

1 BEFORE THE OHIO STATE BOARD OF COSMETOLOGY

2
3 IN THE MATTER OF:

4 BOARD MEETING

5 - - -

6 TRANSCRIPT OF PROCEEDINGS

7 - - -

8 STEVE THOMPSON
9 Chairman, Presiding

10 - - -

11
12
13 Tuesday, February 11, 2014
14 1:03 o'clock p.m.
15 Ohio State Board of Cosmetology
16 1929 Gateway Circle
17 Grove City, Ohio 43123

18 - - -

19 SHAYNA M. GRIFFIN
20 REGISTERED PROFESSIONAL REPORTER
21 CERTIFIED REALTIME REPORTER

22 - - -

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8 On behalf of the Ohio State Board of
9 Cosmetology.

10 BOARD MEMBERS PRESENT:

11 Lori Pearson, Acting Executive Director
12 Steve Thompson, Chairman
13 Luke Hanks
14 Valerie Benfer
15 Dr. Shalini Gupta
16 Thomas Taneff
17 Clara Osterhage
18 Tasha Sheipline

19 - - -

20 ALSO PRESENT:

21 Lori Flanery, Administrative Assistant

22 - - -

1 TUESDAY AFTERNOON SESSION
2 FEBRUARY 11, 2014
3 1:03 o'clock p.m.

4 - - -

5 P R O C E E D I N G S

6 - - -

7 BE IT REMEMBERED THAT, on the 11th day
8 of February, 2014, this cause came on for hearing
9 before Chairman Steve Thompson. And the parties
10 appearing in person and/or by counsel, as herein set
11 forth, the following proceedings were had:

12 CHAIRMAN THOMPSON: At this time I'd like
13 to call the February 2014 Ohio State Cosmetology
14 Board meeting to order.

15 Roll call.

16 MS. FLANERY: Mr. Hanks.

17 MR. HANKS: Yes.

18 MS. FLANERY: Mr. Taneff.

19 Mr. Penzone.

20 Ms. Osterhage.

21 MS. OSTERHAGE: Here.

22 MS. FLANERY: Ms. Benfer.

23 MS. BENFER: Yes.

24 MS. FLANERY: Ms. Sheipline.

25 MS. SHEIPLINE: Yes.

MS. FLANERY: Dr. Gupta.

1 DR. GUPTA: Yes.

2 MS. FLANERY: Mr. Thompson.

3 CHAIRMAN THOMPSON: Here.

4 At this time I would like to have everyone
5 stand and we'll say the Pledge of Allegiance to the
6 flag.

7 (Pledge of Allegiance recited.)

8 CHAIRMAN THOMPSON: At this time I'd ask
9 all Board members if they have had a chance to
10 review January board meeting minutes; and, if so, do
11 we have a motion for adoption?

12 MS. OSTERHAGE: Motion to approve.

13 DR. GUPTA: Second.

14 CHAIRMAN THOMPSON: First by
15 Member Osterhage and second by Board Member Gupta.
16 Roll call, please.

17 MS. FLANERY: Mr. Thompson.

18 CHAIRMAN THOMPSON: Yes.

19 MS. FLANERY: Mr. Hanks.

20 MR. HANKS: Yes.

21 MS. FLANERY: Mr. Taneff.

22 MR. TANEFF: Yes.

23 MS. FLANERY: Mr. -- I'm sorry.

24 Ms. Osterhage.

25 MS. OSTERHAGE: Yes.

1 MS. FLANERY: Ms. Benfer.

2 MS. BENFER: Yes.

3 MS. FLANERY: Ms. Sheipline.

4 MS. SHEIPLINE: Yes.

5 MS. FLANERY: Dr. Gupta.

6 DR. GUPTA: Yes.

7 CHAIRMAN THOMPSON: This part of our
8 meeting is public testimony. I have the sign-in
9 sheet here --

10 MS. OSTERHAGE: Wait. Executive
11 Director's report.

12 CHAIRMAN THOMPSON: Oh, I'm sorry.

13 EXECUTIVE DIRECTOR PEARSON: That's all
14 right. I was going to go with it.

15 Chairman Thompson, Members of the Board,
16 we've had some movement in the duties of our staff
17 that I'd like to inform you of. To start off with,
18 we have two new employees. We have Ashley Riffle.
19 She is a new front desk customer service associate.
20 And we have Diana Kempthorne, who is a new inspector
21 for Summit and Stark County. And, actually, today
22 is Diana's first day and she is in the audience with
23 Meg. This is Diana.

24 MS. SHEIPLINE: Welcome, Diana.

25 MS. KEMPTHORNE: Thank you.

1 EXECUTIVE DIRECTOR PEARSON: Ki Taylor,
2 who was a customer service associate up front, now
3 will be handling new salon and tanning applications,
4 along with Mr. Whipple. And Shelly Billingsley, who
5 formerly took care of that, has moved to our
6 scheduling department, which allows for Tina
7 McCurdy-Thomson to move to join our administrative
8 action team. We needed to increase the
9 administrative action team by another associate to
10 expedite the processing of notices of violations for
11 when the inspectors do send in their violations,
12 just to keep things more timely.

13 Our building has also been sold and we now
14 have a new landlord, and that is Windsor Boltworks.
15 It was -- I sent it as an email attachment to last
16 week, so it has the information in there if you need
17 to know.

18 We have also finished updating our salon
19 standards with our new rules, and we will mail the
20 standards to all of our salons and all of our
21 tanning facilities, along with a human trafficking
22 poster. As I'm sure you're aware, both are required
23 to be displayed at our salons and facilities. And
24 we should be mailing those out in the next couple
25 weeks. We are currently waiting on bids to come in

1 on the printing and mailing cost, so as soon as we
2 get the bids back and get everything situated, we
3 will send those out to everybody.

4 And we've already completed our scope of
5 practice brochures that we will be handing out to
6 all new licensees when they come in to take their
7 examination beginning on Monday; so if you come in
8 and take a test and you're a licensed cosmetologist,
9 you will receive a brochure that will detail the
10 scope of practice for -- specific to a cosmetologist
11 or a manicurist or whichever, to try to help cut
12 down on any confusion and make sure that when they
13 get out into the field, they have hopefully a better
14 understanding of what they are permitted to
15 practice.

16 Thank you.

17 CHAIRMAN THOMPSON: Thank you, Director.

18 At this time it is our public testimony
19 part of the meeting. I have the sign-in sheet here,
20 and I see no one signed up to speak. Is there
21 anybody in the audience that would like to address
22 the Board at this time? Anyone?

