



NORTH CAROLINA BOARD OF ELECTROLYSIS EXAMINERS

Pinehurst Building, Suite 60, 2 Centerview Drive, Greensboro, NC 27407

Phone: 336 856-1010 E-mail: ncbeexam@att.net

MINUTES

SPECIAL CALLED BOARD MEETING July 26, 2009

Board members in attendance: Margaret Wingate, Gary Slaughter, James Doyle, Elizabeth Fisher, and Dana Combopiano.

Chairman Wingate called the meeting to order at 1:00 p.m. and asked if any conflicts of interest exist for any agenda item. Board members responded that there were none. The sign-in sheet was circulated in order to disclose public affiliation with organizations. Wingate announced that the regular July meeting, which was scheduled during the January 24, 2009 meeting and again confirmed at the March 15, 2009 meeting, was called to order on Saturday, July 25, 2009; however, due to a lack of quorum, no business was conducted, and the meeting was adjourned. She stated business will be conducted, as needed, today.

Wingate asked for motion to approve the agenda. Slaughter moved to accept the agenda as proposed. The motion failed for lack of a second. Doyle made a motion which was seconded by Combopiano to rearrange the agenda to make Election of Officers the first item of New Business. Motion passed with ayes from Doyle, Fisher, and Combopiano with Slaughter abstaining.

APPROVAL OF BOARD MEETING MINUTES

October 18, 2008 – minutes for this meeting were previously approved, but Doyle had indicated problems with website planning discussion. Doyle now states minutes were corrected on January 24, 2009. Doyle moved to accept minutes as corrected. Slaughter said the October meeting minutes were approved at the March 15, 2009 meeting and do not need to be approved again. Doyle revised the motion to accept minutes as corrected at the March meeting. Slaughter seconded the revised motion which was passed.

January 24, 2009 – Wingate solicited questions. Doyle moved and Combopiano seconded a motion to approve these minutes. Motion passed.

March 15, 2009 – Wingate solicited questions. Slaughter moved and Doyle seconded a motion to approve the minutes. Motion passed.

TREASURER'S REPORT

- Monthly Report as of June 30, 2009 distributed. Our balance is \$ 48,508.74. The year end balancing report 606 was also distributed. Wingate discussed the quarterly reporting requirement to Dept. of Commerce that is derived from the Monthly Report. We spent almost \$900 less on telephone/internet costs in 2008-09 by consolidating services with AT&T.
- The Board's annual audit is current through FYE 6/30/08. Previously we have paid for a certified audit at a cost of over \$2,000. It was learned that a certified audit is not required, but rather a compilation/review is acceptable, which costs \$600. There were no questions.
- Motion was made by Fisher and seconded by Combopiano to accept the Treasurer's Report

SCHOOLS COORDINATION REPORT

- Fisher reported that an applicant, Hilary Bennett D/B/A River Rock Institute, has had 26 complaints filed with its controlling State Board by a competing school. A resolution is expected soon, to include a reprimand and fine. Our Board's investigation also revealed a question with the owner's stated educational credentials. There are additional controversial background issues, but her Board standing as an electrologist/instructor is acceptable. Liz asked the applicant to send NCBEE documentation of final

disposition of the issue with her State Board and her package would be considered at that time. Fisher moved with Slaughter seconding a motion that NCBEER defer a decision on this applicant to the next meeting. Motion passed.

- As a heads up, Fisher reported that Sherry O'Hare has a school in Orlando and would like to start a school in North Carolina. This individual also has a history of lawsuits with other schools. She will submit an application within 2 weeks, so her credentials are unknown at this time; however, it is believed that she does not have 5 years experience. Slaughter stated that NCBEER should take a harder look at anyone who wants to operate a school in North Carolina.
- Fisher has been unable to make contact with Orlando Institute regarding their failure to renew their certification with NCBEER. After one more letter, we should remove this school's certification.
- Wingate asked questions about the Ana Visage school in Virginia, based upon the complaint we received from a former student. Fisher said that since the school has not contacted us, the Board should not take any action other than to stop listing this as an approved school (i.e. no specific communication to decertify). Slaughter stated that we should have a probationary period, warning, and definitive action if we decide to decertify. Fisher was asked to compose a letter for Board approval directed to this school that states it is on the Board's watch list, and that NCBEER will review future complaints to determine if continued certification is in order.

