

Board of Cosmetologist Examiners
December 9, 2013 Board Meeting Minutes

9:00 AM to 3:35 PM

Conference Room A, University Park Plaza
2829 University Ave SE, Minneapolis, MN 55414

Present at Meeting:

Laurie Boggess, Chair

Robert Salmonson, Member

Mary Finnegan, Member

Michele Owen, Attorney

Gina Stauss Fast, Executive Director

Billi Jo Jones, Licensing Division Manager

Rebecca Gaspard, Compliance

Catrina Mairose, Licensing Specialist

Sarah Gruber, Assistant to the Executive Director

I. Call to Order

LB: Called meeting to order at 9:23 AM.

II. Approval of Proposed Agenda

BS: Made a motion to pass the proposed agenda with flexibility.

MF: Seconded. 3 Ayes. 0 Nays. **Motion Carried.**

LB and GSF: Added rulemaking update and administrative report to agenda.

III. Approval of Minutes

MF: Made a motion to approve the minutes from the October 7, 2013 Board meeting.

BS: Seconded. 3 Ayes. 0 Nays. **Motion Carried.**

IV. New Business: Updates, Public Comment, Waivers and Variances

A. Updates

GSF: Board staff published a new Salon License Application complete with a guide and frequently asked questions. A list of rule interpretations has been compiled and made public. Post-Board meeting updates are now being sent to school contacts. The rule regarding service animals in salons is not in compliance with ADA standards and will be updated during rulemaking.

MO: Clarified that two questions can be asked during the inspection of a salon: "Is the dog a service animal required because of a disability?" and "What work or task has the dog been trained to perform?"

B. Public Comment

David Anderson: Spoke to the necessity of HIV and AIDS education in the field of cosmetology and proposed HIV education be included in continuing education requirements.

MO: Explained that his proposal would need to be sought through legislative means and be approved by the state.

GSF: Informed him he could contact his state legislators to garner support.

C. *Waiver—Sunday Lampe*

CM: SL requested a waiver of MN Rule 2105.0160 which requires an applicant for a salon manager license to provide documentation of at least 2,700 hours of licensed practice, in a licensed salon and supervised by a licensed manager, within the three years prior to application. SL and Tina Bartz are the only practitioners in their small town salon and TB, the DSLM, will be on medical leave, which would cause the salon to close. To avoid this, they request SL obtain her manager license despite not having the minimum 2,700 hours.

Discussion; Comments from SL and TB.

MF: Made motion to grant the waiver, based on financial hardship. SL must obtain 2700 hours of licensed practice by June 2014 and notify the Board once she reaches this. She must also submit her Salon Manager Application by 2/15/2014.

BS: Seconded. 3 Ayes. 0 Nays. **Motion Carried.**

D. *Waiver—Abigail Hilgendorf*

GSF: AH requested a waiver of MN Rule 2105.0150 which requires that applicants must have completed training within three years prior to applying for licensure. AH was granted a waiver of this rule in July of 2012, but did not meet her one year deadline. She claims financial hardship and difficulty connecting with, and obtaining documents from, her school as reasons for her request.

Discussion; Comments from AH stating she never received her course completion certificate.

MF: Made motion to grant waiver if a complete and accurate application could be submitted by January 1, 2014.

BS: Seconded. 3 Ayes. 0 Nays. **Motion Carried.**

E. *Waiver—Ayesha Salahu-Din*

CM: ASD requested a waiver of MN Rule 2110.0690, which requires that applicants must have completed training within three years prior to applying for licensure. Ayesha has been out of school for four and a half years and is claiming financial hardship.

Discussion.

MF: Made motion to grant waiver with condition to take a 155 hour refresher course and complete all other application requirements by 12/31/2014.

BS: Seconded. 3 Ayes. 0 Nays. **Motion Carried.**

F. Waiver—Kimberly Mandley

GSF: KM requested a waiver of MN Rule 2105.0210, subp 3, which requires a refresher course of 155 hours to reinstate a cosmetologist license expired by over three years. She claims medical and financial hardship and would ultimately like to become licensed in Michigan. BCE staff recently received information that an applicant in Michigan does not need to have an active or current license in order to be issued a reciprocity license, so KM does not need to reinstate her MN license to become licensed in Michigan.

Discussion.

BS: Made motion to take no action.

MF: Seconded. 3 Ayes. 0 Nays. **Motion Carried.**

G. Waiver—Beth Meyer

CM: BM, on behalf of Image Quest II, requested a waiver of MN Rule 2105.0340(2) which requires that if more than thirty days have passed since the salon license expiration date, the salon must complete a new Salon License Application to be issued another license. BM based her request in financial and medical hardship.

Discussion.

BS: Made motion to grant waiver to allow BM to obtain licensure using the Salon Renewal Application rather than the Salon License Application.

