
OHIO STATE BOARD OF COSMETOLOGY

1929 Gateway Circle

Grove City, Ohio 43123

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BOARD MEETING MINUTES OF March 8, 2016

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

Clara Osterhage, Vice Chairman

Steven Thompson

Luke Hanks

Charles Penzone

Tasha Sheipline

Valerie Benfer

Dr. Shalini Gupta (arrived at 1:05 pm)

Staff in attendance:

Christopher H. Logsdon, Executive Director

Lori Pearson, Program Administrator II

Lori Flanery, Program Administrator I

Others in Attendance:

Tim Hornsby, The Hornsby Group

Elizabeth Murch, OSA

Angela Hodges, The Hornsby Group

Angela Ramsay, WCSCC

Bernadine Neal, Columbus D.T. H.S.

Ginny White, Paramount

Gracie Phillips, Pentacc

Hai Cao, QNails

Agenda item #1: CALL MEETING TO ORDER

Mr. Taneff called the meeting to order at 1:01 p.m.

Agenda item 1a: Roll Call

Ms. Flanery took roll call and seven members were present. Having noted a majority of members were present, Mr. Taneff proceeded to conduct business. Dr. Gupta was not in attendance.

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)

Mr. Taneff inquired if members had reviewed the agenda. Members affirmatively nodded their heads. Motion #1: Ms. Osterhage moved to approve the meeting agenda for the March 8, 2016 Board meeting. Mr. Penzone seconded the motion. Discussion: Mr. Logsdon stated that an item had been added to the agenda under "Old Business." Mr. Taneff confirmed and called the question. Roll call vote taken - carried: 7 – 0.

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

Agenda item 2a: Approval of Previous Meeting Minutes (Exhibit D)

Motion #2: Ms. Osterhage moved to approve the February 8, 2016 meeting minutes. Ms. Benfer seconded the motion. Discussion: None. Roll call vote taken - motion carried: 7– Yes.

Agenda item #3: OFFICER AND STAFF REPORTS (Exhibit E)

Agenda item 3a: Chairperson's Report

Mr. Taneff had no report.

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

Mr. Logsdon began his report, but then the Chairperson interjected that Dr. Gupta had joined the meeting at 1:05 p.m. Mr. Logsdon then continued. Mr. Logsdon submitted a written report. He verbally reviewed the following issues:

1. Mr. Logsdon reviewed the Board's FY 2016 financial activity for the dates 7-1-2015 through 2-19-2016. Mr. Logsdon reported that the agency's expenditures were within the established allotment for the year. Mr. Logsdon reported that the agency was estimating it would have lapsed funding, which he intended to designate for unplanned projects, such as updating the agency's information technology systems and communicating elicense 3.0 changes to licensees.
2. Mr. Logsdon reported a full review schedule for rule amendments had been completed, covering the next year and one-half. The schedule will have three rounds of rule review. A copy of the schedule was provided to members.
3. Next, Mr. Logsdon reported on the status of H.B. 227 and S.B. 213. Mr. Logsdon reported that he attended an interested parties meeting on H.B. 227. Mr. Logsdon reported that the next Ohio House of Representative's meeting on the bill would be April 2016. Mr. Logsdon reported that he did approach Representative Brown concerning a few amendments relating to the upcoming release of the new licensing system, but Representative Brown indicated there would not be additional amendments at this point. Mr. Logsdon reported S.B. 231 did pass the Senate on February 10, 2016. Last, Mr. Logsdon reported that he appeared before the Sunset Review Committee concerning combining the Ohio State Board of Cosmetology and the Ohio State Barbers Board.
4. Mr. Logsdon reminded members that 2015 Financial Disclosures needed to be filed by April 15, 2016.

Motion #3: Ms. Osterhage moved to approve the Executive Director's Report. Ms. Shepline seconded the motion. Discussion: Mr. Penzone inquired about the report referencing the Sunset Review Committee testimony. Mr. Logsdon stated the testimony was attached to his written report. Roll call vote taken - motion carried: 8- Yes.

Agenda item #4: COMMITTEE REPORTS

Agenda item 4a: Administrative Action Committee Report (Exhibit F)

Mr. Taneff asked Mr. Logsdon to present the Administrative Review Committee (ARC) report. Mr. Logsdon reported that the ARC met on February 25, 2016. Mr. Logsdon then reviewed each case listed in the ARC report. Discussion: Ms. Osterhage noted Case #2016-093, stating the report indicates the ARC's subject matter was related to OAC rule 4713-15-03 (A)(2). Ms. Osterhage stated her perspective that the rule is too restrictive and should be reviewed.

