
OHIO STATE BOARD OF COSMETOLOGY

1929 Gateway Circle

Grove City, Ohio 43123

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UNOFFICIAL BOARD MEETING MINUTES OF DECEMBER 9, 2014

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):

Steve Thompson, Chairman

Thomas Taneff

Valerie Benfer

Luke Hanks

Tasha Sheipline

Charles Penzone

Clara Osterhage

Tasha Sheipline

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:

B. Neal, CDHS

D. Marten, PENTA

Grace Phillips, PENTA

Liz Spencer,

Elizabeth Murch, OSA

Tony Fiore, Kegler Bronn/OSA

Emily Harrison, Kenneth's

Ed Stange, Aveda Institute Col.

Agenda item #1: CALL MEETING TO ORDER (Exhibit C)

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

Agenda item 1a: Roll Call

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

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

Following the roll call, Mr. Thompson 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.

Afterwards, Mr. Logsdon gave the members instruction concerning prepared draft motions for consideration during the course of the meeting.

Agenda item 1c: Swearing in of Member Clara Osterhage

Mr. Thompson swore in Board Member, Clara Osterhage, re-appointed to a new term on the Board.

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

Motion #1: Mr. Penzone moved to approve the meeting agenda for December 9, 2014 Board meeting. Ms. Benfer seconded the motion. Discussion none. Roll call vote taken - motion carried: 7 – 0.

Agenda item #2: MINUTES OF THE SEPTEMBER BOARD MEETING (Exhibit D)

Mr. Thompson inquired if members had the opportunity to review the minutes of the Board's November 2014 board meeting. If so, Mr. Thompson asked for a motion to approve the meeting minutes.

Motion #2: Mr. Hanks moved to approve the meeting minutes for November 12, 2014 Board meeting. Mr. Penzone seconded the motion. Discussion none. Roll call vote taken - motion carried: 6 – Yes, 1- abstained (Mr. Taneff).

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 Board's expenditures were normal for the period and within the expenditure plan. Mr. Logsdon reported that 58% of its current budget was available, which was expected based upon the time his analysis was completed. Mr. Logsdon indicated the office is currently updating several software licenses and considering options to eliminate GPS mapping services and use smart phone technology as a replacement. Last, Mr. Logsdon reported that expenditures in the third quarter may be higher than expected due to the expenses reported and unknown banking costs; however, he believes the budget will be able to absorb the increases.
2. Mr. Logsdon provided a summary of budget disbursements and balances.
3. Mr. Logsdon reported that he revised the agency's Workforce Plan to address upcoming needs and submitted it to the Ohio Department of Administrative Services, for review. Mr. Logsdon reported that the revised plan address three priorities: adding an in-house legal counsel position, reclassifying an upcoming vacancy to address testing development, and revising the table of organization to align management positions and duties.
4. Mr. Logsdon reported that the FY 2016/2017 legislative budget committee schedule had not been released
5. Mr. Logsdon reported he would be bringing forms to the Board for approval. He indicated all forms would be reviewed, assigned a serial number, and filed for Board approval.
6. Mr. Logsdon reported that he scheduled a meeting with the Office of Information Technology (OIT) to review the agency's current IT requirements. Mr. Logsdon stated that OIT would soon be implementing Office 365, which would update all Microsoft Office services and the change would represent an opportunity to leverage any new solutions to provide expanded security or new solutions.

Agenda item 3b: Officer's Report

None reported.

Agenda item 3c: Committee Report

Ms. Shepline reported that the Manager's Curriculum Review Committee had not met since the last Board meeting. Ms. Shepline stated she is anticipating the committee will schedule a date after the first of the year, which will be posted on the Board's website.

Ms. Osterhage requested to be added to the committee.

No action was taken on Reports.

Agenda item #4: PUBLIC TESTIMONY

No public testimony was provided.

Agenda item #5: UNFINISHED BUSINESS

None.