MF: Seconded. 3 Ayes. 0 Nays. **Motion Carried.**

H. Waiver – Toni Walton

GSF: TW requested a waiver of MN Rules 2110.0510, D.8 and E, which require cosmetologist training to include 10 applications of artificial nails, three of which are sculptured on the nail, and the documentation of this completion be sent to the Board. TW claims medical hardship due to an allergy to artificial nail products.

Discussion.

Tom Costa of Century College: Confirmed allergy to products.

BS: Made motion to grant waiver and exempt TW from completing service which require artificial nail products with the condition that she make up for artificial nail applications with natural nail care.

MF: Seconded. 3 Ayes, 0 Nays. **Motion Carried.**

LB calls for break at 10:50 AM.

LB calls for order at 10:56 AM.

I. Variance—SouthWest Metro Educational Cooperative

GSF: SMEC requested a waiver of MN Rules 2110.0510 A-D, which require specific elements to be taught within the full training curriculum and MN Rule 2110.0710

which states no student should be enrolled in less than a full program. SMEC was previously granted a variance of this rule because they are not a full curriculum post-secondary facility. SMEC is a secondary education program taught at a college level and located in a high school setting; their variance expires 5/31/2014.

Discussion.

MF: Made motion to grant an extension of the current variance, which was granted under Carver Scott Educational Cooperative, now named SouthWest Metro Educational Cooperative. This waiver should be extended to 5/31/2019 based on reasoning from last variance.

BS: Seconded. 3 Ayes, 0 Nays. **Motion Carried.**

J. Variance—Edison High School

GSF: EHS requested a variance of MN Rules 2110.0510 A-D, which require specific elements to be taught within the full training curriculum and MN Rule 2110.0710 which states no student should be enrolled in less than a full program. Edison offers a shortened cosmetology program within the high school and allows students to transfer into full cosmetology programs after graduation.

MF: Made motion to grant the variance until 5/31/2019.

BS: Seconded. 3 Ayes, 0 Nays. **Motion Carried.**

V. Board Member Request: Approval of Extended Refresher Course Providers

GSF: It was brought to our attention that non-schools were incorrectly authorized to provide the 155/60/35 hour refresher courses. It has been a long-standing practice (before BBCE & BCE staff) to approve non-schools to offer extended refresher courses, despite official rule only authorizing schools. We asked all refresher course providers for statistics on how many students have been enrolled in each course, and it was found that the non-school providers do fill a void that the schools leave. Four current, non-school, providers are seeking Board approval to offer the courses: Cosmetology Education Group, Carolyn Kraskey with Nico's Salon, and Images by Design.

Discussion; MO notes the ambiguity of rules requires the non-school providers to apply for Board approval through a waiver or variance.

A. Waiver—Cosmetology Education Group

GSF: Cosmetology Education Group requested a waiver, based on hardship, to continue providing refresher courses. The business was created to offer the 155/60/35 hour refresher courses and if CEG is unable to offer them, a large portion of the business will be removed.

MF: Made motion to grant waiver to offer refresher courses under MN Rules 2105.0210(3), 2110.0540, and 2105.0600.

BS: Seconded. 3 Ayes, 0 Nays. **Motion Carried.**

B. Waiver—Carolyn Kraskey

GSF: Carolyn Kraskey requested a waiver to be granted the opportunity to continue offering the extended refresher courses because of the limited ability of students to take the courses at a school.

MF: Made motion to grant waiver to offer refresher courses under MN Rules 2105.0210(3), 2110.0540, and 2105.0600.

BS: Seconded. 3 Ayes, 0 Nays. **Motion Carried.**

C. Variance—Nino Altobelli

GSF: Rocco Altobelli owner, Nino Altobelli, requested a variance of MN Rule 2105.0210(3) to be authorized to provide the extended refresher courses. He states the salon can offer courses that provide current and advanced techniques, employed by salons, to teach the working adult.

MF: Made motion to grant waiver to offer refresher courses under MN Rules 2105.0210(3), 2110.0540, and 2105.0600.

BS: Seconded. 3 Ayes, 0 Nays. **Motion Carried.**

VI. Approval of Professional Associations

GSF: MN Statute 155A.271 requires continuing education for operators and managers and states that only a cosmetology school, postsecondary institution, or board-recognized professional association may offer this curriculum. There is no BCE statute or rule interpreting or defining “professional association,” so it has been determined that, for now, all professional associations need to seek Board approval in order to be recognized as such. “Professional association” will be defined in an upcoming rulemaking process; this definition will be based on the parameters set in the July 2013 Board meeting.

RG: The Board decided in July that a professional association means a membership organization promoting cosmetology whose primary activity does not consist of performing particular services for individuals and is not organized for profit, or any organization with a current 501c6 status with the IRS.

A. Recognition—Salon & Spa Professional Association

Susan Brinkham of Salon & Spa Professional Association: SSPA would like to be recognized as a professional association. It is a nonprofit corporation with an IRS 501c6 status. The organization is member-supported and currently offers the 4 hour continuing education course for operators and managers.

