
OHIO STATE BOARD OF COSMETOLOGY

1929 Gateway Circle

Grove City, Ohio 43123

Contents

TRANSCRIPTION NOTE (Exhibit A):.....	2
ATTENDANCE (Exhibit B):	2
Agenda item #1: CALL MEETING TO ORDER	3
Agenda item 1a: Roll Call	4
Agenda item 1b: Pledge of Allegiance to the Flag of the United States of America	4
Agenda item 1c: Approval of Meeting Agenda (Exhibit C).....	4
Agenda item #2: APPROVAL OF PREVIOUS MEETING MINUTES (Exhibit D).....	4
Agenda item 2a: Approval of Previous Meeting Minutes (Exhibit D).....	4
Agenda item #3: OFFICER AND STAFF REPORTS (Exhibit E).....	4
Agenda item 3a: Chairperson’s Report.....	4
Agenda item 3b: Executive Director’s Report (Exhibit E)	4
Agenda item #4: COMMITTEE REPORTS	5
Agenda item 4a: Administrative Review Committee Report (Exhibit F).....	5
Agenda item 4b: Curriculum Review Committee Report.....	6
Agenda item #5: PUBLIC TESTIMONY (Exhibit G).....	6
- Jessica Price – Massage Envy (Exhibit G)	6
Agenda item #6: UNFINISHED BUSINESS.....	6
Agenda item #7: OLD BUSINESS (Exhibit H)	6
- Discussion on Rule 4713-8-04 (H): chemical peels (Exhibit H).....	6
Agenda item #8: NEW BUSINESS	7
Agenda item 8a: Proposed amendment to rule 4713-15-17 (Exhibit I).....	7
Agenda item 8b: NIC National conference (Exhibit J).....	8
Agenda item 8c: Executive Director performance review (Exhibit K collective).....	8
Agenda item 8d: Resolution amending the violation guidance matrix to remove violations of R.C. 4713.14 (B)(1) and (D) from the list of first violation warnings (Exhibit L)	8
Agenda item 8e: Records Retention (M)	9
Agenda item 8f: Correction to Previously Approved Orders of the Board	9

Agenda item 8g:	Board Orders to Enforce Notices of Opportunity for Hearing (Items #1 - #14) – (Exhibit N collective).....	9
Agenda item 8h:	Board Orders to Approve Consent Agreements (Items #15– #52) (Exhibit Q collective)	10
Agenda item #9	EXECUTIVE SESSION	10
Agenda item #10	ADJOURNMENT	10

OFFICIAL BOARD MEETING MINUTES OF JUNE 13, 2017

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.

ATTENDANCE (Exhibit B):

Thomas Taneff, Chairperson

Luke Hanks

Tasha Sheipline

NeCole Cumberlander

Charles Penzone

Clara Osterhage

Staff in attendance:

Christopher H. Logsdon, Executive Director

Lori Pearson, Deputy Director

Lori Flanery, Program Administrator 1

Charley Yaniko, Board in-house counsel

Assistant Attorney General in attendance:

Daniel Murry, Assistant Attorney General

Others in Attendance:

Heather Knotek, Madison Adult Career Center

Barb Bader, Brown Aveda Institute

Shelly Yost, Madison Adult Career Center

Malinda Williams, Madison Adult Career Center

Rosemary Fabela, Madison Adult Career Center

Addison Mclaughlin, Madison Adult Career Center

Levi Short, Madison Adult Career Center

Ariel McMillen, Madison Adult Career Center

Janaya Lindsay, Madison Adult Career Center

Tanisha Davis, Madison Adult Career Center

Jessica Price, Massage Envy

Jill Vogel, Anderson Reporting

Angela Hodges, Cincinnati, Ohio

Michael Schuh, Michaels

Gwen Holland, Sports Clips

Katt Marriott, OCCTA

Jill Wells, Jillian's Salon

Alexandra Gregory, Charles Penzone, Inc.

Elizabeth Murch, OSA

Emily Harrison, Kenneth's

Deborah Moore, Paramount Beauty

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 six members were present. Ms. Yeager and Dr. Gupta were not present. Having noted a majority of members were present, Mr. Taneff proceeded to permit the Board to conduct business.

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 June 13, 2017. Mr. Hanks seconded the motion.
Discussion: None. Roll call vote taken – motion carried: 6 – 0.

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

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

Motion #2: Mr. Hanks moved to approve the meeting minutes of May 9, 2017. Ms. Shepline seconded the motion.
Discussion: None. Roll call vote taken - motion carried: 6– 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 filed a written report. Mr. Logsdon provided a brief verbal review of his report.