23 Okay. Committee reports. Board Member
24 Sheipline, do you have a community report?

25 MS. SHEIPLINE: Yesterday we met -- the

1 curriculum review committee met yesterday with
2 several members of the Board and then several
3 members from the salon industry, the cosmetology
4 industry. And we, for the most part, took a look at
5 what is the -- you know, what are the current
6 standards and how we felt that those current
7 standards should be changed and altered, you know,
8 to reflect the contemporary salon setting that we
9 have now.

10 So we went through line by line and
11 section by section and, you know, tried to
12 unanimously agree on each competency. And that will
13 be typed up. And we're going to meet again in
14 March, take another look at that, do any more
15 editing that we would like to do, and then hopefully
16 have that to present to the Board possibly in March
17 or April.

18 And that's all I have.

19 CHAIRMAN THOMPSON: Thank you, Board
20 Member Sheipline.

21 Reciprocity review, Board Member
22 Osterhage.

23 MS. OSTERHAGE: The reciprocity task
24 force, committee, whatever we are, met this morning
25 and talked about reciprocity with members of the

1 Board staff, and we will have recommendations for
2 changes to the law, modifications to -- I'm sorry,
3 the rule, not the law. We'll have that probably at
4 the next Board meeting.

5 CHAIRMAN THOMPSON: Thank you, Board
6 Member Osterhage.

7 Legislative update.

8 EXECUTIVE DIRECTOR PEARSON: I have no
9 update to report.

10 CHAIRMAN THOMPSON: No update to report.

11 Okay. Unfinished business, the tanning
12 certification, and I think this is with Tony Brown.

13 EXECUTIVE DIRECTOR PEARSON: That's
14 correct. Chairman Thompson, Members of the Board,
15 we held an interested parties tanning meeting on
16 January 28th. We had several of the tanning
17 certified operator providers at the session, and
18 Tony Brown conferenced into the meeting as well.
19 There was a lot of discussion about allowing
20 certified operators to take their actual
21 certification test online.

22 As you know, at this point we do not allow
23 this certification itself to be completed online.
24 We allow them to do coursework, either in person or
25 online, but the actual certification test is a

1 proctored testing.

2 And in the end, after a lot of discussion,
3 the people at the meeting were in favor of looking
4 into allowing the test to be completed online. They
5 were leaning a little more toward it being still at
6 a location, like a specific location kind of like we
7 have now with the proctored test, except for they
8 would be able to come in and take this online. That
9 was the direction the meeting took.

10 But, definitely, it ended with the
11 possibility of looking into the online component of
12 the test, maybe setting some guidelines with that.
13 We currently have guidelines with our online
14 continuing education with timing and log-in and the
15 way the sections are rotated and things of that
16 nature, so, of course, we'd want something to fall
17 in line with those types of requirements as well;
18 and then to keep in mind that anything that the
19 Board would decide would not be implemented until
20 the 2015-2017 renewal cycle, because currently we
21 are in the middle of a renewal cycle. Providers
22 have already submitted applications. All the rules
23 are out for, you know, what is required. So when
24 renewal time comes around and we send out the new
25 information to give the guidelines to the licensees,

1 as well as to our providers, that is the time when
2 we would add any additional guidelines or say that
3 we are making any changes. So that would be the
4 time to do so.

5 CHAIRMAN THOMPSON: Director Pearson, I
6 have a list here of approved tanning providers and
7 we have 12 providers --

8 EXECUTIVE DIRECTOR PEARSON: That's
9 correct.

10 CHAIRMAN THOMPSON: -- in Ohio.

11 EXECUTIVE DIRECTOR PEARSON: Uh-huh.

12 CHAIRMAN THOMPSON: Do any of these
13 providers use a third-party testing center?

14 EXECUTIVE DIRECTOR PEARSON: A third-party
15 testing center, meaning --

16 CHAIRMAN THOMPSON: Like, do they
17 outsource the testing to a testing facility?

18 EXECUTIVE DIRECTOR PEARSON: Yes, I
19 believe that many of them will have -- you know,
20 they might have different locations where they are
21 permitted to go take their tests and be proctored at
22 that site. So what's one of the -- give me one on
23 the list. I can't think of one right now. Tan --
24 maybe -- where is Ms. Franklin?

25 MS. FRANKLIN: Suntan Supply.

1 EXECUTIVE DIRECTOR PEARSON: Okay. So
2 Suntan Supply, they submit the information, they are
3 the provider, but they may have ten locations where
4 they would offer the exam for certification.

5 CHAIRMAN THOMPSON: Okay. Any other
6 discussion over the tanning certification?

7 MR. HANKS: What's the next step?

8 MS. OSTERHAGE: Yeah.

9 EXECUTIVE DIRECTOR PEARSON: Right.
10 Chairman Thompson, Members of the Board, the next
11 step would be a decision to decide to look further
12 into the next renewal cycle to see if the Board
13 would like to allow online testing for the actual
14 certification portion of the exam, keeping in mind
15 that currently they have to go to a proctored site,
16 sit down, do their test on paper for their
17 certification.

18 CHAIRMAN THOMPSON: Okay. I'm sorry.

19 EXECUTIVE DIRECTOR PEARSON: Steve --
20 Chairman Thompson -- I'm sorry --

21 MS. SHEIPLINE: I just saw a look of
22 confusion on her face. I was wondering --

23 MR. HANKS: We basically need to make a
24 motion whether to vote.

25 EXECUTIVE DIRECTOR PEARSON: A vote. We

1 would like a vote to say which direction you would
2 like to go, yes.

3 MR. HANKS: And at the last meeting I
4 think there were some very valid questions asked
5 that need some statistics before -- you know, I'm
6 not at the point where I would want to make a motion
7 to move forward with that. I think it does have
8 potential, but I think it's got a lot of risks
9 associated with it as well, so we've got to be sure
10 that those risks aren't going to turn around and
11 bite us.

12 I mean, that's a -- unfortunate as it is,
13 it's a controversial topic, and so -- I think
14 Mr. Brown mentioned North Carolina specifically, and
15 that they were doing some of those things there; so
16 if there's any way we could get some data to support
17 that it's possible to pull this off, then I think
18 that would help.

19 EXECUTIVE DIRECTOR PEARSON: Chairman
20 Thompson, Member Hanks, Ms. Franklin, who does the
21 approvals for our tanning certification, she did
22 some research prior to the January 28th meeting with
23 some surrounding states to see what they allow. We
24 could provide all the members with that information,
25 or if you would like her to give you a rundown, you

1 know, of what she discovered of the states that do
2 provide -- let online testing be permissible or
3 states that still require it to be proctored.

