

1 OHIO STATE BOARD OF COSMETOLOGY

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3 IN THE MATTER OF:

4 Board Meeting

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7
8 Tuesday, April 8, 2014
9 1:04 o'clock p.m.
10 Ohio State Board of Cosmetology
11 1929 Gateway Circle
12 Grove City, Ohio 43123

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13 Registered Professional Reporter

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12 On behalf of The Ohio State Board of
13 Cosmetology.

14 BOARD MEMBERS PRESENT:

15 Lori Pearson, Executive Director
16 Steve Thompson, Chairman
17 Luke Hanks
18 Tasha Sheipline
19 Valerie Benfer
20 Charles Penzone
21 Thomas Taneff
22 Dr. Shalini Gupta
23 Clara Osterhage

24 ALSO PRESENT:

25 Lori Flanery, Administrative Assistant.

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1 TUESDAY AFTERNOON SESSION
2 April 8, 2014
3 1:04 o'clock p.m.

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5 P R O C E E D I N G S

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7 BE IT REMEMBERED THAT, on the 8th day of April, 2014, this
8 cause came on for hearing before Chairman Steve Thompson. And,
9 the parties appearing in person and/or by counsel, as hereinafter
10 set forth, the following proceedings were had:

11 CHAIRPERSON THOMPSON: Good afternoon. I would like to call
12 the Ohio State Board of Cosmetology April meeting to order.

13 Can we have roll call, please.

14 MS. FLANERY: Yes. Dr. Gupta.

15 DR. GUPTA: Here.

16 MS. FLANERY: Mr. Hanks.

17 MR. HANKS: Here.

18 MS. FLANERY: Mr. Taneff.

19 (No response.)

20 MS. FLANERY: Mr. Penzone.

21 MR. PENZONE: Here.

22 MS. FLANERY: Mrs. Osterhage.

23 MS. OSTERHAGE: Here.

24 MS. FLANERY: Ms. Sheipline.

25 MS. SHEIPLINE: Here.

MS. FLANERY: Mr. Thompson.

1 CHAIRPERSON THOMPSON: Here.

2 At this time, I'd ask everyone to stand as I lead you in the
3 Pledge of Allegiance to the Flag of the United States of
4 America.

5 (Pledge of Allegiance recited.)

6 CHAIRPERSON THOMPSON: At this time, I would ask board
7 members if they've had a chance to review the March board
8 meeting minutes, and, if so, do we have a motion for adoption?

9 MS. OSTERHAGE: Motion to adopt.

10 DR. GUPTA: Second.

11 CHAIRPERSON THOMPSON: Seconded by Dr. Gupta.

12 Roll call, please.

13 MS. FLANERY: Dr. Gupta.

14 DR. GUPTA: Yes.

15 MS. FLANERY: Mr. Hanks.

16 MR. HANKS: Yes.

17 MS. FLANERY: Mr. Taneff.

18 Sorry.

19 Mr. Penzone.

20 MR. PENZONE: Yes.

21 MS. FLANERY: Osterhage.

22 MS. OSTERHAGE: Yes.

23 MS. FLANERY: Ms. Benfer.

24 MS. BENFER: Yes.

25 MS. FLANERY: Ms. Sheipline.

1 MS. SHEIPLINE: Yes.

2 MS. FLANERY: Mr. Thompson.

3 CHAIRPERSON THOMPSON: Yes.

4 Interim Director Pearson, do you have an Executive
5 Director's report.

6 MS. PEARSON: Yes, I have a short report.

7 Good afternoon, Chairman Thompson and members of the board.
8 We have our first of several renewal meetings in preparation for
9 the upcoming renewal period. We are in the process of reviewing
10 our renewal procedures, our operation needs and our online
11 renewal question section.

12 During the online renewal process, that bank of questions
13 that somebody would need to answer to renew a personal or a
14 salon license, we're going to update that section to, kind of,
15 pull together information that we need in our daily operations
16 to go further with some of the new rules and new requirements
17 that we have put into place.

18 The board staff will be attending a one-day retreat this
19 Thursday at the Cedar Ridge Lodge at Darby Metro. The theme for
20 the retreat will be leadership communication; and this will be
21 the first time we've had a day retreat or type of seminar for a
22 couple of years now. This will be a seminar provided by
23 Columbus State, and it will be about open communication skills
24 and communication between coworkers. If any of you would care
25 to join us, just send me an e-mail.

1 That's my report.

2 CHAIRPERSON THOMPSON: Thank you.

3 This is the public testimony part of our meeting. This is a
4 chance when anybody can address the podium -- or come to the
5 podium and address the board with any concerns or comments.

6 I have a sign-in sheet here. The only person I have down
7 who has requested to speak would be Marty Gallagher from Suntan
8 Supply.

9 MS. FLANERY: He's right here.

10 CHAIRPERSON THOMPSON: Anybody else, while we are waiting on
11 Mr. Gallagher?

12 (No response.)

13 MR. GALLAGHER: Sorry about that.

14 CHAIRPERSON THOMPSON: This is our public testimony, and we
15 had you down -- checked in to speak. Would you care to speak at
16 this time?

17 MR. GALLAGHER: Yes. One of the things is is that there's a
18 proposed rule change --

19 CHAIRPERSON THOMPSON: Would you introduce yourself.

20 MR. GALLAGHER: Oh, I'm Marty Gallagher from Suntan Supply,
21 and I'm also a board member of the Indoor Tanning Association.

22 A question had come up with the State of Ohio in regards to
23 remote timer -- or termination of radiation of the person laying
24 in the tanning bed. Well, the problem is is that there's
25 tanning beds that were made before 2002 and 2003 that had cords

1 on them; and the way the rule is written, it says that it has to
2 be attached to the unit, to the tanning bed, the emergency
3 control switch.

4 Well, if there's no spot to attach it, you're creating a way
5 to attach it. By creating this way, you'd be altering the
6 original equipment manufacturer's design, which is also an FDA
7 violation.

8 So, this being said, it's creating a controversy, because
9 what happens is tanning beds built before that time had cords on
10 them with the control switch on it, as well as the timer, and
11 that being remote mounted on the wall, is in violation. And
12 it's the interpretation of the FDA rule, as well as the state
13 rule, that it's in violation; and, yet, you can't alter the
14 original equipment which is FDA compliant. So it's, kind of, a
15 loophole that -- it's a double-edged sword, and it's up for
16 discussion today. And my point is that, as long as that's
17 within the person laying in the tanning bed, and they can
18 control the UV -- or to shut the unit off instantly, it
19 shouldn't be an issue.

20 There are hundreds of tanning beds out there in the State of
21 Ohio that would be affected if it's required that it's mounted
22 to the tanning bed, which is what was being interpreted by the
23 Food and Drug Administration, as well as the State. So it's
24 really a gray area, and it's going to cause controversy no
25 matter what.

1 That's my testimony. I'm sure if it comes up, and you guys
2 have more questions on it, I'd be happy to answer it.
3 Unfortunately, it's very -- you know, this just happened last
4 week. That's why I'm here today.

5 CHAIRPERSON THOMPSON: This item is also listed under New
6 Business today, and Mr. Gallagher -- does anyone have a question
7 for Mr. Gallagher at this point? We can ask later, as
8 discussion comes up.

9 (No response.)

10 CHAIRPERSON THOMPSON: Thank you, Mr. Gallagher.

11 MR. GALLAGHER: Thank you.

12 CHAIRPERSON THOMPSON: Anyone else for public testimony?

13 (No response.)

14 CHAIRPERSON THOMPSON: Committee report. Curriculum Review
15 Report. Board Member Sheipline.

16 MS. SHEIPLINE: Yes. The Curriculum Review Committee met
17 this morning at 10:00 a.m. We looked at the 1,500-hour revision
18 to the cosmetology curriculum that we had proposed. We have yet
19 to decide on minimum or maximum hours within that 1,500-hour
20 curriculum range. We have yet to, kind of, break that down.

21 We did look at a few pieces that we thought, after we had
22 broken them apart, that we might be better off to go back and
23 embed those into the curriculum for ease of the instructors as
24 they're administering that education.

25 So we are set to meet at 10:00 a.m., prior to the next board

1 meeting, which was -- is that May 13th? May 13th. And, then,
2 Mr. Don Yearwood, Member Hanks, myself, and a few others, are
3 going to try to come up with some samples of what those minimum
4 hours would look like and then present those to the committee
5 for them to look at.

6 That's all we have for today.

7 CHAIRPERSON THOMPSON: Any questions for Ms. Sheipline?

8 (No response.)

9 CHAIRPERSON THOMPSON: Moving on to Unfinished Business.

10 Interim Director Pearson, would you lead us through this?

11 MS. PEARSON: Yes. 4713-7-09 is the change for the rules of
12 reciprocity. The change in this rule comes from suggestions
13 from the committee on reciprocity when that committee met to
14 make a change to the out-of-state requirements for licensure
15 when somebody comes into the state of Ohio to take an
16 examination.

17 Also we've added some language to this rule due to the
18 Governor's Executive Order for Boards and Commissions who look
19 over current policies and procedures for licensure and determine
20 what accommodations can be made to help veterans, active
21 military, spouses of military gain licensure with ease of
22 gaining licensure; therefore, we added an exception to the rule
23 under 7-09.

24 So the changes that are taking place in 7-09, in Paragraph
25 (a), currently, we require that anybody coming in from out of

1 state take the practical, theory and manager's examination; and
2 they must pass all three examinations in order to obtain
3 licensure. It was a recommendation of the committee that they
4 take -- a person would still have to take the practical, theory
5 and manager examination; however, it would not be a requirement
6 that they a pass the manager's exam. It would not stop them
7 from obtaining a basic license. So the language has been
8 updated to reflect that.

9 So coming in from out of state, it would be required that
10 somebody take all three examinations; however, the requirement
11 for passage would only be on theory and practical to gain a
12 basic license. So that is the portion that's been removed.

13 Also in this rule, under Paragraph (a), that is where the
14 exception for active military persons were added. And, then,
15 there is No. 1, 2, 3 and 4 provides the information, the
16 verification that we would need along with that application.

17 MR. PENZONE: I have a question, Chairman.

18 CHAIRPERSON THOMPSON: Member Penzone.

19 MR. PENZONE: Why would you have a test you didn't need to
20 pass?

21 MS. PEARSON: As a requirement for licensure with the
22 manager's examination?

23 MR. PENZONE: Right.

24 MS. PEARSON: Coming in from out of state, they do not
25 always realize or understand the full scope of our rules, and

1 the understanding that you need a manager's license to be left
2 alone in the salon, to obtain an independent contractor's
3 license, or an instructor's license. So the information would
4 be provided to them on the application of what Ohio requires,
5 you know, along with, you know, the need for a manager's
6 license, what that goes along with. So giving them the
7 opportunity to possibly pass that test, you know, right off.
8 And it also is -- it does reflect our laws and rules -- this
9 information about our laws and rules.

10 We're Ohio. The committee removed the requirement for
11 passage, as they -- you know, as a barrier for employment.

12 MR. PENZONE: So if they fail the test --

13 MS. PEARSON: Yes.

14 MR. PENZONE: -- they can't work alone in the salon,
15 regardless of how many years of experience they have?

16 MS. PEARSON: According to our rules at this time, yes.

17 MR. PENZONE: And being the only state in the Union that has
18 a manager's license, I just can't understand why that would -- I
19 mean, it seems kind of moot that we would even have that test,
20 if you don't need to pass it to get licensed.

21 MS. PEARSON: Chairman Thompson, Member Penzone, currently,
22 that is how our administrative and Revised Code state that the
23 manager requirement -- the necessity of a manager is in -- you
24 know, in rule is in there. Until something changes with that,
25 you know, we have to continue to enforce it. So we thought

1 by -- and the committee felt, by taking the requirement for an
2 out-of-state person to have to pass all three, to not be able to
3 even begin to work in Ohio in this industry, they took the
4 barrier off of the manager's license so that the person could,
5 at least, obtain a basic license.

6 MR. PENZONE: So someone with ten years of experience in,
7 let's say New York, fails the test, they can't practice without
8 someone with a manager's license in the salon with them; is
9 that what it is?

10 MS. PEARSON: Fails the manager's test?

11 MR. PENZONE: Yeah. If he or she would fail the manager's
12 test, regardless of the number of years of experience, they
13 wouldn't able to practice, even though they have a cosmetology
14 license, they failed the manager's test?

15 MS. PEARSON: Member Penzone, according to our rules and
16 laws, that is correct.

17 MS. OSTERHAGE: Is it possible to make taking that test
18 optional? I don't remember talking about that in the committee;
19 that they would have to take the theory, they would have to take
20 the practical; that the manager's exam, after we -- after the
21 candidate is educated as to what that would allow them to do,
22 which probably, that education would have already taken place,
23 but maybe it's optional so they don't really have to take it if
24 they don't want to. Because, to Mr. Penzone's point, it doesn't
25 matter, right?

1 MS. PEARSON: Member Osterhage. That is correct. However,
2 the recommendation from the committee was that all three tests
3 were to be taken, and, you know, if they fail the test, then it
4 would not be a barrier for a basic license.

5 If the board decides to -- you know, for us to go back to
6 the table to change this for an option, then, you know, we can
7 definitely go back and do some rewording.

8 MS. OSTERHAGE: Well, from a common sense standpoint, what
9 Mr. Penzone is saying, I mean, that's very true. Why force
10 someone to take it? But it should be optional. If they want to
11 take it that day, if passing or failing doesn't matter, outside
12 of describing what they will be able to do when they leave the
13 board that day, it should be maybe optional.

14 So we can -- I mean, Mr. Chairman, we can reconvene. That
15 was the committee that I was chairing. We can reconvene and
16 talk about --

17 MR. PENZONE: Yeah. That'd be great. I think that you can
18 talk about.

19 CHAIRPERSON THOMPSON: Any other discussion?

20 MR. HANKS: Yeah. I do have a question. I don't remember
21 if we talked about this in the committee or not, but the new (b)
22 reads that "Board certification information for a licensed
23 transfer shall not be sent in less than one year's time from the
24 date of licensure, and licensees who obtain their license in the
25 above-referenced manner shall not be permitted to transfer their

1 license to any other state within a 12-month period, except for
2 meeting certain conditions."

3 I think we should strongly consider making that reciprocal
4 as well; that if someone takes a test in another state, they
5 can't come and take all three tests in our state for 12 months
6 following when they became licensed in their state.

7 MS. PEARSON: Chairman Thompson, Member Hanks, so your
8 suggestion would be, is what (b) states is that when somebody
9 comes to Ohio and obtains a license, we would not transfer that
10 information out of our state in under a 12-month period, and
11 that was to help, you know, create a barrier for Ohio being a
12 pivot point for different people coming in, taking the exam,
13 and, immediately, the next day, transferring the license out to
14 another state?

15 MR. HANKS: Uh-huh.

16 MS. PEARSON: So is your suggestion that if there -- we
17 would not -- if somebody took a test in Florida within less than
18 a year, they could not come to Ohio and test?

19 MR. HANKS: I think it's worth considering. Yeah.

20 MS. PEARSON: I would suggest then, that the committee
21 reconvene to go back to -- it seems like there's a lot of
22 information that was looked at being changed again.

23 MR. PENZONE: Who is the committee? Who is on the
24 committee?

25 MS. OSTERHAGE: Luke and I.

1 CHAIRPERSON THOMPSON: Clara chairs it.

2 MR. PENZONE: Who else?

3 MS. OSTERHAGE: Steve. Luke, you were on that?

4 MR. HANKS: Uh-huh.

5 MS. OSTERHAGE: And Steve. And there were members of board
6 staff.

7 MS. PEARSON: And board staff. If you could deal with the
8 transfer procedures.

9 MR. PENZONE: I'd love to see the committee reconvene and
10 hash it over a little more.

11 CHAIRPERSON THOMPSON: Any other comments?

12 Board Member Osterhage, you'll --

13 MS. OSTERHAGE: Yes, sir. I will.

14 CHAIRPERSON THOMPSON: -- reconvene the committee?
15 On to New Business.

16 MS. PEARSON: Marilyn Spatola would like to discuss spray
17 tanning.

18 CHAIRPERSON THOMPSON: Hi, Ms. Spatola.

19 MS. SPATOLA: Hi, how are you?

20 Here are some handouts, if you want to take them, just so
21 you have some reference.

22 MR. HANKS: Thank you.

23 MS. SPATOLA: Thanks for having me today.

24 I became aware of -- I think it was at your February
25 meeting, we had a speaker expressing concern about possible

1 regulation or Certification for the spray tanning process. So I
2 wanted to elaborate on some of those points. It seemed like the
3 board members had a lot of questions about spray tanning and how
4 the process worked, the chemistry of it, which I think there was
5 a brief explanation.

6 I think we all know that it's been around ten years, but
7 it's definitely evolved. So it's a big, major part of the
8 business. It's a very saturated industry, so I think the
9 suggestion that it should be certified or there should be some
10 regulation is not unreasonable. I just think it needs to make
11 sense, and I wanted to try to make some points clear. The
12 history, I have all of that in there, so I won't bore you with a
13 long explanation.

14 It, obviously, started back in the '70's with QT. It
15 actually went further back than that. It was discovered in the
16 '20's by the Germans, and then was revisited in the '50's by,
17 actually, a physician in Cincinnati, University of Cincinnati,
18 when she was doing glycogen storage problems, liver -- in
19 infant's livers, and giving it to them orally and noticed when
20 they would spit up, it would turn the skin brown. She further
21 researched it and merged it into the cosmetic industry, and it's
22 evolved over the years.

23 And I think the biggest question today, and the concern is
24 that it is now not a topical application; it's been put in a
25 spray modality, so the chance of inhalation is, I think, the

1 bigger concern that the FDA has said they don't approve. But
2 they do, actually, have suggestions and recommendation, and some
3 of those are nose filters or cotton balls covering the mucus
4 membranes, ventilation.

