

**COMMONWEALTH OF MASSACHUSETTS**

**BOARD OF REGISTRATION OF COSMETOLOGY AND BARBERING**

**MINUTES OF THE SEPTEMBER 15, 2015 BOARD MEETING**

**TIME:** 9:00 a.m.

**PLACE:** 1000 Washington Street  
Room 1 D  
Boston, MA 02118

**PRESENT:** Susan Viens, Michael Gayzagian, Marian Saluto, Janice Dorian, Joy Talbot, Catherine Tool, Nan Pham

**ABSENT:**

**STAFF:** Bianca Hoffman, Executive Director  
Lynn Read, Board Counsel  
Sarah Wilkinson, Assistant Chief Investigator  
Kelly Puccio, Investigation Supervisor

Observers attended the meeting and a sign-in sheet was circulated.

The meeting was called to order at 9:45 a.m. by Ms. Hoffman, and emergency exit procedures were described.

**Review and Approve Minutes**

A MOTION was made by Ms. Viens to approve the Minutes of the July 21, 2015 open meeting as written. The motion was seconded by Ms. Talbot and passed by the Board.

A MOTION was made by Ms. Talbot to approve the Minutes of the August 27, 2015 open meeting as written. The motion was seconded by Ms. Pham and passed by the Board.

**Executive Director Report**

Ms. Hoffman announced that she will depart from the Division of Professional Licensure ("DPL"). She thanked the Board for the opportunity to work with them. Board members thanked Ms. Hoffman for her professionalism and service to the Cosmetology Board and the new merged Board of Cosmetology and Barbering.

**Board Counsel Report**

Ms. Read distributed the Mobile Manicuring Policy as posted on the website. She described the process required by Executive Order 562 for the Board to review its regulations.

Ms. Dorian and Ms. Pham discussed whether the Mobile Manicuring Policy should specify basic manicures, which usually include cutting. They requested that this be placed on the agenda for

the October 5 meeting. Ms. Tool suggested all tools for Mobile Manicuring should be disposable.

Ms. Read gave an overview of the Supreme Court case, North Carolina Dental Board. Members expressed concern about liability arising from the decision. Ms. Read said that DPL management is participating in a work group organized by the Attorney General's office, and an update will be given at the Board's next meeting on October 5, 2015.

#### **Review of Application and Proposed Curriculum for Laser Electrolysis Instruction**

The applicant, Ms. Jenkins, described her proposal and the space she plans to use in an existing Advanced Aesthetics school. Board members requested further information from Ms. Jenkins. A MOTION to table the proposal was made by Ms. Dorian, seconded by Mike Gayzagian, and passed unanimously.

The Board took a short break at 11:07 a.m. and reconvened at 11:12 a.m.

#### **Election of Officers**

Ms. Saluto made a MOTION to elect Sue Viens as Chair. The Motion was seconded by Mr. Gayzagian. Discussion: Ms. Tool asked that everyone describe a little about their background, and Board members did so.

Ms. Tool made a MOTION to nominate Janice Dorian as Chair. A Roll Call vote was requested on the pending Motion to nominate Ms. Viens as Chair:

Mr. Gayzagian: Aye

Ms. Saluto: Aye

Ms. Pham: Aye

Ms. Viens: Aye

Ms. Talbot: Aye

Ms. Tool: Nay

Ms. Dorian: Abstains

Ms. Dorian withdrew her name from the ballot, thus Ms. Viens was elected as Chair of the Board by a majority of the Board members

Ms. Hoffman called for a volunteer or a nomination for secretary. Ms. Saluto nominated Mike Gayzagian as Vice Chair. Ms. Dorian nominated Joy Talbot as Vice Chair and spoke in her behalf. A Roll Call vote was taken in which the members stated their votes as follows:

Ms. Tool: Abstain

Ms. Dorian: Joy Talbot

Joy Talbot: Joy Talbot

Nan Pham: Joy Talbot

Sue Viens: Mr. Gayzagian

Ms. Saluto: Mr. Gayzagian

Mr. Gayzagian: Mr. Gayzagian

Since there was a tie, Ms. Tool stated she votes for Joy Talbot.

