

Texas Department of Licensing and Regulation
ADVISORY BOARD ON COSMETOLOGY MEETING

Monday, April 28, 2014 – 9:00 a.m.
North Campus – 1st Floor Public Meeting Room
1106 Clayton Lane, Austin, Texas 78723

A G E N D A

If you require auxiliary aids, services or materials in an alternate format contact the Texas Department of Licensing and Regulation (TDLR) at least 5 working days prior to the meeting date. Phone: (800) 803-9202, FAX: (512) 475-2874, E-MAIL: Advisory.Boards@tdlr.texas.gov, TDD/RELAY TEXAS: 1-800-relay-VV (voice), 1-800-relay-TX (TDD).

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|----|--|--------------------------------------|
| A. | Call to Order | Presiding Officer, Glenda Jemison |
| B. | Roll Call and Certification of Quorum | Presiding Officer, Glenda Jemison |
| C. | Approval of minutes – Meetings of November 04, 2013
and February 24, 2014 | Presiding Officer, Glenda Jemison |
| D. | Public Comment | Presiding Officer, Glenda Jemison |
| E. | Staff Reports | |
| 1. | Executive Office | William Kuntz, Executive Director |
| | a. Legislative Implementation Update | |
| | b. Report on Strategic Planning Process | |
| 2. | Compliance Division | Elizabeth Perez, Program Specialist |
| | a. Public Outreach | |
| | b. Compliance Statistics | |
| | c. Personnel Matters | |
| 3. | Education and Examination Division | Ray Pizarro, Team Lead |
| | a. Examination update and statistics | |
| | b. Public Outreach | |
| 4. | Enforcement Division | Sharesa Alexander, Enforcement |
| | a. Enforcement Statistics | |
| | b. Selected Case Highlights | |
| 5. | Field Operations | Tanya Gauthreaux, Director |
| | a. Top Ten Violations | |
| | b. Division Projects | |
| | c. Personnel Update | |
| | d. Inspection Statistics | |
| 6. | Licensing Division | Joyce Hennington, Program Specialist |
| | a. Licensing statistics | |

- F. Work Group Reports and possible appointments:
1. Education and Examination work group reports on transfer of hours between programs; internship on practicum; and instructor practical
Ron Robinson, Work Group Chair
 2. Health and Safety Work Group report on the Keratin straightening products
Aleshia Rivera, Work Group Chair
- G. Discussion and possible recommendation regarding proposed amendments to existing rules at 16 Texas Administrative Code, Chapter 83, §§83.10, 83.22, 83.31, 83.52, 83.53,, 83.71, 83.72, 83.80, 83.100, 83.101, 83.103, 83.109 and 83.120 to implement House Bill 2095, 83rd Legislature, Regular Session (2013) and the Commission’s general rulemaking authority to administer the Cosmetology program and review of possible rules comments
Pamela Legate,
Assistant General Counsel
- H. Recommendations for agenda items for next Board meeting Presiding Officer, Glenda Jemison
- I. Discussion of date, time, and location of next Board meeting Presiding Officer, Glenda Jemison
- J. Adjournment Presiding Officer, Glenda Jemison

COMPLIANCE DIVISION REPORT

Cosmetology Advisory Board Meeting

April 28, 2014

Public Outreach

- Elizabeth Perez (Compliance), Irma Mendoza (Customer Service), Marco Rodriguez (Field Operations), Susan Stanford, Lauryn McCoy, and Terry Westrum (Public Affairs) attended the RDA Discover Texas Hair Show, April 13-14 in Austin.
- Elizabeth is on the BAR/COS Task Force Team which meets monthly. The goal of these meetings is to maintain open communication and ensure consistency between the TDLR Divisions.
- Upcoming Trade Shows:
 - Armstrong McCall Fashion Focus, May 4-5 in Corpus Christi.

Compliance Efforts

- Elizabeth continues to assist Field Operations staff with questions that arise during inspections as well as industry inquiries and emails.