Mr. Logsdon stated that the Board was currently within its allotment plan and he concluded the Board would complete the fiscal year under budget. Mr. Logsdon stated that the agency was able to complete the year under budget for a number of reasons: one being looking at position necessity as positions became open. Mr. Logsdon stated that the Board had reduced its personnel ceiling by 2.0 FTEs over the past two years, while investing in needed changes, including promoting Ms. Pearson to the position of Deputy Director and hiring an in-house attorney. Mr. Logsdon also reported that IT systems have been upgraded, including replacing desktop PC and field work tablets.

Mr. Logsdon stated that he testified on the 2018-2019 biennial budget recommendation before the Ohio Senate on May 11, 2017.

Mr. Logsdon provided a legislative update, stating that H.B. 189 had been assigned to the House Government Accountability and Oversight Committee and has had a second hearing. Mr. Logsdon stated that a bill analysis and fiscal notes were available on the Ohio Legislative Services website. Mr. Logsdon reported that S.B. 129 had been introduced, but there were no known hearings.

Next, Mr. Logsdon noted meetings and travel incurred since the last Board meeting.

Mr. Logsdon reported that the NIC is holding their annual conference on August 5th through August 7th in Charleston, West Virginia. Mr. Logsdon stated that he would recommend one staff person and one board member attend, based on the current fiscal position and emphasis on reducing expenditures.

Discussion: Mr. Taneff inquired if the matter was on the agenda. Mr. Logsdon affirmed that it was.

Next, Mr. Logsdon reported that he had begun a review of out-of-state licensing requirements. The project has been assigned to in-house counsel, he reported. Mr. Logsdon stated they would be looking through all of the existing state laws to make sure that the Board is in compliance with the Ohio Revised Code and that other state laws are validated against the provisions of Ohio law regarding substantially equivalent standards.

Next, Mr. Logsdon reported on progress with continuing education audits. Mr. Logsdon stated that a summary was attached to his written report.

Also, Mr. Logsdon reported that staff was conducting a review of career technical and private school curriculums and handbooks. Schools have been asked to send information to us, he stated, by May 15, 2017.

Mr. Logsdon reported that the office construction was not complete, but the most interruptive portion was complete.

Mr. Logsdon reported that a active aggressor drill was scheduled for July 18, 2017.

Mr. Logsdon also reported on safety and sanitation rules. Mr. Logsdon state that the rules had been placed on the Board's website for stakeholder input, which staff were reviewing. Mr. Logsdon stated that any amendments would go before the Board.

Mr. Logsdon reported on the annual report requirements and provided the Board with an update on the deadlines.

Last, Mr. Logsdon reported on the Board's customer service survey. Mr. Logsdon stated that website development was one area that routinely came up as an issue. Mr. Logsdon stated that a review of the website had been assigned to IT staff

Discussion: Ms. Osterhage inquired about the lack of robust use of the customer service survey. Mr. Logsdon responded that he believes providing the link on emails might help people see the survey. Mr. Logsdon stated that the link is on the Board's website. No further discussion.

Motion #3: Ms. Cumberlander moved to approve the Executive Director's Report. Ms. Shepline seconded the motion.
Discussion: None. Roll call vote taken - motion carried: 6- Yes.

Agenda item #4: COMMITTEE REPORTS

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

Mr. Taneff asked Mr. Logsdon to present the Administrative Review Committee (ARC) report. Mr. Logsdon reported that the written report and recommendations of the Administrative Review Committee are presented as written.

**Names and identifying information were redacted from the Administrative Review Report. For the purposes 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: Mr. Penzone moved to confirm the Administrative Review Committee (ARC) report, as referenced hereto by attachment to the minutes of the Board. Ms. Shepline seconded the motion. Discussion: None. Roll call vote taken - motion carried: 6 – Yes.

Agenda item 4b: Curriculum Review Committee Report

Ms. Shepline provided a verbal report of the Curriculum Review Committee business conducted prior to the regular Board meeting. Ms. Shepline stated that the committee looked at the language concerning an instructor's curriculum and an instructor's examination. After consideration, the Committee determined that the instructor curriculum is separate from the Advanced Practice curriculum. Ms. Shepline stated that the Committee will leave the Advanced practice curriculum as is, but look at the instructor curriculum that had been developed. Ms. Shepline stated that staff had been assigned to draft a more robust offering for the instructor curriculum.