5 I think those are things that were addressed last time. I'm
6 not sure if everyone understands what the active ingredient is
7 in tanning solution: DHA, what I just talked about,
8 Dihydroxyacetone. It's been around for a long time. I went
9 through the chemistry and how it works. It basically reacts
10 with the amino acids in the dead skin cell layer, the stratum
11 corneum layer of the skin. So it produces a chemical change,
12 much like the Maillard Reaction, when you cut an apple and it
13 turns brown. Same process.

14 I'm, kind of, going through this quick, so if you have
15 questions, stop me. I want to get to the part that I think you
16 were concerned with: Safety and health, what are the risks:
17 Technician versus client.

18 I think the technician is definitely at more risk than the
19 client would be, if there is, in fact, a risk that's worth
20 really thinking about. They're exposed longer. They're exposed
21 more. So most technicians are advised to wear eye -- protective
22 eyewear or a mask, if they're going to be around it for a long
23 period of time. I think that's a personal choice on their part.
24 It's a recommendation at this point. I don't know that it's any
25 worse than some of the vapors from hairsprays, chemical

1 treatment in a salon, honestly, other than it might be in a more
2 confined area. So I, definitely, think ventilation is a big
3 issue that people need to be concerned with.

4 There was a European study, I don't know if you all heard
5 about that. A couple years ago, ABC did this big thing that
6 they were saying it was going to change the DNA, and all of
7 these different things, that mutations could occur over the
8 years. And I think -- you're a physician. I don't know if you
9 remember me, but I actually came to your practice several years
10 ago and did a demo for you --

11 DR. GUPTA: Okay.

12 MS. SPATOLA: -- on spray tanning.

13 I think it's usually ten years before research is conclusive
14 on different things. They had pumped so much into the lab rats
15 that they did display some things, but they all, kind of,
16 disappeared within three hours after exposure.

17 Manual application versus spray booths. I've not been
18 involved in the salon industry for a while. I was. I'm also a
19 nurse -- past nurse. But I'm wondering, is there regulation on
20 spray booths now in tanning salons?

21 CHAIRPERSON THOMPSON: Not in Ohio.

22 MS. SPATOLA: And that's what I wanted to point out, too:
23 There's actually more exposure, more risk, I would think, with
24 that than a person manually applying it. Why? Because a spray
25 booth will emit about 7 and a half to 10 ounces of product with

1 a little bit more force. There's no supervision as to if the
2 client's going to pay attention to the instructions, they could
3 get it in there face, all those things. If a technician is
4 applying it, that's a little bit more controlled, and the amount
5 of product used is about 2.5 to 3 ounces per application, so
6 it's a big difference. It's a big difference.

7 Salon versus mobile and realistic monitoring. I would say a
8 good portion of the industry has now become mobile. That's
9 another thing to consider. A big, big portion. I think there
10 are salons that are implementing it. Tanning salons with beds
11 are bringing it in, but it is a very big mobile business.

12 Is there a need for certification and regulation? I think
13 there should be some accountability. I do. But I think it has
14 to make sense and be affordable and be realistic for the person
15 who just wants to be a tanning technician.

16 There are -- I know that the only state right now,
17 currently, that regulates is Oregon; and I have an affiliate in
18 that state. My bigger part of my business is competition
19 tanning. I have a business here nationally and internationally.
20 I do travel a lot. I have an affiliate program, licensed
21 affiliates all over the country and Canada.

22 Presently, my girl in Oregon is going through a study school
23 just so she can spray tan. She really has no interest in
24 facials and skincare; but she has to go through those hoops to
25 able to tan. It's costing her about \$4,000 to do that. So

1 that's my biggest concern. If you want to do something like
2 that, I don't think it's bad. I think it's a good thing; but I
3 think it needs to be specific certification within itself that's
4 offered, if you are even going to add it into curriculum. I'm
5 not sure if schools now have it as part of their curriculum. I
6 don't know if anybody can answer that.

7 I do know it was regulated for a period of time in Arizona.
8 A legal group there did go against the board and they did win,
9 and it became deregulated because it wasn't part of the
10 curriculum. I believe that they are now trying to add it.

11 Practical application versus written testing. What I was
12 hearing from your minutes is that you were considering maybe
13 just a test -- a written test. I have a training program; I've
14 had it in place for four years. We do train salons. We do
15 train individuals. It's not recognized, but, at least, I make
16 an effort to educate people.

17 So I don't think it's a bad thing. I think it's something
18 that should be considered. The economic impact of making it
19 regulated, I think, has to be considered, as well as what I just
20 spoke of; to make it, at least, doable for people that just want
21 to do this.

22 This is a profession that has afforded a lot of people a way
23 to make an extra income. If it makes it undoable for them to be
24 able to comply with any future regulations, I just think that
25 needs to be considered.

1 Any questions for me?

2 CHAIRPERSON THOMPSON: Any questions for Ms. Spatola?

3 (No response.)

4 CHAIRPERSON THOMPSON: You say Oregon is seeking
5 legislation?

6 MS. SPATOLA: No. They already have -- Oregon does already
7 regulate spray tanning. You have to be a licensed aesthetician
8 to be able do it. And the reason -- I mean, I always knew that.
9 My affiliate there is taking her -- she's becoming an
10 aesthetician so she can tan. That's all she wants to do is tan.
11 And, specifically, for her, she's one of my competition tanners,
12 so she really just does body builders. I mean, that's one of
13 our bigger parts of our industry that we do. That's my niche.
14 But I also have my own product line.

15 And I think it was also discussed in the last meeting in
16 February that the person, I think, that spoke said they were
17 concerned about the ingredients in the U.S. products, and that
18 they weren't as good as the European products. At least, that's
19 how I read it. That's really not true. I think that was a
20 little bit of a generalization.

21 There is one competition product which was cited that has
22 acetone in it, and that is correct. That's ProTan. They
23 actually -- that product was developed in 1982 when we didn't
24 have the modality of spray. It was brushed on. They've since
25 created some other products with their line, but that does still

1 exist. So, yes, the consumer needs to be aware of the
2 ingredients.

3 Also, the claim that people have all-natural, all-organic
4 tanning products is really a false claim. People need to be
5 made aware of that. Water's not organic, so it can't be
6 100 percent organic. I think that's just a marketing tactic
7 that a lot of companies -- a lot of people use, frankly, because
8 it sounds better: It's all natural, 100 percent natural. But
9 it isn't. It doesn't mean that the things that are in there are
10 harmful, it just means they're not natural.

11 DR. GUPTA: Does the state you were speaking of, Arizona, do
12 they have this in their curriculum?

13 MS. SPATOLA: I just spoke to a gal out there the other day
14 that called me and was interested in my product line. She has
15 told me that she thinks they are now trying to add it back in,
16 as far as their curriculum. So that may mean that they want to
17 start regulating it. But the Goldwater Group that went against
18 them out in Arizona, they deemed it unconstitutional to regulate
19 something if it wasn't part of the school's curriculum. That's
20 why it was deregulated. So I think that's something to
21 consider, too. If you want to regulate something, then, at
22 least, give people the means to be able to learn about it and be
23 educated on it.

24 DR. GUPTA: Your current employee who is learning or going
25 through school for aesthetician is in Arizona?

1 MS. SPATOLA: No, no. Oregon. She's not an employee. All
2 of my -- I sell licensing agreements. All of my affiliate are
3 independent affiliates.

4 DR. GUPTA: Is it in the curriculum in Oregon?

5 MS. SPATOLA: Yes, it is.

6 DR. GUPTA: Okay.

7 MS. SPATOLA: I don't know how much, but that's my point. I
8 think, years ago, when I did get my nail technician license, I
9 don't know what the hourly requirement is now, I've been out of
10 it for a long time. I think it was maybe 250 hours. I'm going
11 back in the early '80's when I did it. You didn't hear me say
12 that, but that was a long time ago. I think it was just a small
13 section. You could -- I could just get my nail technician's
14 license. So I'm suggesting that if this is something you move
15 forward with, that needs to be considered, because most of the
16 people that spray tan, that's all they want to do. That's all
17 they want to do.

18 MR. PENZONE: I'm curious, Ms. Spatola. Your mission today
19 is what, specifically?

20 MS. SPATOLA: Well, I think my mission today was based off
21 of listening to the person that was here in February and reading
22 the minutes. I just wanted to make it a little bit clear. I
23 mean, I think that person was suggesting that there should be
24 some accountability in the field of spray tanning, as well, and
25 I agree with that.

1 I think her point was she has a business license, and she
2 has an LLC and has insurance and is doing everything the correct
3 way, and I agree with that. I just felt like maybe I needed to
4 elaborate on some points.

5 I was under the impression that this was something that the
6 board may be thinking about down the road is to -- having a
7 certification or -- I know that when I left this industry about
8 four years ago, I was actually doing laser hair removal in a
9 medi spa in Cincinnati. At the time, I know that we did have
10 spray tanning, and I taught them and trained them. In the
11 salon, it's my understanding that, if someone's going to tan,
12 they have to have license, just that they can't touch somebody.
13 If they go out in the parking lot, then, you don't care. I
14 mean, that's the basic premise of it.

15 So if you're concerned about in the salon, they're
16 already -- in some ways, there's a little bit of regulation, I
17 guess, to the extent that the person applying the product has to
18 have a license, which would mean, to me, that they've, at least,
19 gone through the school on sanitation, safety, those basic
20 concepts of cleanliness. You know, no disease transmission or
21 cross-contamination, things of that nature.

22 But, outside, I mean, it was my understanding that you might
23 be concerned about just regulating the industry as a whole or
24 having some accountability, which I'm for. I think it's a good
25 thing. I think that, even if it's just a small certification or

1 people have -- in this industry, no one's really ever had a
2 formal way to be trained.

3 When I started this -- it was ten years ago when spray
4 tanning came on the scene, I was intrigued. I got involved in
5 it, and I was pretty much self-taught. There was nowhere to
6 really go formally to learn about it. Everything was through
7 message boards or just through my own research and trials and
8 tribulations. There is no regulation on tanning manufacturers.
9 They can sell to anybody.

10 So, I guess, my goal was just to educate you a little bit
11 more in this field so that you understood it a little bit more
12 and understand that, I think, from an economic standpoint, since
13 it is a difficult time today, there are a lot of people who
14 depend on this, and they do make a nice extra income from it.
15 So if that is the goal down the road, make it, at least, doable
16 for people.

17 CHAIRPERSON THOMPSON: I see your company, Liquid Sun Rays,
18 is consulting, training, safety and sanitation part of your
19 training?

20 MS. SPATOLA: Yes. I have a manual, and that's what we use.
21 Usually, it's a six-hour course. Like anything else that is
22 technique oriented, we can get through the theory part in a
23 relatively short period of time, and, then, obviously, the
24 practical application.

25 There is an organization nationally called NTTI. I don't

1 know if you're familiar with it: National Tanning Training
2 Institute. I think it also has courses for indoor tanning for
3 beds, which I've never really been involved with. There is a
4 gal that did write a course and a test for spray tanning. The
5 problem I have with. It is not really a problem. I just feel
6 very strongly that if somebody just merely takes a test, that
7 doesn't really prepare them for what they're going to do. I
8 think there should be some practical application, or, at least,
9 courses available like we offer. We'll go into salons, or we
10 train people individually and give them the theory, and, then,
11 we also have them bring models. We go through the practical
12 application and technique, and then we do followup.

13 It's like anything else. You can learn and watch, but you
14 have to do it over and over before you become proficient. And
15 it's not -- this isn't rocket science. I mean, spray tanning is
16 not a real difficult thing to do. I think it's more important
17 to understand the chemistry of the product and what you're
18 putting on people. Like I said before, ventilation issues,
19 making sure that you're offering people -- if someone has
20 asthma, obviously, you want them to have a mask, and then, you
21 figure out how to not have a mask line when you're done.

22 CHAIRPERSON THOMPSON: Any other questions?

23 (No response.)

24 CHAIRPERSON THOMPSON: To the board, I will say, the last
25 three meetings, we've had somebody come and speak on this

1 subject, so I'm asking for direction.

2 Do we want to take this or where do you want to take this.

3 MR. PENZONE: You know, I think someone that has a license
4 should have the opportunity to -- I mean, if this is approved --
5 I mean, does the FDA approve this sort of thing? Is there some
6 agency that's approved this tanning procedure?

7 MS. SPATOLA: The FDA has approved sunless tanning products
8 since 1979. What they have not officially approved is, now that
9 it's put in a spray modality, now that it's sprayed, because,
10 now, you've changed the whole environment. Now it's not just
11 being sponged on you; it's airborne. I think that's the
12 concern. And they've not said "Don't do it." They've just had
13 strong recommendations of what one needs to do if they're going
14 to do it that way; to give people ventilation, give them nose
15 protection, eye protection, not to get the mucus membranes.

16 Obviously, when you're painting something or rubbing it on,
17 you can control where it goes. When you start to spray it, it's
18 going to be airborne and you have less control. But I think
19 there's more control with that than a spray booth, obviously.

20 CHAIRPERSON THOMPSON: In your training, do you talk about
21 HV/AC?

22 MS. SPATOLA: HVLP.

23 CHAIRPERSON THOMPSON: Air-conditioning.

24 MS. SPATOLA: Oh, ventilation?

25 CHAIRPERSON THOMPSON: Yeah. Is that part of your training?

1 MS. SPATOLA: Uh-huh. Yeah. We give people different
2 suggestions and different things that they can do.

3 Most people that do tanning, there are some real fancy, you
4 know, booths with ventilation systems built in. But most people
5 don't want to spend that kind of money, so it can even be done
6 with a pop-up tent that has an opening in the back with a box
7 fan turned around backwards. Or some of the pictures that I
8 have in my manual -- I'm pointing like you have it. But there
9 are some box fans with filters -- disposable filters that can
10 come in and them pull out. I find it just as effective to use
11 quilting batting, honestly. You just put it behind the opening
12 and it just pulls and catches. Does it catch 100 percent of
13 overspray? No, nothing ever will. But it minimizes it to a
14 point where it's pretty much moot.

15 We teach all of that. We go over equipment. We go over
16 different kind of equipment, how to use it, how to clean it, how
17 to maintain it, health and safety issues. Just things --
18 general knowledge people should have.

19 MR. HANKS: Does our counsel, by any chance, have an opinion
20 on whether we feel like we're overstepping anywhere? Are we --
21 I asked the question in February: How similar is this to
22 airbrush makeup, and I'm still a little confused as to do we
23 need an additional certification for this.

24 MS. SPATOLA: It's not any -- if you're asking me, or you're
25 asking somebody there. It's probably spray painting -- I mean,

1 painting cars or painting with that HVLP paint is probably more
2 toxic. Definitely more toxic than what we do. Definitely.

3 MR. PENZONE: Are they certified by someone?

4 MS. SPATOLA: Who?

5 MR. PENZONE: People spray painting cars? Do they have to
6 be certified --

7 MS. SPATOLA: I have no idea.

8 MR. PENZONE: -- by some board?

9 I think -- I really think that we have 1,500 hours of
10 training in Ohio right now, plus 90 percent of the people tack
11 on -- they have another 300 hours on top of that. I really
12 think, with 1,800 hours, I trust someone to make the decision in
13 a salon to take care of the client. If they don't take care of
14 the client, they'll be sued, or whatever. And, you know, I
15 think we have plenty of certification. I'm all for regulation;
16 I am adamantly opposed to overregulation.

17 MS. SPATOLA: Good

18 MR. PENZONE: I think we're fine maintaining the status quo
19 with what's being done in the salons now.

20 MS. SPATOLA: Okay. That's good for me.

21 MR. PENZONE: But I'm only one member of this nine-member
22 board.

23 MS. SHEIPLINE: Mr. Chairman, would -- I mean, I'm just,
24 kind of, looking ahead at 4713-8-09 on the permanent makeup,
25 what's coming up ahead. When I'm reading (c), in the bottom

1 here, you know, "Advanced technique introduced as part of the
2 curriculum or obtained through these providers," I mean, could
3 this not be current? Would you, currently, think this would
4 fall under advanced techniques?

5 MS. SPATOLA: Are you asking me that?

6 MS. PEARSON: I'm asking Ms. Pearson.

7 MS. PEARSON: Chairman Thompson, Member Sheipline, we would
8 have to -- it would depend on the curriculum. Actually, the
9 question that Member Hanks asked a moment ago, Mr. McCarthy can
10 answer that. It might give some insight to the rest of the
11 questions.

12 MR. MCCARTHY: Mr. Hanks, I think today's discussion is
13 certainly appropriate. My office has been tasked with looking
14 into this, and we're at, the research is there's two approaches:
15 There's the Arizona approach, which my understanding is,
16 specifically, had to enact an exception to the definition of the
17 practice of aesthetics; so, therefore, it would not be your
18 responsibility of the board. The board only has powers and the
19 responsibilities forth by statute. Currently, under the
20 definition of the practice of aesthetics is, essentially, the
21 same, if not identical to Oregon's. Oregon does license the
22 practice of spray tanning by a professional.

23 So, now, there's basically three issues: There's the issue
24 of mobile tanning. You've heard of the benefits from it,
25 especially for the professionals. But whether or not that is

1 currently applicable under Ohio law, I mean, that remains to be
2 seen. It's certainly an issue the board will want to look at.

3 The second issue is the new proposed legislation which would
4 bring self-service tanning booths into your requirements, that
5 would take up a portion of the practice; but it would leave the
6 professionally applied-by-hand portion out there without any
7 sort of rules, any sort of education. And so what Oregon
8 decided to do, for the professionally applied spray tans, not
9 the self-service booths, but the professionally applied, is to
10 give about a year-long moratorium so their board could work with
11 the Department of Health to create rules and to educate their
12 licensees.