4 And, again, in the interest of the parties
5 meeting, one of the things that did come out was
6 that it seemed the overwhelming majority wanted
7 to -- were willing to maybe have online
8 certification, but to start off with, they said they
9 felt more comfortable with it still having to be
10 like at one of these, say -- you know, a specific
11 site, not that somebody could sit at their home and
12 take the certified testing online. They would still
13 have to go and show an ID and kind of sign in
14 someplace, and then they would be able to be
15 permitted to do the testing online. And that was a
16 little bit of the direction that the meeting took.

17 CHAIRMAN THOMPSON: Don't they take a
18 pre-test to see -- before they actually take the
19 test?

20 EXECUTIVE DIRECTOR PEARSON: Some have
21 pre-tests and some -- some would not have a
22 pre-test.

23 MS. FRANKLIN: Correct.

24 EXECUTIVE DIRECTOR PEARSON: It would be
25 up to the provider.

1 MS. SHEIPLINE: Chairman, also, I think
2 it's noteworthy, for those of you who might not be
3 familiar with the tanning licensure, you can use
4 your book and any notes that you take during the
5 course for the test. It's an open book and open
6 note test, so it's not, you know, a very -- I don't
7 want to say it's not a rigid test because, I mean,
8 you know, the content is certainly -- you know,
9 Ms. Franklin looks over that content and approves
10 that. But, I mean, that's always a concern. If
11 people are going to use notes online, you can do it
12 in a proctored setting. So just --

13 MS. OSTERHAGE: I didn't know that.

14 MS. SHEIPLINE: -- interesting information
15 you might want to know as well.

16 EXECUTIVE DIRECTOR PEARSON: Chairman
17 Thompson, Members of the Board, that is correct.
18 Currently, we do not have any rules that state that
19 it's not -- you know, they cannot use notes or it
20 cannot be open book. We don't have any rules in
21 place that would, you know, eliminate that.

22 MR. HANKS: Yeah. But the difficulty for
23 me there is you can still have multiple people
24 sitting in front of one -- or the same person
25 sitting in front of multiple computers and nobody

1 has to use a book or notes, you know. If there were
2 a way that we could verify that they were using the
3 book and notes in front of their own computer, that
4 would help.

5 MS. SHEIPLINE: Sure.

6 MR. HANKS: But it still goes back to the
7 original issue.

8 MS. SHEIPLINE: Yeah. And I know there's
9 always going to be concern about cheating if you do
10 it online in someone's home, because that's always a
11 possibility. But I guess when I think about a test,
12 you know, I mean, to know that you can use notes and
13 it's an open book test, I mean, sometimes that
14 does -- I mean, it lowers the bar a little bit on
15 the exam, and that's just the way that I would feel
16 about that.

17 EXECUTIVE DIRECTOR PEARSON: And then also
18 if we go the route of it can be online but it still
19 has to be at a proctored site where somebody has to
20 go check in, show ID, and then they can do it on the
21 computer, that is also a route, saying that they
22 couldn't necessarily just log in from home. That
23 was kind of the end result of the interested parties
24 meeting. That was the -- more of the overwhelming
25 majority, at least for -- if we allowed it, if the

1 Board decides to allow it, that at least to start
2 out that way.

3 MS. OSTERHAGE: Why is it open book?

4 MS. BENFER: Because no one wants to --

5 THE REPORTER: I can't hear. Do you want
6 this on the record?

7 MS. FLANERY: No, sorry.

8 MS. OSTERHAGE: I'm just curious why it's
9 open book versus any of the other exams that we
10 administer that --

11 EXECUTIVE DIRECTOR PEARSON: Okay.
12 Chairman Thompson, Member Osterhage, we do not
13 actually administer this certification.

14 MS. OSTERHAGE: It's a third party.

15 EXECUTIVE DIRECTOR PEARSON: Right. We
16 require the certification and we approve the
17 curriculum and we approve the provider, but we do
18 not administer the exam.

19 DR. GUPTA: Just to get an idea of
20 numbers, how many people take the certification exam
21 every month?

22 MS. OSTERHAGE: Great question.

23 MS. FRANKLIN: Per month?

24 EXECUTIVE DIRECTOR PEARSON: Yes.

25 DR. GUPTA: Or per year or whatever.

1 MS. FRANKLIN: I believe when we had our
2 first tanning meeting, I looked and added up the
3 previous renewal period. We might have had 5,000 --
4 4 to 5,000 individuals in a two-year renewal period.

5 CHAIRMAN THOMPSON: That was just renewal?

6 MS. FRANKLIN: That was in a two-year
7 renewal period. But, see, that certification is
8 good for four years.

9 EXECUTIVE DIRECTOR PEARSON: It's a
10 four-year certification.

11 MS. FRANKLIN: So not everybody is getting
12 that done every two years. It's for every four
13 years.

14 DR. GUPTA: So the recertification is
15 every four years?

16 MS. FRANKLIN: Four years, correct.

17 DR. GUPTA: And there are about 5,000.
18 Okay.

19 CHAIRMAN THOMPSON: This industry, the
20 tanning industry, is a controversial industry to
21 start with, and I know this Board and our inspection
22 process has been in the media negatively, so I would
23 just like to use some caution here on what we do
24 with certification, because I'm sure the media will
25 be wanting to report on this. Because we were just

1 in the media, what, six months ago with the underage
2 tanning and that, so I don't want to put this Board
3 in a situation where we're back in the media again.

4 MR. HANKS: Chairman Thompson, is there
5 any other pertinent information that you would add?
6 Can we hear from Ms. Franklin?

7 MS. FRANKLIN: Well, maybe what we would
8 need to do is -- I don't have that information
9 directly in front of me -- that we could type up
10 something and get it sent to you so -- because I
11 have kind of a rough view of the 50 states and what
12 is being done in all 50 states. Then I personally
13 called the surrounding states, did not hear back
14 from everybody because it's not regulated by several
15 states.

16 I did personally talk to several states
17 with their information and the Carolina state --
18 what is it, North Carolina -- I did personally talk
19 at length with her about their program, so we can
20 put a report together for you.

21 MR. HANKS: That would be great.

22 MS. FRANKLIN: And then I will research
23 and see how many actual certifications were issued
24 for the last renewal period. And then we can do it
25 for how many so far this year, I guess, too.

1 MR. HANKS: Okay. Thank you.

2 CHAIRMAN THOMPSON: Any other discussion
3 on the tanning certification?

4 Okay. New business, Abbie Bowman.

5 MS. BOWMAN: Just come up here? Or can I
6 sit? Sorry, they didn't -- I was out there at
7 12:30. Nobody came and got me.