BS: Made motion to approve SSPA as a professional association under 155A.271(2) as of 8/1/2013 and to grant that approval until a rule which defines professional association is adopted or 3 years have lapsed, whichever comes first.

MF: Seconded. 3 Ayes, 0 Nays. **Motion Carried.**

B. Recognition—Beauty Certified Education Association

Georgina Davis & Stephen Adams of BCEA: The BCEA requests Board approval & recognition as a professional association. The organization's goal and purpose is to support and conduct education at an affordable rate, as well as to create a resource for understanding the industry of cosmetology.

Discussion regarding BCEA's nonprofit status with the Secretary of State.

GSF: Email will be sent to all licensees regarding the name of the BCEA.

MF: Made motion to table the BCEA request until February's Board meeting for documentation of the nonprofit status.

BS: Seconded. 3 Ayes, 0 Nays. **Motion Carried.**

VII. New Business: Discussion and In-House Requests

A. Discussion—Designated Salon License Manager, Independent Contractors, and Inspection Fines.

RG: Staff would like to know how the Board sees the role of the designated licensed salon manager, whether independent contractors should continue to be required to hold a manager's license.

Discussion: MF, BS, LB agree that the DSLM should be in charge of compliance with laws and rules and that being an independent contractor makes a person responsible for their salon duties. The phrase "for use as an independent business" in 2105.0400 Subd 6 is not necessary. RG will bring proposed language for implementation of inspection fines to the February Board meeting.

B. In-House Request—Suite-Style Salons

BJ: There's been a recent trend of suite-style salons applying for licensure. In these business types, there are numerous suites within one building and, ideally, each suite is run as its own salon. BCE staff would like a recommendation on whether these types should be licensed as one salon or as multiple salons within one building.

MO: Board cannot give a recommendation on licensing one way over the other.

GSF: It can be a business decision; whichever style the business would prefer is what we may license the business as, so long as they meet all requirements.

C. In-House Request—Licensed Cosmetologists Returning for Esthetician Training

GSF: Cosmetologists who wish to return to esthetician training are currently not covered in 2100.0560. BCE staff would like confirmation that cosmetologists are able to return to esthetician training and perform services while in school.

Discussion; MF, BS, LB confirm that cosmetologists can return to esthetician training, the rule may be removed during the rulemaking process.

D. In-House Request—Eyelash Extensions

GSF: Licensees and the public would like to know if eyelash extending and weaving is considered a regulated service.

MO: If the Board were to regulate eyelash extensions, it would require vast amounts of unrelated training to obtain a license for performing a specific service. This requirement would cause constitutional issues similar to that of braiding or threading services. The Board would need rational basis for the regulation of eyelash extensions.

Discussion on creating a new registration type similar to hair braiding.

BS: Made motion to take no action.

MF: Seconded. 3 Ayes. 0 Nays. **Motion Carried.**

E. In-House Request—Special Events Permit

GSF: Staff would like clarification on what services, such as waxing, can or cannot be performed under a Special Events Permit.

Discussion: LB, MF, BS confirm the services allowed are limited to the services listed on the permit, which the permit holder confirms when applying.

F. Discussion—Increasing Board Membership

GSF: The Governor's office notified the BCE that we are able to pursue an increase in Board members if desired. It is requested that we determine if we want to increase membership and in what manner.

Discussion on desired types and number of Board members. It was suggested that Board membership will be increased to 7 and the following qualifications be met: 2 cosmetologists, 1 public school manager or instructor, 1 private school manager or instructor, 1 esthetician, 1 nail technician, and 1 public member.

BS: Made motion to update Board membership to 7 and meet the aforementioned qualifications.

MF: Seconded. 3 Ayes. 0 Nays. **Motion carried.**

VIII. Division Reports

A. Rule Report

RG: New exempt rules went into effect December 2, 2013. Work has resumed on the rule docket that was tabled last winter. Scope of rules now includes disinfection practices, licensing application requirements, nursing home salon license exemptions, and clarifying designated salon manager roles.

B. Licensing Division Report

BJJ: Average processing time for July to August 2013 was 13 business days. A vacancy in the division is being filled and the new candidate is expected to start mid-December. Processing time has been maintained at 15 business days and applications are being adjusted to meet new legislative requirements.

C. Inspection Division Report

BJJ: In November, 2013, Diane DelaBarre and Gina Stauss Fast took over supervision of the inspection division. Many changes and improvements are coming, including three new inspector positions, which are scheduled for posting mid-December.

D. Administrative Report

GSF: Discussed the potential of having a written practical exam, which would consist of adding another written exam. The practical examination would still be given in schools, but another portion would be added to the current written exams of the general/theory exam and the laws and rules exam.

XI. Adjournment

LB: Adjourned the meeting at 3:35 PM.