Agenda item #6: NEW BUSINESS

Agenda item 6a: Rule Review – 4713-5-17, 4713-5-20, 4713-5-21, 4713-7-02, 4713-8-09, 4713-21-04, and 4713-21-05 (Exhibit F collective)

Mr. Thompson referred the review of rules to the Executive Director.

Mr. Logsdon reviewed the following rules:

- 4713-5-17: Licensed instructors on premises – to amend
- 4713-5-20: Duty of Instructors – to rescind
- 4713-5-21: Instructor ~~or apprentice instructor restrictions~~ Limitations – to amend
- 4713-7-02: No communication between applicants during examination – to amend
- 4713-8-09: Offering advanced practice, advanced techniques, or unregulated services- to amend
- 4713-21-04: Licensure renewal procedures – to amend
- 4713-21-05: Continuing education extension program – to amend

Following a review and discussion of each rule, the members moved the following:

Motion #3: Mr. Taneff moved to approve filing proposed amended rule 4713-5-17 with the following change: Strike the last sentence in paragraph (A) and then combine paragraphs (A) and (A) (1) into a single paragraph. Ms. Benfer seconded the motion. Discussion: Ms. Osterhage requested clarification on the motion. Mr. Taneff explained that he was combining the two paragraphs into one paragraph, taking into consideration the Executive Director's recommendation. Mr. Hanks asked if the last sentence of the first paragraph was being removed. After general discussion, the members reached agreement that the motion was correct. Mr. Logsdon clarified that the motion was to file the rule, not adopt the rule. Roll call vote taken - motion carried: 7 – 0.

Motion #4: Mr. Hanks moved to approve filing proposed rescinded rule 4713-5-20 and approve amended draft rule 4713-5-21. Ms. Benfer seconded the motion. Discussion: None. Roll call vote taken - motion carried: 7 – 0.

Motion #5: Ms. Osterhage moved to approve filing proposed amended rule 4713-7-02. Mr. Taneff seconded the motion. Discussion: None. Roll call vote taken - motion carried: 7 – 0.

Motion #6: Mr. Osterhage moved to approve filing proposed amended rule 4713-8-09. Mr. Taneff seconded the motion. Discussion: None. Roll call vote taken - motion carried: 7 – 0.

Motion #7: Mr. Taneff moved to approve filing proposed amended rule 4713-21-04. Ms. Benfer seconded the motion. Discussion: None. Roll call vote taken - motion carried: 7 – 0.

Motion #8: Mr. Taneff moved to approve filing proposed amended rule 4713-21-05. Ms. Osterhage seconded the motion. Discussion: None. Roll call vote taken - motion carried: 7 – 0.

Following discussion on the proposed rules, Ms. Sheipline addressed concerns she had with the Board's rules on establishing course hour requirements. Ms. Sheipline explained that ORC 4713.45 allows for three separate curriculum models: clock hours, credit hours, or competency-based credits. The rule, on the other hand, only allows for clock hour equivalence to meet the course hour requirements. Ms. Sheipline stated that she would like to form a committee to consider the other two pathways not addressed in rule.

Motion #9: Ms. Sheipline moved to form a sub-committee to review ORC 4713.45 and associated rules. Mr. Taneff seconded the motion. Discussion: None. Roll call vote taken - motion carried: 7 – 0

Agenda item 6b: T & M Hair Salon, LLC – Written Request to Adjust Fine Amount (Exhibit G)

Mr. Thompson asked the Board's Assistant Attorney General to introduce the matter. The Board's Assistant Attorney General, Mr. Barrera, deferred the summary of the Board's factual record to Mr. Logsdon. Mr. Logsdon reported that Ms. Marie Able, Owner of T & M Hair Salon, LLC had filed a written request to the Board asking the Board to withdraw a fine balance of \$250.00. Mr. Logsdon referred the Board to Ms. Able's written request.

