
Cosmetologist's Board Meeting

Monday, August 7, 2017

A meeting of the State Board of Cosmetologists was held on Monday, August 7, 2017 on the 3rd floor conference room at the Department of Labor, Licensing and Regulation building located at 500 North Calvert Street, Baltimore, Maryland 21202.

Board Member Attendees

Ms. Rachel Allen, *Industry Member*
Ms. Valerie Mascaro, *Industry Member*
Mr. Charles Riser, *Industry Member, Acting Chair*
Mr. Bob Zupko, *Industry Member*

Other Attendees

Ms. Shirley Leach, *Executive Director*
Mr. Eric London, *Assistant Attorney General*
Ms. Nicole Thompson, *Licensing and Investigations Supervisor*
Mr. Matthew Dudzic, *Board Administrator*

Not Attending

Ms. Piccola Winkey, *Industry Member*

Agenda

Quorum Announced and Meeting Called to Order—Chairperson

A quorum was announced and the meeting was called to order at 10:10 AM by Mr. Charles Riser, Acting Chair.

Approval of Agenda

Ms. Shirley Leach offered an amendment to the agenda. Mr. Charles Riser asked for a motion to approve the amended agenda. Ms. Allen made this motion, and the motion was seconded by Ms. Mascaro. The amended agenda was approved.

Informal Conferences

Presentation: Maryland Apprenticeship and Training Program (MATP)

Mr. Chris MacLarion, Director of the Maryland Apprenticeship and Training Program, gave a presentation to the Board regarding MATP and registered apprenticeships.

Mr. Charles Riser asked how the registered apprenticeship program differed from the apprenticeship program the Board of Cosmetologists already had in place. Mr. MacLarion stated that salons participating in the program could possibly utilize the program's funds to offset the cost of paying an apprentice while in a salon. Mr. MacLarion also stated that registered apprentices should be paid on a progressive wage pattern.

Ms. Shirley Leach, Executive Director, recommended that the Board begin a pilot program with MATP, with between five and ten shops following the MATP registered apprenticeship standards but using the Board's regulatory guidelines. Ms. Leach suggested that they could begin with a two-to-one ratio of apprentices to senior cosmetologists, and that it would be a good opportunity to learn if this type of program could work for the Board. Ms. Rachel Allen made a motion to move forward with a pilot program with MATP, and Ms. Valerie Mascaro seconded this motion. The motion passed unanimously.

Presentation: Pivot Point—Online Apprenticeship Training


Mr. Joe Paraino and Mr. Al Katzubeck of Pivot Point gave a presentation to the Board of their online apprenticeship software. They explained that they had originally developed this software for use in schools, but they believed that it could be developed for state apprenticeship programs as well.

Mr. Charles Riser asked how well this system worked on smartphones, as most small salons did not have computers for their apprentices to utilize the training program. Mr. Paraino explained that the demo version was optimized for the desktop because that was what they were using as a display, but that the software was also optimized for smartphones.

Mr. Riser asked who would be responsible for implementing this system. Mr. Paraino and Mr. Katzubeck explained that if they moved forward with this, they would sit down with Ms. Shirley Leach and set up a team to set this up and begin developing content. Mr. Riser expressed concerns that this type of program might conflict with distance education requirements and other school-specific regulations. Mr. Paraino and Mr. Katzubeck stated that the software was FERPA-compliant in regard to student privacy, and that they would work together to ensure they were in compliance with any statewide regulations.

Ms. Shirley Leach explained that this presentation was meant to be informative, and that the Board would not be entering into an arrangement with Pivot Point that day. If they decided to move forward, this would have to go through Maryland's procurement offices and be reviewed by attorneys before anything was final.

Ms. Valerie Mascaro expressed her enthusiasm for this program as a salon owner and senior cosmetologist, and thanked Pivot Point for their presentation.



Ms. Shirley Leach asked the Board if they were interested in moving forward with this program, possibly working on a pilot version alongside the MATP pilot program. Ms. Rachel Allen made a motion to formally explore these options, and Ms. Mascaro seconded the motion. The motion passed unanimously.

Informal Conference—Apprentice Restart, E. Kirkayak

An informal conference was held for Mr. Emrah Kirkayak, who requested that he be allowed to restart his cosmetologist's apprenticeship. Also in attendance was Ms. Michelle Brunner, Mr. Kirkayak's sponsor. Mr. Kirkayak explained that he had apprenticed with another salon previously and completed 10 months of his training. He said that he was originally from Turkey, and had returned several times to take care of his family, and as a result had been unable to complete his apprenticeship. Mr. Kirkayak had been working in Ms. Brunner's salon as a shampoo technician, but was hoping to restart his apprenticeship and become a full stylist. He stated that he had purchased a home and his mother was now living here, and that he was here permanently and ready to complete his training.

