, because she felt the survey should be open to ongoing amendment as required by staff. No further discussion. Roll call vote taken - motion carried: 7 – Yes

#### Agenda item 6d: Proposed Curriculum for Manicuring and Esthetics (Exhibit H)

Ms. Pearson presented the material.

Motion #8: Ms. Osterhage moved to approve the curriculum re-write for manicuring and esthetics. Ms. Shepline seconded the motion. Discussion: None. Roll call vote taken - motion carried: 7 - Yes.

#### Agenda item 6e: Policy Manual (Exhibit I)

Mr. Logsdon presented the revised policy manual.

Motion #8: Ms. Shepline moved to approve the 2015 revised policy manual, attached hereto as an exhibit. Dr. Gupta seconded the motion. Discussion: None. Roll call vote taken - motion carried: 7 - Yes.

Following approval of the 2015 Policy Manual the Board considered its policy on allowing outside employment. Mr. Logsdon presented the Board's previous policy on the matter. Members inquired about the specific nature of the inquiry and resolved to address the question.

Motion #9: Ms. Sheipline moved to approve a policy permitting the Board staff to be employed in a salon or in a business within a salon licensed by the board. Mr. Thompson seconded the motion. Discussion: None. Roll call vote taken - motion carried: 7 - Yes.

#### Agenda item 6f: Administrative Review Committee (Exhibit J)

Mr. Logsdon introduced a proposal to create an Administrative Review Committee to administrative matter and resolutions to those matters. Mr. Logsdon recommended that the Board appoint a member to sit on the Committee under the authority of ORC 4713.04. Mr. Logsdon stated the member would function as a liaison on the Committee, who would act on the authority of the Board in administrative matters. Mr. Logsdon recommended that the member have a legal background.

Motion #10: Mr. Hanks moved to approve resolution 1, attached hereto, to create the Administrative Review Committee. Ms. Osterhage seconded the motion. Discussion: Mr. Thompson inquired about the appointed member. Roll call vote taken - motion carried: 7 - Yes

Motion #11: Ms. Osterhage moved to appoint Mr. Taneff to the Administrative Action Committee pursuant to the provision of ORC 4713.04. Dr. Gupta seconded the motion. Discussion None. Roll call vote taken - motion carried: 6 - Yes, 1 - No (Hanks)

#### Agenda item 6g: Hearing Officer Reports (Exhibit K)

In the Matter of Mi Tyme Salon, Case #2014-907

Motion #12: Mr. Hanks moved to approve the hearing examiner's findings of fact in the matter of Mi Tyme Salon, Case #2014-907. Mr. Thompson seconded the motion. Discussion: Ms. Osterhage expressed concern over the findings of facts, particularly how it was determined that the employee involved was an independent contractor. Ms. Osterhage expressed her position that the Board inspectors are not asking the appropriate questions to determine if a person is or is not an independent contractor. Ms. Osterhage found the distinctions to be very confusing. No further discussion. Roll call vote taken. Motion carried: 6 - Yes, 1 - Abstained (Ms. Osterhage).

Motion #13: Mr. Hanks moved to approve the hearing examiner's conclusions of law in the matter of Mi Tyme Salon, Case #2014-907. Ms. Benfer seconded the motion. Discussion: None. Roll call vote taken. Motion carried: 6 - Yes, 1 - Abstained (Ms. Osterhage).

Motion #14: Mr. Hanks moved to approve the hearing examiner's recommended Order of the Board in the matter of Mi Tyme Salon, Case #2014-907 to impose a \$1,250.00 fine. Ms. Benfer seconded the motion. Discussion: None. Roll call vote taken. Motion carried: 6 - Yes, 1 - Abstained (Ms. Osterhage).

The Order will be entered upon the Board's journal and attached hereto as an exhibit to the proceedings.

#### Agenda item 6h: Withdraw Notices of Opportunity for Hearing (Exhibit L collective)

Motion #15: Ms. Osterhage moved to approve the withdraw of Notices of Opportunity for Hearing in the matter of Cases #2015-82, 2015-92, and 2013-1606, listed as items #1 - #3 on the Withdrawal of Notices Report, attached hereto as an exhibit to the record. Mr. Hanks seconded the motion. Discussion: None. Roll call vote taken. Motion carried: 7 - Yes

Agenda item 6i: Correction to Previously Approved Orders 1 - 2 (Exhibit M collective)

Motion #16: Ms. Osterhage moved to approve the corrections to Board Orders as listed on "Corrections Needed" on the COS-Issue Report NOV Business Credential Cnty, dated March 2, 2015, specifically items #1 and #2. Mr. Hanks seconded the motion. Discussion: None. Roll call vote taken. Motion carried: 7 - Yes.

The Orders of the Board shall become effective upon the date of mailing of the Order.

SO ORDERED

The language contained therein will be incorporated by reference into the Board's journal in this case and attached as an exhibit to the minutes.

Agenda item 6j: Board Orders to Enforce Notice of Violation (Items 3 - 38) (Exhibit N collective)

Motion #17: Ms. Osterhage moved to approve the Orders of the Board listed as items #3 - #38 on the COS-Issue Report NOV Business Credential Cnty, dated March 2, 2015. The motion was seconded by Mr. Hanks. Discussion: None. Roll call vote taken. Motion carried: 7 - Yes.

The Orders of the Board shall become effective upon the date of mailing of the Order.

SO ORDERED

The language contained therein will be incorporated by reference into the Board's journal in this case and attached as an exhibit to the minutes.

Agenda item 6k: Board Orders to Approve Settlement Agreements (Items 39 - 115) (Exhibit O collective)

Motion #18: Ms. Osterhage moved to approve the Settlement Agreements listed as items #39 - #115 on the COS-Issue Report NOV Business Credential Cnty, dated March 2, 2015 as Orders of the Board. The motion was seconded by Ms. Shepline. Discussion: None. Roll call vote taken. Motion carried: 7 - Yes.

The Orders of the Board shall become effective upon the date of mailing of the Order.

SO ORDERED

The language contained therein will be incorporated by reference into the Board's journal in this case and attached as an exhibit to the minutes.

Agenda item 6l: Revised Settlement Agreement Template (Exhibit P)

Mr. Logsdon was asked to introduce the matter. Mr. Logsdon stated that the Board approved the template at its last meeting in February 2015. The template has now been modified to require the signature of the Chair and not the Executive Director.

Motion #19: Ms. Osterhage moved to approve an amendment to the Settlement Agreement template form by requiring the signature (written or electronic) of the Board Chairperson, attached hereto to the record. Ms. Shepline seconded the motion. Discussion: None. Roll call vote taken. Motion carried: 7 - Yes.

**Agenda item #7 EXECUTIVE SESSION**

There was no business under Executive Session.

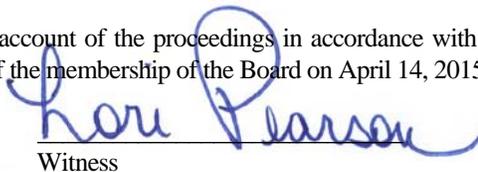
**Agenda item #8 ADJOURNMENT**

Motion #20: Mr. Thompson moved to adjourn. Mr. Hanks seconded the motion. Discussion: None. Roll call vote taken. Motion carried: 7 - Yes.

The meeting adjourned at 2:43 P.M.

Executive Director's Certification: These are a true account of the proceedings in accordance with Section 121.11 of the Ohio Revised Code, approved by a majority of a quorum of the membership of the Board on April 14, 2015.

  
\_\_\_\_\_  
Christopher H. Logsdon, Executive Director

  
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Witness