Advisory Board on Cosmetology

Education and Examination Division

Staff Report

April 28, 2014

- As of March 1, 2014 the fees for all new Continuing Education providers' applicants was reduced from \$250 to \$200. This fee reduction will also benefit our current providers. They will see their provider fees reduced from \$250 to \$200 during renewal starting April 1, 2014. In addition, CE providers will only have to register once and pay the provider fee once.
- This summer PSI and the Subject Matter Experts will meet to review the bank of questions, identify poorly performing items and write new questions where needed in the content outline.
- PSI has administered more than 291,000 practical examinations since 2006. Over the last several months PSI has been pro-active in repairing and replacing items for all practical exam sites such as hydraulic chairs, sinks, Manicure lamps, and servicing the drains.

School and Student Statistics

April 1, 2014

	Schools			Enrolled
	Credit	Clock	Total	Students
Private school	5	217	222	15,043
High school	34	132	166	8,185
Community college	19	40	59	2,836
Total	58	389	447	26,424

Continuing Education Statistics

FY 2012	SEP	OCT	NOV	Q1	DEC	JAN	FEB	Q2	MAR	APR	MAY	Q3	JUN	JUL	AUG	Q4	TOT
Provider registrations issued	2	3	3	8	0	3	4	7	2	1	1	4	2	1	2	5	24
Course approvals issued	21	24	16	61	19	32	27	78	27	24	26	77	36	42	49	127	343
Provider renewals issued	11	7	6	24	5	12	12	29	11	10	4	25	8	8	11	27	105
Total providers	152	153	155	155	149	149	148	148	147	147	143	143	141	138	135	135	135
Total courses	336	340	333	333	339	343	344	344	314	306	303	303	308	315	335	335	335

FY 2013	SEP	OCT	NOV	Q1	DEC	JAN	FEB	Q2	MAR	APR	MAY	Q3	JUN	JUL	AUG	Q4	TOT
Provider registrations issued	4	1	1	6	1	0	1	2	1	1	1	3	1	1	1	3	14
Course approvals issued	27	8	10	45	13	18	47	47	29	30	24	83	13	43	36	92	267
Provider renewals issued	9	8	4	21	5	12	29	29	12	9	0	25	6	10	11	27	102
Total providers	137	135	128	128	128	127	121	121	120	120	120	120	121	121	119	119	119
Total courses	346	324	314	314	315	304	296	296	299	299	300	299	292	288	269	269	269

FY 2014	SEP	OCT	NOV	Q1	DEC	JAN	FEB	Q2	MAR	APR	MAY	Q3	JUN	JUL	AUG	Q4	TOT
Provider registrations issued	1	2	1	4	2	0	0	2									6
Course approvals issued	31	9	3	43	8	31	17	8									51
Provider renewals issued	9	9	4	22	5	10	0	5									27
Total providers	117	118	118	118	119	119											
Total courses	266	269	262	262	260	275	263	260									260

Total Providers as of 04/01/2014 =397

Examination Results

FY 2012	Pass	Fail	Total	Percent	No Show
Operator Written	9,632	5,309	14,941	64.47%	959
Operator Practical	8,754	438	9,192	95.23%	924
Manicurist Written	3,281	1,760	5,041	65.09%	240
Manicurist Practical	3,251	283	3,534	91.99%	143
Esthetician Written	2,207	702	2,909	75.87%	162
Esthetician Practical	2,148	49	2,197	97.77%	82
Manicure-Esthetician Written	0	3	3	0.00%	0
Manicure-Esthetician Practical	0	0	0	0.00%	0
Eye Lash Written	0	0	0	0.00%	0
Eye Lash Practical	0	0	0	0.00%	0
Hair weaving Written	5	2	7	71.43%	0
Hair weaving Practical	5	0	5	100.00%	0
Shampoo Written	5	19	24	20.83%	2
Shampoo Practical	3	2	5	60.00%	1
Wig Written	6	4	10	60.00%	1
Wig Practical	3	0	3	100.00%	1
Subtotal	29,300	8,571	37,871	77.37%	2,515
Instructor Written	387	863	1,250	30.96%	44
Instructor Practical	405	44	449	90.20%	16
Subtotal	792	907	1,699	46.62%	60
Total	30,092	9,478	39,570	76.05%	2,575