Mr. Logsdon stated that the timeline provided by the respondent is different than the timeline documented by the Board. Mr. Logsdon explained that the Board did send Ms. Able a Notice of Violation and a proposed settlement agreement, which she received. Ms. Able, he stated, did not request a hearing before the Board and after thirty days, the Board's records show that the Board issued Ms. Able a final Order requiring payment of a \$500.00 fine. After receipt of the Order; however, Ms. Able did mail in a settlement agreement. The agreement was not entered upon the Board's journal, but was filed. Mr. Logsdon stated that all service requirements under 119. of the Ohio Revised Code were met and Ms. Able did not appeal the Board's Order. Mr. Logsdon reported that Ms. Able did pay \$250.00, which reduced her balance from \$500.00 to \$250.00. The remaining \$250.00 amount was certified, pursuant to law, with the Ohio Attorney General's Office.

Mr. Barrera advised the Board that they have discretion to move forward in any manner they so choose; however, he reminded the Board that all service requirements under 119. of the Ohio Revised Code was met, service was verified, no hearing was requested, the Board issued an Order in accordance with 119. of the Ohio Revised Code, and a process was availed to the respondent allowing for a dispute of the charges. Mr. Barrera also cautioned the Board to be consistent with its Orders.

No action was taken on Ms. Able's request to adjust the fine amount.

Agenda item 6c: Discussion on Format of Meeting Minutes (see Exhibit H collective)

Mr. Logsdon presented a new format for completing the meeting minutes, explaining that the meeting transcript would still be maintained as an exhibit to record.

Motion #10: Mr. Taneff moved to adopt the traditional minute's format proposed by the Executive Director. Mr. Hanks seconded the motion. Discussion: None. Roll call vote taken - motion carried: 7 – 0.

Agenda item 6d: One Hour CE Course on Human Trafficking

Mr. Thompson asked the Executive Director to present the issue. Mr. Logsdon stated that he is recommending the adoption an on-line continuing education course to meet the agency's new Human Trafficking training requirement for licensees and new students. Mr. Logsdon stated that he is working with staff to develop a free course offering. Mr. Penzone voiced his support for the proposal. Mr. Taneff reminded the Board and attendees that the Human Trafficking program is very important to the Governor. Mr. Taneff voiced his support for the program noting it would show that the Board is concerned with the health, safety, and welfare of the general public.

Motion #11: Mr. Taneff moved to support the development of an online continuing education course on Human Trafficking. Ms. Sheipline seconded the motion. Discussion: Ms. Sheipline voiced wholehearted support. Ms. Osterhage inquired if the proposal would preclude others from offering human trafficking education. Mr. Logsdon stated it would not prohibit others from producing a program, but content would be a concern. Mr. Logsdon summarized educational offerings through the Ohio Human Trafficking Taskforce website and noted the Board's important role on the Governor's Human Trafficking Taskforce. Mr. Penzone inquired if the education would be specific to the Board and its constituents. Mr. Logsdon stated that he envisions a program that would combine general information with industry specific information. Mr. Logsdon confirmed the program would be approximately one-hour in length. Roll call vote taken - motion carried: 7 - 0.

Agenda item 6e: Form Approval (Exhibit I1 - I4 collective)

Mr. Thompson asked the Executive Director to present the issue. Mr. Logsdon reported that staff has been asked to review and update forms used by the agency. Forms will be placed before the Board for approval as they are completed and a form number and revision date will be displayed.

Motion #12: Mr. Taneff moved to approve the following forms:

1. COS015, Continuing Education Course Application - Correspondence Course
2. COS013, Continuing Education Course Application - Seminar/Workshop/Demonstration
3. COS014, Continuing Education Course Application - Internet
4. COS012, Tanning Certification Course Application

Mr. Penzone seconded the motion. Discussion: Ms. Sheipline noted a typographical error on page 3 of the Continuing Education Course Application form, citing an error in the stated fee. Ms. Pearson noted the error. Ms. Sheipline also noted the same error on form COS-014. No further discussion. Roll call vote taken - motion carried: 7 - 0.