Ms. Shepline stated that the Committee also reviewed a letter filed by Ms. Amy Striecher concerning eye lash extension services. Ms. Striecher stated, in her letter, that she would not be able to do her services without a license. The Committee, Ms. Shepline stated, determined the issues were beyond that Committee's authority to address.

Motion #5: Ms. Osterhage moved to approve the Curriculum Review Committee report filed by Ms. Shepline. Ms. Cumberlander seconded the motion. Discussion: None. Roll call vote taken - motion carried: 6– Yes.

Agenda item #5: PUBLIC TESTIMONY (Exhibit G)

- Jessica Price – Massage Envy (Exhibit G)

Mr. Taneff asked Ms. Price to provide her name and address for the record. Ms. Price stated that she had no prepared comments, but stated that she had done additional research and found some information that might be of interest and which provides more detail on the concentration of acids, the chemicals, and their usage. Ms. Price stated that the lower pH peels do not necessarily affect any more than a higher pH. She stated that using a solution according to manufacturer's directions, as she uses it, results in one to four layers. Ms. Price stated that a medium peel is five to ten layers, so following manufacturer's directions, they are working in the very superficial layer capacity. Ms. Price provided a copy of her material for the record.

Discussion: Mr. Penzone inquired if Ms. Price had an esthetician license.

Agenda item #6: UNFINISHED BUSINESS

None.

Agenda item #7: OLD BUSINESS (Exhibit H)

- Discussion on Rule 4713-8-04 (H): chemical peels (Exhibit H)

Mr. Logsdon stated that rule 4713-8-04 (H) of the Administrative Code had been under review for some time, and, he stated, as indicated by the prior presenter, the matter is still under consideration. Mr. Logsdon state that staff have presented information to the Board concerning the foundation of the current rule. In addition, Mr. Logsdon stated, he asked Dr. Gupta, a Dermatologist, to look at the issue, the efficacy of the rule, and the limitations imposed by the rule. Mr. Logsdon stated that while Dr. Gupta was

not present at the meeting she did provide written comment, which was provided to Chairperson Taneff. Mr. Logsdon asked to have Dr. Gupta's comments entered upon the Board's minutes.

Mr. Logsdon summarized Dr. Gupta's comments, by stating "just be careful." Mr. Logsdon stated that the current rule addresses concentration of solutions and pH. Mr. Logsdon stated that Dr. Gupta characterized changing pH values as a slippery slope. Dr. Gupta, he stated, recommends having the manufacturer of the product present information to the Board, specifically what pH is specifically addressed and how the solution is buffered to obtain a safe application for superficial or epidermal layers. Mr. Logsdon stated that once it goes below the epidermis, the problem becomes more hypothetical, or the outcome becomes medical and not related to esthetics practice.

Mr. Taneff addressed the Board, summarizing some of Dr. Gupta's comments. Mr. Taneff stated that it is Dr. Gupta's position that a salon setting should not penetrate below the stratum corneum and epidermis, that these procedures should be strictly supervised by a dermatologist or plastic surgeon, and that these are the type of settings where the appropriateness of a peel can be determined. Mr. Taneff stated that Dr. Gupta also noted that estheticians do not have prescriptive authority, which may be required. Dr. Gupta, he stated, feels estheticians should be able to provide moderate peels, but only under physician supervision, not in a salon setting. Mr. Taneff stated that Dr. Gupta states that solutions with a pH less than 3.0 are not recommended for a salon setting.

Mr. Penzone stated that Dr. Gupta recommends that the manufacturer come and present. Mr. Logsdon affirmed that the last entry in her written statement did suggest as Mr. Penzone stated. Mr. Logsdon restated the issue as, "Does the Board's rule need to be changed to accommodate the product?" Mr. Logsdon recommended that the Board be careful, because of the difference between epidermal layer and deeper, where it becomes a medical practice.

Ms. Sheipline stated that she had concerns over having a single manufacturer come in and testify, because she would not want to endorse a single manufacturer. Ms. Sheipline stated that she wants general information that would be helpful across the board for skin peels. Ms. Sheipline recommended not being too manufacturer specific. Ms. Sheipline also noted that the issue is not esthetics only, but also includes cosmetologists, who can perform the services with a lot less training.

Mr. Penzone asked Mr. Logsdon if he would coordinate the invitation. Mr. Logsdon affirmed. Ms. Osterhage asked that the material presented be summarized. Ms. Osterhage also inquired about the regulations in other states. Mr. Logsdon stated that he provided members with a comparative document at the last meeting. Mr. Logsdon reminded members that the document is the best they could put together based upon the research they completed, which can be difficult in some states, because the exact law or rule is difficult to identify. For example, he stated, not every state calls the practice esthetics. Mr. Logsdon stated some states are very prescriptive and others, like Ohio, are prescriptive, but less so. Still others, he stated, appear to be silent and other still are very general, referring only to not exceeding the epidermis.