RULES REVISION

Infection Control Standards (ICS)

- Slaughter was advised by legal counsel that the American Electrolysis Association (AEA) ICS document could not be plagiarized, however, since our last meeting, AEA has now granted written permission for NCBEER to utilize any portion of its ICS document as the Board sees fit without attribution to the AEA. The AEA's interest is seeing that appropriate standards are implemented as widely and uniformly as possible.
- Wingate reviewed proposals submitted by other Board members from Washington state and Massachusetts and found them to be lacking in some elements. She provided documentation of how cumbersome it would be for a layperson or electrologist to go to CDC or FDA websites to determine infection control standards applicable solely to electrolysis or electrologists
- In light of the acquired permission now in hand from AEA to utilize their ICS, Wingate retyped the AEA ICS document and prepared a WORD document of the AEA ICS for inclusion in the text of NCBEER rules. This is the only option since, per RRC; we cannot link to *our own* document in the Rules (vs. linking to AEA). Slaughter commended Wingate on the time and effort expended to put the document together.
- Discussion took place about requiring or recommending Hepatitis B vaccine. Slaughter provided his opinion of how/why health care profession would push for this vaccine in the State of North Carolina.
- Language previously approved language regarding laser practitioners *only* operating in a commercially zoned area was revisited. New language was approved as follows:

"a laser or light-based hair removal practice shall be maintained in accordance with local zoning."
- A motion made by Doyle and seconded by Combopiano to accept sections 0400-0411 of the Rules as proposed in the text offered today by Wingate, with the change of wording regarding the previous zoning discussion for laser practitioners. The motion was approved by the Board.

Continuing Education (0701)

Fisher wanted to raise a new issue of dual continuing education credit for the license renewal of electrologists and laser practitioners. The current proposed rule would require a laser practitioner to obtain an *additional* CEU (10 hours) annually over and above the annual CEU (10 hours) required for an electrologist. Wingate responded that the statute seems to require independent/additional CEUs for laser practitioners. Slaughter phoned Barry Bloch, the Board's attorney, for guidance. He advised that the Board has broad authority to decide to give dual credit, partial credit, etc. The statute, per the attorney, does not require an *additional* 10 hours of continuing education for laser practitioners over and above what they would be required to renew their electrologist license. He advised that a rewritten rule could be avoided by having a form where continuing education providers would request approval for electrologist licensure, laser practitioner licensure, or both. Per discussion, it is not the Board's intent to require that laser practitioners obtain an additional 10 hours of continuing education.

After discussion, a motion made by Slaughter and seconded by Fisher was approved with the following new wording for 0701(a):

Electrologists and laser hair practitioners licensed in this state shall complete at least 1 CEU (10 hours) of continuing education for each renewal period as a requirement for renewal of the electrologist and laser hair practitioner license.

Application for Licensure (0202)

The Board discussed the issues of age and high school equivalency requirements. The Statute has an age requirement of 21 years, but does not appear to require proof of completion of high school or equivalency, so is the rule appropriate? Although the Board had previously decided to delete the age requirement, it does not have the authority to revoke the requirement as this is specifically provided for in the statute. The Board can delete the requirement for high school or equivalency.

Physician Guidelines (0500(d))

Liz made a motion that Slaughter seconded and the Board approved to increase the number of days required to notify the Board of a terminated Supervisory Agreement. The new wording is:

A laser hair practitioner shall notify the NCBEE within 30 days of the termination of the "Supervisory Agreement" with the supervising physician.

Wingate stated the rules revision discussion is complete; therefore, the revision document must be reformatted to be in conformance with state requirements, approved by the Board and may then be submitted by the Rules Coordinator to Molly Masich at Rules Review Commission.