Mr. Charles Riser, acting chair, asked for a motion to allow an apprenticeship restart contingent on both the apprentice and his sponsor attending the apprenticeship orientation. Ms. Valerie Mascaro made this motion, and Ms. Rachel Allen seconded it. Mr. Bob Zupko, Ms. Allen and Ms. Mascaro voted in favor of the motion, while Mr. Riser opposed it. The motion passed.

Mr. Kirkayak and Ms. Brunner thanked the Board for allowing the restart.

Informal Conference—Apprenticeship Restart, D. Nguyen

An informal conference was held for Mr. Danh Nguyen, who requested that he be allowed to restart his nail technician's apprenticeship. Mr. Nguyen had originally held a nail technician's apprentice permit in 2009, and did not complete his hours. Mr. Nguyen explained that at the time he was also a full-time student, and the hours required to do both were too much for him. Mr. Nguyen stated that he had completed his schooling, where he studied biology, but wanted to go back to becoming licensed as a nail technician so that he might one day start a business. He stated that he found a new sponsor at Nails Boutique in Dundalk, Maryland, and was ready to begin.

Ms. Valerie Mascaro made a motion that Mr. Nguyen be allowed to receive a final restart of his apprenticeship permit, contingent on both the apprenticeship and his sponsor attending the apprenticeship orientation. Ms. Rachel Allen seconded this motion. The motion passed unanimously.

Informal Conference—Apprenticeship Restart, H. Fox

An informal conference was held for Ms. Heather Fox, who requested that she be allowed to restart her nail technician's apprenticeship. Ms. Fox was a licensed esthetician who began the nail technician's apprenticeship program in 2015, but was unable to complete it due to medical reasons.

Ms. Fox was not in attendance, but submitted her request to the Board via letter and asked that the Board review her case in her absence.

After reviewing Ms. Fox's letter and supporting documents, Mr. Charles Riser stated that it appeared that she followed the system and did everything properly, and asked for a motion to approve Ms. Fox to restart her apprenticeship. Mr. Bob Zupko made this motion, and Ms. Rachel Allen seconded it. The motion passed unanimously.

Examination Review—M. Yegezu

Mr. Charles Riser, acting chair, asked for a motion to enter into executive session per §3-305(b)(2). Mr. Bob Zupko made this motion, and Ms. Rachel Allen seconded it. The motion was approved, and the Board entered into executive session at 12:12 PM. The Board came out of executive session at 12:36 PM.

Mr. Riser summarized what took place in the closed session. He explained that the Board denied an applicant's petition to retake their state board examination in the State of Maryland.

Violations Review—Future Nails

The owner of Future Nails was scheduled for an informal conference to discuss violations found in their shop during a recent inspection. Though the required fines had been paid and the owner signed a consent order confirming his attendance, the owner was not present for the conference. Ms. Shirley Leach, Executive Director, explained that the owner of Future Nails was also in the process of selling his salon to a new owner.

The Board asked what recourse they had in a circumstance like this, where a shop failed to fulfill all the terms of a consent order but was then sold to a new owner. Mr. Eric London, Board Counsel, explained that the Board could call for a formal hearing and attempt to serve the previous entity if it still existed. However, Mr. London advised that in his experience, if they actually sold their business, getting in touch with the prior entity might present difficulties. Ms. Leach added that some states required that any existing violations on a shop be taken care of before a sale could go through, but that Maryland's regulations did not permit this.

Mr. Bob Zupko stated that while he was not worried about any outstanding fines, the pictures they reviewed from the failed inspection were atrocious, and his concern was that public safety was at risk. He added that for the shop owner to not show up when requested was worse in his eyes than if he had been fined thousands of dollars. Mr. Zupko recommended that inspectors return to the shop as soon as possible.

Mr. Charles Riser added that these presented issues that the Board had run up against previously, where salons received multiple violations for the same offense and had to come before the Board several times before any action could be taken, and in the meantime these salons were operating in an unsafe manner during this whole process. Ms. Valerie Mascaro added that for a shop to operate in those conditions was completely unacceptable and that they should not be allowed to remain open.

Mr. London said that he understood everyone's frustrations with the photographs and inspection report, and that it was clearly not acceptable. However, he said that the Board had certain

limitations, and that if the shop was sold to a new owner, they could not have the taint of the old shop pass over to the new one. He said that the Board needed to allow the new owner a fair chance to demonstrate that they were operating properly within Maryland's standards.

Mr. Riser said that while this was technically a new ownership, nothing about the name, location or structure of the business changed, and that in his opinion this appeared to be a legal maneuver to avoid repercussions. He asked if there was anything else that could be done in this case. Ms. Leach stated that while our current regulations dictated the process for how salons were approved, the Board did have the power to change those regulations, and could use some other states as a guidance. However, she said that we would need to sit down and discuss that as a group to find out the best solution for Maryland to avoid these kinds of scenarios.