FY 2013	Pass	Fail	Total	Percent	No Show
Operator Written	9,209	6,869	16,078	57.28%	942
Operator Practical	8,500	552	9,052	93.90%	862
Manicurist Written	2,932	3,160	6,092	48.13%	249
Manicurist Practical	2,895	273	3,168	91.38%	107
Esthetician Written	1,991	1,731	3,722	53.49%	192
Esthetician Practical	1,848	43	1,891	97.73%	94
Manicure-Esthetician Written	5	36	41	12.20%	4
Manicure-Esthetician Practical	4	1	5	80.00%	0
Eye Lash Written	53	14	67	79.10%	3
Eye Lash Practical	44	3	47	93.62%	0
Hair weaving Written	15	8	23	65.22%	2
Hair weaving Practical	8	1	9	88.89%	1
Shampoo Written	6	10	16	37.50%	1
Shampoo Practical	7	0	7	100.00%	1
Wig Written	0	0	0	0.00%	0
Wig Practical	0	0	0	0.00%	0
Subtotal	27,517	12,701	40,218	68.42%	2,458
Instructor Written	349	739	1,088	32.08%	53
Instructor Practical	288	41	329	87.54%	11
Subtotal	637	780	1,417	44.95%	64
Total	28,154	13,481	41,635	67.62%	2,522

First Quarter	Pass	Fail	Total	Rate	No Show
Operator Written	1,958	1,703	3,661	53.48%	221
Operator Practical	2,081	234	2,315	89.89%	198
Manicurist Written	715	583	1,298	55.08%	63
Manicurist Practical	726	122	848	85.61%	40
Esthetician Written	561	395	956	58.68%	47
Esthetician Practical	548	12	560	97.86%	27
Manicure-Esthetician Written	6	3	9	66.67%	2
Manicure-Esthetician Practical	9	5	14	64.29%	0
Eye Lash Written	14	2	16	87.50%	2
Eye Lash Practical	14	1	15	93.33%	2
Hair weaving Written	4	2	6	66.67%	0
Hair weaving Practical	4	0	4	100.00%	0
Shampoo Written	0	0	0	0.00%	0
Shampoo Practical	0	0	0	0.00%	0
Wig Written	0	0	0	0.00%	0
Wig Practical	0	0	0	0.00%	0
Subtotal	6,640	3,062	9,702	68.44%	602
Instructor Written	82	141	223	36.77%	13
Instructor Practical	105	21	126	83.33%	5
Subtotal	187	162	349	53.58%	18
Total	6,827	3,224	10,051	67.92%	620

Second Quarter	Pass	Fail	Total	Rate	No Show
Operator Written	1,608	1,194	2,802	57.39%	173
Operator Practical	1,548	175	1,723	89.84%	189
Manicurist Written	722	520	1,242	58.13%	53
Manicurist Practical	658	98	756	87.04%	27
Esthetician Written	462	328	790	58.48%	40
Esthetician Practical	457	8	465	98.28%	40
Manicure-Esthetician Written	1	6	7	14.29%	2
Manicure-Esthetician Practical	3	1	4	75.00%	0
Eye Lash Written	38	3	41	92.68%	3
Eye Lash Practical	30	9	39	76.92%	4
Hair weaving Written	2	2	4	50.00%	0
Hair weaving Practical	2	0	2	100.00%	1
Shampoo Written	0	0	0	0.00%	0
Shampoo Practical	0	0	0	0.00%	0
Wig Written	0	0	0	0.00%	0
Wig Practical	0	0	0	0.00%	0
Subtotal	5,531	2,344	7,875	70.23%	532
Instructor Written	73	100	173	42.20%	9
Instructor Practical	66	17	83	79.52%	4
Subtotal	139	117	256	54.30%	13
Total	5,641	2,461	8,102	69.62%	545

