

Board Meeting Minutes January 14, 2019

The Kansas Board of Cosmetology held a Board meeting on Monday, January 14, 2019, at 9:00 a.m. at the Board office at 714 S.W. Jackson Street, Suite 100, Topeka, Kansas. The Board Secretary recorded the minutes.

Board Members Present:

David Yocum, Chair
Ashley Rangel, Member
Christine Burgardt, Member
David Tucker, Member
Kelly Robbins, Member
Kimberley Mancuso, Member
Nichole Hones, Member

Staff Present:

Ms. Gloeckner, Acting Executive Director
Aubrie Pryer, Compliance Supervisor
Lindsey Bowes, Enforcement / Board Secretary

Board Legal Counsel Present:

Athena Andaya, General Counsel
Jane Weiler, Litigation Counsel

Members of the Public

Terri Boggs
Katrina Dearing
Tracy Hein

Public Comment

Terri Boggs requested the Boards approval to allow her to have a hearing regarding a fine she was issued October 30, 2018. The Order became legally effective November 19, 2018, and she made her hearing request on December 3, 2018. The hearing request could not be honored due to the Order being in effect, but she is requesting an exception.

Athena Andaya, Legal Counsel, advised Ms. Boggs once the Order is effective a hearing request cannot be requested, nor can an exception be made.

David Yocum, Board Chair, informed Ms. Boggs the Board will allow a repayment plan to be established for her fine in lieu of the hearing and instructed office staff to mail repayment agreement paperwork to Ms. Boggs.

Katrina Dearing requested clarification on the health & sanitation regulations and expressed concerns regarding the way inspections are conducted by the region inspectors.

Aubrie Pryer, Compliance Supervisor, informed Ms. Dearing she can request an Infection Control Seminar class for her facility.

Call to Order

David Yocum, Board Chair, called the meeting to Order at 10:01 a.m.

Ms. Gloeckner, Acting Executive Director, requested Open Records Request, Open Records Request Custodian Update, New Board Member and the Kansas Attorney Generals Contract be added to the agenda.

Motion and second to approve the addition of Open Records Request, Open Records Request Custodian Update, New Board Member and the Kansas Attorney Generals Contract be added to the agenda made by Mancuso and Burgardt, respectively. Motion carried.

New Board Member

Ms. Gloeckner informed the Board of the newest Board member, Nichole Hines.

The Board and office staff provided introductions to Nichole Hines.

Election of Officers and Re-affirm Delegated Authority to Executive Director

Ms. Andaya presented the Board with a list of the recommended motions for the Board.

Tina Burgardt, Member, and Kimberley Mancuso, Member, nominated David Yocum to act as Board Chair.

Motion and second to approve David Yocum to act as Board Chair made by Burgardt and Robbins, respectively. Motion carried.

Ms. Mancuso and Ashley Rangel, Member, nominated Ms. Burgardt to act as Vice Chair.

Motion and second to approve Tina Burgardt to act as Vice Chair made by Mancuso and Robbins, respectively. Motion carried.

Mr. Yocum presented the following annual delegation motions to the Board:

Motion #1

I move that, pursuant to K.S.A. 2018 Supp. 77-529 of the Kansas Administrative Procedure Act, the Board designate and delegate to the Chairperson and/or the Vice Chairperson its authority as agency head to review, decide, and issue any orders concerning petitions for reconsideration and motions for stay filed with the Board and taking any other action related thereto until further action by the Board.

Motion and second to approve Motion #1 made by Burgardt and Robbins, respectively. Motion carried.

Motion #2

I move that the Executive Director shall sign any pleadings on behalf of the Board as directed by the agency head or presiding officer.

Motion and second to approve Motion #2 made by Robbins and Burgardt, respectively. Motion carried.

Motion #3

I move that the Board designate and delegate to the Board Chairperson the Board's authority to act as Presiding Officer pursuant to K.S.A. 2018 Supp. 77-514(g) and 77-551(a) and (c) and amendments thereto, of the Kansas Administrative Procedures Act, to conduct emergency proceedings and issue an order as required by K.S.A. 2018 Supp. 77-536 on all matters that are being or have been investigated for any alleged violation of or compliance with the Kansas Cosmetology, Tanning, Body Arts Acts or regulations adopted thereunder, unless the Chairperson determines the emergency proceeding should be conducted and decided by the Disciplinary Committee.

Motion and second to approve Motion #3 made by Burgardt and Tucker, respectively. Motion carried.

Motion #4

Subject to motion number 3 regarding delegation to the Board Chairperson, I move that if the Chairperson is not available to act as described in motion number 3, the Vice Chairperson of the Board is so designated and delegated to act as described in motion number #3.

Motion and second to approve Motion #4 made by Tucker and Robbins, respectively. Motion carried.

