



COSMETOLOGY EXAMINING BOARD
Room 121A, 1400 East Washington Avenue, Madison
Contact: Brittany Lewin (608) 266-2112
February 6, 2017

The following agenda describes the issues that the Board plans to consider at the meeting. At the time of the meeting, items may be removed from the agenda. Please consult the meeting minutes for a record of the actions of the Board.

AGENDA

9:30 AM

OPEN SESSION – CALL TO ORDER – ROLL CALL

- A. Adoption of Agenda (1-3)**
- B. Approval of Minutes – November 7, 2016 (4-5)**
- C. Administrative Matters (6-12)**
 - 1. Election of Officers
 - 2. Liaison Appointments and Delegated Authorities
 - 3. Board and Staff Updates
- D. Legislative and Administrative Rule Matters – Discussion and Consideration**
 - 1. Legislative Liaison Update
 - 2. Update on Legislation and Pending and Possible Rulemaking Projects
- E. Informational Matters (13)**
 - 1. Wisconsin Institute for Law and Liberty Report
- F. Office of Education and Examinations Update**
 - 1. Exam Vendor
 - 2. 2017 – 2019 Biennium Continuing Education Provider Application
- G. Speaking Engagements, Travel, or Public Relation Requests**
 - 1. National-Interstate Council of State Boards of Cosmetology Travel Report
- H. Deliberation on Items Added After Preparation of Agenda:**
 - 1. Introductions, Announcements and Recognition
 - 2. Election of Board Officers
 - 3. Appointment of Board Liaison(s)
 - 4. Administrative Matters
 - 5. Education and Examination Matters
 - 6. Credentialing Matters
 - 7. Practice Matters
 - 8. Legislation/Administrative Rule Matters

9. Liaison Reports
10. Informational Items
11. Disciplinary Matters
12. Presentations of Petitions for Summary Suspension
13. Petitions for Designation of Hearing Examiner
14. Presentation of Proposed Stipulations, Final Decisions and Orders
15. Presentation of Proposed Final Decision and Orders
16. Presentation of Interim Orders
17. Petitions for Re-Hearing
18. Petitions for Assessments
19. Petitions to Vacate Orders
20. Request for Disciplinary Proceeding Presentations
21. Motions
22. Petitions
23. Appearances from Requests Received or Renewed
24. Speaking Engagements, Travel, or Public Relation Requests

I. Public Comments

CONVENE TO CLOSED SESSION to deliberate on cases following hearing (s. 19.85(1)(a), Stats.); to consider licensure or certification of individuals (s. 19.85(1)(b), Stats.); to consider closing disciplinary investigations with administrative warnings (ss. 19.85 (1)(b), and 440.205, Stats.); to consider individual histories or disciplinary data (s. 19.85 (1)(f), Stats.); and to confer with legal counsel (s. 19.85(1)(g), Stats.).

J. Deliberation on Division of Legal Services and Compliance (DLSC) Matters

1. Proposed Stipulations, Final Decisions and Orders

- a) 15 BAC 087 – Wonder Nails **(14-18)**

2. Case Closures

- a) 15 BAC 048 **(19-21)**
- b) 15 BAC 049 **(23-26)**
- c) 15 BAC 050 **(27-30)**
- d) 15 BAC 087 **(31-39)**
- e) 15 BAC 112 **(40-43)**
- f) 15 BAC 117 **(44-47)**
- g) 15 BAC 121 **(48-51)**
- h) 16 BAC 025 **(52-54)**
- i) 16 BAC 034 **(55-58)**
- j) 16 BAC 051 **(59-62)**

K. Proposed Final Decision and Order – In the Matter of the Disciplinary Proceedings Against Hanh Pham, Respondents, DHA Case No. SPS-16-0058 DLSC Case No. 15 BAC 058 (63-71)

L. Deliberation of Items Added After Preparation of the Agenda

1. Education and Examination Matters
2. Credentialing Matters
3. Disciplinary Matters
4. Monitoring Matters
5. Professional Assistance Procedure (PAP) Matters
6. Petitions for Summary Suspension
7. Petitions for Designation of Hearing Examiner
8. Proposed Stipulations, Final Decision(s) and Order(s)