New Business

Complaint Committee Assignment

Mr. Charles Riser volunteered to be the rotating member of the Complaint Committee for the next meeting of the Board.

Curriculum Review—Hair Academy II

Ms. Shirley Leach stated that Hair Academy II wanted to add an esthetics program to their school, and that after applying through the Maryland Higher Education Commission, they submitted their proposed curriculum to the Board for review. Ms. Leach explained that with previous Boards, they typically gave one or two Board members the authority to review proposed curriculum outside of the regular meetings. After some discussion, Ms. Rachel Allen and Mr. Bob Zupko volunteered to act as a curriculum review committee.

Ms. Valerie Mascaro motioned to forward the proposed esthetics curriculum of Hair Academy II to the newly formed curriculum review committee, with the clarification that the decision of the committee would stand as the decision of the Board. Mr. Zupko seconded the motion, and the motion passed unanimously.

Old Business

Schedule Change for September Meeting

Ms. Shirley Leach, Executive Director, explained that the Board had previously agreed to move the September meeting to August 28, 2017. However, this new date would conflict with PSI's all schools meeting scheduled for that week.

Mr. Charles Riser, acting chair, asked for a motion to strike the September meeting due to the unexpected conflict with the PSI meeting, and to next convene on October 2, 2017. Ms. Rachel Allen made this motion, and Ms. Valerie Mascaro seconded it. The motion passed unanimously.

Inspection Report by Investigations Supervisor Nicole Thompson

Ms. Nicole Thompson, Investigations Supervisor, stated that from November of 2016 through July of 2017, the inspection staff inspected 263 new shops, 988 routine inspections, 51 late renewals and 72 complaints. Ms. Thompson added that the inspectors had a staff meeting on June 31 to review the different types of inspections and violations, and to ensure that their inspection reports would be legible and presentable to the Board.

Ms. Thompson added that recently there had been a greater number of reports regarding microblading, and encouraged others to report microblading when they witnessed it being performed in a salon. She said that many shop owners did not seem to realize that they could not offer microblading until they were told by one of their inspectors. Ms. Thompson also went over the procedure she had developed for dealing with unlicensed activities. She then went over fraudulent licenses that had been confiscated in a recent inspection, where individuals had been operating under forged licenses. She explained that she went over the forged licenses with all of her inspectors so that they would know what to look out for.

Mr. Bob Zupko and Ms. Valerie Mascaro asked what could be done about situations such as that, where people were operating under fraudulent or forged licenses. Ms. Mascaro asked if there was any way to bar the individuals operating under forged licenses from ever receiving a Maryland license. Ms. Shirley Leach, Executive Director, said she could discuss how to handle these issues with our new litigator.

Mr. Charles Riser said that he understood Mr. Zupko's and Ms. Mascaro's frustration, but that when he compared the number of violations that the Board reviews every month with the number of inspections Ms. Thompson just presented, it meant that under 6% of all inspections resulted in a violation. He said that while the bad shops can loom large, it was important to remember that the vast majority of shops appear to be doing the right thing.

Executive Director Update

Ms. Shirley Leach, Executive Director, provided an update to their previous discussions regarding salon suites. Ms. Leach said that the department serves over 55,000 licensees, and that the main focus is on infection control, sanitation, health and safety. She said that it was important to be mindful as regulators not to amend or create practices that might reduce competition or create unnecessary barriers to licensing. With that in mind, Ms. Leach said that she reviewed the regulations in all 50 states and compared them to Maryland with reference to booth rentals and salon suites.

Out of the 50 states, she found eight states that specifically referenced booth rentals, and of those eight, two that also referenced salon suites. She stated that the only two states who referenced salon suites in their regulations were Maine and Idaho. However, she added that Idaho was currently under a regulatory review under the Freedom Act.

Ms. Leach added that she reviewed complaints and inspection reports, and that there was not an overabundance of complaints or violations taking place in salon suites. She also spoke to several

industry professionals, both new and old, and added that she did not believe the regulation of salon suites was a major issue for Maryland.

Mr. Bob Zupko stated that it was his understanding that inspectors only inspected salon suites if there was a complaint filed with the Board. Ms. Nicole Thompson, Inspections Supervisor, stated that this was incorrect, and that salon suites received the same number of routine inspections as any other shop. Mr. Zupko asked if the inspectors reviewed every suite, or just one, and if sanitation issues for each suite were being investigated. Ms. Thompson stated that inspectors were instructed to check every suite both for sanitation issues and for proper licensing of practitioners.