8 CHAIRMAN THOMPSON: Would you state your
9 name.

10 MS. BOWMAN: Abbie Bowman.

11 CHAIRMAN THOMPSON: And you're with?

12 MS. BOWMAN: I'm the owner of Bliss
13 Airbrush Tanning. It's a mobile airbrush tanning
14 business.

15 So, basically, I'm here because I feel
16 like there needs to be something instated for
17 airbrush tanning. It's a booming business, it's
18 growing, it's getting bigger, and there is no
19 certification for it.

20 Personally, I researched for two years
21 before I opened my business to find the best
22 products, the proper procedures to ensure that
23 mucous membranes were covered; that, you know, nose
24 filters are provided, eye protection is provided,
25 ear protection is provided. And I just feel like a

1 lot of people that do the business, they are not
2 informed, because there is nobody to inform them.

3 I think Oregon is the only state in the
4 country that actually has a program, but it's in
5 with the esthetics program. And me, personally, I
6 feel like a lot of people that do airbrush tanning
7 aren't interested in facials, waxing, esthetics or
8 hair. I feel like there needs to be something
9 that's directly in place for just airbrush tanning
10 for people that just want to do that.

11 It's not rocket science, but I definitely
12 feel like there are precautions that need to be
13 addressed and -- just so it can be a reputable
14 business. I feel like I go to people's houses and I
15 do their tans and they are always asking me where
16 did you get certified. And I say, well, there is no
17 certification program. And they are always shocked;
18 and, I mean, I'm shocked too. I think it's crazy,
19 the fact that you're applying something on
20 somebody's body that they could inhale, that they
21 could get it in their eyes, that they -- you know, I
22 don't think in Ohio you even have to have a business
23 license to operate.

24 I've got an LLC. I've got insurance. And
25 I feel like somebody like me opposed to somebody

1 that doesn't have those things, it's kind of taking
2 down what we do.

3 I mean, airbrush tanning already has a
4 reputation for being orange, Jersey Shore, all that
5 kind of stuff that isn't very desirable. So, yes, I
6 would love to be a part of somehow figuring out a
7 program to get in Ohio. I think it would be really
8 cool if Ohio was kind of a leader in that,
9 getting -- you know, the first state that's -- puts
10 that into play that people need to get certified and
11 an education for it.

12 That's all I have.

13 CHAIRMAN THOMPSON: Abbie, is there any
14 educational products out there that is not so much
15 linked to a vendor, I mean, just general airbrushing
16 safety, you know, safety and sanitation?

17 MS. BOWMAN: Oh, there's -- I mean,
18 there's tons of stuff out there, but it's the fact
19 of, you know, you have to dig and you have to
20 search, are they telling the truth. Is the solution
21 100 percent organic. Is it 100 percent natural.
22 You know, I feel like a lot of companies mislead
23 people. There's no solution that's 100 percent
24 organic or a 100 percent all natural product on the
25 market, and a lot of them advertise that.

1 And -- but, no, there's definitely
2 resources out there. YouTube. But how do you get
3 trained? YouTube. Like, really? You know, it
4 just -- it doesn't seem, I don't know, legitimate,
5 opposed to I was in the classroom, I took the
6 certain measures to get certified, just like the
7 stylist or an esthetician. So...

8 MS. OSTERHAGE: Abbie, can you -- I don't
9 know anything about airbrush tanning. Can you tell
10 me what it is.

11 MS. BOWMAN: So, basically, it's somebody
12 has an airbrush gun and --

13 MS. OSTERHAGE: So it's an airbrush gun
14 that's powered by what?

15 MS. BOWMAN: It's a compressor.

16 MS. OSTERHAGE: A compressor.

17 MS. BOWMAN: What I use is a compressor.
18 And, essentially, you paint the tan on them; their
19 face, their arms, their everything.

20 MS. OSTERHAGE: So it's a can of paint?
21 It's a can --

22 MS. BOWMAN: No. It's solution.

23 MS. OSTERHAGE: A solution that you mix?

24 MS. BENFER: Right. No, I don't mix it.
25 Companies distribute it. I get my solution from the

1 U.K.

2 MS. OSTERHAGE: So you're getting it from
3 outside the United States?

4 MS. BOWMAN: I am, yes, because I feel
5 like that was the best solution that I found. I
6 tested, I tried so many different ones out. They
7 are very ecofriendly. They -- all the -- kind of
8 the nasty stuff that's in a lot of the stuff in the
9 States is not in theirs. They have a lot of
10 vitamins and pure ingredients. So -- and in the
11 U.K. you have to be licensed to do airbrush tanning,
12 so they are kind of ahead of us on that spectrum.

13 MS. OSTERHAGE: So this is a handheld
14 device?

15 MS. BOWMAN: It's a handheld device.

16 MS. OSTERHAGE: So you're rotating
17 whatever around their body?

18 MS. BOWMAN: Yeah, in a tent, or not. So
19 it's got a tent so the spray doesn't go everywhere.
20 There's an extraction fan so when you overspray,
21 it's not lingering in the air, they are not inhaling
22 it.

23 MS. OSTERHAGE: Do you go into their
24 homes, into the customer's home?

25 MS. BOWMAN: Yes.

1 MS. OSTERHAGE: And you take this tent
2 and --

3 MS. BOWMAN: Yeah. Everything is mobile.

4 MS. OSTERHAGE: Everything is mobile.

5 MS. BOWMAN: Yeah.

6 MS. OSTERHAGE: Okay. Do you sell
7 anything, any of the products?

8 MS. BOWMAN: No.

9 CHAIRMAN THOMPSON: But there are products
10 available, moisturizers --

11 MS. BOWMAN: Absolutely. There's a whole
12 range of products.

13 CHAIRMAN THOMPSON: Abbie, would you say,
14 to the best of your knowledge, that -- I mean, seems
15 like you know a lot about this -- is there any
16 products out there that people are using that could
17 be potentially dangerous because of their chemical
18 makeup?

19 MS. BOWMAN: Probably. I just bought --
20 I'm starting to do competition tanning, and so I
21 went and bought -- it's called Pro Tan, and I got
22 the solution, opened it up, smelled it and it was
23 very potent. Looked on the back, and the third
24 ingredient in it was acetone, and I was floored.
25 So, needless to say, I dumped that out. So, yes,

1 absolutely, there's definitely ingredients that
2 aren't the greatest in a lot of these solutions.