Mr. Gayzagian volunteered to serve as Secretary. Ms. Talbot MOVED to accept Mr. Gayzagian's offer and Ms. Viens seconded the motion. A Roll Call vote was taken:

Mr. Gayzagian: Aye

Ms. Saluto: Aye

Ms. Pham: Aye

Ms. Viens: Aye

Ms. Talbot: Aye

Ms. Tool: Aye

Ms. Dorian: Aye

### **Delegation of Authority**

Ms. Read described three delegations of authority needed for the Board staff and Hearing Officers to continue to conduct adjudicatory hearings to carry out votes taken by the Board. She said the first delegation needed is for the Board's Executive Director, Associate Executive Director, or DPL's Deputy Director for Boards and Policy with Board Counsel, to sign Orders to Show Cause, Consent Agreements, and Final Decisions after the Board votes to issue each such order, agreement or decision. Ms. Dorian asked to ensure that the Board is not delegating authority to the staff to negotiate or make changes. Ms. Read and Ms. Viens said that this is only to allow staff to carry out the vote taken by the Board.

A MOTION was made by Mr. Gayzagian and seconded by Ms. Talbot to grant the Executive Director, the Associate Executive Director, and, when neither are available and only after consultation with Board Counsel, the Deputy Director for Policy and Boards, the authority to execute Orders to Show Cause, Consent Agreements, and Tentative and Final Decisions on behalf of the Board and to sign off on case closings. This delegation of authority shall remain in effect and force unless and until overridden by a subsequent vote of the Board. The Motion was passed by the Board. Abstained: Ms. Dorian.

Ms. Read described the second delegation of authority needed: for the DPL Hearings Officers to act as Presiding Officer in cases that the Board voted to refer to prosecution.

A MOTION was made by Mr. Gayzagian and seconded by Ms. Pham to delegate the authority to act as a Presiding Officer to a Division of Professional Licensure Hearings Counsel for all adjudicatory proceedings conducted pursuant to 801 Code Mass. Regs. §§ 1.00 et seq., in all cases where the Board has voted to issue an order to Show Cause, Summary Suspension Order, Denial of License or other adjudicatory matter or where an Order to Show Cause will be issued, and to instruct the Board staff to invite a Board member to every adjudicatory hearing. This delegation of authority shall remain in effect and force unless and until overridden by a subsequent vote of the Board.

Discussion: Ms. Dorian asked that a Board member always be invited to attend adjudicatory hearings. After discussion, Board counsel recommends that the Board approve the motion and make a second motion for this request. The pending Motion passed by a majority. Ms. Dorian opposed the motion.

A MOTION was made by Joy Talbot to instruct the Board staff to invite a Board member to each scheduled adjudicatory hearing for the Board of Registration of Cosmetology and Barbering. The Motion was seconded and passed unanimously

Ms. Read described the third delegation of authority needed: to issue a written Order of Summary Suspension after determining, in consultation with the Board Chair and based on credible sworn affidavits and documentary evidence, that a licensee's continued practice poses an immediate and serious threat to the public health, safety or welfare.

A MOTION was made by Mr. Gayzagian and seconded by Ms. Tool to delegate the authority to issue a written Order of Summary Suspension, pending a 10-day hearing pursuant to G.L. c.112, §65B, to the Executive Director, the Associate Executive Director, and, when neither are available and only after consultation with Board Counsel, the Deputy Director for Policy and Boards, after determining, in consultation with the Board Chair and based on credible sworn affidavits and documentary evidence, that a licensee's continued practice poses an immediate and serious threat to the public health, safety or welfare. This delegation of authority shall remain in effect and force unless and until overridden by a subsequent vote of the Board. The Motion passed unanimously

**Scheduling of Regulations Meeting in Addition to Board Meeting Review**

Ms. Dorian suggested that the Board work with an advisory group of members of the public who could consult and propose draft regulations. Members decided to review the regulations as a full Board, rather than by delegating the initial review and drafting to one or more subcommittees.