Mr. Charles Riser stated that he did not believe that the Board had issues regarding sanitation in salon suites, but rather concerns about how violations were being issued. He said that if someone was leasing space from a salon suite, they were an independent business, and yet the Board was ignoring the business relationship and treating it like a salon/hairdresser employee relationship. Mr. Riser added that he would never expect the Board to fine the owner of a shopping mall for what occurred in a Hair Cuttery within that mall, and yet that was effectively what they were doing by issuing violations against the salon suites business license rather than against the individuals practicing in those suites.

Ms. Leach stated that Maryland regulations only allowed for one salon permit per facility, and that it would not be possible to issue separate salon permits for multiple shops at the same address. Mr. Riser disagreed, saying that they were not the same address, as they were typically identified as Suite A, Suite B, etc.

Mr. Eric London, Board Counsel, stated that if the issue was with how the Board was administering violations, the Board did have the authority to issue citations against individuals within the suites rather than against the salon suites as a whole. He stated that historically the Board had not done this for several reasons, including difficulties with enforcement, but that Maryland's regulations did permit this.

Mr. Riser stated that there was a greater problem that was not being addressed: that the Board did not want people to be able to sidestep the process for regulatory approval simply because they did so under a new business model. He said that he believed the Board must be able to adapt to new business structures such as salon suites, and while he understood that change was not possible in a single day, he wanted to see some sort of regulatory response so that no one would be able to abuse the system and skirt around public safety requirements.

Mobile Salon Regulations

Mr. Charles Riser reviewed mobile salon requirements from California, and compared them to Maryland's requirements. He stated that none of these mobile salon requirements addressed the main issue: that students and graduates were setting up social media pages, putting a magnetic sticker on their car and performing cosmetology services at people's homes. He added that the mobile regulations as they are written will not address that.

Ms. Shirley Leach, Executive Director, advised that the legislation approving mobile salons was specifically addressing mobile shops where the services were being performed in a motor home or

trailer, not mobile services at people's homes. Mr. Riser stated that he would have a basic regulatory outline to present at the October meeting.

Public Comment

Shannon Rice

Ms. Shannon Rice stated that this was her first time attending a Board of Cosmetologists meeting. She explained that she was currently working as a tutor to assist people with taking their examinations. She added that she was there to assist the Board with anything they needed, and that she planned to attend the October meeting.

Sandra DiLallo

Ms. Sandra DiLallo stated that as a business owner, salon suites have hurt her ability to run a salon, because she frequently had stylists leaving to open up their own business in a suite. She asked the Board what could be done to help her and her salon. She stated that she would be interested in taking students or apprentices into her shop to provide them with training, but she needed to know how it would help her as a business.


Ms. Rachel Allen explained that if there was a high school in her area with a cosmetology program, students were legally permitted to work in a salon after completing 1,000 hours of training. Ms. DiLallo asked how taking on such students in her salon would help her as a business owner, especially since she would have to assume liability for those students. Mr. Bob Zupko said that the biggest advantage to taking on new students or apprentices was that, as a salon owner, you had the unique opportunity to grow them into the type of stylist you wanted to see. Mr. Zupko advised that when you build a personal relationship and grow and support your stylists, they will be less likely to leave on their own.

Nakia Dedmon

Ms. Nakia Dedmon explained that she was a stylist who rented a booth from another shop. She said she was interested in refresher courses, because there were many things that she wanted to know. She asked for information on classes for senior cosmetologists who had already been in the industry for some time. Ms. Shirley Leach, Executive Director, explained that the Board could not recommend or sponsor any particular program or class, but that such classes did exist.

Yolande Bartee

Ms. Yolande Bartee asked for more information regarding salon suites. She said that she has looked into moving into a suite in the past and seen that it is written into the contract that the renter must have a license in order to operate in a suite. However, she said that in her experience this was



not always the case. She asked what the typical time frame was before an inspector came back out if they attempted to inspect a suite that was closed and locked.

Ms. Nicole Thompson, Inspections Supervisor, explained that typically shops were reinspected every six months unless they were specifically advised to go out earlier by the Board or to investigate a complaint.

Approval of June 5, 2017 Meeting Minutes

Mr. Charles Riser offered an amendment to the June 5, 2017 meeting minutes. Ms. Rachel Allen made a motion to approve the minutes as amended, and the motion was seconded by Ms. Valerie Moscaro. The motion passed.

Adjournment

There being no further business to discuss or to present before the Board, Mr. Charles Riser asked for a motion to adjourn the meeting. Ms. Valerie Moscaro made this motion, and it was seconded by Ms. Rachel Allen. The motion passed, and the meeting was adjourned at 2:22 PM.

APPROVED BY: _____ ON OCTOBER 2, 2017.