**Names and identifying information was redacted from the Administrative Review Report. For the purpose of discussion, matters were referred to only by case number and referenced by case number verbally. Identifying information based upon the correlating case number was added during the writing of the minutes where specific reference or motion is entered upon the board's journal.*

Motion #4: Ms. Osterhage moved to confirm the Administrative Review Committee (ARC) report, as referenced hereto by attachment to the minutes of the Board, and Mr. Taneff's actions taken on behalf of the Board contained therein pursuant to his

authority under resolution #1, March 10, 2015. Mr. Penzone seconded the motion. Discussion: None. No further discussion. Roll call vote taken - motion carried: 8 – Yes.

Agenda item #5: PUBLIC TESTIMONY

Hai Cao – Qnails, 5214 State Route 113 East, Berlin Heights, Ohio 44814

Mr. Cao reported he was appearing before the Board concerning a violation. Mr. Barrera, Assistant Attorney General for the Ohio State Board of Cosmetology interjected and provided some background on the case. Mr. Barrera stated that the salon in this matter entered into a settlement agreement, wherein the punishment instituted a 90-day suspension of the license, with up to 60-days stayed contingent upon Mr. Cao's appearance before the Board to appeal for the stay of the suspension. Mr. Barrera clarified the terms of the settlement agreement for Mr. Penzone. Mr. Cao then proceeded to testify on behalf of QNails. Mr. Cao stated the suspension of the salon license for the month had created a hard time for him. Mr. Cao stated that he was petitioning the Board to re-open his business so that he, his family, his son, his brother, and one employee would get back to the job. Mr. Cao spent some time discussing his and his family's financial hardship relative to the salon's suspension.

Mr. Taneff inquired if all of Mr. Cao's employees and non-employees engaged in providing manicuring services were now licensed. Mr. Cao responded, "Yes." Mr. Taneff asked Mr. Logsdon to confirm. Mr. Taneff inquired of Mr. Cao if he understood the Board's sanitation standards, including the requirement to sanitize non-porous implements, dispose of and not re-use porous implements. Mr. Cao responded, "yes." Mr. Taneff inquired if Mr. Cao now disposes of porous items after each use. Mr. Cao responded, "Yes, I do." Mr. Taneff inquired if the salon now prepares the appropriate grade of disinfectant solutions at the beginning of each business day. Mr. Cao responded, "Yes." Mr. Cao stated that he could show the Board's inspection staff everything, how to do it, and the way he does it.

Ms. Osterhage noted that the violation on record is the fourth violation. Ms. Osterhage asked Mr. Cao about having unlicensed persons providing nail services without a license. Mr. Cao stated the violations in each instance were against his wife. Ms. Osterhage iterated that Mr. Cao had a history of having someone in his salon without a license. Mr. Cao stated that it wasn't someone; it was his wife, stating she got caught by accident.

Mr. Taneff inquired if Mr. Cao understood that if he gets caught violating the same standards again in the next 11 months, the remainder of the suspension would be instituted. Mr. Cao affirmed Mr. Taneff's understanding and promised it would not happen again. Mr. Taneff also inquired if Mr. Cao understood that further violations could lead to additional sanctions, including suspension or revocation of his salon license. Mr. Cao responded, "Yes."

Mr. Thompson inquired if Mr. Cao's wife was licensed. Mr. Cao stated, "no, she's not." Mr. Thompson inquired if his wife would be in the salon anymore. Mr. Cao stated she just had a baby and while she was pregnant, she was not well so he kept her close.

Mr. Taneff inquired if Mr. Cao was familiar with the concept in baseball called three strikes and you're out. Mr. Cao stated he was aware of the saying and promised it would not happen again.

Mr. Penzone re-affirmed that this matter was Mr. Cao's fourth violation and that each time it was his wife. Mr. Cao stated, "Yes."

Ms. Osterhage expressed her concern that Mr. Cao had been fined three previous times and that he did not seem to learn a lesson. Mr. Taneff echoed the same concern, stating it was Mr. Cao's fourth offense and that he really was not taking the matter seriously.

Ms. Sheipline sternly advised Mr. Cao to stop paying the Board fines and get his wife licensed. Mr. Cao stated that she has tried, but failed the examination due to difficulty with the English language. Mr. Taneff explained to Mr. Cao that if he remains on the Board and he comes back before the Board again, he would not enjoy the experience. Mr. Cao stated that he did not want to see

the Board again. Mr. Penzone iterated Mr. Taneff's comments, stating that he would do all he could to "pull" the license, should Mr. Cao come back before the Board.