ADVISORY BOARD ON COSMETOLOGY

Enforcement Division Staff Report

April 28, 2014

- On January 19, a default order was entered against Lanh Kim Mai assessing an administrative penalty of \$5,000 for engaging in fraud or deceit in obtaining a certificate, license, or permit.
- On January 19, a default order was entered against Riane Alyn Nix assessing an administrative penalty of \$5,000 for engaging in fraud or deceit in obtaining a certificate, license, or permit.
- On February 6, a default order was entered against Oanh Dieu d/b/a Exotic Nails assessing an administrative penalty of \$4,500 for failing to keep a record of the date and time of each foot spa daily or bi-weekly cleaning.
- On February 6, a default order was entered against Deanna Sasser d/b/a S&D Salon & Tan assessing an administrative penalty of \$3,050 for failing to apply for a new establishment license after a change of location; failing to clean, disinfect, and sterilize manicure and pedicure implements after each use; failing to disinfect tools, implements, and supplies with a hospital-grade EPA-registered disinfectant solution; and failing to possess an autoclave, dry heat sterilizer or ultraviolet sanitizer.
- On March 3, a default order was entered against Ut Dao d/b/a Legacy Nails and Spa assessing an administrative penalty of \$4,500 for failing to keep a record of the date and time of each foot spa daily or bi-weekly cleaning; and offering specialty cosmetology services outside the scope of the specialty salon license.
- In fiscal year 2013 there were 1,699 closing orders issued in the Cosmetology program. Of those, 709 were against respondents that engaged in unlicensed activity. The total penalties against those unlicensed individuals and salons were \$570,117. The Department also issued 131 cease and desist orders against unlicensed respondents that fiscal year.
- In fiscal year 2014 there have been 785 closing orders issued in the Cosmetology program through the first seven months of the fiscal year. Of those, 302 were against respondents that engaged in unlicensed activity. The total penalties against those unlicensed individuals and salons were \$218,975. The Department has also issued 49 cease and desist orders against unlicensed respondents so far this fiscal year.

Key Statistics for Fiscal Year 2014

Shown below are key statistics for the Cosmetology program and for all TDLR programs combined through March 31, 2014.

<u>Statistic</u>	<u>COS</u>	<u>TDLR</u>
• Number of cases opened:	1,939	6,818
• Number of cases resolved:	1,857	5,483
• Number of Agreed Orders:	604	1,146
• Total amount of penalties assessed:	\$742,113	\$2,059,863
• Total amount of penalties collected:	\$414,165	\$1,000,251

**Field Operations Division Report
Cosmetology Advisory Board Meeting
April 28, 2014**

Ten Most Common Code Violations in Cosmetology Salons

- 1. Establishment, furniture, equipment and/or fixtures are unclean or are not in good repair** - 16 Tex. Admin. Code Ch. 83.114(a) Establishments shall keep the floors, walls, ceilings, shelves, furniture, furnishings, and fixtures clean and in good repair. Any cracks, holes, or other similar disrepair not readily accessible for cleaning shall be repaired or filled in to create a smooth, washable surface.

- 2. Failure to keep a record of the date and time of each daily or bi-weekly cleaning** - 16 Tex. Admin. Code Ch. 83.108(e) For whirlpool foot spas, a record shall be made on a department-approved form of the date and time of each cleaning and disinfecting indicating whether the cleaning was a daily or bi-weekly cleaning. This record shall be made at or near the time of cleaning and disinfecting and shall indicate if a spa was not used during any individual work day. **Download the department-approved Whirlpool Foot Spa Cleaning and Disinfection Record Form.**

- 3. Salon failed to maintain a list of all booth renters (independent contractors)** - 16 Tex. Admin. Code Ch.83.71(c) Salons may lease space to an independent contractor who holds a booth rental (independent contractor) license. The lessor to an independent contractor must maintain a list of all renters that includes the name of renter and the cosmetology license number of the renter. The lessor must supply the department inspector with a list of renters upon request.