Mr. Penzone asked Ms. Price if she had stated previously if products could be purchased over-the-counter. Ms. Price stated that you can find peels with stronger solutions than the one she is trying to use and that not many of those are safe. Ms. Price stated that the professional grade she is looking into requires training, and the manufacturer also produces medical grades that she cannot purchase.

Agenda item #8: NEW BUSINESS

Agenda item 8a: Proposed amendment to rule 4713-15-17 (Exhibit I)

Motion #6: Ms. Osterhage moved to approve proposed rule 4713-15-17 and file the proposed rule with the Office of Common Sense Initiative after obtaining stakeholder comments, followed by JCARR pending an affirmative CSI

recommendation, including final filing or refiling as may be necessary. Ms. Cumberlander seconded the motion. Discussion: Mr. Hanks inquired what prompted the proposed rule. Mr. Yaniko responded stating that Section 4713.08 of the Revised Code requires the Board to have a rule addressing other professional activities being performed in a salon. The proposed rule requires other professionals practicing in a salon to meet the sanitation standards of the Board. No further discussion. Roll call vote taken - motion carried: 6-0.

Agenda item 8b: NIC National conference (Exhibit J)

Mr. Taneff suggested that Ms. Pearson attend, along with Ms. Shepline and Ms. Osterhage. Ms. Shepline stated that she had other commitments and could not attend. Mr. Taneff recommended Ms. Cumberlander. Ms. Cumberlander stated that she would check her schedule. Ms. Osterhage offered to have someone else attend. Mr. Taneff did not accept Ms. Osterhage's recommendation.

Motion #7: Mr. Penzone moved to approve the attendance of Ms. Osterhage and Ms. Cumberlander, subject to her confirmation of availability, and Ms. Pearson to attend the NIC Conference. Ms. Cumberlander seconded the motion. Discussion: None. Roll call vote taken - motion carried: 6-0.

Agenda item 8c: Executive Director performance review (Exhibit K collective)

Mr. Taneff stated that he had asked Board members to complete and return the Executive Director's performance review and that most members had completed a review. Mr. Taneff asked if other members wanted to comment. Ms. Shepline stated that he had been doing a fantastic job and that she had never seen the culture of the office being so positive. No further discussion.

Motion #8: Ms. Osterhage moved to approve the Executive Director's performance review. Mr. Hanks seconded the motion. Discussion: None. Roll call vote taken - motion carried: 6-0.

Agenda item 8d: Resolution amending the violation guidance matrix to remove violations of R.C. 4713.14 (B)(1) and (D) from the list of first violation warnings (Exhibit L)

Motion #9: Mr. Hanks moved to approve resolution #06/13/2017 -8d. Ms. Cumberlander seconded the motion. Discussion: Ms. Osterhage noted that the resolution has a typographical error. Mr. Yaniko agreed that the text should state "14," not 15. Mr. Taneff noted that the motion read was correct. Ms. Osterhage inquired further about the motion, asking if the motion, based upon her understanding that the provision addresses anything in the chapter, eliminates any warning for anything in the chapter. Mr. Yaniko stated that the provision, ORC 4713.14 (B)(1) addresses aiding and abetting violations of the following provisions. However, Mr. Yaniko continued, there are only two violations that are listed as warnings on the Board's matrix: ORC Section 4713.14 (C), which is practicing without a valid license, and then practicing without a valid independent contractor license. Ms. Osterhage argued that Section (B)(1) states "any portion of this chapter. Ms. Osterhage asked if counsel was defining 4713, 4713.14. Mr. Yaniko stated that the motion is only addressing those on the warning list. Ms. Osterhage disagreed, stating that the resolution seems to eliminate any verbal warning in the entire chapter. Mr. Yaniko stated that the resolution would only apply to the ones already on the matrix and not the ones already being treated otherwise. Ms. Osterhage read the Revised Code, stating the ORC Section 4713.14 (B)(1) is aiding a betting a violation of "this chapter or a rule adopted under it." Ms. Osterhage asked if "this chapter" refer to 4713. Mr. Yaniko stated that it did, but it (the resolution) would only apply to the ones that are already on the list of first offense violations, or first offense warning, which he recalled are aiding and abetting violations of ORC Section 4713 (C) (1-5), and rule 4713-11-14 (?), and possibly the independent contractor requirement. Ms. Osterhage stated that she reads it as changing it for the entire chapter. Mr. Hanks asked Ms. Osterhage if she was looking at the violation matrix. Ms. Osterhage stated that she was looking at the Ohio Revised Code. Mr. Hanks stated that she should be looking at the violation grid matrix.