3 MS. SHEIPLINE: Abbie, do you think, like,
4 at a minimum someone who offers airbrush tanning --
5 whether it's in a salon or whether it's a mobile
6 service like yours, do you think at a minimum maybe
7 like an infection control, safety sanitation, you
8 know, certificate --

9 MS. BOWMAN: Yes, right --

10 MS. SHEIPLINE: -- course at a minimum --

11 MS. BOWMAN: -- I think at a minimum. I
12 mean, we're dealing with the skin, and I had to
13 research myself. I went to OSU and got a degree in
14 child development, but that's not helping me with
15 skin disorders, eczema, psoriasis. So I had to look
16 at that myself. And was the information accurate?
17 I don't know. I hope so.

18 MS. SHEIPLINE: I mean, just a thought, if
19 we -- if it's difficult, you know, to come up with,
20 you know, an actual education curriculum for
21 airbrush tanning, at a minimum some type of
22 infection control safety certification, I think,
23 might be something we could look into.

24 MS. OSTERHAGE: How does this differ from
25 spray tanning?

1 MS. BOWMAN: So they say spray tanning is
2 in the booth where nobody is applying it. It's
3 essentially the same thing, but the spray tanning
4 solution is usually lower quality and it's not as
5 precise. So what I do, I can get in the nooks and
6 crannies and all that opposed to one of those you
7 stand there and it's just a machine that does it.

8 MS. OSTERHAGE: So it's essentially the
9 same thing?

10 MS. BOWMAN: It's essentially -- yes.
11 There's a lot of overspray with spray tanning,
12 there's no extraction fan, so you're in -- if
13 anybody has ever done one, you're in, like, a haze
14 of the solution.

15 MS. OSTERHAGE: And we don't regulate
16 spray tanning. We only regulate tanning beds,
17 lightbulbs; right?

18 CHAIRMAN THOMPSON: Yes.

19 MR. TANEFF: Chairman Thompson, I'd like
20 to know if Dr. Gupta has --

21 CHAIRMAN THOMPSON: Same thing. Do you
22 have any --

23 DR. GUPTA: I think -- I'm shocked,
24 actually, that we don't regulate it. So I feel like
25 we need to work on that and come up with a plan here

1 for both airbrush tanning and spray tanning.

2 MS. BOWMAN: Right. I mean, it's
3 definitely been in the news. Is it safe? Because
4 it's FDA approved for the external for -- you know,
5 it's been, I think, since '72 or something like
6 that. But not as far as if you do inhale it, what
7 are the kind of --

8 DR. GUPTA: Certainly, it's a lot safer
9 than tanning beds.

10 MS. BOWMAN: Right.

11 DR. GUPTA: So I'm certainly in favor of
12 this industry growing over the tanning beds,
13 switching to this as well at some point.

14 CHAIRMAN THOMPSON: I'd like to ask Cathy
15 Franklin, have you heard of any other states' Board
16 of Cosmetologies or Boards of Health that have taken
17 on the responsibility of regulating this industry?

18 MS. FRANKLIN: We did not when I was
19 doing -- or I did not, when I was doing the
20 research, look into any spray tanning.

21 But I actually have a question for her.
22 When you're doing this in a tent, are you wearing a
23 mask yourself?

24 MS. BOWMAN: Yes, I do wear a mask. And
25 then on days when I don't wear a mask and I'm doing

1 a large number of people, it's -- like, it's coming
2 out of my nose. Like, it's -- that's why I have to
3 wear a mask. I'll blow my nose and it's just --
4 yeah. So definitely on both sides. I always have
5 my glasses on and a mask to protect myself.

6 MS. FRANKLIN: And, actually, to answer a
7 little bit of your questions, when I did my
8 research, a lot of the Boards of Cosmetology are not
9 the ones that -- the states that do have
10 regulations, they are not being regulated by Boards
11 of Cosmetology. It's like radiation boards, that
12 type of thing, medical boards, different things.
13 It's all over the place.

14 DR. GUPTA: When you decide on the product
15 you're going to go with or whatever, X company
16 you're going to use for airbrush tanning, do they
17 provide some sort of certification or training?

18 MS. BOWMAN: I mean, I've gone online and
19 took certification courses, but it's online and
20 it's -- anybody can take it. It's -- you read some
21 material --

22 DR. GUPTA: So they don't have
23 representatives who come and show you --

24 MS. BOWMAN: I mean, you definitely have
25 that option. But it's the same thing, them just

1 basically teaching you the technique. They don't
2 teach safety. They don't teach anything like that.

3 CHAIRMAN THOMPSON: Are these products FDA
4 approved?

5 MS. BOWMAN: They are for external use.
6 But as far as the misting and anything like that,
7 no, it's not.

8 CHAIRMAN THOMPSON: She wears a mask all
9 day long. There's got to be some concern. You
10 don't wear a mask for esthetic reasons. You're
11 wearing a mask for a reason.

12 MS. BOWMAN: Yeah. Yeah. I'm not doing
13 it to look cute, no. It's just for overspray for my
14 protection as well. Just like when you go and get
15 your nails done, they wear a mask.

16 CHAIRMAN THOMPSON: What are you
17 protecting yourself from?

18 MS. BOWMAN: Just the overspray, just to
19 make sure I'm taking proper precautions. Just like
20 I'm protecting my clients, I want to protect myself.

21 DR. GUPTA: Whatever vapors or
22 chemicals --

23 MS. BOWMAN: Just think if you sprayed
24 hair spray, there's like the spray around you. So
25 with the extraction fan, it sucks it in, but if

1 there is anything extra, it's just to make sure I'm
2 protected.

3 MR. HANKS: How is this different than a
4 large quantity makeup application?

5 MS. BOWMAN: As far as? What do you mean?

6 MR. HANKS: What's the difference? I
7 mean, to me this is very similar, if not identical,
8 to an airbrush makeup application, except it's on
9 your body --

10 MS. BOWMAN: Airbrush makeup, I mean, it's
11 essentially the same thing. In the beginning of
12 airbrush tanning they used an airbrush -- it would
13 just take forever to do. So, yes, it's just a
14 bigger -- it's essentially -- I'm pretty sure
15 Dinair, who does makeup, they have a system out now,
16 it's called Airtan, I think; so, yes, it's
17 essentially the same thing. But it's just putting
18 out more -- you know, instead of a fan this size,
19 it's putting out a fan this size, so it covers more
20 on the body (indicates).

21 MR. HANKS: My point being that I think we
22 do regulate this. It may not be clearly spelled
23 out, but as part of the esthetics program, it would
24 fall under that category.

25 DR. GUPTA: But if you're doing airbrush

1 makeup, is that actually like makeup powder or this
2 more of a different solution perhaps?