UNFINISHED BUSINESS

MEETING	ACTION ITEMS FROM PRIOR MEETINGS (RESPONSIBLE PERSON)
1/24/09	<i>Inspections Update</i> (M.Wingate) - Margaret met with the inspection contractor to insure that inspectors are being more thorough and diligent. EMSI has completed 61 inspections of which 5 failed biological testing. There were no repeaters from last year, but this represents 8% of licensees not in compliance. Margaret distributed a status report. Deficiency letters are being issued and compliance is being gained by furnishing current testing results. We have not required re-inspection of offices. A new checklist will be developed based upon the Infection Control Standards we include in the new rules.
1/24/09	<i>Board Website Update</i> (M.Wingate) - Website has been ready since March – what does the Board want to do? Combopiano said she did not like the “Challenges” part of the verbiage originally proposed, but likes everything else. Margaret explained that this is part of the Results Based Budgeting exercise, which is why it is being included. Fisher has a concern about frequency of changes to website. Wingate responded that part of our contract is for the vendor to teach the Board’s web master how to make the changes. There is no additional cost. Doyle’s concern is whether to list the names of licensed electrologists that practice laser since we as a Board have not put Rules in place with respect to laser licensure. There was an additional concern about discussing online education on the website when the Board has not yet approved distance learning. Slaughter said that the Board attorney advises that the Board can allow or disallow the <i>school</i> – not the methodology of the training. If we approve the school, the Board cannot dictate whether it delivers the training via distance learning. The new website URL is www.ncbee.com . The Board approved a motion made by Slaughter and seconded by Doyle to approve the website as proposed (including the Challenges section) and get it going. Wingate will update, send out for approval and bring the site live. We must, according to the board attorney, include some links to various state web pages on open meetings law, administrative hearings, etc.
1/24/09	<i>Laser Inspection Form</i> – a draft Inspection form for laser was circulated for discussion and approval. A number of questions were raised, and Doyle suggested that the Chairman appoint a committee to consider the document. A decision was made to table the issue for consideration at a future meeting.
2/17/08	<i>Finalize criteria for Instructor examination</i> (Dana C., Liz F., Margaret W.) - Wingate and Combopiano have both submitted suggestions for this test. Wingate also consulted with a professional test writer for a critique on the material developed thus far and obtained an assessment for how an instructor’s exam should be developed. The consultant has provided a proposed test for the Board to consider. Wingate asked Board members to study the proposal for consideration at a future meeting.

3/15/09	<i>September Examination</i> - Sharon Canella is a licensed electrologist in Florida requesting reciprocity. Based upon insufficient training, the Board has previously determined this candidate must sit for the exam. Cassandra Bagnall, a grad of EINE, has also applied to take the exam. The three electrologist board members agreed to conduct the next examination on September 19, 2009 at 9:00 a.m. Wingate will ask the Administrative Assistant to send the 60-day notification to the two candidates.
Various	<i>Complete 2008 and 2009 Self-assessment of Internal Controls (Board)</i> - Wingate previously asked Board members in May to review these documents and be prepared to complete the assessments at the July meeting of the Board. Doyle questioned why the full Board must participate in this exercise. Wingate explained that every board member is responsible for being apprised about the Board's internal control practices and needs to know and understand. Doyle asked about penalties for failure to complete the document. The report is due July 31, 2009. Doyle made a motion, seconded by Combopiano, that the Board should not go through this line by line today and devote time without having previous 2007 report as a go-by. Vote was 3 in favor (Doyle, Combopiano, and Fisher) and 2 opposed (Wingate, Slaughter).
1/24/09	<i>Referral of unlicensed practitioner to Attorney General (Barry Bloch – NCDOJ)</i> – Documentation was submitted to Attorney General's office and the attorney has taken action. There was correspondence between the attorney and the practitioner. In a phone call with the attorney during the Board meeting, he advised that there are a number of alternatives which may now be pursued. The Board determined that the issue is now in the hands of DOJ and appropriate action will be taken by that office.
1/24/09	<i>Bylaw Amendment to Change Officer Elections to from July to January</i> – Doyle raised this issue at the January meeting and said that he proposed an amendment to the by-laws to change the date of elections to January since new Board members are appointed in the fall. There was discussion regarding how this could be accomplished, since by-laws amendments require a 2/3 majority to approve. Doyle made a motion to change the by-laws effective January 2010 to conduct elections in January rather than July. There was not a second at this time, and Doyle agreed to table his motion pending a telephone call to Board attorney for guidance. The attorney said that since the issue was not on today's agenda, the notice requirement is not met and the matter may not be considered today. Slaughter clarified that four of five board members believe notice to change the by-laws was properly given at the January 24, 2009 meeting. The vote was tabled in January because Slaughter had just joined the Board. Per the attorney, since the Board deems proper notice was given regarding a proposed by-law change, then if an approved motion is put before the Board today, it may be voted on. Doyle placed his original motion back on the table which was seconded by Combopiano. Doyle, Fisher, and Combopiano voted in favor of the motion, and Wingate and Slaughter voted against the motion. The motion to amend the by-laws failed due to lack of a 2/3 majority.