13 And, so, basically, it may be best for the board to set up a
14 committee to look into this because we're going to have to
15 consider the issue of mobile application, consider the current
16 definition of practice of aesthetics, as well as the
17 implications that the new legislation, if it gets approved about
18 self-service booths, that would leave some questions unanswered
19 as far as ventilation and protection of the consumers
20 essentially.

21 And, just so the board knows, there's two states that are
22 working on issues related to the spray tanning: New Jersey just
23 passed regulations prohibiting children under the age of 14 from
24 getting spray tans.

25 Indiana, to my knowledge, has not approved this statute.

1 It's still pending. But the issue came up, where there was a
2 licensee, a husband and wife who owned a salon. The wife was
3 out during prom season, so the husband was left there having to
4 give spray tans to minors. The board probably wants to consider
5 that issue as well. So there's, definitely, plenty of work for
6 a committee to do if the board chooses to assign this to a
7 committee.

8 MR. PENZONE: Is there a way we could find out -- who does
9 Speaker Boehner's spray tan and get some input from them?

10 (Laughter.)

11 MR. PENZONE: I'm sorry.

12 What's the worst thing that can happen with this?

13 MS. SPATOLA: Somebody gets a bad tan.

14 MR. PENZONE: Someone gets a bad tan. We're looking at
15 legislating -- or I mean, you know, regulating a bad tan.

16 MR. HANKS: I disagree. I think there's potential for
17 inhaling things that nobody knows how it's going to affect you.

18 MR. PENZONE: You probably have to drink 11 gallons of this
19 stuff --

20 MR. HANKS: Maybe so.

21 MR. PENZONE: -- to have a problem.

22 MS. SPATOLA: That was, I think, the whole point with the
23 European study that came back, that there's never been any
24 clinical studies done on humans; it's been done on lab rats in a
25 lab setting where they put them in a little chamber and pumped a

1 bunch of the spray tanning solution in there. Did they have
2 some symptoms right afterward? Yes. But, within three hours,
3 they all disappeared. What are the long-term effects, I don't
4 know.

5 MR. McCARTHY: Mr. Penzone, I'm going off of memory right
6 now, so don't quote me on this, but my understanding is the FDA
7 has only approved DHA for application on the surface of the
8 skin, not for the eyelids, not for the palms, not for the soles
9 of your feet, not your lips, not even on your eyelids, and
10 especially not for inhalation.

11 So with the limited approval of DHA, as it is now, there,
12 seriously, may be some concerns folks might have for
13 professionals applying it on a daily basis, as well as
14 self-service booths, unless, you know, there's some sort of
15 guidelines as to the ventilation for a self-service booth.

16 MR. PENZONE: Okay.

17 MS. SPATOLA: Done with me?

18 CHAIRPERSON THOMPSON: Thank you.

19 Again, I'll ask the question for direction: What do we want
20 to do with spray tanning, if anything?

21 MS. PEARSON: Chairman Thompson, members of the board, I
22 would suggest forming a committee to look into all of the
23 information. At the past three board meetings, we've had people
24 come and present information. And, also, at the recommendation
25 of Mr. McCarthy, you know, it seems like there's a lot that we

1 need to consider and look at. It might take more time than
2 just, you know, during this meeting.

3 DR. GUPTA: I would agree with that.

4 CHAIRPERSON THOMPSON: Dr. Gupta, is this a committee that
5 you would care to chair?

6 DR. GUPTA: Sure.

7 CHAIRPERSON THOMPSON: Next item under New Business is Amy
8 Young.

9 Hi, Ms. Young.

10 MS. YOUNG: Hi. How are you?

11 CHAIRPERSON THOMPSON: Good. How are you?

12 MS. YOUNG: All right.

13 CHAIRPERSON THOMPSON: Can you introduce yourself and give
14 us a quick background.

15 MS. YOUNG: Absolutely. I actually have a prepared
16 statement, so I did want to read it, but I was afraid I'd
17 forget.

18 I'm actually here on behalf of the Association of Ohio Lash
19 Artists. My name is Amy Young, and I'm a professional lash
20 artist of five years. I do have two other members with me here,
21 and they are going to introduce themselves as soon as I read
22 this, if that's okay.

23 First of all, thank you for allowing us to speak on behalf
24 of Ohio's professional lash artist network. We have been
25 apprized of the recent discussion at the February board meeting

1 regarding the lash extensions; and we wanted to have the
2 opportunity to provide you with support and information about
3 our industry, national and state trends in lash extension
4 policies, and to give you insight on the established training,
5 education and safety that exists in the state of Ohio, as well
6 as nationwide and internationally.

7 We have resources and expertise to share and are pleased to
8 be part of the State's discussion.

9 Let me tell you a little bit more information about myself.
10 My name is Amy Young; and I am the Ohio representative of the
11 National Eyelash Education and Safety Association, also known as
12 NEESA. NEESA.org is where you can find the organization online.
13 I'll have a paper for you as well.

14 I'm also a representative of the Association of Ohio Lash
15 Artists. I have several advanced lash certifications in
16 training, curriculum, safety and artistry. In 2011, I was
17 proudly named runner up, which is second place, in the National
18 Lash Artist of the Year Competition.

19 As a professional lash artist who is passionate about
20 providing excellent service and exceptional lashes to clients, I
21 have stayed at the forefront of the profession by getting the
22 most advanced trainings and certifications offered nationwide.

23 Although I am currently a full-time lash artist, my
24 background is actually in education and teaching. I am
25 finishing my Ph.D. in curriculum development and instruction

1 which has helped me to create effective lash training programs
2 and evaluations. I've also published a basic and advanced lash
3 artist curriculum.

4 I'm here today on behalf of NEESA and the Association of
5 Ohio Lash Artists to represent our profession and provide an
6 avenue for communicating and disseminating information. Our
7 goal is to open the lines of communication and be a part of
8 future discussions pertaining to our industry.

9 As professionals whose livelihoods depend on the expertise,
10 safety, skill, and particularly the art of lashes, we care about
11 these discussions and hope to contribute positively to them.

12 I would like to introduce you to Whitney who is also a lash
13 artist.

14 MS. RICHARDSON: Hi. Good afternoon.

15 My name is Whitney Richardson. I'm actually a managing
16 cosmetologist here in Columbus, Ohio. I have a full-time lash
17 business here in Columbus. I actually don't do hair anymore,
18 just strictly lashes. At this point, I also train other lash
19 artists and soon-to-be lash artists.

20 I'm here today just to -- hopefully, I can answer any
21 questions you guys might have because I definitely feel like
22 maybe there's a lot of gray area about the lash industry for the
23 board, the different types of lashes, different types of
24 training. Hopefully, we can maybe help clear anything up or any
25 questions that you guys might have. So I'm here for that. We

1 also have Trish here.

2 CHAIRPERSON THOMPSON: Can I get your last name again.

3 MS. RICHARDSON: Richardson.

4 CHAIRPERSON THOMPSON: And you're a cosmetologist?

5 MS. RICHARDSON: A managing cosmetologist since 2004. Yes.

6 CHAIRPERSON THOMPSON: You work at a salon?

7 MS. RICHARDSON: Yes.

8 CHAIRPERSON THOMPSON: This is the only procedure you do?

9 MS. RICHARDSON: I still do waxings and things like this;
10 but about 99 percent of my business is lashes.

11 CHAIRPERSON THOMPSON: With lash extensions, since are you a
12 licensed professional by this board, do you have any feelings
13 on, you know, who should be doing this, who shouldn't be doing
14 this and what it takes to be able to do this safely?

15 MS. RICHARDSON: Yeah. Absolutely. I definitely think that
16 it does not necessarily have to be a cosmetologist, but there
17 should, definitely, be advanced training for this. You
18 definitely should have to have some kind of curriculum for this
19 where you spend some time with sanitation, safety and
20 understanding how to keep things clean, how to absolutely
21 execute this properly.

22 It can't just be something that you've sat down and watched
23 a YouTube video and decided that you're going to get on
24 someone's eyes. It's a very important spot on the body. So I
25 think that cosmetologists, definitely, have led it up and have,

1 kind of, headed it up in the industry; but I think that there is
2 space for other people to come in professionally and take -- you
3 know, and take the profession to the next level.

4 MR. PENZONE: Ms. Richardson, I have a couple questions.

5 When you began to do this service, you started when doing
6 the lashes?

7 MS. RICHARDSON: I started in 2007. I was doing hair
8 full-time, and I actually started doing the cluster, the tabs,
9 and things like that. Then I went and got certified to do the
10 semi-permanent lashes.

11 MR. PENZONE: To get the certification was through whom?

12 MS. RICHARDSON: I went to Natural Lash. I had to go to
13 North Carolina to take the class because there was no one really
14 doing it here in Ohio too much.

15 MR. PENZONE: How long was your certification? How long
16 were your classes for certification?

17 MS. RICHARDSON: The class was a two-day course, but they
18 did not certify you until they saw about 20 before-and-after
19 pics of what you did. So it wasn't a long curriculum; it was a
20 two-day class, but they wouldn't certify you right away.

21 MR. PENZONE: They wouldn't certify you right away. You had
22 to -- after your two days, you would have to send them photos of
23 before and after?

24 MS. RICHARDSON: You have to send them photos of before and
25 afters of your work.

1 MR. PENZONE: About how long do you think it took you to get
2 certified? After your two days, how long would it take you to
3 provide them with, let's say, 20 before-and-after photos?

4 A. Me, personally, I was working full-time, so I probably
5 didn't finish it up until about eight months. I didn't do it
6 right away. I took time and just worked on practice, and, then,
7 I sent photos in.

8 MR. PENZONE: Do you think it's necessary that the Ohio
9 State Board of Cosmetology certify people, or do you think that
10 it works the way you did it?

11 MS. RICHARDSON: I think it can, definitely, work the way
12 that I did it. I don't believe it should be -- you should
13 strictly have to be a cosmetologist to do the lashes, but it
14 should possibly -- like Texas has done, they have a whole
15 separate licensure for lashes. I don't think this has to be a
16 1,500-hour course, but it definitely should have something

17 MR. PENZONE: How many hours do you think would be adequate?

18 MS. RICHARDSON: I would say you could do this as a course
19 as a three- or four-day class, but with some type of
20 apprenticeship or something like that.

21 MR. HANKS: How long is the Texas program?

22 MS. RICHARDSON: I don't know off the top of my head how
23 long the Texas program is. What they did was -- I know they
24 grandfathered a lot of people in because the licensure is very
25 new. It's within the last, I want to say, year or so. So it's

1 very new, but I don't know off the top of my head how long the
2 class is.

3 CHAIRPERSON THOMPSON: Ms. Richardson, when you took your
4 course, was there any prerequisites that you had to have before
5 you could take that course? Could anybody go in and take that
6 course, or were they -- did they ask to see your cosmetology
7 license?

8 MS. RICHARDSON: With that company, yes.

9 CHAIRPERSON THOMPSON: They asked to see your cosmetology
10 license?

11 MS. RICHARDSON: That company, you had to be a
12 cosmetologist --

13 CHAIRPERSON THOMPSON: Or an aesthetician?

14 MS. RICHARDSON -- or a nurse. But that's not true with all
15 companies because it depends on -- because it's different from
16 place to place.

17 Like I said, it was very hard for me to find a class in 2007
18 here. I would have rather took it here in Ohio, but I went to
19 there take it because there's getting to be a demand for it.

20 With the company I went through, for me, that's what I
21 wanted. But with the company I went through, you did have to be
22 a cosmetologist or a nurse.

23 MR. PENZONE: Ms. Young, should we wait until the third
24 person is --

25 MS. YOUNG: I can answer some more of your questions. I

1 have some more information on Texas and things like that.

2 CHAIRPERSON THOMPSON: Thanks, Whitney.

3 MS. RICHARDSON: Sure.

4 MS. CLARK: Hello. My name is Patricia Clark.

5 I am a lash technician. I'm also a licensed aesthetician.
6 I'm an independent contractor. I hold my manager's license
7 also. I'm certified with Nova Lash. I've also taken another
8 independent lash training, and I've worked at an exclusive lash
9 salon for close to a year. I'm certified in air-brushing, also
10 I'm certified in training with celebrity stylists to Beyoncé,
11 Kim Kardashian, Damone Roberts in Chicago.

12 Currently, I am operating an eyelash extension salon. I'm
13 running out of space. My focus is lashes and brows. That's
14 truly my bread and butter. As I said, I was an aesthetician to
15 begin with. I worked at Lifetime Fitness Center and did facials
16 there. I've also worked in an eyebrow studio exclusively and
17 managed three of those stores.

18 Let's see here. So my passion is eyelash extensions. I've
19 evolved from doing skin to brows and fell in love with lashing.
20 It is actually what makes me my income. I'm in love with doing
21 it. I'm passionate about it. My passion is also for education,
22 and I am a part of the Ohio lash group. That's part of what --
23 that's why I'm interested in that group; education and training.

24 So I just came today to, kind of, speak my voice to say
25 lashing is and amazing -- amazing part of what we're doing, and

1 it's growing so fast; and I just want to have a voice to speak
2 as a part of that community.

3 CHAIRPERSON THOMPSON: Questions?

4 MR. PENZONE: You've been doing it for how long?

5 MS. CLARK: Exclusively lashes and brows for probably close
6 to two and a half years.

7 MR. PENZONE: Okay. Thank you.

8 MS. CLARK: Thank you.

9 MS. GUPTA: Are there members of your group who are not
10 aestheticians and cosmetologists?

11 MS. YOUNG: Yes.

12 DR. GUPTA: What percent?

13 MS. YOUNG: We have an online group, and, actually, a lot of
14 people aren't online yet, on different forums and stuff. But I
15 would probably say, in the current group that we have in Ohio,
16 maybe even 80 percent are not aestheticians or cosmetologists,
17 at least. And there are so many people who are, kind of, doing
18 just one here or there; but I would say, you know, we represent,
19 sort of, like, people who are doing a larger amount of the
20 lashes in Ohio.

21 CHAIRPERSON THOMPSON: Go ahead.

22 MS. CLARK: I was going to say that -- I know you asked Amy
23 some of those questions. I was going to say my specific thing
24 regarding professionals.

25 Being a manager and doing -- in this field doing aesthetics,

1 doing massage, there are so many things that we've done in this
2 field, I would say that this is particular to -- you have to be
3 a specific type of person. I don't, necessarily, think you have
4 to be a cosmetologist or an aesthetician to do this. I've left
5 all of my aesthetics stuff to the side. This is my total focus.
6 This, kind of, goes back to my meticulousness of my childhood,
7 to my attention to detail.

8 I notice that some of the girls that I know that do lashes
9 that are in my -- they're trained cosmetologists or aesthetics,
10 or whatever they are, this is still a different bent. It's
11 something different and very unique. It's odd. It's just a
12 unique thing. I think you have to be a specific type of person,
13 not necessarily a cosmetologist or an aesthetician. It's very
14 unique to its own thing.

15 When I see artists, and I'm like "Who did that work? It's
16 amazing." A lot of times I'm finding they're not even in the
17 cosmetology field. They're not even -- that person who went
18 through the schooling I did or aesthetics or cosmetology. There
19 are persons who honed in on this and they get it. It's
20 something different.

21 So I just wanted to share that little piece. You don't
22 necessarily, in my opinion, have to be. I spent hundreds of
23 hours and hours, 1,500 hours doing my cosmetology. I've done it
24 all, so I don't see -- the girls I'm learning from that are
25 taking me to the next level. I've been doing this a while, but

1 those who make me want to go further are not necessarily
2 cosmetologists or aestheticians.

3 There is a different eye for that, and what we have for
4 eyelashing is a different breed, you know. So I just wanted to
5 share that little tidbit and just thank you for the opportunity
6 to come and share.

7 Thank you.

8 MR. HANKS: I have a question for any of you, really. The
9 last speaker was asked the question: What's the worst that can
10 happen? What's the worst that can happen with this process?

11 MS. YOUNG: With the process of eyelash extension? Let's
12 see. Probably the worst thing that can happen -- actually, I
13 read the February minutes, and kind of what -- so I know there
14 was a concern about conjunctivitis, which is airborne. I can
15 honestly say that that's not a concern. I mean, it could be a
16 concern. Obviously, we take measures.

17 But, probably, the biggest concern that we have is
18 applications that are not done correctly can damage lashes. If
19 you think about your eyelid -- and this is how I explain it to
20 clients, actually. So these are your natural hairs
21 (indicating). You have about 150 to 300 natural hairs on each
22 eye. So this is your eyelid. We take an adhesive, which is an
23 FDA medical grade adhesive. It's actually like Dermabond, it's
24 a cyanoacrylate adhesive.

25 You place a single hair on -- a single extension on a single

1 hair. It does not touch the skin. Actually, if it touches the
2 skin, it can cause irritation, and that's a problem. It also
3 cannot touch any other hair, so I wear surgical loops, you know,
4 so that I can see. I don't want any baby hairs. I don't want
5 to disrupt any growth cycle of any hair at all.

6 Probably what I see the most is poor applications. People
7 that have not been trained and have not been, you know, properly
8 trained, or feel like, hey, I have a certification, or you know,
9 oh, I can do lashes, or whatever. It's a lot different. It's a
10 very specific, serious thing. I don't want to put a single
11 extension on two hairs because these have a different growth
12 cycle and a different shed cycle, and I don't want to pull out a
13 lash that's not ready to shed yet. So I would say that's
14 probably the most serious.