3 MS. BOWMAN: Yes, definitely. It's a
4 different product. That's makeup. It's a different
5 base and different -- yeah, totally different makeup
6 product.

7 MS. SHEIPLINE: The solution develops too,
8 doesn't it? Like, when you put it on the skin, it's
9 not the color it's going to be, it's going to
10 progressively develop?

11 MS. BOWMAN: Right. So the actual
12 solution is clear in all of them. They just put a
13 bronzer in. Depending on the color of the
14 bronzer -- that's what you're saying. It's
15 essentially a guide so we can see where we're
16 putting the tan. But it does develop. It sits on
17 the body and then -- it's like an apple. You cut an
18 apple and it's going to brown over time. It's
19 essentially the same as that process.

20 MR. HANKS: Do you -- or if you do, how do
21 you prepare the skin for this?

22 MS. BOWMAN: So you ask them to exfoliate
23 before, because it sits on just the top of your
24 skin. And after the skin exfoliates, it comes off,
25 the tan falls off; so you have to exfoliate,

1 moisturize, come to the session, and I put barrier
2 proof on hands, elbows, their knees, just the
3 rougher skin. So it's not anything intense of a
4 prep process.

5 MR. HANKS: Well, I would probably argue
6 with you a little bit on that.

7 MS. BOWMAN: I mean, it depends if
8 somebody wants their tan to look -- oh, I've had
9 clients that come to me and they haven't exfoliated
10 and that's their own -- I let them know to exfoliate
11 before. If they do it, great. If they don't, the
12 tan is still going to take, it just might not stay
13 as long. It's more of a suggestion as opposed to
14 you have to do it, if that makes sense.

15 MR. HANKS: I think so.

16 CHAIRMAN THOMPSON: Any other thoughts?

17 MS. OSTERHAGE: Where to, Coach?

18 CHAIRMAN THOMPSON: Anybody think there's
19 a need for researching this or --

20 DR. GUPTA: I think we should research it
21 and definitely maybe coming up with a committee to
22 doing something as far as regulation or at least a
23 minimum safety standard and --

24 MS. OSTERHAGE: Chairman Thompson, maybe a
25 good plan would be to ask the Board staff to review

1 the laws, the rules that we already have, with
2 consideration given to what Member Hanks has
3 mentioned in terms of making application for you
4 guys -- I mean, there's some business intelligence
5 here that they probably can help us to at least
6 understand where we really are and what we might
7 need to do. That would be my suggestion.

8 CHAIRMAN THOMPSON: Abbie, thank you.

9 MS. BOWMAN: Thank you.

10 CHAIRMAN THOMPSON: Yeah. By the next
11 meeting if the staff here could do research and see
12 what we could do within our laws and rules.

13 EXECUTIVE DIRECTOR PEARSON: Sure.

14 CHAIRMAN THOMPSON: Maybe some type of a
15 safety certification for these people or something.

16 MS. OSTERHAGE: Well, if we go down that
17 road, it sounds like we need to talk about the spray
18 tanning and the tanning salons as well. I mean,
19 this is -- we're opening a new chapter, if that's
20 the direction we determine that we need to go in.

21 EXECUTIVE DIRECTOR PEARSON: Chairman
22 Thompson, Members of the Board, it would be -- our
23 research will be for both airbrush and spray
24 tanning, so it would be for both.

25 CHAIRMAN THOMPSON: The next part of new

1 business is eyelash extensions/scope of practice.

2 EXECUTIVE DIRECTOR PEARSON: Yes.

3 Chairman Thompson, Members of the Board, this is on
4 the agenda because we have, over the last several
5 months, had several situations come up at our Board
6 office and for our inspectors. As I'm sure you're
7 well aware, that last year with House Bill 453 the
8 addition of eyelash extensions or artificial lashes
9 was to be added to -- into our Revised Code. And
10 then again, you know, now it's looking at being
11 added to our Revised Code as part of the scope of
12 practice of a -- of esthetics -- of esthetics, okay.

13 So, currently, our Revised Code does not
14 specifically allow for or doesn't specifically state
15 eyelash extensions. So with that, we've had a
16 couple situations where people are operating a
17 facility for eyelash extensions, they are not
18 licensed through this Board, but we will receive
19 complaints from other licensed salons or licensees;
20 so we go in on the complaint because we, the Board,
21 have felt that eyelash extensions is a part of
22 esthetics or is a part of cosmetology.

23 So we recently have had some kind of
24 pushback saying that we do not have authority under
25 our Revised Code to regulate lash extensions. And

1 so what I'm looking to the Board for is some
2 direction and some clarification, because we do have
3 a couple situations on the table right now.

4 One is an unlicensed facility that is
5 offering eyelash extensions, and one is a facility
6 that's -- offers eyelash extensions and they are
7 licensed as an esthetic salon, but without a
8 licensed esthetician or cosmetologist. And we do
9 have under 4713-11-10, services that may be provided
10 in a salon -- we do have a provision that states if
11 the service involves touching any parts of the body,
12 then the provider shall have an Ohio license or Ohio
13 certification to provide that service.

14 So our question would be would this cover
15 lash extensions, meaning if somebody is providing
16 lash extensions in a salon, you know, would we fall
17 back on this rule to say that it involves touching;
18 therefore, they would have to have a certification
19 or a license, which would then bring us back to the
20 need of an esthetics or a cosmetology license.

21 MS. OSTERHAGE: Ms. Pearson, the two cases
22 you just described was one where someone is doing
23 eyelash extensions in a salon that's licensed as an
24 esthetic salon?

25 EXECUTIVE DIRECTOR PEARSON: Yes, Chairman

1 Thompson, Member Osterhage, that is correct. We
2 have a situation where this person had an
3 unlicensed, you know, facility, was providing lash
4 extensions and permanent makeup, and they were
5 directed to license the facility as an esthetic
6 salon, but there is no personal license held; so
7 there is nobody in that salon now that holds an
8 esthetics or a cosmetology license, so then that
9 puts them in violation of our laws and rules.

10 MS. OSTERHAGE: And they were directed by
11 this Board staff --

12 EXECUTIVE DIRECTOR PEARSON: They were
13 directed by a previous member of our staff.

14 MS. OSTERHAGE: So they were directed to
15 get a license to license their salon as an esthetic
16 salon, and yet the person who's working there is not
17 a licensed -- is not licensed in anything?