**Topics Not Reasonably Anticipated**

Ms. Dorian asked the Board to consider eliminating the cosmetology instructor practical exam, and eliminating the vendor from student practical exams and instead, giving the exam in the schools.

**Public Comment**

Mr. Clemente said that an advisory council is a great idea for regulation review, to put the public more in control so the board does not make decisions that are contrary to what the public or the industry wants.

**INVESTIGATIVE CONFERENCE PURSUANT TO M.G.L. C. 112, § 65C (CLOSED SESSION)**

A MOTION was made by Ms. Pham, seconded by Mr. Gayzagian to go into a closed Investigative Conference pursuant to M.G.L. C. 112, § 65C. The Motion passed unanimously.

The Board meeting reconvened in Open Session. For the Record, the Board decided during the Investigative Conference to take the following actions:

BR-16-052 and BR-16-071: Board authorized DPL to issue Summary Suspension Order

Settlement Offers and Counteroffers

HS-15-395: Guidance Provided to Prosecutor  
HS-15-310: Guidance Provided to Prosecutor  
HD -14-077: Guidance Provided to Prosecutor

Request for Reconsideration:

HS-15-402: Dismiss

Review Of Cases And Staff Assignments:

BR-16-001: Guidance Provided to Prosecutor  
BR-16-002: Guidance Provided to Prosecutor  
HS-15-507: Guidance Provided to Prosecutor  
HS-15-118: Guidance Provided to Prosecutor  
HS-15-334: Guidance Provided to Prosecutor  
SA-HD-15-039 Dismiss  
SA-HD-15-040 Dismiss  
SA-HD-15-041 Dismiss

The Board meeting reconvened in Open session.

**QUASI JUDICIAL SESSION Pursuant to G.L. c. 30A, §18**

A MOTION was made by Ms. Talbot to suspend the open meeting and enter into quasi-Judicial Session pursuant to G.L. c. 30A, §18 to review and vote on Final Decisions and Orders in Docket Nos. HS-14-347 and HS-13-605. The motion was seconded by Mr. Gayzagian and passed unanimously. Ms. Pham recused herself from the discussion of HS-13-605 and left the room.

The Board meeting reconvened in Open session.

A MOTION was made by Ms. Talbot and seconded by Mr. Gayzagian to suspend the open meeting and enter into Executive Session for the purpose of reviewing detailed minutes of Executive Sessions held on July 21, 2015 and August 27, 2015 for the purpose of reviewing character rather than competence. A Roll Call Vote was taken:

Mr. Gayzagian: Aye  
Ms. Saluto: Aye  
Ms. Pham: Aye  
Ms. Viens: Aye  
Ms. Talbot: Aye  
Ms. Tool: Aye  
Ms. Dorian: Aye

The Board meeting reconvened in Open session.

**Adjournment**

A MOTION was made by Mr. Gayzagian and seconded by Ms. Toole to adjourn the meeting. The Chair called for a Roll Call vote:

Mr. Gayzagian: Aye  
Ms. Saluto: Aye  
Ms. Pham: Aye  
Ms. Viens: Aye  
Ms. Talbot: Aye  
Ms. Tool: Aye  
Ms. Dorian: Aye

The meeting was adjourned at approximately 4:12 P.M.

**List of Documents Used in Open Session:**

Agenda

Minutes of July 21, 2015 and August 27, 2015

Request for Approval of Laser Electrolysis Instructor and Course

Sign-In Sheet

The above Minutes were approved at the December 8, 2015 Meeting.

A handwritten signature in black ink, appearing to read 'rt 2' followed by a stylized star or 'A' symbol.

Robert Fortes, Deputy Director for Policy and Boards