15 MR. HANKS: If it can cause an irritation on the skin, what
16 would it do to an eyeball?

17 MS. YOUNG: Well, nothing is -- your eyelid is actually --
18 your hairs -- you have three -- most people have three layers of
19 hairs on, sort of, the top. You don't apply any ones that are
20 on the bottom, if they go under. The person actually keeps
21 their eyes closed during the application. Most people fall
22 asleep. You're isolating a single hair with a tweezer and
23 putting a single lash extension on that hair. Now, if it
24 touches the skin -- you're doing it 300 times during one
25 session, right, so you're doing that motion 300 times on one

1 session. So if it does touch the skin, it could irritate the
2 person. It could make it itch or something. They might pick at
3 it. I don't want clients to pick or pull or twist, anything
4 like that. It could pull the hair next to it out, but that hair
5 will grow back. So, then, as a lash artist, that makes my job
6 difficult when they come back for a touch-up if someone else has
7 done a poor job because I can only put an extension where
8 there's a hair, you know. So if you come back and don't have a
9 hair there --

10 But let me give you a different example. I also do a
11 service -- a free service for any woman who has gone through
12 chemotherapy. You lose your hair, your eyelashes, your
13 eyebrows. And women who have lost that -- it's what people look
14 at, right. The eyes. We look at each other's or don't look at
15 each other's eyes for a reason. It communicates something.
16 It's expressive. And so it, kind of, brings a smile back to
17 them. So after chemotherapy, even after two weeks, you have
18 little tiny lash buds and you can apply a very light extension
19 to each one of those hairs and give someone their eyes smiling
20 look. That's something very rewarding that I like to do.

21 MS. OSTERHAGE: That's awesome.

22 MS. YOUNG: It is awesome. It's awesome.

23 Gosh. I, actually, just lost a client from breast cancer
24 that I did her lashes and she loved coming.

25 MR. PENZONE: Ms. Young, you've been doing this how long?

1 MS. YOUNG: 2009.

2 MR. PENZONE: Five years.

3 MS. YOUNG: Yeah.

4 MR. PENZONE: Your two colleagues together are nine and a
5 half years; so 14 and a half years of eyelash artistry.

6 MS. YOUNG: Yeah.

7 MR. PENZONE: About how many patients -- how many clients do
8 you think you've seen and done this procedure to in two and a
9 half years?

10 MS. YOUNG: In two and a half years?

11 MR. PENZONE: You've been a lash artist for two and a half
12 years, correct?

13 MS. YOUNG: 2009.

14 MR. PENZONE: So a little over five years.

15 MS. YOUNG: Yeah.

16 MR. PENZONE: We've got 12 -- let's see. Seven and 14 -- so
17 there's 14 years between the three of you. How many clients do
18 you think you've serviced in that period of time? On an average
19 week, how many of these procedures do you do?

20 MS. YOUNG: In October, for example, I just know it was
21 October, I did 256 hours of lash extension application. It
22 takes me an hour and a half to do a full set, and an hour to do
23 a fill-in. So we divided that by a number --

24 MR. PENZONE: About 175 clients that month?

25 MS. YOUNG: I have about 300 active clients, including

1 Miss Ohio and people who travel from all over.

2 MR. PENZONE: You're servicing about 2,000 clients a year,
3 yourself?

4 MS. YOUNG: At least.

5 MR. PENZONE: Would your colleagues be doing about the same?

6 MS. YOUNG: They are at different points in their
7 development. I know that Trish is just building a different
8 lash and brow business. It depends.

9 MS. RICHARDSON: I have 1,000 people over the two years. I
10 do it part-time.

11 MR. PENZONE: I'm trying to think of the risk factors here.
12 It sounds like it's not that risky a deal to contaminate an eye
13 or to do something that's going to be really detrimental to the
14 clients.

15 MS. YOUNG: Proper precautions must be taken.
16 Absolutely. I can tell you, though, you know, things like --
17 that are particular to lash artistry, like, heat sterilizing
18 with a glass bead sterilizer, it's pretty standard, the tools,
19 the utensils. Everything else is disposable. You know, the
20 lash tags, things that -- you know, a little cup, everything --
21 there's nothing really -- I can honestly tell you, I've never
22 had an incident. Maybe in five years, I've had one person --
23 two people that have had even allergic reactions, which happens
24 with a Dermabond or a cyanoacrylate.

25 MR. PENZONE: That's about 10,000 clients in five years?

1 MS. YOUNG: Yeah.

2 MR. PENZONE: At 2,000 a year?

3 MS. YOUNG: But the first year, I did less, because it takes
4 three to six months, if you do it full-time, to get good at it.
5 I, kind of, compare it to sushi making. I don't know if anyone
6 wants to hear this analogy. When people first try sushi for the
7 first time, they think it's just rice and fish rolled up, and,
8 oh, I can do that. I don't know if you've ever tried to make
9 sushi at home. It's really difficult. And, actually, the
10 people who learn to do it, it's an art for them. Right? They
11 train. They can train for ten years. A little bit of vinegar
12 changes everything.

13 So not only is it in terms of learning lashes do they people
14 want to do it, can they physically do it? I mean, I'm sitting.
15 I sit for nine hours. I don't get up. You know, I sit for nine
16 hours. You know, do they like to do it. Do they think it's
17 fun. It looks really fun. You know, afterwards people feel
18 great. They leave. They're excited. They feel, like, you
19 know, just fabulous. But, you know, doing it, it's repetitive,
20 you know. And are they good at it. And that means, can they
21 transfer just, you know, rolling the rice and the fish to making
22 something really awesome, making an art out of it. Learning
23 that starts with a skill. That's art. And I would say, yeah, I
24 mean, someone could probably go to a class and start taking, you
25 know, 107 clients a day, but --

1 CHAIRPERSON THOMPSON: Will they be safe, though.

2 MS. YOUNG: They would need to be -- they could do -- it
3 depends. They could do damage. That would be the damage where
4 they would put lashes. I personally --

5 CHAIRPERSON THOMPSON: There's being good and being safe.
6 There's a difference between the two, you know.

7 MS. YOUNG: Yeah. Well -- and -- but what I'm saying is it
8 does take a while. It's reflective. It's a long process. It's
9 not like someone can just do it. It does take a while of
10 reflection. A very -- looking at pictures. Like, what Trish
11 was saying. Most of us had to submit pictures to companies to
12 say -- or videos, things like that.

13 MS. RICHARDSON: I think, too, what you're asking is you do
14 get the training in the classes about sanitation, about keeping
15 your tweezers clean, about the different kind of things that you
16 can get -- different kind of eye --

17 MS. YOUNG: Blepharitis.

18 MS. RICHARDSON: When you should and when you shouldn't work
19 on clients. You do learn those things. Even in the class that
20 I teach, those are topics that we cover thoroughly. But you do
21 learn them in the class. You do learn safety and sanitation
22 beyond just, you know, getting good at it. That's just a
23 practice. But we go in depth.

24 MR. PENZONE: Ms. Richardson, in your seven years of
25 practicing, have you -- what's the worst situation you've

1 encountered?

2 MS. RICHARDSON: The worst situation, I would say, is when I
3 first started sending my pictures in, one of my best friends, we
4 got her eye a little stuck shut.

5 MR. PENZONE: Does that happen?

6 MS. RICHARDSON: We got it open. That was when I first
7 started. And when I say, "a little stuck shut," I mean, the top
8 lash was a little stuck to the bottom lash; and that was maybe,
9 like, a week two or three, or something like that. But that was
10 the worst situation that I've been in. I haven't had -- like,
11 I've had, in the whole seven years I've been doing this, maybe
12 three clients of have had a reaction to the adhesive, meaning
13 that they have some type of puffiness or something like that.
14 But, as anything, you can get an allergy to anything. So that
15 was probably my worst situation ever.

16 MR. PENZONE: Ms. Young, just a couple other questions.

17 No. 1. How long before we refer to you as Dr. Young
18 instead?

19 MS. YOUNG: Hopefully by the end of 2014. I just have
20 Chapters 3, 4, 5 to finish.

21 MR. PENZONE: Good luck to you.

22 MS. YOUNG: Thanks.

23 MR. PENZONE: I'm going to ask you what I asked Ms. Spatola.
24 What's your mission? What would you like to leave here with
25 today? What would make you feel really, really good when you

1 walk out the door? What would you like from this board
2 basically?

3 MS. YOUNG: Well, and I wrote it down. I want you to know
4 that very professional lash artists do exist already in Ohio.
5 We care about training, safety and education. And we make our
6 livelihood out of this profession. And so, as you're discussing
7 this, we just to continue to be appraised of it; and, you know,
8 hopefully, we can offer you information from the field. As a
9 representative of the National Eyelash Education and Safety
10 Organization, and the representative from Ohio, you know, I want
11 to be able to provide you with this. And, also, the other lash
12 artists. I'm trying to connect with the lash artists in Ohio so
13 they can be connected to these resources as well.

14 DR. GUPTA: Mr. Chairman, the board had asked me to check
15 into colleagues, ophthalmologists, optometrists to see what kind
16 of complications they see from this procedure. I did call up
17 one optometrist, and she immediately said, "Oh, yes. I see
18 complications from eyelash extensions all the time." And so I
19 asked her, "Well, about how many do you see?" And I just wanted
20 to report to you that she sees about a handful a year. Which I
21 don't know if that's significant or not. But, in her mind, it
22 was significant, because you're doing a cosmetic procedure, and
23 it's harming your eyes, and so these patients are getting
24 blepharitis, conjunctivitis, and sometimes even corneal
25 abrasions. These things heal, but it is still worth considering

1 that these complications can occur with people who are not
2 properly trained.

3 MS. YOUNG: Yes. And to answer -- to kind of respond to
4 those complications, you know, blepharitis, for example, which
5 is inflammation, it can be caused by lash mites. Actually,
6 everyone has healthy last mites. Your lashes serve an
7 evolutionary purpose: To defend your mucus membrane -- I know.
8 Sorry.

9 MR. HANKS: First sushi, now this?

10 MR. PENZONE: Yeah. Thank you for sharing that with us.

11 MS. YOUNG: When I say when a client gets blepharitis, or if
12 they have a puffiness from extensions, it's usually because
13 they're not washing them. People are afraid to get them wet
14 because they don't want to lose them, and it actually messes up
15 the pH. You can use tea tree oil. There's actually a specific
16 cleanser after-care product that we sell that has tea tree oil
17 in it that clears that stuff up. So when a client leaves -- and
18 I know these girls do this as well, you have a pre-consultation
19 with them and a post-consultation. This is how you -- aftercare
20 for them.

21 Of course, you know, things do happen. I know many girls
22 have a relationship with an optometrist or an eye doctor in town
23 just to refer clients to because they understand.

24 MR. PENZONE: And, Mr. Chairman, if I may, I'm not trying to
25 extend this meeting. But I'm really curious as to -- and

1 Ms. Spatola, the same thing applies to you. Do you, in your
2 realm of, you know, spray tanning and lash artistry, your
3 objective is to see what's being done by this board. I mean, do
4 you feel that -- one of your colleagues said she didn't think it
5 was necessary to be -- I mean, hours in a curriculum or
6 something like that, but certification of some kind. Do you
7 think, if someone was certified by a manufacturer or went
8 through a two-day course or something like that, that would be
9 sufficient to have --

10 MS. SPATOLA: I do.

11 MR. PENZONE: -- in a salon, and the board would accept
12 that, a certification with someone who's not necessarily
13 licensed? I have 50-some aestheticians; all of them are
14 licensed through the State of Ohio.

15 MS. YOUNG: Sure.

16 MR. PENZONE: Do you think that's necessary for a
17 certification?

18 MS. YOUNG: I think a certification has a much better
19 chance. I really believe in the certification route, and that's
20 because it is so very specific. It's different. All the
21 stuff -- if any manufacturer or anyone teaches that, they go
22 through sanitation and stuff. I know many of us have our own
23 training manuals and different things that we know that the
24 National Eyelash Education and Safety Training has suggested
25 that we cover, which I think is really important to pay

1 attention to, as well. I don't think just because someone is an
2 aesthetician or a cosmetologist that they have the aptitude to
3 do it or even the training to do it.

4 So with that being said, I think people do need to be
5 trained. I'm for a mentorship program. Actually, anyone who
6 learns lashes from me has to do three to six months before they
7 can actually work on a client. So just train, you know. But
8 it's lashes. Yeah. How do you make --

9 MR. PENZONE: You don't think a license -- a state license
10 is a prerequisite, but a certification would be --

11 MS. YOUNG: Prerequisite to do lashes.

12 MR. PENZONE: -- from a manufacturer?

13 MS. YOUNG: A certification or a licensure -- a state
14 license prerequisite. I'm not following the --

15 MR. PENZONE: Do you think, for someone to provide this
16 service, should it be -- should they have an aesthetician's
17 license?

18 MS. YOUNG: No, I don't believe so.

19 MR. PENZONE: But you believe they should have some sort of
20 certification from a manufacturer of the eyelash --

21 MS. YOUNG: Yes. A manufacturer or a company, a
22 professional lash artist, someone who's actually been in the
23 industry doing it. Yes

24 MR. PENZONE: Because I'm sitting here wondering, okay, what
25 does an inspector have to look for, if they don't have an

1 aesthetician's license. They've got to have something.

2 MS. YOUNG: I think a Board of Health would be really great
3 inspection. I think the Board of Health -- I realize that's not
4 your thing. But I think the Board of Health would be really
5 important. That's what I am an advocate for. I think
6 sanitation, safety, bodily fluids, all that, check out, similar
7 to the way you would certify a place for permanent makeup.

8 MR. PENZONE: Thank you.

9 MS. YOUNG: I do have a paper I can give you with the
10 statement on it and a web address of NEESA and the Ohio Lash
11 Artists.

12 MR. HANKS: I'd like to clarify that I looked up the Texas
13 law; it's 320 hours in Texas for an eyelash program.

14 MR. PENZONE: Where do they get the 320 hours?

15 MR. HANKS: I don't know. I just saw the number of hours.

16 MR. PENZONE: Does it have to be, like, through a
17 manufacturer? Is it through an accredited school? Where does
18 the --

19 MR. HANKS: I believe it just says "beauty school." I
20 don't -- not necessarily accredited.

21 CHAIRPERSON THOMPSON: Okay. I'm going to ask the board
22 what direction are we going to go with this? Sounds like
23 Mr. Penzone might want to chair a committee.

24 MR. PENZONE: No, no. I don't think so.

25 CHAIRPERSON THOMPSON: I see where we're heading here.

1 MR. PENZONE: You know what I would love to see? I keep
2 asking the question: What is it you want? And, perhaps, the
3 people that gave testimony today could do an outline of what
4 they think would be the approach for this board to take. I'd
5 love some input from the staff as to what inspectors would be
6 required to do. I don't see -- I mean, I think 320 hours seems
7 like a lot of hours.

8 MR. HANKS: Until it's your eyeball going to see the
9 ophthalmologist.

10 MR. PENZONE: I mean, you know, a handful of --

11 CHAIRPERSON THOMPSON: Eyeballs. That's what --

12 MR. PENZONE: -- handful of eyeballs is a handful of
13 eyeballs.

14 MR. HANKS: Until it's yours.

15 MR. PENZONE: No one's gone blind. No one's died.

16 MR. HANKS: I don't think we can say that.

17 MR. PENZONE: There's going to be some issue, no matter what
18 modality we're talking about. No matter what service we
19 provide, there's always some meteor that could come out of the
20 sky and hit you. But I think the risk is minimal. I think that
21 you would agree, wouldn't you?

22 MS. YOUNG: Yeah.

23 MR. PENZONE: Doing this day in, day out?

24 MS. YOUNG: I should let you know, there is professional
25 insurance for eyelash extensions, just eyelash extensions, and I

1 know we all carry insurance --

2 MS. SPATOLA: For mobile tanning, as well.

3 MS. YOUNG: -- for eyelash extensions. That's part of the
4 becoming part of the National Eyelash Education Safety
5 Association, as. Well, you have to have insurance.

6 MS. SPATOLA: Same with tanning.

7 MR. PENZONE: Did all of you have 320 hours of certification
8 training?

9 MS. RICHARDSON: No.

10 MR. PENZONE: So two days at eight hours a day. That's 16
11 hours, correct?

12 MS. RICHARDSON: Yes.

13 MR. HANKS: Ms. Richardson said it took her eight months for
14 the followup.

15 MR. PENZONE: Because she's part-time. She was working it
16 in with other stuff.

17 MR. HANKS: How much --

18 CHAIRPERSON THOMPSON: That's like aesthetics would be a
19 quicker route to go into the profession.

20 MS. RICHARDSON: What we're talking about is semi-permanent
21 lashes, so there's a risk between semi-permanent or clusters or
22 just strips. This is almost two totally different realms.
23 Clarify that.

24 CHAIRPERSON THOMPSON: Would you care to chair a committee?

25 MR. PENZONE: You're not giving me any choice here. Why

1 don't you ask me in front of everybody? Yeah. I'll chair it.

2 You know, I'd like to speak to you afterwards or if you can
3 give me a card.

4 MS. YOUNG: Absolutely.

5 MS. YOUNG: Maybe you might want to try some.

6 MR. PENZONE: I don't need to.

7 MS. YOUNG: I apply lashes on men as well.

8 DR. GUPTA: Can I make a suggestion?

9 MR. PENZONE: But the mites, I have lots of mites because my
10 eyelashes are really long.

11 CHAIRPERSON THOMPSON: Dr. Gupta.

12 DR. GUPTA: I would like to make a suggestion about the
13 tanning and the eyelash extensions, and there are other boutique
14 services as well, maybe we should have a committee just to
15 discuss all of these boutique services.

16 MR. PENZONE: Right. I agree with you. I think, instead of
17 chairing several different committees -- you're going to be on a
18 committee? I'll be on that committee with you, and whoever else
19 would like to.

20 MS. OSTERHAGE: So we're are combining them?

21 MR. PENZONE: Who lives nearest Columbus of you three?

22 MS. RICHARDSON: We are in Columbus.

23 MR. PENZONE: You're nearby? Perhaps you can sit on the
24 committee or something.

25 MS. RICHARDSON: I'd love it. That would be great.

1 MR. PENZONE: If you can get information to us.

2 MS. OSTERHAGE: So Chuck and Dr. Gupta and Mr. Penzone are
3 co-chairing?

4 MR. PENZONE: We're participating on a committee to look at
5 this. Dr. Gupta is going to chair it. I'll be assistant chair.