- 4. Failure to keep products labeled** - 16 Tex. Admin. Code Ch. 83.102(m). Each establishment shall keep all products used in the conduct of their business properly labeled in compliance with OSHA requirements.

- 5. Failed to post individual licenses and booth rental (independent contractor) licenses at the licensee's work station or in a notebook** – 16 Tex. Admin. Code 83.70(e) Individual licenses and booth rental (independent contractor) licenses may be posted at the licensee's work station in the public view or be made available in a notebook at the salon reception desk.

- 6. Failure to attach current photograph to the front of license, certificate or permit** - 16 Tex. Admin. Code 83.70(f) A current photograph of the licensee approximately 1 1/2 inches by 1 1/2 inches shall be attached to the front of the license, certificate or permit.

- 7. Salon failed to post the most recent inspection report issued by the department in a conspicuous place clearly visible to the public** - 16 Tex Admin Code – Ch. 83.71(j) Cosmetology establishments shall display in the establishment, in a conspicuous place clearly visible to the public, a copy of the establishment's most recent inspection report issued by the department.

- 8. Failure to store clean implements in a clean, dry, debris-free environment or failure to separate clean implements from soiled implements or non-cosmetology supplies** - 16 Tex. Admin Code Ch. 83.102(f) All clean and disinfected implements and materials when not in use shall be stored in a clean, dry, debris-free environment including but not limited to drawers, cases, tool belts, rolling trays, or hung from hooks. They must be stored separate from soiled implements and materials. Ultraviolet electrical sanitizers are permissible for use as a dry storage container. Non-cosmetology related supplies must be stored in separate drawers or locations.

- 9. Failure to have rest room on or near premises without stored chemicals** - 16 Tex. Admin. Code Ch. 83.114(e). Every establishment shall provide at least one restroom located on or near the premises of the establishment. For public safety, chemical supplies shall not be stored in the restroom.

10. Failure to prepare disinfectants daily or more often if solution is soiled – 16 Tex. Admin. Code 83.101(a)(3). EPA-registered bactericidal, fungicidal, and virucidal disinfectants in which implements are to be immersed shall be prepared fresh daily or more often if solution becomes diluted or soiled.

Division Projects

Update on New Technology - Route Optimization

Our General Counsel's office is finalizing the terms of the contract with Mobicorp.

Update on New Technology - Einspection

We've provided a complete list of all possible violations, designating those that are direct to enforcement, and listing minimum evidence prompts for violations that are going to ENF. Brazos will submit the second version for TDLR to Test soon.

Division Personnel Update

I completed the interviews for the Central Region Manager on April 11, 2014.

Inspection Statistics

	Cosmetology Salons		Dual Establishments		Cosmetology Schools		Cosmetology Booth Renters		Dual Booth Renters		Cosmetology Program Totals	
	FY 2014	FY 2013	FY 2014	FY 2013	FY 2014	FY 2013	FY 2014	FY 2013	FY 2014	FY 2013	FY 2014	FY 2013
SEPT	1,138	763	135	50	81	43	1,068	740	182	89	2,604	1,685
OCT	1,291	1,081	128	91	89	81	1,085	1,193	181	82	2,774	2,528
NOV	660	907	86	78	104	101	682	893	139	107	1,671	2,086
QTR 1	3,089	2,751	349	219	274	225	2,835	2,826	502	278	7,049	6,299
DEC	649	703	88	64	96	62	575	569	207	134	1,615	1,532
JAN	929	1,339	103	146	25	60	661	1,270	144	229	1,862	3,044
FEB	1,049	1,092	109	88	43	54	1,148	-	-	128	1,201	2,510
QTR 2	2,627	3,134	300	298	164	176	1,236	2,987	351	491	4,678	7,086
MAR	1,090	1,218	120	91	57	46	-	1,164	-	321	1,267	2,840
APR	-	1,575	0	134	-	102	-	1,457	-	154	-	3,422
MAY	-	1,239	0	112	-	116	-	1,112	-	120	-	2,699
QTR 3	1,090	4,032	120	337	57	264	-	3,733	-	595	1,267	8,961
JUNE	-	1,333	0	111	-	31	-	1,282	-	145	-	2,902
JUL	-	1,295	0	119	-	47	-	1,318	-	142	-	2,921
AUG	-	1,001	0	87	-	39	-	1,000	-	151	-	2,278
QTR 4	-	3,629	0	317	-	117	-	3,600	-	438	-	8,101
Year to Date/ Year End	6,806	13,546	769	1,171	495	782	4,071	13,146	853	1,802	12,994	30,447