Next, Ms. Osterhage inquired if the proposed resolution goes too far by permitting staff to issue a notice of hearing, when it had been a warning, based on the argument that most become violations through the ARC. Mr. Yaniko stated that the person or entity

could still request a hearing. Ms. Osterhage asked if the resolution was lumping all of these issues together due to volume. Mr. Yaniko stated that volume and time are part of the concern, but the sense is that the ARC was seeing these issues coming to the committee that appeared to represent intentional employing of persons without licenses, because only a warning would be issued. Mr. Yaniko stated that based on the violation matrix, most of these unlicensed matters would not come to the committee, because the warning was issued in the field by the inspector. Mr. Yaniko stated that the committee only has an opportunity to review these matters when a violation is cited. Mr. Logsdon stated that the staff is trying to address matters that go to the ARC, but have a predictable outcome. Ms. Osterhage stated that she just wants to see different words that do not include the entire chapter.

Mr. Logsdon offered to amend the resolution. Ms. Osterhage stated she was okay with that if the chair was okay. Mr. Taneff agreed if it was her preference. Mr. Penzone stated that he was fine with it. Mr. Taneff inquired of the Board's Assistant Attorney General about process. Mr. Murry stated the moving party could withdraw the motion. Mr. Hanks stated that he did not think it was necessary to withdraw. Mr. Hanks stated that the resolution is modifying the violation guidance matrix, not the rules or the law somehow. The resolution, he stated, is saying that two things would not be given warnings any longer. Mr. Yaniko stated that the resolution would not apply to everything in the chapter, because it requires a secondary underlying violation that gives a reason to be charged for aiding and abetting. Ms. Osterhage stated that the Revised Code looks like it is everything. Ms. Osterhage asked for more clarity. Mr. Logsdon stated that he was open to whatever was necessary. Mr. Hanks inquired who made the motion. Mr. Logsdon stated that Mr. Hanks made the motion. Mr. Hanks stated he would not withdraw the motion. No further discussion. Mr. Taneff called the question.

Roll call vote taken - motion carried: 4- Yes, 1 – No (Ms. Osterhage), and 1 – Abstained (Mr. Penzone)

Agenda item 8e: Records Retention (M)

1. Personal License Record File
2. Business File
3. Authorized Representative

Mr. Logsdon explained the records retention process and the schedules presented.

Motion #10: Ms. Shepline moved to approve the proposed records retention schedules for Personal License Record, Business File, and Authorized Representative Records. Mr. Hanks seconded the motion. Discussion: None. Roll call vote taken - Motion carried: 6 – Yes.

Agenda item 8f: Correction to Previously Approved Orders of the Board

None.

Agenda item 8g: Board Orders to Enforce Notices of Opportunity for Hearing (Items #1 - #14) – (Exhibit N collective)

Motion #11: Ms. Osterhage moved to approve Orders of the Board as listed as items #1 through item #14 on the Administrative Action Report dated 6-13-2017 and the Orders to be journalized and attached hereto as exhibits. Mr. Hanks seconded the motion. Discussion: None. Roll call vote taken - Motion carried: 6 - 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 8h: Board Orders to Approve Consent Agreements (Items #15- #52) (Exhibit Q collective)

Motion #12: Ms. Osterhage moved to approve the Consent Agreements as items #15 through item #52 on the Administrative Action Report dated 6-13-2017 and enter them upon the Board's journal as an Order of the Board and attached hereto as exhibits. Mr. Hanks seconded the motion. Discussion: None. Roll call vote taken - Motion carried: 6 - 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.

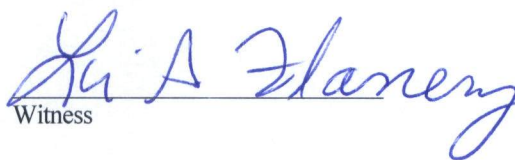
Agenda item #10 ADJOURNMENT

Motion #13: Mr. Penzone moved to adjourn. Ms. Osterhage seconded the motion. Discussion: None. Roll call vote taken. Motion carried: 6- Yes.

The meeting adjourned at 1:55 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 July 11, 2017.


Christopher H. Logsdon, Executive Director


Witness