Agenda item 6f: Settlement Agreement - O.P. Nails (Exhibit J)

Mr. Thompson deferred to the Board Assistant Attorney General, Mr. Barrera, to present the issue. Mr. Barrera informed the respondent, O.P. Nails, LLC filed an appeal to the Board's Order. The appeal, he stated, was settled pending the Board's adoption of the Settlement Agreement presented.

Motion #13: Ms. Osterhage moved to approve the Settlement Agreement in the matter of O.P. Nails, LLC, Case# 2014 CV 0160. The motion was seconded by Mr. Penzone. Discussion: None. Roll call vote taken - motion carried: 7 - 0.

The Order 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.

Mr. Penzone noted the high fine amount and asked Ms. Pearson if it was unusually high. Ms. Pearson stated the fine amounts reflected are based upon multiple occurrences.

Agenda item 6g: Settlement Agreement - Miracle Eyebrows, Inc. (Exhibit K)

Mr. Thompson deferred to the Board Assistant Attorney General, Mr. Barrera, to present the issue. Mr. Barrera informed the respondent, Miracle Eyebrows, Inc. filed an appeal to the Board's Order. The appeal, he stated, was settled pending the Board's adoption of the Settlement Agreement presented. Mr. Hanks noted an error in the settlement agreement date, which should be 2013, not 2014.

Motion #14: Ms. Osterhage moved to approve the Settlement Agreement in the matter of Miracle Eyebrows, Inc., Case# 2014 135 HN, noting a correction to paragraph (8)(a), page 4 of 7 from 2014 to 2013. The motion was seconded by Mr. Taneff. Discussion: None. Roll call vote taken - motion carried: 7 – 0.

The Order 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 6h: Correction to Previously Approved Orders 1 - 2 (Exhibit L)

Mr. Thompson deferred to the Executive Director to present the issue. Mr. Logsdon introduced item #1 and item #2 on the agency's administrative action report. Mr. Logsdon reported that item #1 was approved as an Order on November 12, 2014. The item is being returned to the Board for modification, because the respondent filed an approved settlement agreement prior to the Board's November 12, 2014 Order. Regarding item #2 on the agency's administrative action report, the issue is similar. Mr. Logsdon reported the respondent filed an approved settlement agreement prior the Board's November 12, 2014 Order.

Motion #15: Ms. Shepline moved to approve the modification to items #1 and #2 contained on the administrative action report (originally approved on November 12, 2014 as items #10 and #137).

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 6i: Board Orders to Enforce Notice of Violation (Items 3 – 12) (Exhibit M)

Motion #16: Ms. Osterhage moved to approve the Orders of the Board listed as items #3 - #12 on the COS – Issue Report NOV Business + Credential, dated November 25, 2014. The motion was seconded by Mr. Taneff. Discussion: None. Roll call vote taken - motion carried: 7 – 0.

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 Approve Settlement Agreements (Items 13 – 66) (Exhibit N)

Motion #17: Mr. Taneff moved to approve the Settlement Agreements listed as items #13 - #66 on the COS – Issue Report NOV Business + Credential, dated November 25, 2014 as Orders of the Board. The motion was seconded by Ms. Osterhage. Discussion: Mr. Hanks had questions about item #44. After discussion, Mr. Taneff offered a friendly amendment:

Amendment to motion: add: item #44 contains two violations that will be consolidated. Roll call vote taken - motion carried: 7 – 0.

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.

Mr. Thompson asked if there was any business under agenda item 8. Ms. Osterhage requested a statistical representation of the Orders approved so that the Board has information to ascertain if patterns in violations are occurring. Mr. Logsdon stated there was none. Seeing no further business, Mr. Thompson asked if there was a motion to adjourn.

Agenda item #9

ADJOURNMENT

Mr. Taneff addressed the Board and apologized for missing the Board's prior meeting.

Motion #18: Mr. Penzone moved to adjourn. Mr. Hanks seconded the motion. Roll call vote taken - motion carried: 7– 0. The meeting adjourned at 2:19 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 December 9, 2014.

Christopher H. Logsdon, Executive Director

Witness