6 DR. GUPTA: Co-chairs.

7 MR. PENZONE: Right.

8 CHAIRPERSON THOMPSON: So we're going to call this boutique
9 services?

10 MR. PENZONE: Yeah. I think what I'll do, too, is I'll --
11 you know, Dr. Gupta's predecessor on this board was an
12 ophthalmologist, Dr. Yue. I'll contact Dr. Yue and talk to her
13 about her thoughts on this and get some input from her.

14 DR. GUPTA: Great.

15 CHAIRPERSON THOMPSON: The next case on New Business will be
16 the proposed change to human trafficking. Lori, do you want to
17 explain it?

18 MS. PEARSON: Absolutely. Chairman Thompson, members of the
19 board, when the human-trafficking posters went out in a mailing
20 to all of the salons, tanning facilities, it included in the
21 updated salon sanitary standards that we included the poster for
22 human trafficking as required in our Rule 4713-1-14. It states,
23 "Salon shall post human-trafficking posters in salons."

24 Once that mailing, kind of, hit the salons, we had a
25 tremendous amount of phone calls coming into the board asking

1 questions, mostly if they -- you know, why they have to post --
2 display these posters, where the posters must be displayed. The
3 rule does not designate a specific location within a salon as to
4 where to display these posters; but it does state that the salon
5 shall post them.

6 So I received a call from Maggie Toal from the governor's
7 office letting me know that the National Human Trafficking
8 Hotline received an overwhelming amount of phone calls from our
9 Ohio licensees who received these posters complaining about the
10 requirement to display these posters in a salon and why the
11 board would require such a thing of the salon. They were just
12 not happy with the posters.

13 Our Rule 1-14 states that, as required under Section
14 5502.63, under the laws, that it is required that salons post
15 these posters in a salon. However, the law actually states that
16 the posters shall be made available and encourage the display,
17 and, then, a beauty salon is listed in the listing of facilities
18 and businesses that would be encouraged to display. So it has
19 been brought to our attention several times, and my
20 recommendation would be, so that we are not going above what the
21 law requires, that we just make a revision to our rule that
22 would state, "As required under the Section 5502.63, salons are
23 encouraged to display the posters."

24 MS. OSTERHAGE: Encouraged or may?

25 MS. PEARSON: Encouraged.

1 MS. OSTERHAGE: The law says that they are encourages, but;
2 what we -- it's a choice.

3 (Mr. Taneff joined the hearing.)

4 MS. PEARSON: I'm sorry. Member Osterhage, could you repeat
5 that?

6 MS. OSTERHAGE: The 5502.63 states that we are encouraged
7 to, so would it not be proper language, maybe, counsel, to say
8 "may"; that we may -- salon may post posters?

9 MS. PEARSON: Actually, we could. I mean, if that would be
10 the desire of the board to change the wording to "may"; however,
11 the word "encouraged" is what is used in that law. And since it
12 is the governor's mission to get the human-trafficking
13 information out, I would think that "encouraged" -- you know, I
14 feel that the board should be in line with the governor's
15 request; and the governor is requesting that, as a board, we
16 encourage our facilities and salons to display this information.
17 Maybe "encourage" is the appropriate word.

18 MR. PENZONE: About 10 or 12 years ago, our company, along
19 with Attorney General, Jim Petro, at the time was the AG, our
20 company was the launcher of some program to make the
21 cosmetologists aware of spousal abuse, and that sort of thing.
22 Do you remember --

23 MS. PEARSON: "Cut It Out."

24 MR. PENZONE: We launched that program. The objective was,
25 primarily, to make the cosmetology community notice or be aware

1 of potential clients who potentially were being abused. Is our
2 mission to bring this to the attention of the cosmetology
3 community or to the public?

4 MS. PEARSON: Member Penzone, I believe our mission would be
5 to get the resource out to any persons within our licensed
6 facilities. So whether it be, you know, the customers that come
7 in and maybe see the poster and recognize that, you know, there
8 could be a situation. But I would think, most importantly,
9 probably, the person working inside of that facility --

10 MR. PENZONE: Should be able to identify the situation?

11 MS. PEARSON: Identify. Right.

12 MS. OSTERHAGE: If I may, Mr. Chairman, in this position,
13 and I'm a Licensed Social Worker in the State of Ohio. By
14 law -- and anybody who's an educator in the public school
15 system, we're required, by law, to report things like abuse and
16 neglect, so on, so forth. We're required to report that. Our
17 license is in jeopardy if we do not.

18 The words in our rule reflect recognition and handling as
19 part of that education. It would be my recommendation, from a
20 legal standpoint, that the word "handling" be removed because I
21 don't expect my licensed cosmetologists to handle anything.
22 They cannot -- I do not want them getting involved, if you
23 understand.

24 I'd love to hear your thoughts on that. I just -- I know
25 that, as a social worker, it's my job to evaluate a situation

1 and decide whether or not, but that's my training and my skill.
2 I'm required to do that by law.

3 (Ms. Benfer left the hearing.)

4 MS. OSTERHAGE: These people are not. They're going to get
5 a few hours in continuing education in human trafficking, which
6 does not, in any way, shape or form, put them in a place where
7 they are going to be educated enough to recognize when it's real
8 and to know what to do with it to handle it. So I, honestly,
9 feel as though that's probably not the best choice of wording
10 when it comes to this rule and how we're administering the
11 training. They are not going to be trained to handle anything.

12 CHAIRMAN THOMPSON: Did you say cross through "and handling"
13 in (a)?

14 MS. OSTERHAGE: I think we have recognition in here. What
15 does that mean?

16 MS. PEARSON: Member Osterhage, I believe that recognition
17 would be being able to, you know, view signs -- see signs of --
18 from the training of what would be maybe determined as possible
19 trafficking. Obviously, they're not going to be able to make
20 that determination. I believe "handling" in this instance
21 means, like, contacting the National Human Trafficking Hotline,
22 making the phone call.

23 MS. OSTERHAGE: So, Ms. Pearson, let me share what that --
24 how that might play out in a salon environment because we have
25 this with licensees. You know, we use the words "I think." I'm

1 trained, "I think there's a possibility that you may have lice."
2 Do you know how many times I've been threatened with a lawsuit
3 because the customer leaves, and what they heard was "I have
4 lice," and "Who are you? You're not a doctor. We took our kids
5 to the doctor. It's not lice. You are liable." So that
6 happens all the time.

7 Can you imagine what would happen if we pick up the phone
8 and report someone who we recognize as being potentially a part
9 of a human trafficking something, and that we're making a
10 report, and I don't know anything. I don't know if these are
11 anonymous calls. But the last thing I would want to do is put a
12 stylist or a salon owner in a position where someone's going to
13 say, "You have no right. You made some assumptions based on
14 something you heard, saw." These people are not going to be
15 trained well enough to take that kind of liability on or put
16 that kind of liability on me.

17 I, personally, have an issue. I think educating them about
18 what human trafficking is is really relevant. To have
19 expectations that they're going to do anything with it outside
20 of we're posting these in our break rooms, and the reason we're
21 posting these in our break rooms is my stylists know my
22 stylists, and if somebody weird is going on, they're going to be
23 in a position to maybe say, you know, "Maybe you should call
24 this phone number." I don't want them -- I don't want my
25 customers, my stylists to be telling my customer to call this

1 hotline. We're making assumptions based on -- they're not
2 trained to do that. They are not trained to -- if somebody
3 out-and-out said, you know, "I'm being -- I'm a victim," then,
4 you know, "Let me help you. Here's the phone." I just feel
5 like we're putting ourselves at substantial risk by saying we're
6 training people to recognize and handle human-trafficking cases.
7 I have a problem with that.

8 MR. PENZONE: Well, we put our posters in the employee
9 lounges and in the entrances for the staff to look at. I would
10 agree that it's a slippery slope, at best, to have someone on
11 your staff step into that realm and offer advice on trafficking.

12 CHAIRPERSON THOMPSON: We've got ours in the restroom. Your
13 client can go in anonymously, see the information and make their
14 decision, or not. We're encouraging. We're not making the
15 call.

16 MS. OSTERHAGE: Most of my customers don't use the restroom
17 while they're there. So I don't see myself -- I'd like to
18 ask -- there's a lot of things I'd like to teach them all about,
19 but, I mean, I can't. I think that it should be at the
20 discretion of the salon owner or manager to do that. And I'd
21 love your thoughts about that. I just feel like we're putting
22 ourselves in a funny place when we say "training and recognition
23 and handling of human trafficking." I would be much more
24 comfortable if those additional continuing education hours were
25 spent teaching people what human trafficking is, because,

1 believe it or not, there are people who don't know. That was
2 the reaction I got from stylists. "What is this? What is this?
3 What does that mean?" They don't know.

4 MR. PENZONE: Member Hanks, how do you handle it in the
5 schools?

6 MR. HANKS: Which part? The posters?

7 MR. PENZONE: The posters and the human-trafficking deal.
8 Now we're talking about kids that are -- a lot of kids that are
9 17, 18, 19 years old. How do you do it?

10 MR. HANKS: Well, no differently than of anyone else, I
11 wouldn't think. You know, the information is there. I would
12 view it probably a little differently than a situation where
13 someone is going to spend money to see if they have a lice
14 problem. If somebody gets an anonymous call, or whatever,
15 what's the liability issue there? The worst case, somebody that
16 has nothing to do with this board investigates it, and it's
17 either accurate or it isn't. There's no -- I'm not sure I'm
18 seeing the connection there.

19 MS. OSTERHAGE: As a license professional, as a social
20 worker, if I report child abuse to child welfare, just as an
21 example, Children's Services, I'm protected because there's,
22 obviously, something I saw. There was a reason, but I have a
23 license that protects me to do that.

24 This little bit of education that they're going to be
25 getting to make an inference or an assumption that someone is a

1 victim and to make a report or to direct somebody to do that,
2 people will take issue with that, Mr. Hanks. I mean, that's --

3 MR. HANKS: I don't disagree. I don't disagree, either,
4 with the handling part of -- and, to some extent, even
5 recognition. I mean, if we're not going to provide in-depth
6 training or force people to get a license like you have, it's a
7 difficult thing to put into words. I think we do have to be
8 cautious with that.

9 MS. OSTERHAGE: I feel like the governor wants the message
10 to be out there and people to be educated. I think that's the
11 goal. I think if we incorporate education about what human
12 trafficking is, I think that's awesome. I think that when we go
13 any further than that -- I mean, it's a real problem in our
14 country. It's something the governor chose to elevate to bring
15 attention to and I think that's awesome.

16 I don't think that we want to put our employees in a
17 place -- certainly, as a salon owner, I do not want to be put in
18 a place where I'm going get people calling me complaining
19 because we've reported somebody to somebody.

20 I'm very interested in the Captain's thoughts.

21 MR. MCCARTHY: Well, this is presumed valid. It's presumed
22 to be constitutional. It's the rule. It says what it says.
23 I'm not aware that we're prosecuting or we're seeking violations
24 against anybody at the moment in any cases. If the board would
25 like to make a motion to propose revised language, that may,

1 certainly, be in order.

2 MS. OSTERHAGE: Okay. Just reflecting on the use of the
3 word "recognition and handling," do you have any thoughts about
4 that? If you don't, it's not a --

5 MR. McCARTHY: Probably should not speculate as to that. If
6 you would like, I'm certain we could come forward with proposed
7 language, and the board certainly could consider whether to
8 adopt or deny a change.

9 MS. OSTERHAGE: I would propose that we just change the
10 verbiage, if we can, if others agree, just so that it says, "All
11 licensees and individuals seeking to become licensees shall
12 receive training on human trafficking," get rid of "cases,"
13 "either while training in a school of cosmetology or through a
14 continuing education program."

15 MR. PENZONE: Do you need to add time in your curriculum --
16 the curriculum committee to put time in here for schools? And
17 how many hours? Another 300 hours to be able to identify human
18 trafficking?

19 MR. HANKS: Did you just advocate for increasing the
20 training?

21 MR. PENZONE: Yeah. I'm all for regulating.

22 DR. GUPTA: The current training in schools, they would get
23 the education at this point.

24 MS. OSTERHAGE: We've already stipulated that.

25 CHAIRPERSON THOMPSON: Do you want to go ahead?

1 MS. OSTERHAGE: I would like to make a motion that we revise
2 4713-1-14, Trafficking Education to read, "(A), All licensees,
3 and individuals seeking to become licensees, shall receive
4 training in human trafficking, either while training in the
5 school of cosmetology or through a continuing education
6 program."

7 Furthermore, I would like to suggest we revise letter (b),
8 "As required under Section 5502.63 of the Revised Code, salons
9 are encouraged to post posters prepared by the Division of
10 Criminal Justice Services," so on and so forth.

11 That's my motion.

12 CHAIRPERSON THOMPSON: Do we have a second?

13 MR. TANEFF: Second.

14 CHAIRMAN THOMPSON: Any discussion?

15 MS. SHEIPLINE: May I ask a couple questions?

16 CHAIRMAN THOMPSON: It's a good time.

17 MS. SHEIPLINE: Just a couple things I have on this issue,
18 which, as Member Penzone brought up, you know, I mean, I know
19 we've talked before about if this needs to be added into the
20 school of -- you know, for schools of cosmetology, that we need
21 to add that into your curriculum, and also with continuing
22 education. I've just always had some concerns because I'm not
23 an expert on human trafficking, and so I'm not -- there's
24 nothing in Pivot Point, and there's nothing in Milady that would
25 have human trafficking in it. So I don't know what resource we

1 would want to -- you know, don't you think we should have a
2 recommended resource in which we're going to gain that
3 information. Are we going to be provided with something like
4 that or a recommendation?

5 MS. PEARCE: Chairman Thompson, Member Sheipline, I have a
6 meeting next week with Maggie Toal from the governor's office,
7 as well as a representative from National Human Trafficking
8 Education. They do have -- currently, they have, like, about a
9 half-hour video education on just a generalized topic. They are
10 going to work with us on maybe getting an additional half hour
11 or more of our industry-specific information.

12 The requirement for the one-hour continuing education of
13 licensees will go into effect for the upcoming renewal period.
14 So it actually states that licenses will receive an hour of
15 human-trafficking continuing education, and that will begin with
16 the 2015/'17 renewal period.

17 So I'm waiting to find out how the meeting is going to go
18 next week, but hopeful that we would be able to provide,
19 possibly via our website, like an online type of education that
20 would give this information, or, at least, have that information
21 provided.

22 MS. SHEIPLINE: One other piece that somebody asked me, and
23 it was just food for thought. What if someone had seen a human
24 trafficking course offered through, like, a peace officer type
25 of a thing, and I don't know, necessarily, that it had anything

1 to do with, you know, our industry, just that it was out there.
2 It was, like, a two- or three-hour course. So if I chose to
3 take -- you know what I mean? If I found one that was available
4 for two hours, will only one of those hours count for continuing
5 education? Like, how would you address that if somebody applied
6 and wanted to do a course that was worth more than one hour?

7 MS. PEARSON: It, actually, would be applied as one hour of
8 continuing education is the requirement for human trafficking
9 for continuing education. The hours have other requirements
10 associated with those, and it was designated in a rule that one
11 hour would be designated to human trafficking.

12 MS. SHEIPLINE: Okay.

13 CHAIRPERSON THOMPSON: Can we have a motion first?

14 DR. GUPTA: I have another question. I agree that the
15 changes in part (a), but in part (b) to change "shall" to
16 "suggest," I mean, I'm just wondering about that.

17 CHAIRPERSON THOMPSON: She changed it "encourage."

18 DR. GUPTA: To encourage, which means that you don't have to
19 basically post this.

20 MS. OSTERHAGE: Ms. Pearson and I talked about this a little
21 bit. The rule, as we wrote it, superseded the law. So the law
22 says that we're encouraged; but we wrote the rule to say that we
23 shall, which we can't do that. We can't -- our rule cannot
24 supersede the governor's law. So going back to go 5502.63,
25 which says we're encouraged. We can't require.

1 DR. GUPTA: Okay.

2 MS. OSTERHAGE: Does that make sense?

3 MS. PEARSON: It has been suggested that since the human
4 trafficking rule actually has already been enacted and in
5 proposed language, you should make your motion for a revision of
6 the language. We'll come back with that proposed language and
7 present discussion on the proposed language, which, during the
8 meeting should be not taking place, because it was already
9 enacted. So the specific wording -- as to the specific wording.

10 MS. OSTERHAGE: Okay. That's different. Okay.

11 MR. HANKS: And I would hope -- okay. So let me make sure I
12 understand that. We have a motion to address the language.
13 That's what we're voting on. But I would also like to see that
14 the results of your meeting next week are somehow incorporated
15 into that. I mean, I assume it will be; is that fair?

16 MS. PEARSON: As soon as I have the information from the
17 meeting, I will send that out to everybody, along with the
18 proposed language. You know, it can be sent.

19 MR. PENZONE: Ms. Pearson, do you have any idea how many
20 other boards are going through this exact same struggle with how
21 to do this? Is the Medical Board going through this with
22 posters? I realize the human trafficking is a horrible,
23 horrible thing that we would love to see taken out of this
24 world. Okay. But, I mean, is the restaurant industry being
25 encouraged to put up these posters? How many boards are we

1 looking at?

2 MS. PEARSON: Member Penzone, the list includes beauty
3 salons is a highway truck stop, hotels, adult entertainment
4 establishments, beauty salons, as defined in 4713, hospitals,
5 Urgent Care centers, any place where there is occurring a
6 contest or a championship, division conference, fairs, massage
7 parlors, spas, alternative health.

8 MR. PENZONE: So we're running good company.

9 CHAIRPERSON THOMPSON: We have had a motion and second. Did
10 you say we're taking a vote?

11 MS. PEARSON: Correct. To revise the language.

12 CHAIRPERSON THOMPSON: To revise the language.

13 Any further discuss?

14 (No response.)