Motion #5

Subject to motion number 3 regarding delegation of emergency proceedings, I move that the Board designate and delegate to the Chairperson the authority to select members to:

- (1) Conduct hearings, enter into settlements, issue decisions, and assess fines regarding an allegation that a person granted a license to practice cosmetology, tanning, or body arts has a violated or not complied with the Kansas Cosmetology, Tanning, Body Arts Acts and or regulations adopted thereunder:
- (2) Act as Presiding Officer pursuant to K.S.A. 2018 Supp. 77-514(g) and 77-551(a) and (c) and amendments thereto, of the Kansas Administrative Procedures Act, to review, decide and issue any orders on all matters in cases that have been investigated for any alleged violation of or compliance with the Kansas Cosmetology, Tanning, Body Arts Acts or regulations adopted thereunder.

Motion and second to approve Motion #5 made by Burgardt and Robbins, respectively. Motion carried.

Dermaplaning, Lancets & Sharps Revisit

Agenda item tabled due to further review and discussion needed by the esthetics subcommittee.

Motion and second to approve Dermaplaning, Lancets & Sharps be tabled for further review by the esthetics subcommittee made by Robbins and Hines, respectively. Motion carried.

K.A.R. 69-1-10

Ms. Pryer requested a roll-call motion to adopt K.A.R. 69-1-10.

Motion and second to conduct a roll-call motion to adopt K.A.R. 69-1-10 made by Mancuso and Tucker, respectively. Motion carried.

Regulations Review

Ms. Pryer informed the Board of the regulations that need updating and requested the agenda item be kept on the agenda moving forward for monthly review.

Motion and second to approve Regulations Review be kept on the agenda for monthly review until the regulations have been updated Burgardt and Robbins, respectively. Motion carried.

Out of State Transfer Students-Unverified Hours

Mr. Yocum informed the Board currently office policy states out of state hours must be verified by the state the applicant is coming from; however, some states do not verify hours. Mr. Yocum recommended office staff send a certified letter to the out of state board indicating without state verification of hours the Kansas Board of Cosmetology will not be able to accept the hours for licensure. Mr. Yocum and Ms. Gloeckner will draft and sign the letter for future use when the situation occurs.

Motion and second to approve office staff to send a certified letter to the out of state board made by Burgardt and Robbins, respectively. Motion carried.

Sub-Committee Reports

Ms. Gloeckner requested updates of all subcommittees and requested the subcommittees create standard dates for their meetings.

The Board decided all subcommittees will meet on the first Monday of the month for 1-hour. The schedule will be as follows:

Esthetics Subcommittee to meet from 9:00 a.m.-10:00 a.m.

Curriculum Subcommittee to meet from 10:00 a.m.-11:00 a.m.

Body Art Subcommittee to meet from 11:00 a.m.-12:00 p.m.

The Esthetics Subcommittee consists of the following individuals: Mr. Yocum, Ms. Andaya, Ms. Rangel, Ms. Hines and Jessica Pluff, Public Member.

The Curriculum Subcommittee consists of the following individuals: Ms. Burgardt, Mr. Yocum and Ms. Rangel

The Body Art Subcommittee consists of the following individuals: Mr. Tucker, Ms. Andaya, Jane Weiler, Litigation Counsel, Ms. Pryer, and Michaela Ewing, Licensing Director.

Recess

Motion and second to approve recess break until 11:20 a.m. made by Burgardt and Robbins, respectively.
Motion carried.

Call to Order

Mr. Yocum, Board Chair, called the meeting back to order at 11:24 a.m.

Proposed Legislation 2019

Ms. Gloeckner wanted the Boards approval to present the following legislation changes:

- Charitable Events Permits
- Apprentice Licensure
- Nail Technology Reciprocity
- Demonstration Permits
- Max Fees Raised

Ms. Andaya recommended defining Charitable Event and Charitable Purpose as follows:

Charitable Event is an event conducted for charitable purposes whether indoors or outdoors that is held at a specified time and location where services are provided by licensed practitioners at no cost to the recipient.

Charitable Purpose means a purpose which promotes, or purports to promote, directly or indirectly, the well-being of the public at large or any number of persons, or any humane purpose, whether such well-being is in general or limited to certain activities, endeavors or projects. (K.S.A. 17-1760)

KDHE Regulations

For Informational Purposes Only

Open Records Request

Ms. Gloeckner informed the Board a request has been received for open records related to threading and hair braiding from the Institute for Justice, who is wishing to propose deregulation of the two services.

Custodian Update

Ms. Gloeckner requested the Boards approval to update the custodian duties of the open records request to be placed under the Compliance Supervisor duties.

Motion and second to approve the custodian duties of the open records request be placed under the Compliance Supervisors duties made by Burgardt and Robbins, respectively. Motion carried.

Kansas Attorney Generals Contract Review

Mr. Yocum informed the Board the contract is ready for review and approval by the Board.

Ergo Monthly Report for November 2018

For Informational Purposes Only

KBOC Cash Balance Report for November 2018

For Informational Purposes Only

KBOC Strategic Plan

For Informational Purposes Only

Adjournment

Motion and second to adjourn the meeting at 11:59 a.m. made by Burgardt and Mancuso, respectively. Motion carried.