

BOARD OF BARBERING, COSMETOLOGY & ESTHETICS



MINUTES of July 20, 2020

The July 20, 2020 meeting of the Board of Barbering, Cosmetology, & Esthetics convened at 9:23 a.m. with the following members present:

Holly Rodrigues, Manicurist Member, Chair
Jeanne Chappell, Cosmetology School Owner Member
Joshua Craggy, Barber Member
Sarah Partridge, Public Member
Kassie Dubois, Esthetician Member
Kimberly Hannon, Cosmetologist Member
Dana Pierce, Owner of Tanning Facility Member

Absent: None

PUBLIC MINUTES

ADMINISTRATIVE

It was determined that due to the State of Emergency declared by the Governor as a result of the COVID-19 pandemic and in accordance with the Governors Emergency Order #12 pursuant to Executive Order 2020-04, this public body is authorized to meet electronically

1. The Board voted to approve the public minutes of June 15, 2020 on a motion from Sarah Partridge with a second by Dana Pierce. A roll call vote was taken and the motion passed unanimously.
2. **RULES:**
 - a. The Board voted on a motion form Sarah Partridge with a second by Joshua Craggy to adopt changes to Bar 700. A roll call vote was taken and the motion passed unanimously.
 - b. The Board will discuss licensing of high school apprentices and the challenges of the legal requirement to collect a social security number for child support purposes of individuals holding a license. There is most likely a statutory change necessary to fix the problem. The Board voted on a motion from Jeanne Chappell with a second by Holly Rodrigues to table further discussion on this topic and have Attorney Thomas Broderick gather information and bring back that information and any proposals to the August. A roll call vote was taken and the motion passed unanimously.

3. NACCAS:
 - a. Notice of Commission Action dated June 19, 2020 – Informational
 - b. Notice of Commission Action dated June 22, 2020 – Informational
 - c. Notice of Commission Action dated July 8, 2020 – Informational
4. Lauren Smith from the USDOL Office of Apprenticeship has questions regarding barriers to barbering apprenticeship/employment for formerly incarcerated persons. of those licensed by the Board. The Board voted on a motion from Holly Rodrigues with a second by Sarah Partridge to respond as follows and have Jeanne Chappell review the letter before sending. A roll call vote was taken and the motion passed unanimously.

The relevant rules regarding Ms. Smith's question is Bar 301.03 (o), (p), and (m). Regarding Bar 301.02 (p) it is up to the school that the apprentice is transferring to determine how many hours they will accept. As far as the licensing process of an apprentice applicant with a criminal background or someone who has been incarcerated the Board looks at each circumstance individually and takes into account many factors. What was the crime, how long has it been, what has the person done to move past their conviction(s), etc.? Once the Board issues the apprentice license they are cleared to move forward to completion of the apprentice program, examination, and finally full licensure. If there were any additional convictions or incarcerations after the issuance of the apprentice license the Board would reexamine the individual at that time.

ADMINISTRATIVE

5. HEARINGS:
 - a. LAURA HAMEL – All Board members were in attendance at the hearing. Kassie Dubois is recused. Attorney John F. Brown was hearing counsel and presented his case first and called 2 witnesses; Bjarna O'Brien and Laurie Hamel. Ms. Hamel presented her case second calling one witness, Christopher Short. This witness did not provide any information relevant to the case. The hearing was concluded at 10:50 am. The Board deliberated later in the meeting.
 - b. There were 2 hearings scheduled to be held at 10:30 am, Red Persimmon Nails – Huong Khong owner, and Nickolas T. Nguyen manager at Red Persimmon Nails. Hearing counsel did not receive either Notice of Hearing. In addition, Houng Khong provided an e-mail that he was not able to attend the hearing. These cases will be rescheduled for an upcoming meeting.
 - c. QUYN DAM – DYNASTY LAILS – All Board members were in attendance at the hearing. Attorney Laura Raymond was hearing counsel and presented her case first. Quyen Dam had contacted Attorney Sheri Phillips to inform her that she was not going to be able to attend because she was busy today with children. Attorney Phillips informed Ms. Dam that she needed to request a continuance from Board's Administrator who would bring the request to the Board. Ms. Dam failed to contact the Board's Administrator.