9. Administrative Warnings
10. Review of Administrative Warnings
11. Proposed Final Decisions and Orders
12. Orders Fixing Costs/Matters Related to Costs
13. Case Closings
14. Proposed Interim Orders
15. Petitions for Assessments and Evaluations
16. Petitions to Vacate Orders
17. Remedial Education Cases
18. Motions
19. Petitions for Re-hearings
20. Appearances from Requests Received or Renewed

M. Consulting with Legal Counsel

RECONVENE TO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION

Vote on Items Considered or Deliberated Upon in Closed Session, if Voting is Appropriate

ADJOURNMENT

NEXT MEETING: APRIL 3, 2017

**COSMETOLOGY EXAMINING BOARD
MEETING MINUTES
November 7, 2016**

PRESENT: Kristin Allison (*via GoToMeeting,*) Vicky McNally, Lori Paul, Gail Sengbusch, Denise Trokan

EXCUSED: Suresh Misra

STAFF: Tom Ryan, Executive Director; Nifty Lynn Dio, Bureau Assistant; and other department staff.

CALL TO ORDER

Vicky McNally, Chair, called the meeting to order at 9:30 a.m. A quorum of five (5) members was confirmed.

ADOPTION OF AGENDA

MOTION: Denise Trokan moved, seconded by Gail Sengbusch, to adopt the agenda as published. Motion carried unanimously.

APPROVAL OF MINUTES

MOTION: Lori Paul moved, seconded by Gail Sengbusch, to approve the minutes of August 25, 2016 as published. Motion carried unanimously.

ADMINISTRATIVE MATTERS

Credentialing Delegated Authority for Conviction Review

MOTION: Vicky McNally moved, seconded by Lori Paul, to authorize and delegate to DSPS Attorneys and paralegals to make decisions regarding conviction review approving credentials according to Wis. Stats. § 454.06. All potential denials will be reviewed by the Credentialing Liaison Motion carried unanimously.

CLOSED SESSION

MOTION: Denise Trokan moved, seconded by Lori Paul, to convene to closed session to deliberate on cases following hearing (s. 19.85(1)(a), Stats.); to consider licensure or certification of individuals (s. 19.85 (1)(b), Stats.); to consider closing disciplinary investigation with administrative warning (ss.19.85(1)(b), Stats. and 440.205, Stats.); to consider individual histories or disciplinary data (s. 19.85 (1)(f), Stats.); and, to confer with legal counsel (s.19.85(1)(g), Stats.). Vicky McNally read the language of the motion. The vote of each member was ascertained by voice vote. Roll Call Vote: Kristin Allison – yes; Vicky McNally – yes; Lori Paul – yes; Gail Sengbusch – yes; Denise Trokan – yes. Motion carried unanimously.

The Board convened into closed session at 9:55 a.m.

RECONVENE TO OPEN SESSION

MOTION: Lori Paul moved, seconded by Denise Trokan, to reconvene into open session. Motion carried unanimously.

The Board reconvened into open session at 9:59 a.m.

VOTING ON ITEMS CONSIDERED OR DELIBERATED ON IN CLOSED SESSION

MOTION: Lori Paul moved, seconded by Vicky McNally, to affirm all motions made in closed session. Motion carried unanimously.

DELIBERATION ON DIVISION OF LEGAL SERVICES AND COMPLIANCE (DLSC) MATTERS

Administrative Warnings

15 BAC 111 – K.L.B.

MOTION: Lori Paul moved, seconded by Denise Trokan, to issue an Administrative Warning in the matter of DLSC Case No. 15 BAC 111 against K.L.B. Motion carried unanimously.