15 CHAIRPERSON THOMPSON: Roll call, please.

16 MS. FLANERY: Dr. Gupta.

17 DR. GUPTA: Yes.

18 MS. FLANERY: Mr. Hanks.

19 MR. HANKS: Yes.

20 MS. FLANERY: Mr. Taneff.

21 MR. TANEFF: Yes.

22 MS. FLANERY: Mr. Penzone.

23 MR. PENZONE: Yes.

24 MS. FLANERY: Ms. Osterhage.

25 MS. OSTERHAGE: Yes.

1 MS. FLANERY: Ms. Benfer.

2 (No response.)

3 MS. FLANERY: Ms. Sheipline.

4 MS. SHEIPLINE: Yes.

5 MS. FLANERY: Mr. Thompson.

6 CHAIRPERSON THOMPSON: Yes.

7 The next item is the enforcement of permanent makeup.

8 And, Lori, I'll let you to explain this.

9 MS. PEARSON: Chairman Thompson, members of the board,
10 currently, 4713-08-09 changed. It was enacted back November 1st
11 of 2013; and the change requires that
12 cosmetologists/aestheticians are the only board licensees that
13 would be able to provide permanent makeup services. Previously,
14 prior to this rule change, any licensee of our board would be
15 able to provide permanent makeup services within a salon, as
16 long as they have their 60-hour certification displayed and some
17 other requirements.

18 This rule changed, so no longer can any board licensee, but
19 it must be a cosmetologist or aesthetician to provide permanent
20 makeup in one of our salons -- licensed salons. It was changed.
21 However, we have, otherwise, seen the inspectors run across lots
22 of manicurists and different people who have, maybe, been
23 providing permanent makeup in their salon for five, six eight
24 years, and now our rule states that they would be out of
25 compliance. There was no grandfathering clause put into place

1 when this rule was changed. So, at this point, we, either, need
2 to -- the board should decide to enact a grandfather clause for
3 licensees who are, you know, and have been operating and giving
4 permanent makeup services or to look at making a change back to
5 the previous ruling.

6 MS. OSTERHAGE: What did the -- Mr. Chairman, Ms. Pearson,
7 what did the previous -- what did it say previously?

8 MS. PEARSON: Board licensees.

9 MS. OSTERHAGE: So it didn't stipulate
10 cosmetologists/aestheticians?

11 MS. PEARSON: That is correct.

12 MR. PENZONE: If I could speak on it. I mean, I mentioned
13 earlier we have a lot of aestheticians. We have 57 of them.
14 Two of them are licensed or certified to do this particular
15 service. We've vacillated and thought about it. And, I mean,
16 it's a -- you know, I think we're talking about a permanent
17 tattoo, basically.

18 To me, more than any of the other testimony we've heard
19 today, this is -- I think we need to think long and hard about
20 this one, but I don't know how -- do we have an idea of knowing
21 how many existing permanent makeup artists there are in our
22 community right now?

23 MS. PEARSON: Member Penzone, I would not even begin to
24 guess at the number that we would have in our community. The
25 problem that we're having is we have inspectors -- and

1 Ms. Lamantia can speak to that. The inspectors go out, and
2 they're running across -- and it happens fairly -- I would say
3 weekly, where they're running across, like, a manicurist, for
4 example, who's providing permanent makeup. They have the
5 certification. They've been doing it for several years, and,
6 now, they're out of compliance. So, you know, do we simply put
7 something into effect to, you know, make sure that they're not
8 being reprimanded for something that they've been permitted to
9 do over the past several years, you know, or --

10 MR. PENZONE: I think you have to grandfather them. I think
11 you'd be opening up a real can of worms if we didn't grandfather
12 them. Going forward, I think it should be an aesthetician and
13 certification.

14 MS. OSTERHAGE: Can someone describe for me what permanent
15 makeup -- what is that?

16 MR. PENZONE: Tattooing, basically.

17 MS. OSTERHAGE: So it involves needles?

18 DR. GUPTA: Right. It involves, usually, a needle gun of
19 some kind. It can be hand done, but it is a tattoo,
20 essentially.

21 MS. OSTERHAGE: So, historically, we've allowed manicurists
22 to do permanent makeup?

23 MS. LAMANTIA: That's correct.

24 MS. OSTERHAGE: And these are people who, just because they
25 had a license, were allowed to do it; it's not that they were

1 trained?

2 MS. SHEIPLINE: No, they would have their 60 hours.

3 MS. LAMANTIA: In our facility, we require 60 hours of
4 permanent makeup training.

5 MS. OSTERHAGE: So they are getting training?

6 MS. LAMANTIA: If they do it in our facility. If they go
7 down the street, there's no other regulation, other than a
8 permit from the health department.

9 MS. OSTERHAGE: What do you mean "our facility"?

10 MS. LAMANTIA: If they're not in a beauty salon, they can't
11 do --

12 MR. HANKS: Performing the service, right?

13 MS. LAMANTIA: Yeah. They can do permanent -- anybody can
14 do it.

15 MR. PENZONE: Yeah. Tattoo artists don't need a license.

16 MS. OSTERHAGE: That's correct.

17 MR. PENZONE: Except in a beauty salon.

18 MS. LAMANTIA: In a beauty salon, we allow permanent makeup
19 artists; we don't allow tattooing.

20 DR. GUPTA: If someone sets up a -- let's say whoever sets
21 up a permanent makeup little business, and he's not considered a
22 salon --

23 MS. OSTERHAGE: It would be a boutique service.

24 MS. SHEIPLINE: For the record, too, Mr. Chairman, I have a
25 student, an aesthetics student who is interested in tattooing,

1 not permanent makeup; and so, I actually made a visit to the
2 health department to ask about the requirements, you know, just
3 to get some feedback to educate her. One of the requirements
4 were that they show proof of infection control training. And I
5 said, "Well, how many hours?" Well, there is no amount of
6 hours. It could be a two-hour course; it could be a 120-hour
7 course. I was just blown away. And I said. "Okay. Well,
8 she's an aesthetician. Could she show proof -- how could she
9 show proof she's taken it?" And he said, "Well, she could just
10 have the course of study from the aesthetics course and her
11 license may be on the premises, and that health inspector would
12 look at that and say 'That's fine.'"

13 And, then, I said, "How many hours of tattooing would she
14 need to have?" And he said, "Well, they have to show -- they
15 have a form that says that the student has apprenticed." And I
16 said, "How many hours of apprenticeship would they have to
17 have?" And he said, "Well, we don't really have a requirement
18 as to how many hours." So, I said, "Again, they could have one
19 hour of apprenticeship, or they could have 400 hours of
20 apprenticeship?" "Yes."

21 So, I mean, it's just surprising -- I'm just really shocked
22 that tattooing -- it's kind of scary that there's so few
23 regulations, whatsoever, on just tattooing itself. I mean,
24 there's really nothing.

25 DR. GUPTA: We have offered the service in my office. We

1 don't currently. But I've had, probably, three or four
2 different people administering aestheticians to nurses over the
3 years. Some of them have been really exceptional. Again, it's
4 an art. It's an art form. But it has to be learned correctly
5 because that ink can dissipate into the skin if it's not placed
6 correctly and really creates a problem.

7 MS. SHEIPLINE: I just even feel like, with that, you know,
8 I mean, with the training, it's certainly -- I mean, you're
9 puncturing the skin. They're puncturing the skin with a needle.
10 So, you know, there would definitely be a need for a higher
11 level of decontamination. They need to be sterilizing
12 everything. And, again, to say there's no requirement for a
13 tattoo artist, not a permanent makeup, but a tattoo artist to --
14 that they could have an hour's worth of infection control
15 training, I just was very surprised on a personal level that
16 that was it.

17 MS. PEARSON: Chairman Thompson, members of the board, it
18 would be a local health department decision. Each of the health
19 departments would be a little different because it's local, for
20 one thing. As far as tattooing, I'm sure that would be the same
21 as permanent makeup.

22 As far as requirements for permanent makeup, as it stands
23 currently with our rules, it would be cosmetologists or
24 aestheticians within of our licensed facilities. Certainly, if
25 somebody is going and providing permanent makeup outside of one

1 of our licensed facilities, we cannot attempt to try to regulate
2 that person. In one of our licensed facilities, they are also
3 going to be required a health department certificate and
4 60 hours of training.

5 The problem that the inspectors run into is the managers and
6 the different people that have been providing this service now
7 for several years, and the rule changed; they really were
8 unaware that the rule changed. So the suggestion would be to
9 develop grandfather clause language to put a date on this to let
10 people that are already practicing continue. And, then, going
11 forward, you know, it would be the cosmetologists and the
12 aestheticians.

13 MR PENZONE: You know, personally, I wouldn't have anyone
14 but an aesthetician do it in our location. However, I think,
15 given what a tattoo artist can do with no license or anything, I
16 think the status quote is fine with me. Someone licensed in our
17 industry that did become certified on top of that would be fine.
18 And, you know, I would put a motion into effect basically saying
19 that.

20 MS. PEARSON: The status quo, as the rule, as has already
21 been in enacted, would be a cosmetologist or aesthetician only.

22 MR. PENZONE: That's what it is.

23 MS. PEARSON: It was enacted on November 1st.

24 MS. OSTERHAGE: Grandfathering is the question.

25 MR. PENZONE: Okay. So I would encourage the

1 grandfathering. I mean, I would make a motion to that effect;
2 that we grandfather those people that have been certified, that
3 have a license by the State of Ohio and have been certified and
4 practicing.

5 DR. GUPTA: I second that.

6 MS. PEARSON: Member Penzone, unless the board would desire
7 to look at the rule again, as a whole, to look at the
8 language -- the old language maybe being brought into the new
9 language. That would be -- that's your two options.

10 MR. PENZONE: So I could make a motion to --

11 MS. PEARSON: To look at the revision of the rule, not the
12 specific -- I would have to get language together and then come
13 back.

14 MR. PENZONE: I would make a motion to that effect.

15 CHAIRPERSON THOMPSON: Do we have a second?

16 DR. GUPTA: I second that.

17 MR. PENZONE: Ms. Flanery, did you get that? Do you want to
18 read it back?

19 MS. FLANERY: The question is to bring back language --

20 MS. OSTERHAGE: Wait, wait, wait. We're reverting or we're
21 bringing -- we're bringing both sets of language?

22 MR. PENZONE: We're revisiting the verbiage, or whatever.

23 MR. HANKS: Same as the last motion. You're going to bring
24 language back to us based on what we've discussed here and we'll
25 vote?

1 MS. PEARSON: That's right.

2 MS. OSTERHAGE: Not changing it back; bringing it back to
3 us. Sorry.

4 MR. PENZONE: That was my motion. Did I get a second?

5 MS. OSTERHAGE: Dr. Gupta seconded.

6 CHAIRPERSON THOMPSON: Discussion?

7 (No response.)

8 CHAIRPERSON THOMPSON: Roll call.

9 MS. FLANERY: Dr. Gupta.

10 DR. GUPTA: Yes.

11 MS. FLANERY: Mr. Hanks.

12 MR. HANKS: Yes.

13 MS. FLANERY: Mr. Taneff.

14 MR. TANEFF: Yeah.

15 MS. FLANERY: Mr. Penzone.

16 MR. PENZONE: Yes.

17 MS. FLANERY: Ms. Osterhage.

18 MS. OSTERHAGE: Yes.

19 MS. FLANERY: Ms. Sheipline.

20 MS. SHEIPLINE: Yes.

21 MS. FLANERY: Mr. Thompson.

22 CHAIRPERSON THOMPSON: Yes.

23 The next item under New Business is tanning shutoff switch.

24 We heard from Mr. Gallagher earlier.

25 MS. PEARSON: Director Thompson, members of the board, I

1 would like for Meg Lamantia to speak on this rule.

2 MS. LAMANTIA: As Mr. Gallagher spoke earlier on the shutoff
3 switch on the tanning unit, our rules are the same as the FDA.
4 But, now, in our new rules that we just changed in November, we
5 added the verbiage, "within an arm's reach" for the emergency
6 shutoff to be. I guess I really don't know exactly how we can
7 do this smoothly, if at all. But maybe --

8 MS. OSTERHAGE: Where is the rule?

9 MS. LAMANTIA: It's in Chapter 19, Tanning (4)(d).

10 It says, "Each sunlamp product shall incorporate, within
11 arm's reach of a user, a control on the product"; and that's
12 kind of the keyword right there, "on the product."

13 A lot of the tanning facilities have -- and have for a long
14 time, a cord that goes from the bed to the wall to a shutoff
15 switch that's on the wall. Now we added in our verbiage "within
16 an arm's reach of the user." Well, on the wall is still within
17 an arm's reach, but it's not on the product.

18 MS. SHEIPLINE: Is the cord attached to the tanning bed,
19 though?

20 MS. LAMANTIA: It is.

21 MS. SHEIPLINE: The cord is attached to the -- so you would
22 not consider that a shutoff switch that has a cord that runs to
23 the product part of the product?

24 MS. LAMANTIA: It's not on the product.

25 MS. SHEIPLINE: But the cord is attached to the product, is

1 what I'm saying?

2 MS. LAMANTIA: That's true, yes. Now, the FDA will
3 interpret it that way. I guess what we need do is be able to
4 get all on the same page so that if we will accept that as
5 "on the product," plugged into the bed, plugged into a unit, on
6 the wall.

7 MS. SHEIPLINE: I would think the electrical cord would be
8 part of the product, so I would think a cord that is attached
9 to -- a shutoff switch would be part of the product. Just
10 because it's not physically on it does not mean it's still not
11 connected.

12 MS. LAMANTIA: Some people are going to arguing that it's
13 not on the product. So if we could come up with some kind of
14 common verbiage that our rules and the FDA rules -- I've spoken
15 with the representative at the FDA earlier today, and she states
16 it how I've stated it to you. The law states "on the unit."
17 And I think we all know what "on the unit" means, but are we
18 going to accept a wire from the unit to the wall as on the unit?

19 MS. OSTERHAGE: Is the public any more at risk because it's
20 on the wall?

21 MS. LAMANTIA: As long as it's within an arm's reach on the
22 wall or on the unit, that's the biggest thing we want to be able
23 to do is kill the power.

24 MS. OSTERHAGE: Has our rule always said "within an arm's
25 reach"?

1 MS. LAMANTIA: No, that's just the heading.

2 MS. OSTERHAGE: So that part's new?

3 MS. LAMANTIA: Yes.

4 MS. OSTERHAGE: And these beds that are very old that don't
5 have the shutoff -- the kill switch on the product -- on the
6 unit, those beds, are tanning providers able to move those beds
7 close enough to the wall so they are within an arm's reach?

8 MS. LAMANTIA: Well, I can't speak for all of them, but I
9 think they could possibly.

10 MS. OSTERHAGE: But maybe or maybe not?

11 MS. LAMANTIA: I think it could be done with altering the
12 unit. If they could put a switch on the wall that -- because
13 that's the biggest thing: We want the customer to be able to
14 kill the power. Even if it's on the unit, it might not even be
15 that easy to reach, if it's down at the bottom or if it's back
16 on the side.

17 MS. OSTERHAGE: Does the FDA oversee tanning salons?

18 MS. LAMANTIA: Their inspections?

19 MS. OSTERHAGE: No. The equipment. So they stipulate --
20 they're now stipulating on the unit, arm's length?

21 MS. LAMANTIA: They don't have the arm's length. They've
22 always had their set of FDA rules. In their FDA rules, it's on
23 the unit.

24 MS. OSTERHAGE: It's always said that?

25 MS. LAMANTIA: As long as I've been inspecting tanning, yes.

1 MR. GALLAGHER: I have a letter from a device manufacturer
2 that can interpret this or give you a better description, if
3 you'd like to hear it.

4 MR. PENZONE: Well, is the objective to eliminate
5 electrocution or over tanning? What's the --

6 MS. OSTERHAGE: Yeah.

7 MR. PENZONE: What's the deal here?

8 MS. LAMANTIA: To be able to kill the power. If you're in
9 the tanning unit and you have issues and you need to shut it off
10 quickly, you have to be able to reach the power to shut it off
11 without pulling the electrical plug.

12 MR. PENZONE: I'm trying to think of what could the issue be
13 that you have to shut the power down? Is it electrocution?

14 MS. LAMANTIA: It could be.

15 MR. PENZONE: There's only got to be two things:
16 Electrocution or over tanning.

17 MS. LAMANTIA: If you were overheating or you felt like you
18 were --

19 MR. PENZONE: Can't you just get out of the bed?

20 MS. LAMANTIA: Yeah, you could.

21 MR. HANKS: Wasn't there a story recently where the bed
22 actually wouldn't open or something, and somebody kind of got
23 trapped in it?

24 MR. PENZONE: Could you reach -- so what if it's arm's
25 length from you, you can't open the bed to get to it?

1 MR. HANKS: Well --

2 DR. GUPTA: It sounds like you should is have a switch in
3 your hand like a patient button.

4 MR. PENZONE: How about just a bucket of sunblock next to
5 the bed? I mean, I don't understand some of this stuff.

6 MS. LAMANTIA: Well, it came to light last week when we --

7 MR. PENZONE: How have we survived without the shutoff
8 within an arm's length from the bed all these years? I can't
9 remember when there wasn't tanning in the industry, and now this
10 comes along.

11 MS. SHEIPLINE: Would it be broad to say "accessible to the
12 client"? Because anyone who's worked in the tanning industry
13 knows that the electrical cord that plugs in, you know, to the
14 220 is not accessible to the client nearly as well as a shutoff
15 switch, whether it was two arm's lengths away. I mean, unless
16 I'm going to crawl under a bed or around a bed or physically
17 lift it and move it. I mean, the cord to the 220 is not
18 accessible.