Motion #5: Ms. Osterhage moved to stay the remainder of QNails, MANS.080455, case 2015-166, suspension contingent upon passing an inspection. Mr. Penzone seconded the motion. Discussion: None. Roll call vote taken - motion carried: 8 – Yes.

Agenda item #6 UNFINISHED BUSINESS

None.

Agenda item #7: OLD BUSINESS (Exhibit G)

Mr. Logsdon reported that the members tabled this case at the February meeting. Mr. Logsdon instructed the members that they could adopt the Report and Recommendations as written or, should the Board choose to enter private session for quasi-judicial deliberation, and choose to modify the Report and Recommendation in this case; the Order should reflect the changes and provide a reason for the modification.

R&R: In the matter of Lora E. Jones, MANM.002120, Case #2015-39 (Exhibit G)

Motion #6: Mr. Thompson moved to approve the hearing examiner's findings of fact in the matter of Lora E. Jones, MANM.002120, case #2015-39. Ms. Osterhage seconded the motion. Discussion: None. Roll call vote taken. Motion carried: 8 – Yes.

Motion #7: Mr. Thompson moved to approve the hearing examiner's conclusions of law in the matter of Lora E. Jones, MANM.002120, case #2015-39. Ms. Osterhage seconded the motion. Discussion: None. Roll call vote taken. Motion carried: 8 – Yes.

Motion #8: Ms. Osterhage moved to approve the hearing examiner's recommended Order of the Board in the matter of Lora E. Jones, MANM.002120, case #2015-39 to revoke license #MANM.002120. Mr. Thompson seconded the motion. Discussion: None. Roll call vote taken. Motion carried: 8 – Yes.

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

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 #8: NEW BUSINESS

Agenda item 8a: Rule Amendments: 4713-7-01, 4713-13-04, and 4713-21-09 (Exhibit H)

Mr. Taneff asked Mr. Logsdon to discuss the matter. Mr. Logsdon stated that three rules were presented to the Board for consideration of a motion to open the proposed rules for stakeholder input and then filing with the Office of Common Sense Initiative and the Joint Committee on Agency Rule Review. Mr. Logsdon stated the rules were being amended to allow for flexibility within the current regulatory structure for licensing, particularly the new electronic licensing process.

Mr. Logsdon presented draft rule 4713-7-01, explaining that the Ohio Revised Code requires an applicant for licensure to file an application under Oath. The current rule, he stated, requires the form to be notarized. An electronic application, he continued, would only permit a single user to access the system, so the proposed rule considers an alternative method of taking an oath. Mr. Logsdon explained that the Board is moving away from paper and if the rule cannot be updated in time to provide flexibility for the new environment, the new feature will not be used.

Ms. Osterhage inquired if the proposed rule would include salon applications. Mr. Logsdon stated that it would.

Mr. Logsdon presented draft rule 4713-13-04, explaining that, once again, as the Board moves toward an electronic format for licensing, the current requires a license to be displayed with a photo that is less than five years old. Mr. Logsdon stated the Ohio Revised Code already requires conspicuous display, so the rule is redundant. He continued, stating the rule also requires a license to be current and valid, which, Mr. Logsdon stated, is redundant of implied or explicit language in the Ohio Revised Code. In summary, Mr. Logsdon stated that the rule, with the exception of the five year photo language, over and over cites requirements that are required in the Ohio Revised Code.

Mr. Logsdon presented draft rule 4713-21-09, stating that the staff is recommending that paragraph (E) be rescinded, because it is unnecessary language and in paragraph (H), changing 15 day response to three day response. Mr. Logsdon argued that the new licensing system requires providers to upload continuing education rosters into the system, which will automatically determine when a person has completed their education and is eligible for renewal. The Ohio Revised Code, Mr. Logsdon stated, specifically allows licensees to complete continuing education up through January 31st of every odd year, which is the license expiration date. Mr. Logsdon stated that the current rule gives continuing education providers 15 days to forward continuing education completion to the Board, which could mean the licensee cannot renew for 15 days. Mr. Logsdon proposed that shorter time be given for uploading continuing education data, which would allow licensees to renew in a more timely manner.

Mr. Hanks voiced his concern with the three day recommendation, because it may alienate continuing education providers. On the other hand, he stated, he understands that the elicencing system is coming and the Board needs to be prepared to address licensee who wait until the last minute to renew their license. Mr. Hanks recommended using the Board's violation matrix guidance as a way of warning providers to speed up the process.

Ms. Osterhage stated that she confirmed the three days would be interpreted as calendar days and that rather than increasing the workload for staff, she recommends educating continuing education providers.