NEW BUSINESS

LEGISLATION – Wingate shared information on the new Open Book Policy which Governor Perdue expects every state agency and board to implement. The Legislature has now ratified an oversight bill that mandates a review of boards' performance expectations and operations. There is increased accountability and consequences (including elimination of boards) for failure to follow statutes. By October 31st of each year, a report (including financials) is required to be filed with designated parties. Wingate asked that all board members go online and become familiar with the legislation. Wingate also discussed a proposed bill by the estheticians' profession to allow these practitioners to practice electrolysis outside the jurisdiction of NCBE. Combopiano advised that this bill had been killed.

ELECTION OF 2009-10 OFFICERS – After nomination, acceptance by nominees, and discussion, the following officers were elected by acclamation:

Chairman – Doyle
Vice Chairman – Slaughter
Treasurer – Combopiano

DISTANCE LEARNING – Doyle asked Wingate for input on this agenda topic. Wingate said that Mary Evangelista, director of one of our approved schools (EINE), had asked to make a presentation to the Board at its regularly scheduled meeting 09.25.09. Due to the circumstances and chaos surrounding the meeting scheduling, her presentation was cancelled. She would like to make a presentation at another time. All Board members expressed praise for Ms. Evangelista and her school.

BY-LAWS REVIEW AND UPDATE - Doyle would like to appoint a committee to review and update NCBE by-laws as they have not been revised since 1994. Board members expressed a preference for reviewing the existing by-laws independently and being prepared to discuss whether the by-laws meet our needs and need to be amended.

COMMENTS FROM THE PUBLIC

Alice Saintsing asked about a licensee in the Salisbury area working for Kendall Skin Care. Barbara Hussey thanked the Board for the hard work, accomplishments, cooperation and good meetings. She asked when the new rules would be in place. Doyle explained that rules revision would be sent to Board members before submitting to Rule Review Commission (RRC). After their approval, a public hearing will be scheduled and conducted by the NCBEE. Combopiano said she believes it will take about 6 months to implement the new rules, based upon prior guidance she has received from RRC. Doyle believes March is a more realistic date. Thelma White asked Slaughter whether the Medical Board has oversight for continuing education of persons doing laser under direct medical supervision. Slaughter provided his personal opinion (not in the capacity as representing the Medical Board) that he does not believe the Medical Board mandates continuing education for persons under direct supervision because the MD carries malpractice insurance and assumes liability for the employee. Nurse practitioners, physician assistants, and registered nurses can do these procedures without supervision as they are licensed by the Medical Board, so the same answer would apply to them; however, medical assistants and estheticians may not do laser without direct onsite supervision of an MD.

FINAL ISSUES AND SCHEDULE NEXT MEETING

Doyle advised Combopiano that she needed to get with Wingate to transition the Treasurer's duties.

Doyle then asked the Board to schedule the January 2010 meeting. Slaughter reminded members that once this meeting is scheduled, he will be locked in, due to patient scheduling. The Board agreed unanimously to schedule the next meeting for **Sunday, January 31, 2010**.

Slaughter asked if a special meeting was going to be scheduled to complete the Self-Assessment. Doyle said that he would contact the Administrative Assistant to get a copy of the prior assessment to use as a crosswalk and then prepare and submit the current assessment.

Wingate said that the Rules Coordinator needs to make note of the corrections made today for purposes of the rules revision submission package since it is not the Administrative Assistant's job to prepare minutes of Board meetings. Combopiano said she has the changes in her notes. Doyle responded that the Vice-Chair will be responsible for ensuring meeting minutes are prepared. Slaughter will arrange for transcription of today's meeting and future meetings, and made a motion that the Board reimburse him for costs incurred to transcribe meeting meetings. Combopiano seconded the motion, which the Board approved unanimously.

ADJOURNMENT

A motion to adjourn the meeting entertained by Doyle and seconded by Combopiano was unanimously approved.

Respectfully submitted,

Gary Slaughter, MD

NCBEE Vice Chairman

Approved: 14th day of February, 2010