19 MS. LAMANTIA: Right.

20 MS. SHEIPLINE: You know, to me, I'm, like, can't we just
21 put something that's just -- is that too broad to say
22 "accessible to the client"?

23 MS. LAMANTIA: I would like to just ask that it would be
24 acceptable if it was within arm's reach, if it's on the wall, if
25 it's on the stand, if it's on the bed. The biggest thing is the

1 customer can kill the power without -- that's the reason I
2 believe that it got put into play to have an emergency shutoff
3 is that, if need be, the customer can quickly shut the power
4 down, wherever the switch is within their arm's reach.

5 CHAIRPERSON THOMPSON: So you're asking us, do we need to
6 change this rule?

7 MS. LAMANTIA: Well, we can't -- I mean, this, kind of,
8 poses another issue that we can't -- our rules have to follow
9 what the FDA rules are. The FDA says "on the product," but,
10 then, Mr. Gallagher has a letter from the FDA that says how they
11 would interpret on the product.

12 CHAIRPERSON THOMPSON: Mr. Gallagher, isn't the whole thing
13 U.L. approved and everything with a button right to the power
14 source?

15 MR. GALLAGHER: Well, U.L. and TSA, they did any of the
16 three; but we have to follow what they call GMP, which is Good
17 Manufacturing Practices. That's what all tanning devices have
18 to follow. There's actually -- it's a step above a U.L., that's
19 typical U.L. rating.

20 CHAIRPERSON THOMPSON: My television, I consider the cord
21 part of the appliance. You have lamps that have switches that
22 are in line that are part of the device.

23 MR. HANKS: Mr. Gallagher, are units now being made with the
24 shutoff switch in a different place than it used to be? Did the
25 FDA's ruling, whenever that happened, cause the manufacturers to

1 start putting the shutoff switch in a different place than it
2 was before?

3 MR. GALLAGHER: Well, the FDA stipulates the medical device
4 itself and the performance standards of it and the user
5 instructions. So the user instructions is based on the manual
6 that's submitted to them. So, technically, the timer control
7 itself has not said, well, it's got to be physically screwed to
8 the bed, and they've got to have it inside the bed. But what
9 came about was people were getting injured. They weren't able
10 to get -- like you had heard, somebody got stuck in a tanning
11 bed. There is truth to that.

12 So what they said -- rules came in, and the State of Ohio
13 was instrumental in this -- is that remote timers were required.
14 Well, manufacturers started making tanning beds with cords on
15 them that they could take and drape outside the room, but, then,
16 there was no control switch on the tanning bed; but it was on
17 the box that was intended to be right next to the device where
18 they could reach their hand and shut it off. The interpretation
19 kind of got a little out of whack because people did that, and,
20 then, the State came back in and said, "You have to have it
21 within an arm's reach so that if somebody did get stuck."

22 By the way, it did happen in Cincinnati, Ohio, in a
23 residential situation, not a commercial situation. They
24 couldn't get out of the tanning bed.

25 Well, by being able to terminate the electrical power

1 internally, without unplugging the bed or taking the lamp out of
2 the bed is what the FDA put in. The FDA says you have to. But
3 part of the device where the cord -- there's a misinterpretation
4 of the cord on it. And the user instructions are to say that
5 you are able to control even the time within the reach of the
6 person there. Well, in doing that, the interpretation was on
7 the bed, meaning screwed to the bed. Well, you can't alter a
8 tanning bed. It's against FDA guidelines. So, if you even
9 drive a screw in it, it's altering the bed. And so you're in a
10 catch-22. That's what I was saying earlier was the catch-22,
11 and you can't do it. So in some cases, they put them on posts
12 and screw them to the floor or they put them next to the tanning
13 bed.

14 The medical device expert that I had talked to that is our
15 liaison between the Indoor Tanning Association and the Food and
16 Drug Administration clearly said it's an interpretation issue
17 now and asked for an OPIE letter from the FDA that they say that
18 it cannot be the corded device in regards to the medical device
19 because these are approved medical devices through the FDA, and
20 if they approve a device that doesn't comply, then, they've got
21 an issue. So these devices were designed and comply to have the
22 cord on it.

23 The arm's reach is also considered the FDA guideline as
24 well. So, you have FDA and State of Ohio. I was part of the
25 State of Ohio stuff. I wanted to get that in because of the

1 injuries that were happening with people getting stuck in
2 tanning beds. That was probably, like, 2002.

3 MR. PENZONE: How often does that happen someone gets stuck?

4 MR. GALLAGHER: Well, not any more, but a chain in the State
5 of Ohio had a timer get stuck because a screw came out when
6 there were dialing in the times and a girl got severely burned.
7 They got a lawsuit filed against them. They contacted us, and
8 we developed a remote timer system, which there was never any
9 part of in the United States at that time in Ohio, and it moved
10 across the country.

11 Now the timers that are designed in tanning beds have plugs
12 that plug in to make them remote timer controlled. That's why
13 the State of Ohio implemented that rule, the remote timer
14 control, because they did get burned. They got contacted by the
15 litigant and the salon owner, which had multiple stores. At the
16 time, it had 50 beauty salons with tanning beds in it, and
17 that's why that -- that's why all of this is coming about. It's
18 kind of taking its own head, so to say, and going a different
19 direction.

20 MR. PENZONE: When you say a severe burn, this person in
21 Cincinnati, in the residence, it wasn't commercial?

22 MR. GALLAGHER: Right.

23 MR. PENZONE: It was a residence. What was the result of
24 that person being stuck in the bed? How serious of a burn was
25 it?

1 MR. GALLAGHER: They got second-degree burns over their
2 entire body. They were stuck in it for three hours. She fell
3 asleep is what it was. And, when, she tried to pick the bed up,
4 she was tired. She was elderly. She got burned pretty bad.
5 But it was second-degree burns over her entire body. She did
6 survive from it. It hit the national news and all that. But
7 some of that premise -- but the incident I'm talking about in
8 the beauty salon was in 1991.

9 After that is when we started going in and saying, "Look,
10 this could be dangerous." As an industry, we did. We said,
11 "This could be dangerous. Let's create a solution." Now it's
12 adopted all over the place that you have it. And part of that
13 device that she talked about that's the control switch,
14 underneath it, it has phone jacks to hook the remote timer
15 hookup. It's got a universal remote timer hookup. That's why
16 those boxes were developed.

17 MR. PENZONE: If she hadn't fallen asleep, would she have
18 been okay?

19 MR. GALLAGHER: Maybe; maybe not. In some of the real old
20 devices, they had electric lifts in them. If the power for the
21 electric lift went out -- let's say it became worn out,
22 potentially, if the control relays in the bed were engaged, and
23 they couldn't pick the bed up because it weighs too much or it's
24 got a lock on it, therefore, it could cause injury. So it could
25 cause injury if they could not get out in some cases. So the

1 emergency control switch is -- it is an important device that's
2 needed for the tanning bed, and we support it being within an
3 arm's reach.

4 MR. PENZONE: Are we looking to vote on this today? Or are
5 we looking to make some language changes?

6 MS. LAMANTIA: I guess what we -- we can't change our
7 language if it complies with the same as what the FDA rules are.
8 But if we could, and as Marty said, the FDA's interpretation is
9 that, even though it says "on the product," it's designed to
10 comply with the cord on the wall. If we would accept that "on
11 the product," the cord -- we had an inspection last week of a
12 new tanning inspection where the shutoff was on the wall, the
13 cord into the bed, and the inspector questioned whether or not
14 that would --

15 CHAIRPERSON THOMPSON: She's looking to us for guidance.

16 MR. PENZONE: We need some sort of clarification for the
17 inspector.

18 MS. LAMANTIA: Yes.

19 MS. SHEIPLINE: You want -- is it you want a gentleman's
20 agreement that we all agree that it could be attached to the
21 wall and that would be fine?

22 MS. LAMANTIA: That would be --

23 MS. SHEIPLINE: And there's no need to change maybe the
24 language; but everyone here, in a public forum, agrees that it
25 could be attached to the wall. Is that, kind of, what you're

1 looking for?

2 MR. PENZONE: Do we need a motion?

3 MS. PEARSON: No.

4 MS. LAMANTIA: And "on the product" would be acceptable.

5 MS. SHEIPLINE: So, on the product, on the wall, as long as
6 it's within arm's reach, we're good.

7 MR. PENZONE: I would accept that.

8 MR. GALLAGHER: We support that as an industry as well.

9 MS. SHEIPLINE: I think that would be workable.

10 MS. LAMANTIA: Okay.

11 MR. PENZONE: I think we should make them drink a lot of
12 caffeine before they get in so they don't fall asleep. I like
13 the idea of a bucket of sunblock.

14 DR. GUPTA: Do they have a panic button or anything?

15 MR. GALLAGHER: The new equipment out there -- I mean, this
16 is really equipment prior to 2002. You know, the industry
17 started getting really electronically savvy, so, now, they're at
18 the top of the bed near your face.

19 DR. GUPTA: You just turn it on right there.

20 MR. GALLAGHER: Some of them are on the side. But a lot of
21 them still have the cord, in the event that they don't have a
22 requirement where they can hang it on the wall outside the bed
23 itself. Some states have it. Ohio just so happens to be very
24 sophisticated in the regulation, which is a good thing. It
25 protects the consumer.

1 CHAIRPERSON THOMPSON: The next item is Proposed Language
2 Change. Board Member Sheipline.

3 MS. SHEIPLINE: Okay. Looking at 4713-5-17, this was a
4 piece that had went to JCARR. This is another interpretation
5 issue. Because it's come to our attention that one way that --
6 and we do not have 47 -- we do not have 5-17 in our stack, so
7 I'll read to you which portion it is. So at 4713-5-17.2, "At
8 least two instructors shall be present in clinic and classroom
9 if a clinic and classroom are conducted concurrently."

10 The interpretation that can be taken from that piece is that
11 if you walked into my classroom, or any other teacher's
12 classroom, and a student was working on a workbook or studying
13 flashcards, or doing anything of that nature, because that would
14 be a theory activity, that you could actually be in violation
15 and you could receive a violation. And so just between the
16 public and the private schools, we would like to change the
17 language. In essence, we would rather see students who have
18 some downtime, or who are waiting for a chemical to process,
19 studying flashcards rather than Instagraming or Tweeting or
20 doing something that is not related to cosmetology. So we would
21 like to propose a language change. And, if I may, I'll just
22 read you that language change, what that would look like.

23 "Should an instructor, operating within ratio," that would
24 still be the no more than 25 students, "determine that a student
25 would benefit from additional training in a particular subject,

1 and the instructor can feasibly and effectively oversee the
2 student's theory activity with no impact on the instructor's
3 ability to oversee those clinic operations, the student may
4 clock theory hours under the direct supervision of the clinic
5 instructor."

6 So we're not asking that student be able to double dip,
7 per se. If you're working on theory during that time, you know,
8 we're happy to say that they're going to work on theory and
9 they're going to make up those theory hours. We don't want to,
10 like I said, double dip on theory and clinic hours. But, as
11 instructors, we just feel, within our own schools, that there
12 are times when we need to administer a very individualized
13 education for somebody. I may be able to identify that this
14 student -- I don't want them doing a highlight because I don't
15 think they have passed their theory certification; they need
16 more training; I don't feel comfortable in their formulation
17 yet. If I have the time, if I have some other students busy
18 with another task where I have the time and I'm able to do that,
19 I just want to be able to have the authority to execute that
20 extra theory to that one individual if I want to without
21 violating any rules.

22 And, again, if students want to multi-task and be waiting on
23 something to process, and they want to get out a workbook and
24 study some more or study flashcards, they should be able to do
25 that within that setting. That's not interrupting me as a

1 teacher as long as it's not interrupting, you know, me and the
2 teacher or the rest of the students; that they should be able to
3 do that task, if they so choose.

4 So I would just make a motion that we change the verbiage in
5 there to reflect something closer to this.

6 MS. PEARSON: Chairman Thompson, members of the board,
7 Member Sheipline, if I may, I haven't really had a chance to
8 look at the actual language yet. I didn't receive it, I don't
9 believe. So if we, maybe, would have -- you know, I would like
10 to see the motion held until we could review the language and
11 maybe make sure that it fits across the industry, and maybe hold
12 the vote until the next meeting.

13 MS. SHEIPLINE: What do you think?

14 MR. HANKS: Yeah. I'm fine with that.

15 Another piece of that is, I think, 4713-5-17 is in conflict
16 with the law.

17 MS. PEARSON: Which one? This particular rule?

18 MR. HANKS: Yeah. 5-17(a) says, "Only an instructor with a
19 license issued by board may instruct students in an Ohio School
20 of Cosmetology." And 4713.45 very clearly says that "A school
21 of cosmetology may do the -- I'm sorry (b)(2), says, "A school
22 of cosmetology shall have a licensed cosmetology instructor
23 present when a person employed pursuant to Division (a)(4) of
24 this section teaches at the school, unless a person is one of
25 the following: (2) being a person with a bachelor's degree in

1 the subject the person teaches at the school.

2 MS. PEARSON: That would be in regard to the technical
3 centers when students are in, like, a I English or a math class,
4 and those particular academics are part of the 1,500 hours for
5 the cosmetology program; and, then, it would be okay to have
6 that specific teacher instructing the student. They're still
7 receiving those equivalent hours towards the cosmetology
8 program. That's what that is in reference to.

9 MR. HANKS: I'm not sure I agree with that. I mean, it
10 doesn't state that that's only vocational schools. That's a
11 school law. So I, as holding a bachelor's degree in finance,
12 can teach students in my school. I can't apply it to the ratio
13 as a cosmetology instructor. There have to be the appropriate
14 number of student -- of instructors there to cover the ratio.
15 But, to me, the (a) in 4713-5-17 is in direct conflict with the
16 law.

17 MS. PEARSON: Member Hanks, it would, obviously, apply
18 across the board to all schools. I guess what I should have
19 said is that that is mostly used -- because it doesn't typically
20 happen the in private school setting where people are coming in
21 to teach, but in the career tech setting, students are
22 specifically going to, like, a math class, an English class; and
23 some of those hours, as we discussed during the curriculum
24 review meeting, up to 375 of those hours could be awarded to a
25 cosmetology program. So it's in use more during career

1 technical program.

2 MR. HANKS: Sure. When this language comes to you, I'd like
3 to look at that also because I think it is a conflict.

4 MS. SHEIPLINE: Ms. Pearson, too, without looking -- and
5 when we, like I said, submit this language -- without looking
6 and knowing exactly which law it is, I just do want to point
7 out, without knowing the correct number, that there is a section
8 in law that states that, as long as the student, if there are no
9 live persons available in a clinic settling for the student to
10 be working on, as long as they are actively engaged in the
11 course of study, that that is acceptable behavior within that
12 clinic.

13 So I just want to point that out, too; that what we
14 currently have could be -- you know, the interpretation could
15 also be in conflict with the law as well, because they would --
16 if they're studying flashcards or working on a workbook, they're
17 still actively engaged in the course of study.

18 CHAIRPERSON THOMPSON: Any other discussion on the proposed
19 language change?

20 (No response.)

21 MR. HANKS: Do we need a motion to put that in motion?

22 MS. PEARSON: No.

23 MS. SHEIPLINE: Let me ask one more thing before we go. So
24 if you came into my classroom tomorrow and my students are
25 working on a workbook, am I going to be in violation? Because I

1 need to know that. You know, I mean, that would be highly
2 relevant to me on a daily basis. I would like us to, I don't
3 know, come to some kind of consensus to not -- can we have a
4 gentlemen's agreement again, that, you know, we put that on
5 hold?

6 MS. PEARSON: Right. The way the rules are right now, if an
7 inspector comes into your school, and that's happening, I'm not
8 saying you would be violated on that, but Tyler would bring it
9 to your attention. It would be a discussion. But since we are
10 currently reviewing this rule, and there's proposed language out
11 there, and we're looking at it, at this time, we would not be,
12 you know, acting on --

13 MS. SHEIPLINE: She won't send the firing squad after me
14 then?

15 MS. PEARSON: Correct.

16 MS. SHEIPLINE: All right. Just trying to clarify.
17 Thank you.

18 MS. PEARSON: Uh-huh.

19 CHAIRPERSON THOMPSON: Next item is a motion to rescind
20 original Board Orders A1 to A-2.

21 MS. OSTERHAGE: Mr. Chair, I'd like to make a motion to
22 rescind Board Orders A-1 and A-2.

23 MR. TANEFF: Second.

24 CHAIRPERSON THOMPSON: Any discussion?

25 (No response.)

1 CHAIRPERSON THOMPSON: Roll call, please.

2 MS. FLANERY: Dr. Gupta.

3 DR. GUPTA: Yes.

4 MS. FLANERY: Mr. Hanks.

5 MR. HANKS: Yes.

6 MS. FLANERY: Mr. Taneff.

7 MR. TANEFF: Yes.

8 MS. FLANERY: Mr. Penzone.

9 MR. PENZONE: Yes.

10 MS. FLANERY: MS. Osterhage.

11 MS. OSTERHAGE: Yes.

12 MS. FLANERY: Ms. Sheipline.

13 MS. SHEIPLINE: Yes.

14 MS. FLANERY: Mr. Thompson.

15 CHAIRPERSON THOMPSON: Yes.

16 We need a motion to approve Settlement Agreements 1 through
17 39.

18 MR. TANEFF: You mean Board Orders to Enforce Violation.

19 MS. FLANERY: The labels were backwards. I'm sorry. You
20 have the correct one. You have the correct agenda, it's just
21 some are backwards.

22 MS. OSTERHAGE: Mr. Chairman, I would like to make a motion
23 that we approve the Board Orders to Enforce Notice of Violations
24 1 through 39.

25 MR. TANEFF: Second.

1 CHAIRPERSON THOMPSON: Any discussion?

2 (No response.)