After consulting with Attorney Michael Porter who provided the Board with Jus 810.02 addressing the failure of the respondent to attend a hearing. In accordance with Jus 810.02 the Board voted on a motion from Jeanne Chappell with a second by Dana Pierce to proceed with the hearing. A roll call vote was taken and the motion passed unanimously.

The hearing was held in absentia and Ms. Raymond presented her case. Witnesses Nancy Morgan, Complainant and Linda Bartlett, APU Investigative Paralegal testified before the Board. The hearing was concluded at 11:54 am. The Board deliberated later in the meeting.

DELIBERATIONS:

a. QUYEN DAM:

The Board reviewed the issues to be determined and found that there was significant evidence to support all allegations outlined in the Notice of Hearing dated December 16, 2019. The Board discussed various forms of disciplinary action and wanted to impose a 2-year suspension, prohibition on instructing an apprentice, and courses that should be completed. The Board had questions on whether or not they could impose discipline on both Ms. Dam's personal license and her shop license. The Board voted on a motion from Holly Rodrigues with a second by Jeanne Chappell to table further deliberations until next month in order to have Attorney Mike Porter research the question. A roll call vote was taken and the motion passed unanimously.

b. LAURIE HAMEL: Kassie Dubois recused.

The Board began discussion the hearing and had some legal questions.

NON-MEETING – the Board went into non-meeting at 12:30 p.m. in order to obtain legal guidance. The Board went back into their regular meeting at 12:39 p.m.

The Board continued their deliberation discussing the evidence and testimony presented. After the deliberation the Board voted to take the following action:

The first issue to be determined was whether on or about April 19, 2019 Ms. Hamel engaged in professional misconduct by failing to take a more complete history from customer after learning that she has sensitive skin and had never had a lash lift or lash tint procedure before. The Board voted on a motion from Jeanne Chappell with a second by Dana Pierce that there was insufficient evidence to prove that Ms. Hamel failed to take a complete history from the customer. It was stated by both the complainant and Ms. Hamel that a history was taken.

The second issue to be determined was whether on or about April 19, 2019 Ms. Hamel engaged in professional misconduct by failing to perform a "patch test" before applying the lash lift product to customer, contrary to the manufacturer's requirements. The Board voted on a motion from Dana Pierce with a second by Jeanne Chappell that there was insufficient evidence based on the contradicting evidence on the container and based on the history taken before applying the product there were no concerns of allergies. A roll call vote was taken and the motion passed unanimously.

NON-MEETING – the Board went into non-meeting at 1:04 p.m. in order to obtain legal guidance. The Board went back into their regular meeting at 1:08 p.m.

LICENSURE

6. The Board reviewed the State of NH Department of Corrections submission of documents for school licensure of a program at the State of New Hampshire Correctional Facility for Women. After thorough review the Board voted on a motion from Jeanne Chappell with a second by Kassie Dubois to approve the program upon the submission of a more detailed floor plan, clarification of the number of hours to complete the program (1500 or 1650 hours), and a satisfactory inspection by Beulah Green. A roll call vote was taken and the motion passed unanimously.
7. The Board was provided with an update on the move of the Office of Professional Licensure and Certification's relocation and reorganization.

ADJOURN: on a motion by Holly Rodrigues with a second by Dana Pierce, the motion to adjourn at 2:59 p.m. carried in the affirmative.

Minutes respectfully submitted by Tina M. Kelley, Board Administrator

07/20/20

Motion to commence non-public session:

On the motion of Sarah Partridge with a second by Jeanne Chappell, the Board, voted to conduct a non-public session for the purpose of discussing investigations of alleged licensee misconduct and noting that such a non-public session is authorized by RSA 91-A: 3, II (c), RSA 91-A: 3, II (e), RSA 91-A: 5, IV, *Lodge v. Knowlton*, 119 N.H. 574 (1978), and the Board's executive and deliberative privileges. Each member recorded his or her vote on the motion, which passed by the unanimous vote of all members present.

NON-PUBLIC SESSION:

[Minutes kept separately]

Motion to keep minutes of non-public session confidential:

Upon the motion of Sarah Partridge with a second by Kimberly Hannon, the Board voted to withhold and seal the minutes of the preceding non-public session from public disclosure pursuant to RSA 91-A: 3, III on the grounds that public disclosure would be likely to affect adversely the reputation of a person other than a Board member and to render the proposed action ineffective. Each member recorded his or her vote on the motion, which passed by the unanimous vote of all members present.