18 EXECUTIVE DIRECTOR PEARSON: That is
19 correct.

20 And then we have an additional situation,
21 like I said, where it's just a totally unlicensed
22 facility, but they are claiming that we do not have
23 jurisdiction to go in because it doesn't
24 specifically state in our Revised Code. So that's
25 where I'm trying to find if -- if we fill it in

1 after speaking with your AG as well, it's kind of
2 going to be the direction of the Board, do we, you
3 know, wait for, you know, actual clarification on
4 our Revised Code or, you know, does the services
5 that may be provided in a salon cover, because if
6 it's touching -- you know, anything that involves
7 touching, then it falls back to they have to be
8 certified or licensed from a regulatory body in
9 Ohio. So do we -- is that clear enough for our
10 application? And it is something that is taught in
11 the curriculum of esthetics and in cosmetology, and
12 that has always been.

13 MS. OSTERHAGE: But Chairman -- I think,
14 because currently as the law is written, we do not
15 have jurisdiction over a location that is not
16 licensed by the State Board; is that correct? The
17 way the law reads today, we don't have the right to
18 inspect. We don't have the right to visit even
19 if -- even if there's a complaint that's filed with
20 us, we don't have jurisdiction.

21 EXECUTIVE DIRECTOR PEARSON: We do --
22 Member Osterhage, we do go in on complaints even if
23 it's an unlicensed facility, but we don't have any
24 power to do --

25 MS. OSTERHAGE: Right.

1 EXECUTIVE DIRECTOR PEARSON: -- you know,
2 we'd have to go further with power to the prosecutor
3 and things of that nature. We don't have -- we
4 don't have our own subpoena power to go in and --

5 MS. OSTERHAGE: So the other salon that's
6 not licensed is also eyelash?

7 EXECUTIVE DIRECTOR PEARSON: That's
8 correct.

9 MS. OSTERHAGE: So these are both examples
10 of eyelash extensions?

11 EXECUTIVE DIRECTOR PEARSON: Both examples
12 of eyelash extension, yes.

13 MS. OSTERHAGE: So one where this Board
14 advised the person to license in esthetics, knowing
15 that there was no license --

16 MR. HANKS: Can we clarify that, because
17 advised and directed are very, very different.

18 MS. OSTERHAGE: Sorry.

19 MR. HANKS: Is there a document that was
20 provided to this person? Was it a recommendation or
21 was it a directive?

22 EXECUTIVE DIRECTOR PEARSON: Chairman
23 Thompson, Members -- Member Hanks, it was -- the
24 information I was given, it was a direction given
25 from this Board that because the House Bill that was

1 going to take care of the situation, they would be
2 in a better situation to have the facility licensed
3 as an esthetic salon.

4 MR. HANKS: I'm still struggling with
5 whether that's a directive or a recommendation.

6 MS. OSTERHAGE: Well --

7 EXECUTIVE DIRECTOR PEARSON: It is a
8 recommendation, I mean, unless it was --

9 MS. OSTERHAGE: If it came from the Board
10 to a layperson, if that -- whatever it is,
11 instruction, direction -- if it came from the Board
12 to a layperson, it would be perceived as the thing
13 to do. I mean, if that's -- and who knows? But,
14 again, it was -- in all likelihood, if the
15 recommendation, the advice, whatever it is, was
16 given based on the assumption that House Bill 453
17 was going to pass, that was wrong. So we
18 essentially put this woman in harm's way in terms of
19 inspection and violation that otherwise we would not
20 have had the right to visit and inspect. We would
21 not have been there to visit or inspect. Does that
22 make sense?

23 MR. HANKS: I understand what you're
24 saying. I'm not sure I necessarily agree with it.
25 I mean, unless someone was saying do this or else --

1 MS. OSTERHAGE: Well, Member Hanks, why
2 would a person go out and seek a license for a venue
3 when she's been doing -- it's been -- she's been
4 conducting her business without issue for a while?
5 I mean, she would not have gone out and sought that
6 license -- do you understand what I'm saying --
7 specifically because we have no -- have had no
8 previous jurisdiction.

9 And this salon is in Columbus, yes,
10 somewhere?

11 EXECUTIVE DIRECTOR PEARSON: Yes.

12 MS. OSTERHAGE: Do you understand what I'm
13 saying? So had she not secured a license, she would
14 not be in the situation right now where she's in
15 violation of law had she not sought the license.

16 MR. HANKS: I'm --

17 MS. DEMASER: Wait a minute. She --
18 correct me if I'm wrong, she's doing eyelash
19 extensions. Formerly she was not licensed as
20 anything?

21 EXECUTIVE DIRECTOR PEARSON: Correct.

22 MS. DEMASER: No. She's still violating
23 chapters and we still have a right to inspect.
24 "Right" is the wrong word. "Authority" to inspect.
25 Because if a person, licensee or non, is conducting

1 a practice that is regulated by this chapter that is
2 required to have a license and is continuing to do
3 that practice, this Board has the authority to go
4 in, inspect, charge them with practicing without a
5 license. And I was just looking up seeking an
6 injunction, civil remedy.

7 CHAIRMAN THOMPSON: We can't put a
8 violation. We can go for an injunction.

9 MS. DEMASER: Right. You couldn't pull a
10 license that doesn't exist, so you wouldn't do a
11 licensee action because there is no license.

12 MR. TANEFF: We couldn't issue a fine?

13 MS. DEMASER: No -- you probably could,
14 but let me -- that, I don't want to speak to yet,
15 until I look at penalties.

16 MS. OSTERHAGE: I don't think we currently
17 regulate eyelash extensions.

18 MS. DEMASER: Oh, it was my understanding
19 that you decided that you did.

20 MS. OSTERHAGE: No. That was in House
21 Bill 453.

22 MS. DEMASER: Then I will back off of
23 that.

24 MR. HANKS: That's up for debate.

25 Forgive me for not knowing the practical

1 answer to this question, but how is an eyelash
2 different from an armpit hair? Do we specify armpit
3 hairs in our laws and rules? It's a hair that we
4 work with.

5 MS. OSTERHAGE: Well, I understand what
6 you're saying, but it was added to 453.

7 MR. HANKS: I understand.

8 MS. OSTERHAGE: So it must be different or
9 somebody at that time thought that it needed to be
10 specified. Do you understand what I'm saying?

11 MR. HANKS: For the sake of clarity, it
12 would make sense to do that. But that doesn't mean
13 we don't regulate it now.