Case Closings

MOTION: Gail Sengbusch moved, seconded by Denise Trokan, to close the following cases according to the recommendations by the Division of Legal Services and Compliance:

1. 15 BAC 001 (C.T.K) – Prosecutorial Discretion (P3)
2. 15 BAC 068 (A.D., D.N.A., R.M., L.W., R.J.) Lack of Jurisdiction (L2)
3. 15 BAC 068 (K.L.) Prosecutorial Discretion (P3)
4. 15 BAC 080 (R.N.) No Violation
5. 15 BAC 090 (M.K.) Prosecutorial Discretion (P2)
6. 15 BAC 094 (L.N.) Insufficient Evidence
7. 15 BAC 106 (K.G., T.) Prosecutorial Discretion (P1)
8. 15 BAC 108 (G.N., N.T.) Prosecutorial Discretion (P2)
9. 15 BAC 118 (R.B.) No Violation
10. 15 BAC 120 (T.M., I.S.S., A.M.) No Violation
11. 15 BAC 125 (T.C.B.S.L., M.F., A.F.) Prosecutorial Discretion (P2)
12. 16 BAC 002 (L.L.N.S., L.N.) Insufficient Evidence
13. 16 BAC 032 (M.P.) Insufficient Evidence
14. 16 BAC 036 (U.S.A.N., H.V.) Insufficient Evidence

Motion carried unanimously.

ADJOURNMENT

MOTION: Gail Sengbusch moved, seconded by Lori Paul, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 10:00 a.m.

**State of Wisconsin
Department of Safety & Professional Services**

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Nifty Lynn Dio, Bureau Assistant		2) Date When Request Submitted: 12/29/2016 Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting	
3) Name of Board, Committee, Council, Sections: Cosmetology Examining Board			
4) Meeting Date: 02/06/2017	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Administrative Updates 1. Election of Officers 2. Liaison Appointments and Delegated Authorities	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session	8) Is an appearance before the Board being scheduled? <input type="checkbox"/> Yes (Fill out Board Appearance Request) <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required: N/A	

10) Describe the issue and action that should be addressed:

2016 ELECTION RESULTS	
Board Chair	Vicky McNally
Vice Chair	Kristin Allison
Secretary	Gail Sengbusch
2016 LIAISON APPOINTMENTS	
Credentialing Liaisons	Vicky McNally Alternate – Dianna Wachter
Monitoring and PAP Liaison	Denise Trokan Alternate – Gail Sengbusch
Office of Education and Examinations Liaison	Vicky McNally Alternate – Denise Trokan
Screening Panel	Gail Sengbusch Alternate – Vicky McNally
Legislative Liaison	Gail Sengbusch Alternate – Vicky McNally
Travel Liaison	Vicky McNally Alternate – Kristin Allison
Administrative Rules Liaison	Kristin Allison Alternate – Vicky McNally

**State of Wisconsin
Department of Safety & Professional Services**

11)	Authorization
Nifty Lynn Dio	12/29/2016
Signature of person making this request	Date
Supervisor (if required)	Date
Executive Director signature (indicates approval to add post agenda deadline item to agenda) Date	
Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Policy Development Executive Director. 3. If necessary, provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.	

**ELECTION OF OFFICERS
COSMETOLOGY BOARD**

2016 ELECTION RESULTS	
Board Chair	Vicky McNally
Vice Chair	Kristin Allison
Secretary	Gail Sengbusch

LIAISON APPOINTMENTS

2016 LIAISON APPOINTMENTS	
Credentialing Liaisons	Vicky McNally, Alternate – Dianna Wachter
Monitoring and Professional Assistance Procedure (PAP) Liaison	Denise Trokan Alternate – Gail Sengbusch
Office of Education and Examinations Liaison	Vicky McNally Alternate – Denise Trokan
Screening Panel	Gail Sengbusch Alternate – Vicky McNally
Legislative Liaison	Gail Sengbusch Alternate – Vicky McNally
Travel Liaison	Vicky McNally Alternate – Kristin Allison
Administrative Rules Liaison	Kristin Allison Alternate – Vicky McNally

MOTION: Denise Trokan moved, seconded by Dianna Wachter, to affirm the Chair’s appointment of liaisons for 2016. Motion carried unanimously.

DELEGATION MOTIONS

Delegated Authority for Urgent Matters

MOTION: Kristin Allison moved, seconded by Vicky McNally, that, in order to facilitate the completion of assignments between meetings, the Board delegates its authority by order of succession to the Chair, highest ranking officer, or longest serving member of the Board, to appoint liaisons to the Department to act in urgent matters, make appointments to vacant liaison, panel and committee positions, and to act when knowledge or experience

in the profession is required to carry out the duties of the Board in accordance with the law. Motion carried unanimously.