Mr. Logsdon affirmed that the providers that may be most affected would be online providers. Ms. Pearson interjected that the Board has approximately 1,300 continuing education providers and about 15 of those are online, offering courses 24 hours each day.

Mr. Hanks asked what would happen if the provider missed the due date. Mr. Logsdon stated it would potentially hold up someone's license renewal, so the rule leans toward the advantage of the licensee.

Mr. Hanks inquired again about the ramifications. Mr. Logsdon stated there really were no ramifications. Ms. Pearson stated the provider could be denied the next year. Mr. Hanks asked if that meant the Board could potentially end up with no providers. Mr. Logsdon stated the Board would be doing everything possible to education the providers in advance of the rule change and at the same time urging licensees to be timelier with completing their continuing education requirements. Ms. Osterhage stated that she feels the issue represents a great opportunity to educate people as the Board moves forward. Mr. Logsdon provided a brief review of how the new license renewal process would work and how the process would eliminate post-renewal continuing education audits.

Mr. Thompson inquired about the number of times a continuing education provider could provide a class. Ms. Pearson answered the question. Mr. Thompson had a follow-up question concerning notice requirements from providers. Ms. Pearson stated that providers must notify the Board each time a class is held. Mr. Thompson inquired what would happen if a provider did not get a

sign-in sheet to the Board within three-days before offering another course. Mr. Thompson asked if the electronic system could hold approval pending the prior data. Mr. Logsdon responded that it would be hard to catch within the three-day time frame. Mr. Logsdon reminded members that the current continuing education system is electronic and many of the components being discussed are already required in the current system.

Mr. Hanks inquired if the provider would need to convert a sign-in sheet into an electronic format. Mr. Logsdon affirmed. Mr. Hanks expressed concern that the three-day requirement might be too tight for in-person providers. Mr. Penzone inquired how the staff arrived at three days. Mr. Logsdon stated the recommendation came from staff and then was presented to two Board members for input. Mr. Penzone then reminded members that the proposal is not “written in stone” and could yet be changed if it did not work.

Motion #9: Ms. Osterhage moved to approve opening the proposed rules 4713-7-01, 4713-13-04, and 4713-21-09 for stakeholder input, then filing with the Office of Common Sense Initiative, followed by filing with JCARR pending an affirmative CSI recommendation. Mr. Thompson seconded the motion. Discussion: None. No further discussion. Roll call vote taken - motion carried: 8 – Yes.

Agenda item 8b: Hearing Examiner’s Report and Recommendation

R&R – 1: In the matter of Michael Sparto, COSM.091547, Case #2015-459 (Exhibit I)

Motion #10: Mr. Penzone moved to approve the hearing examiner’s findings of fact in the matter of Michael Sparto, COSM.091547, Case #2015-459. Ms. Osterhage seconded the motion. Discussion: None. Roll call vote taken. Motion carried: 8 – Yes.

Motion #11: Ms. Osterhage moved to approve the hearing examiner’s conclusions of law in the matter of Michael Sparto, COSM.091547, Case #2015-459. Mr. Penzone seconded the motion. Discussion: None. Roll call vote taken. Motion carried: 8 – Yes.

Motion #12: Ms. Osterhage moved to approve the hearing examiner’s recommended Order of the Board in the matter of Michael Sparto, COSM.091547, Case #2015-459 to impose a \$250.00 fine. Mr. Penzone seconded the motion. Discussion: None. Roll call vote taken. Motion carried: 8 – Yes.

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

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.

R&R – 2: In the matter of Precious Scott, COS.120575, Case #2015-734 (Exhibit J)

Motion #13: Mr. Penzone moved to approve the hearing examiner’s findings of fact in the matter of Precious Scott, COS.120575, Case #2015-734. Ms. Osterhage seconded the motion. Discussion: Mr. Thompson questioned the findings in this matter, because the respondent was only doing what the employer told her. Ms. Osterhage stated that she had the same concern, but resolved that the Respondent had the option to quit her position. Ms. Osterhage asked what happened to the Salon owner in this matter. Mr. Logsdon stated he would need to pull the file. Ms. Osterhage stated it was not necessary. No further discussion. Roll call vote taken. Motion carried: 8 – Yes.

Motion #14: Ms. Osterhage moved to approve the hearing examiner's conclusions of law in the matter of Precious Scott, COS.120575, Case #2015-734. Ms. Shepline seconded the motion. Discussion: None. Roll call vote taken. Motion carried: 8 – Yes.