3 CHAIRPERSON THOMPSON: Roll call.

4 MS. FLANERY: Dr. Gupta.

5 DR. GUPTA: Yes.

6 MS. FLANERY: Mr. Hanks.

7 MR. HANKS: Yes.

8 MS. FLANERY: Mr. Taneff.

9 MR. TANEFF: Yes.

10 MS. FLANERY: Mr. Penzone.

11 MR. PENZONE: Yes.

12 MS. FLANERY: MS. Osterhage.

13 MS. OSTERHAGE: Yes.

14 MS. FLANERY: Ms. Sheipline.

15 MS. SHEIPLINE: Yes.

16 MS. FLANERY: Mr. Thompson.

17 CHAIRPERSON THOMPSON: Yes.

18 MS. OSTERHAGE: Mr. Chairman, I would like to move that we
19 approve Board Orders to Approve Settlement Agreements 40 through
20 128.

21 MR. TANEFF: Second.

22 CHAIRPERSON THOMPSON: Any discussion?

23 (No response.)

24 CHAIRPERSON THOMPSON: Roll call, please.

25 MS. FLANERY: Dr. Gupta.

1 DR. GUPTA: Yes.

2 MS. FLANERY: Mr. Hanks.

3 MR. HANKS: Yes.

4 MS. FLANERY: Mr. Taneff.

5 MR. TANEFF: Yes.

6 MS. FLANERY: Mr. Penzone.

7 MR. PENZONE: Yes.

8 MS. FLANERY: Ms. Osterhage.

9 MS. OSTERHAGE: Yes.

10 MS. FLANERY: Ms. Sheipline.

11 MS. SHEIPLINE: Yes.

12 MS. FLANERY: Mr. Thompson.

13 CHAIRPERSON THOMPSON: Yes.

14 With the Hearing Officer's report, I move to deny the
15 adoption of the Report and Recommendations of Hearing Report
16 2013-573 because I disagree with the finding of Facts,
17 Conclusions of Law as contained in the Report and
18 Recommendation.

19 MR. PENZONE: That's your motion, right?

20 CHAIRPERSON THOMPSON: Yeah.

21 MR. PENZONE: I'll second it.

22 MS. OSTERHAGE: Wait. Discussion.

23 CHAIRPERSON THOMPSON: Discussion.

24 MS. OSTERHAGE: Would you please clarify, because you
25 disagree with which portion?

1 MR. TANEFF: I thought he said the Findings of Fact.

2 CHAIRPERSON THOMPSON: I disagree with the Findings of Fact
3 and Conclusions of law.

4 MR. TANEFF: What about the Hearing Officer's
5 recommendation?

6 MS. OSTERHAGE: Wait. I am unclear on which case you're
7 speaking about because --

8 MR. TANEFF: 2013-573.

9 CHAIRPERSON THOMPSON: It's the one with Dustin McClelland.
10 Counsel, would you assist me in this? This is the one that
11 we went over and over and over a few days here.

12 MR. PENZONE: We've been getting e-mails about it.

13 MS. OSTERHAGE: No. No.

14 CHAIRPERSON THOMPSON: I went over this personally with him
15 because this is a case from -- we first received this one,
16 probably, back in January or February, and I've, kind of had my
17 struggles with it.

18 MR. TANEFF: To be clear, it would have been nice to have us
19 in the loop on this.

20 CHAIRPERSON THOMPSON: This was something I've been
21 struggling with.

22 MR. TANEFF: I know, but if you're having --

23 CHAIRPERSON THOMPSON: I talked with Mr. McCarthy today.

24 MR. TANEFF: To be clear, you said this started in January
25 or February.

1 CHAIRPERSON THOMPSON: No. We got this in our packets.
2 We've had this case sent to us two or three times. I've
3 personally struggled with it.

4 MR. TANEFF: I thought you said you've been working on this
5 with Captain McCarthy.

6 CHAIRPERSON THOMPSON: No. He hasn't been around since
7 then.

8 MR. McCARTHY: Mr. Taneff, to be clear, the Report and
9 Recommendation -- what is supposed to be a Report and
10 Recommendation, under Revised Code Chapter 119, came up. The
11 Respondent, Mr. Dustin McClelland, submitted his objections to
12 that. That was reviewed at the last board meeting, and the
13 board voted to table the adoption of what was supposed to be a
14 Report and Recommendation.

15 The Hearing Examiner rewrote the Report and Recommendation
16 to comply with Revised Code 119 standards. It's my
17 understanding that the facts did not change, the actual
18 conclusions did not change; but, just, essentially, the setup,
19 what's required under the law, was finally completed. So we can
20 say that, recently, we, finally, received what would be a Report
21 and Recommendation under the law; and, in light of
22 Mr. McClelland's objections, certainly calls into question what
23 would be No. 4 on the Conclusions of Law: Whether or not he did
24 practice as an independent contractor without a valid license.
25 And Mr. Thompson's motion was that he disagrees with the

1 Findings of Facts and the Conclusions of Law.

2 MR. TANEFF: But, not, necessarily with the recommendation?

3 MR. McCARTHY: Well, if there was not a finding, and if this
4 board does not feel that the alleged facts in the report
5 constitutes a violation, then, there would not be a violation.

6 MR. TANEFF: By the way, I read your e-mail very carefully,
7 and it was well written. I just thought that --

8 MS. OSTERHAGE: It's a different case.

9 MR. PENZONE: That's what I thought I was seconding.

10 MR. TANEFF: I thought there was stuff going on on this, and
11 I'm, like, hey, wait a minute. I didn't see this.

12 MR. McCARTHY: Very briefly, what it boils down to is
13 whether or not someone did, indeed, practice a branch of
14 cosmetology. And, essentially, what we have here in this R&R is
15 that there's a license on the wall, and the Hearing Examiner's
16 conclusion is that that, essentially, amounts to practicing a
17 branch of cosmetology without a license. Maybe the board feels
18 differently, but it is up to the board's expertise to consider
19 the facts in this R&R and the record to say whether or not
20 having a license on the wall constitutes practicing without a
21 license.

22 MR. PENZONE: You're of the opinion that it does or doesn't
23 constitute practicing without a license?

24 MR. HANKS: It doesn't. That's why he disagrees with the --

25 MS. OSTERHAGE: So this was the case last month that we

1 tabled, and I talked about the letter from the gentleman, which
2 is not included with our packet today.

3 MR. McCARTHY: Correct. Because that was the objection that
4 he submitted for last month's meeting. The board considered his
5 objections. In the meantime, we, finally, have what would be a
6 Report and Recommendation under 119 as the mandatory sections.
7 So the Report and Recommendation should be considered in light
8 of his objections, at this point, by the board.

9 MR. PENZONE: I will second the Chairman's motion.

10 CHAIRPERSON THOMPSON: Any discussion?

11 (No response.)

12 CHAIRPERSON THOMPSON: Roll call.

13 MS. FLANERY: Dr. Gupta.

14 DR. GUPTA: Yes.

15 MS. FLANERY: Mr. Hanks.

16 MR. HANKS: Yes.

17 MS. FLANERY: Mr. Taneff.

18 MR. TANEFF: Yes.

19 MS. FLANERY: Mr. Penzone.

20 MR. PENZONE: Yes.

21 MS. FLANERY: Ms. Osterhage.

22 MS. OSTERHAGE: I abstain. I'm still not sure what we're
23 doing.

24 MS. FLANERY: Ms. Sheipline.

25 MS. SHEIPLINE: Yes.

1 MS. FLANERY: Mr. Thompson.

2 CHAIRPERSON THOMPSON: Yes.

3 The next Hearing Officer Report is Case 2013-1127, Modern
4 Male. Do we have a motion for Finding of Facts?

5 MS. OSTERHAGE: I have a question. So this case was
6 dismissed. Why do we even have to talk about it?

7 MR. McCARTHY: Just to be clear, Revised Code 119 has
8 certain requirements that a Report and Recommendation needs to
9 have in it. This case was, indeed, dismissed; otherwise, this
10 should have been rewritten as well. The case was recommended
11 that it be dismissed. If the board wants to dismiss it at this
12 point, that would be dropped.

13 MS. OSTERHAGE: As opposed to accepting it as submitted? In
14 the discussion that I had with Ms. Pearson about this, just
15 trying to get some clarification, it says that it was dismissed
16 after there was a break, and, then, there a was recess, and,
17 then, it was dismissed.

18 This record does not reflect --

19 MR. McCARTHY: The board has the power to withdraw the
20 charges in the case. But once a final order of your 119
21 issue -- once a Report and Recommendation issues, the board
22 simply can't put forth charges. Here, it seems to me that the
23 charges were withdrawn, and for some reason, the Report and
24 Recommendation is stating that. So, the case is, essentially,
25 withdrawn at this juncture, and the Hearing Examiner's

1 recommending is that it would be withdrawn.

2 MR. TANEFF: I'll make a motion that we approve the Hearing
3 Officer's Report and Recommendation in Case No. 2013-1127.

4 MR. HANKS: Second.

5 MR. TANEFF: Look at the last line.

6 MS. OSTERHAGE: I understand. So as I asked Ms. Pearson,
7 this becomes a permanent part of this individual's file,
8 correct? Even though it's dismissed.

9 MR. PEARSON: Public record.

10 MS. OSTERHAGE: Correct. Part of the public record.

11 What I'd like to see is that it be addended, in some way,
12 shape or form, or with a memorandum from this board, explaining
13 why it was being dismissed, because this is part of that case,
14 and anybody who would have access to this would say, "I wonder
15 what happened," because we're not explaining why it was
16 dismissed.

17 MR. McCARTHY: Ms. Osterhage, so, essentially, you're
18 requesting that it be sent back to the Hearing Examiner to make
19 sure that it truly complies with the requirements of 119; is
20 that what you're saying? So it's abundantly clear that this
21 case has been withdrawn?

22 MS. OSTERHAGE: I'm comfortable that it says it's been
23 withdrawn. I don't know about -- I don't understand compliance
24 with 119 or whatever. I understand that. I get it. I want it
25 to --

1 MS. PEARSON: The reason for the dismissal, this one had
2 both licenses, and the specific service was notated on the
3 service, and it fell under one of those licenses, but it was
4 unclear, due to the report, that was part of the motion for
5 dismissal. She wants something to reflect in the file.

6 MR. McCARTHY: The board has the power to do two things: It
7 can modify the Report and Recommendation. And, if the board is
8 comfortable with the fact that this case has been withdrawn,
9 that the Hearing Examiner is simply reflecting that in his
10 R&R, then the board, certainly, can modify it at this time to
11 state such.

12 CHAIRPERSON THOMPSON: We have a motion and second.

13 MR. TANEFF: Would you recommend that we vote down and then
14 modify it?

15 MR. McCARTHY: Absolutely.

16 MR. HANKS: Could you just withdraw the motion?

17 CHAIRPERSON THOMPSON: He seconded it.

18 MS. PEARSON: Vote it down.

19 CHAIRPERSON THOMPSON: Close discussion.

20 Roll call, please.

21 MS. OSTERHAGE: We are voting to approve, you're saying?

22 MR. TANEFF: To vote down.

23 MR. PENZONE: If you vote "yes," you're voting to approve
24 it. If you vote "no" --

25 MS. OSTERHAGE: I apologize. Okay.

1 CHAIRPERSON THOMPSON: Roll call, please.

2 MS. FLANERY: Dr. Gupta.

3 DR. GUPTA: Yes.

4 MS. FLANERY: Mr. Hanks.

5 MR. HANKS: No.

6 MS. FLANERY: Mr. Taneff.

7 MR. TANEFF: No.

8 MS. FLANERY: Mr. Penzone.

9 MR. PENZONE: No.

10 MS. FLANERY: Ms. Osterhage.

11 MS. OSTERHAGE: No.

12 MS. FLANERY: Ms. Sheipline.

13 MS. SHEIPLINE: No.

14 MS. FLANERY: Mr. Thompson.

15 CHAIRPERSON THOMPSON: No.

16 It's the Hearing Officers' recommendation.

17 MS. OSTERHAGE: It's the ruling, which, I suppose -- it may
18 not be, but I just -- I'm not sure. Sir, can you please -- is
19 it -- what is it that we're modifying? Are we modifying the
20 Findings of Fact and the Conclusions of Law or the agreement?

21 MR. MCCARTHY: It sounds to me as if the whole case has been
22 withdrawn. But out of an abundance of caution, you would like
23 this Report and Recommendation, the final order from this board
24 to state why it was withdrawn.

25 MS. OSTERHAGE: Thank you. That's my motion.

1 MR. HANKS: Can you repeat it?

2 MR. McCARTHY: The issue is that you would have to have that
3 language here, you know. What is it that you want the final
4 order to say?

5 MS. OSTERHAGE: I would like the final order to reflect the
6 reason why the case was dismissed.

7 MR. HANKS: Then it would state --

8 MR. McCARTHY: Specify what the reasons are.

9 MS. OSTERHAGE: The reasoning being that the -- I'm probably
10 not going to do this right. The reason I believe the case was
11 dismissed was because there were two licenses involved, and the
12 inspector could not recall -- one was expired; one was not, and
13 the inspector could not recall which license --

14 MS. PEARSON: The service was being --

15 MS. OSTERHAGE: -- the services were being rendered under.
16 Could not recall, therefore, the case was dismissed. That would
17 be my motion: That we modify the final report to reflect the
18 reason that the case was dismissed.

19 MR. TANEFF: Second.

20 MS. PEARSON: Chairman Thompson, members of the board, if
21 you would table this particular one, we'll get the language
22 together and come back next month.

23 MS. OSTERHAGE: So do I have to withdraw my motion?

24 MR. McCARTHY: I'm not sure if it was seconded or not.

25 MS. OSTERHAGE: It was.

1 MR. TANEFF: No, it was not.

2 MS. OSTERHAGE: Sorry. It's important, in my opinion.

3 CHAIRPERSON THOMPSON: Any other business, board members?

4 (No response.)

5 CHAIRPERSON THOMPSON: Do we have a motion for adjournment?

6 MR. PENZONE: So moved.

7 MS. OSTERHAGE: Wait. I have a motion to go into Executive
8 session. Correct?

9 CHAIRPERSON THOMPSON: We have a motion to go into Executive
10 Session.

11 MS. OSTERHAGE: To discuss a case having to do with pending
12 litigation.

13 CHAIRPERSON THOMPSON: Do we have a second to go into
14 Executive Session?

15 MR. TANEFF: Second.

16 CHAIRPERSON THOMPSON: All in favor.

17 (Vote taken.)

18 CHAIRPERSON THOMPSON: Oh, we need roll call for Executive
19 Session.

20 Roll call, please.

21 MS. FLANERY: Dr. Gupta.

22 DR. GUPTA: Yes.

23 MS. FLANERY: Mr. Hanks.

24 MR. HANKS: Yes.

25 MS. FLANERY: Mr. Taneff.

1 MR. TANEFF: Yes.

2 MS. FLANERY: Mr. Penzone.

3 MR. PENZONE: Yes.

4 MS. FLANERY: Ms. Osterhage.

5 MS. OSTERHAGE: Yes.

6 MS. FLANERY: Ms. Sheipline.

7 MS. SHEIPLINE: Yes.

8 MS. FLANERY: Mr. Thompson.

9 CHAIRPERSON THOMPSON: Yes.

10 (Recess taken.)

11 CHAIRPERSON THOMPSON: We're back in open session at 3:58.

12 MS. OSTERHAGE: I would like to make a motion that we go
13 back into Executive Session. I would like to exclude Lori
14 Flanery, Lori Pearson, our Assistant Attorney General -- and
15 someone help me, recorder or not?

16 CHAIRPERSON THOMPSON: No.

17 MS. OSTERHAGE: Not the reporter.

18 MR. PENZONE: She's already done enough damage.

19 MR. HANKS: I'll abstain on the vote.

20 CHAIRPERSON THOMPSON: Do you have a second?

21 MR. TANEFF: Second.

22 MS. OSTERHAGE: For pending litigation.

23 CHAIRPERSON THOMPSON: Any discussion?

24 (No response.)

25 Roll call, please.

1 MS. FLANERY: Dr. Gupta.

2 DR. GUPTA: Yes.

3 MS. FLANERY: Mr. Hanks.

4 MR. HANKS: Abstain. And I will recuse myself.

5 MS. FLANERY: Mr. Taneff.

6 MR. TANEFF: Yeah.

7 MS. FLANERY: Mr. Penzone.

8 MR. PENZONE: Yes.

9 MS. FLANERY: Ms. Osterhage.

10 MS. OSTERHAGE: Yes.

11 MS. FLANERY: Ms. Sheipline.

12 MS. SHEIPLINE: Yes.

13 - - -

14 And, thereupon, Executive Session was held.

15 - - -

16 CHAIRPERSON THOMPSON: We came out of Executive Session at
17 4:07.

18 MR. PENZONE: I move that we adjourn.

19 MR. TANEFF: Second.

20 CHAIRPERSON THOMPSON: Roll call.

21 MS. FLANERY: Dr. Gupta.

22 DR. GUPTA: Yes.

23 MS. FLANERY: Mr. Hanks.

24 (No response.)

25 MS. FLANERY: Mr. Taneff.

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MR. TANEFF: Yes.
MS. FLANERY: Mr. Penzone.
MR. PENZONE: Yes.
MS. FLANERY: Mr. Osterhage.
MS. OSTERHAGE: Yes.
MS. FLANERY: Ms. Sheipline.
MS. SHEIPLINE: Yes.
MS. FLANERY: Mr. Thompson.
CHAIRPERSON THOMPSON: Yes.

- - -

And thereupon, the hearing was concluded at
4:07 o'clock p.m.

- - -

C-E-R-T-I-F-I-C-A-T-E

I do hereby certify that the foregoing is a true, correct
and complete written transcript of the proceedings in this
matter, taken by me on the ___ day of _____, _____,
and transcribed from my stenographic notes.

Susan L. Coots, RPR
Registered Professional
Reporter and Notary
Public

My commission expires 1-10-15.

- - -

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