Cosmetology Advisory Board

Licensing Statistics

Fiscal Years 2012 to 2014

License Type	Percent New Licenses Issued		Percent Renewal Licenses Issued		FY 2014	FY 2013	FY 2012
	New Licenses Issued	Online	Renewal Licenses Issued	Online	TOTAL POPULATION*	TOTAL POPULATION*	TOTAL POPULATION*
Operator	4,510	N/A	33,104	93.2%	126,736	124,768	119,494
Manicure Specialist	225	N/A	5,072	96.6%	40,134	39,539	3,769
Esthetician Specialist	172	N/A	2,125	97.9%	18,936	18,637	17,643
Manicure/Esthetician Specialist	76	N/A	0	0.0%	1,370	719	20
Hair Braiding Specialist	24	N/A	62	80.6%	1,215	1,171	1,116
Hair Weaving Specialists	2	N/A	15	93.3%	158	152	153
Wig Specialist	0	N/A	2	100.0%	16	18	21
Eyelash Extension Specialist	2	N/A	0	0.0%	943	899	858
Operator Instructor	36	N/A	164	98.8%	4,946	4,847	4,706
Manicure Instructor	1	N/A	0	0.0%	57	52	46
Esthetician Instructor	1	N/A	4	100.0%	167	161	150
Wig Instructor	0	N/A	0	0.0%	2	2	2
Manicurist/Esthetician Instructor	0	N/A	0	0.0%	1	1	0
Eyelash Extension Instructor	0	N/A	0	0.0%	0	0	0
Student Permits	6,073	82.1%	Does Not Renew		26,653	24,023	24,452
Cosmetology Salon	212	80.7%	615	96.4%	19,560	19,610	25,935
Manicure Salon	20	70.0%	13	92.3%	786	819	884
Esthetician Salon	26	88.5%	28	100.0%	1,054	1,004	883
Esthetician/Manicure Salon	85	74.1%	134	97.8%	4,701	4,570	4,308
Hair Braiding Salon	2	100.0%	3	100.0%	88	75	53
Dual Salon/Shop	84	92.9%	65	90.8%	2,774	2,592	2,226
Hair Weaving Salon	94	92.9%	2	100.0%	101	99	91
Wig Salon	1	100.0%	0	0.0%	33	33	35
Eyelash Extension Salon	3	66.7%	0	0.0%	72	49	17
Booth Rentals	937	48.6%	1,525	92.8%	0	57,761	53,096
Mobile Salons	1	N/A	1	N/A	9	8	8
Cosmetology School-Private	0	N/A	16	N/A	221	226	218
Cosmetology School-Vocational	2	N/A	6	N/A	166	164	165
Cosmetology School-JR College	1	N/A	2	N/A	59	58	54
TOTAL INDIVIDUALS	7,413	76.5%	6,775	94.5%	239,189	236,476	220,130
TOTAL FACILITIES	1,374	79.7%	2,410	93.1%	29,624	87,068	81,702
TOTAL COSMETOLOGY LICENSEE POPULATION					268,813	323,544	301,332

TOTAL TDLR LICENSEE POPULATION	618,607	683,181	667,506
COSMETOLGY PERCENTAGE OF TOTAL TDLR LICENSEE POPULATION	43.5%	47.4%	45.1%

*The population number is a snapshot of the number of active licenses on the first day of the month.
The number of licenses issued and renewed is the total activity performed during the fiscal year.