Motion #15: Ms. Osterhage moved to approve the hearing examiner's recommended Order of the Board in the matter of Precious Scott, COS.120575, Case #2015-734 to impose a \$100.00 fine. Mr. Penzone seconded the motion. Discussion: None. Roll call vote taken. Motion carried: 7 – Yes, 1 – No (Thompson).

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

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 8c: Correction to Previously Approved Orders of the Board

CORR – 1: In the matter of Hair Razors, COSS.120575, Case #2015-365 (Exhibit K)

Motion #16: Ms. Osterhage moved to **approve** an Order to Vacate the Order of the Board in the matter of Hair Razors, COSS.120575, Case #2015-365 listed as item #15 on "COS – Issue Report NOV Business + Credential" dated 05/26/2013 – 05/26/2015 from the June 9, 2015 Board meeting and approve item #CORR-1, Case #2015-365 as listed on the "COS – Issue Report NOV Business + Credential" dated 02/16/2015 – 02/16/2016 with order approving the terms of settlement imposing a \$750 fine with \$325 stayed pending no repeat violations within twelve months of the board order being issued. Total fine due - \$325. The Order will be journalized and attached hereto as an exhibit. Mr. Thompson seconded the motion. Discussion: Mr. Logsdon explained that the settlement agreement was received prior to the board entering the original order. Mr. Logsdon stated the motion will withdraw the prior order journalized on June 9, 2015 and enter a re-journalized order. Ms. Osterhage inquired why it took so long to find the error. Mr. Logsdon stated the Respondent brought the matter to the Board's attention. No further discussion. Roll call vote taken. Motion carried: 8 – Yes.

CORR – 2: In the matter of Vo Vi, OTH.165006, Case #2016-13 (Exhibit L)

Motion #17: Ms. Osterhage moved to **approve** a correction to the Order listed as item #87 on reported "COS – Issue Report NOV Business + Credential" dated 01/27/2015 to 01/27/2016 on February 8, 2016 journal by entering a corrected violation entry of ORC 4713.14 (C). Mr. Thompson seconded the motion. Discussion: Mr. Logsdon explained that the correction in this instance was to correct an error on the violation cited, not the sanction entered. No further discussion. Roll call vote taken. Motion carried: 8 – Yes.

Agenda item 8d: Board Orders to Enforce Notices of Opportunity for Hearing (Items #1 - #13) – (Exhibit M collective)

Motion #18: Ms. Osterhage moved to approve Orders of the Board, listed on the COS – Issue Report NOV Business + Credential" dated 2/16/2015 – 2/16/2016 as items #1 through #13, attached hereto and incorporated herein as Exhibits entered upon the Board's journal. Mr. Penzone seconded the motion. Discussion: None. Roll call vote taken - Motion carried: 8 - Yes

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

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 8e: Board Orders to Approve Settlement Agreements (Items #14- #39)
(Exhibit N collective)

Motion #19: Mr. Penzone moved to approve the Settlement Agreements listed on the COS – Issue Report NOV Business + Credential” dated 2/16/2015 – 2/16/2016 as items #14 through #39, attached hereto and incorporated herein as Exhibits entered upon the Board’s journal as Orders of the Board. Ms. Benfer seconded the motion. Discussion: None. Roll call vote taken - Motion carried: 8 - 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 #9 EXECUTIVE SESSION

None.

Agenda item #10 ADJOURNMENT

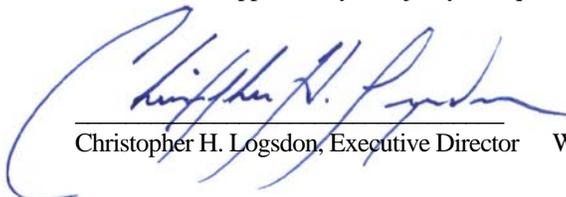
Prior to adjournment, Mr. Taneff announced that he would be handing out a template performance review for the Executive Director. Mr. Taneff asked each member to complete the form and send it to him. Afterwards, he stated that he would collate the responses and produce a reconciled report.

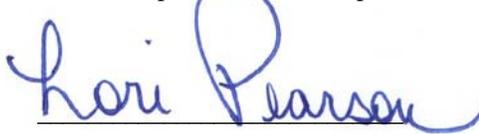
Ms. Shepline inquired about a prior motion to adopt forms. Ms. Pearson responded to the inquiry.

Motion #20: Mr. Penzone moved to adjourn. Ms. Osterhage seconded the motion. Discussion: None. Roll call vote taken. Motion carried: 8- Yes.

The meeting adjourned at 2:08 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 12, 2016.


Christopher H. Logsdon, Executive Director


Kori Pearson
Witness