Delegated Authority for Application Denial Reviews

MOTION: Suresh Misra moved, seconded by Gail Sengbusch, that the Board counsel or another department attorney is formally authorized to serve as the Board's designee for purposes of Wis. Admin Code § SPS 1.08(1). Motion carried unanimously.

Document Signature Delegation

MOTION: Gail Sengbusch moved, seconded by Denise Trokan, to delegate authority to the Chair or chief presiding officer, or longest serving member of the Board, by order of succession, to sign documents on behalf of the Board. In order to carry out duties of the Board, the Chair, chief presiding officer, or longest serving member of the Board, has the ability to delegate this signature authority for purposes of facilitating the completion of assignments during or between meetings. The Chair, chief presiding officer, or longest serving member of the Board delegates the authority to Executive Director or designee to sign the name of any Board member on documents as necessary and appropriate. Motion carried unanimously.

Credentialing Authority Delegations

MOTION: Vicky McNally moved, seconded by Suresh Misra, to delegate authority to the Credentialing Liaisons to make all credentialing decisions. Motion carried unanimously.

Monitoring Delegations




MOTION: Gail Sengbusch moved, seconded by Vicky McNally, to affirm the Chair's appointment of Denise Trokan as the Monitoring Liaison, and Gail Sengbusch as the alternate, to adopt the 'Roles and Authorities Delegated to the Monitoring Liaison and Department Monitor; document as presented. Motion carried unanimously.

Travel Delegation

MOTION: Suresh Misra moved, seconded by Gail Sengbusch, to delegate authority to approve any Board Member travel to the Travel Liaison. Motion carried unanimously.

**State of Wisconsin
Department of Safety & Professional Services**

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Kelley Sankbeil Monitoring Supervisor Division of Legal Services and Compliance		2) Date When Request Submitted: January 21, 2017 Items will be considered late if submitted after 4:30 p.m. and less than: <ul style="list-style-type: none"> ▪ 10 work days before the meeting for Medical Board ▪ 14 work days before the meeting for all others 																
3) Name of Board, Committee, Council, Sections: Cosmetology Examining Board																		
4) Meeting Date: February 6, 2017	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Delegation of Authority to Monitoring Liaison and Department Monitor																
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	8) Is an appearance before the Board being scheduled? <input type="checkbox"/> Yes (Fill out Board Appearance Request) <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required:																
10) Describe the issue and action that should be addressed: Delegated Authority Motion: <i>“ _____ moved, seconded by _____ to adopt/reject the Roles and Authorities Delegated to the Monitoring Liaison and Department Monitor document as presented in today’s agenda packet.”</i>																		
<table style="width: 100%; border: none;"> <tr> <td style="width: 10%; border: none;">11)</td> <td style="width: 60%; border: none; text-align: center;">Authorization</td> <td style="width: 30%; border: none;"></td> </tr> <tr> <td style="border: none;"></td> <td style="border: none;"></td> <td style="border: none; text-align: right;">January 21, 2017</td> </tr> <tr> <td style="border: none;">Signature of person making this request</td> <td style="border: none;"></td> <td style="border: none; text-align: right;">Date</td> </tr> <tr> <td style="border: none;">Supervisor (if required)</td> <td style="border: none;"></td> <td style="border: none; text-align: right;">Date</td> </tr> <tr> <td style="border: none;">Executive Director signature (indicates approval to add post agenda deadline item to agenda)</td> <td style="border: none;"></td> <td style="border: none; text-align: right;">Date</td> </tr> </table>				11)	Authorization				January 21, 2017	Signature of person making this request		Date	Supervisor (if required)		Date	Executive Director signature (indicates approval to add post agenda deadline item to agenda)		Date
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Roles and Authorities Delegated to the Monitoring Liaison and Department Monitor

The Monitoring Liaison (“Liaison”) is a Board/Section designee who works with department monitors to enforce Board/Section orders as explained below.

Current Authorities Delegated to the Monitoring Liaison

The Liaison may take the following actions on behalf of the Board/Section:

1. Grant a temporary reduction in random drug screen frequency upon Respondent’s request if he/she is unemployed and is otherwise compliant with Board/Section order. The temporary reduction will be in effect until Respondent secures employment in the profession. The Department Monitor (“Monitor”) will draft an order and sign on behalf of the Liaison.
2. Grant a stay of suspension if Respondent is eligible per the Board/Section order. The Monitor will draft an order and sign on behalf of the Liaison.
3. Remove the stay of suspension if there are repeated violations or a substantial violation of the Board/Section order. In conjunction with removal of any stay of suspension, the Liaison may prohibit Respondent from seeking reinstatement of the stay for a specified period of time. The Monitor will draft an order and sign on behalf of the Liaison.
4. Grant or deny approval when Respondent proposes continuing/remedial education courses, treatment providers, mentors, supervisors, change of employment, etc. unless the order specifically requires full-Board/Section approval.
5. Grant a maximum of one 90-day extension, if warranted and requested in writing by Respondent, to complete Board/Section-ordered continuing education.
6. Grant a maximum of one extension or payment plan for proceeding costs and/or forfeitures if warranted and requested in writing by Respondent.
7. Grant full reinstatement of licensure if Respondent has fully complied with all terms of the order without deviation. The Monitor will draft an order and obtain the signature or written authorization from the Liaison.
8. Grant or deny a request to appear before the Board/Section in closed session.
9. Dentistry only – delegated authority to the monitoring liaison to approve or deny a request from a respondent.

Current Authorities Delegated to the Department Monitor

The Monitor may take the following actions on behalf of the Board/Section, draft an order and sign:

1. Grant full reinstatement of licensure if CE is the sole condition of the limitation and Respondent has submitted the required proof of completion for approved courses.
2. Suspend the license if Respondent has not completed Board/Section-ordered CE and/or paid costs and forfeitures within the time specified by the Board/Section order. The Monitor may remove the suspension and issue an order when proof completion and/or payment have been received.

2017 Proposed Delegated Authorities

Proposed Authorities Delegated to the Monitoring Liaison

1. Accept Respondent's written request to surrender credential. If accepted by the Liaison, Monitor will consult with Board Counsel to determine if a stipulation is necessary. If a stipulation is not necessary, Monitor will draft an order and sign on behalf of the Liaison. If denied by the Liaison, the request to surrender credential will go to the full Board for review.
2. Grant Respondent's petition for a reduction in drug screens per the standard schedule, below. If approved, Monitor will draft an order and sign on behalf of the Liaison.
 - a. Year 1: 49 screens (including 1 hair test, if required by original order)
 - b. Year 2: 36 screens (plus 1 hair test, if required by original order)
 - c. Year 3: 28 screens plus 1 hair test
 - d. Year 4: 28 screens plus 1 hair test
 - e. Year 5: 14 screens plus 1 hair test

Proposed Authorities Delegated to the Department Monitor

1. Suspend the license (or remove stay of suspension) if Respondent fails to enroll and participate in an Approved Program for drug and alcohol testing within 30 days of the order, or if Respondent ceases participation in the Approved Program without Board approval. *This delegated authority only pertains to respondents who must comply with drug and/or alcohol testing requirements.*

**State of Wisconsin
Department of Safety & Professional Services**

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Brittany Lewin Executive Director		2) Date When Request Submitted: Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting	
3) Name of Board, Committee, Council, Sections: Cosmetology Examining Board			
4) Meeting Date: 2/6/17	5) Attachments: Yes <input checked="" type="checkbox"/> No	6) How should the item be titled on the agenda page? Informational Item – Wisconsin Institute for Law and Liberty Report	
7) Place Item in: <input type="checkbox"/> Open Session <input checked="" type="checkbox"/> Closed Session	8) Is an appearance before the Board being scheduled? <input type="checkbox"/> Yes (Fill out Board Appearance Request) <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed: Lori Paul requested Wisconsin Institute for Law an Liberty Report – <i>Fencing Out Opportunity</i> , be included on the agenda. The report may be accessed here: http://www.will-law.org/wp-content/uploads/2016/11/Licensure-FINAL.pdf .			
11) Authorization			
Signature of person making this request		Date	
Supervisor (if required)		Date	
Executive Director signature (indicates approval to add post agenda deadline item to agenda) Date			
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