14 MR. TANEFF: Dr. Gupta, is there a
15 difference in the transmission of certain diseases
16 from an armpit hair versus an eyelash hair? I'm
17 thinking of pink eye. I'm assuming you can't
18 transmit --

19 DR. GUPTA: Well, I mean, we're talking
20 about artificial lashes here; right?

21 MS. OSTERHAGE: Gluing an artificial lash
22 to an existing hair.

23 MS. BENFER: Or to skin.

24 MS. OSTERHAGE: It's lash -- it's lash to
25 lash.

1 DR. GUPTA: I mean, I would assume, again,
2 that there should be some standard safety
3 precautions.

4 MS. DEMASER: Let -- excuse me. I'm going
5 to read the definition of esthetics. It means the
6 application of cosmetics, tonics, antiseptics,
7 creams, lotions or other preparations for the
8 purpose of skin beautification. Skin
9 beautification. You just described this as a lash
10 to lash, plastic to lash, in effect; correct?

11 MS. OSTERHAGE: Synthetic to real lash.

12 MS. DEMASER: So you're not touching the
13 skin.

14 MS. OSTERHAGE: Right.

15 MS. DEMASER: It's not a cosmetic -- maybe
16 it's a cosmetic -- tonic, antiseptic, cream, lotion
17 which, to me, implies a preparation. So either --
18 if it's a cosmetic or preparation, it could possibly
19 be regulated. If it were touching the skin, it
20 could possibly go under this definition; but,
21 otherwise, I'm not sure it fits under this
22 definition.

23 DR. GUPTA: So any hair is an appendage of
24 the skin. It's technically part of the skin.
25 But -- and you do regulate hair in general. I mean,

1 I'm just confused.

2 Like, for example --

3 MS. DEMASER: I understand.

4 DR. GUPTA: -- hair extensions, you
5 know --

6 MS. OSTERHAGE: Synthetic.

7 DR. GUPTA: Synthetic hair extensions.

8 MS. OSTERHAGE: But you're attaching that
9 to something that we do regulate, which is hair.

10 CHAIRMAN THOMPSON: So what's the
11 difference?

12 DR. GUPTA: So eyelash is hair too.

13 MS. DEMASER: Yeah. That's under hair
14 design, practice of hair design.

15 MS. OSTERHAGE: What's interesting is --
16 and if you reflect on all of this, that's been the
17 whole thing with, like, threading. I mean,
18 threading is another example of what's, I mean,
19 maybe call it a boutique type thing where --
20 threading, eyelash extensions, they are things that
21 obviously somebody thought they were important
22 enough to pull out to try to regulate -- to call out
23 independently, if you will. So it's never been
24 interpreted that it's part of the body, part of the
25 skin, part of the tissue.

1 I mean, it's historically -- and, I mean,
2 I wasn't -- I wasn't here, a part of that, when
3 453 -- House Bill 453 was originally drafted, but,
4 obviously, somebody felt that it was separate and
5 important enough to pull out to be regulated
6 separately.

7 DR. GUPTA: Or unregulated, basically.

8 MS. OSTERHAGE: Correct. Well, that would
9 be the -- your interpretation, that it's unregulated
10 because we're taking the time to create regulation
11 around it.

12 So the House bill that failed had a
13 provision for eyelash extensions, and it also had a
14 provision for threading and braiding, those two to
15 have separate licensure. So I guess that's the
16 point.

17 When I reflect on why we're where we are
18 with some of the things we are today, it seems to me
19 like that we don't regulate those things and
20 that's --

21 MR. HANKS: Can you read the cosmetology
22 definition.

23 MS. DEMASER: There is none. Well, there
24 is. Unfortunately, it's -- the practice of
25 cosmetology means the practice of all branches of

1 cosmetology.

2 MS. OSTERHAGE: There you are.

3 MS. DEMASER: And you don't define
4 cosmetology. We would assume that that includes the
5 practice of esthetics, practice of hair design,
6 practice of manicuring, practice of natural hair
7 styling. Maybe -- is it natural hair tint? No,
8 it's not natural hair styling because that's
9 something that results in tension on the hair roots,
10 and this doesn't result in tension.

11 MS. OSTERHAGE: I apologize, Chairman
12 Thompson, Ms. Pearson. House Bill 410 as
13 represented by Representative Grossman -- I don't
14 remember -- does that have verbiage in it that --
15 did we continue our request for the ability to go in
16 and --

17 EXECUTIVE DIRECTOR PEARSON: Yes.

18 MS. OSTERHAGE: -- inspect, investigate in
19 locations that are not licensed; correct?

20 EXECUTIVE DIRECTOR PEARSON: That is
21 correct.

22 MS. OSTERHAGE: So we're seeking that
23 authority but we don't have it currently today?

24 EXECUTIVE DIRECTOR PEARSON: So, Chairman
25 Thompson, Members of the Board, the question that --

1 you know, besides the regulated/unregulated, but as
2 far as for the inspection purposes and clarity for
3 the Board staff so we know what direction we should
4 be taking, I guess a big question is is it -- it's
5 not specific, as we were just read from the
6 definition in the Revised Code. However, we do have
7 in 4713-11-10 a section that states if it involves
8 touching, which, you know, I guess that would be --
9 if we say that's touching, then a person in one of
10 our salons or facilities would have to have a
11 license or certificate, which would bring us back to
12 they would need to have a cosmetology or an
13 esthetics license within one of our licensed
14 facilities, if that would be -- that would be one
15 route to take.

16 CHAIRMAN THOMPSON: Our AG, do you agree
17 with her comment?

18 MS. DEMASER: If you consider it touching.

19 CHAIRMAN THOMPSON: There's a
20 preparation -- I'm sure there's a preparation of the
21 skin, isn't there?

22 EXECUTIVE DIRECTOR PEARSON: Yes.

23 CHAIRMAN THOMPSON: So there you go. I
24 mean, I think touching the hair is touching.

25 MS. DEMASER: Yeah. I would be willing to

1 argue it, so I don't think it's --

2 MS. OSTERHAGE: I think what's relevant
3 for us today, at least in my mind, is very simply
4 this: Currently, we don't have -- if it's an
5 unlicensed facility, we don't have the authority.
6 Yes? Unless there's a complaint and someone tells
7 us, we would not just go into the eyelash salon that
8 exists as an eyelash salon and is not licensed, we
9 don't have -- we would not have the authority to
10 enter.

11 MR. HANKS: Yes. We would not have
12 subpoena power, but we have the authority to go into
13 an unlicensed --

14 MS. OSTERHAGE: But we would only do that
15 if someone complained. Is that correct?

16 MS. DEMASER: I'm actually asking Lori,
17 because I haven't looked at your statutes for over a
18 year. But if you get a complaint about an
19 unlicensed -- let's say that you've got a complaint
20 about somebody doing tension on the hair in a home.

21 MS. OSTERHAGE: Something, yeah.

22 MS. DEMASER: You would go into the home;
23 correct --

24 EXECUTIVE DIRECTOR PEARSON: Correct.

25 MS. DEMASER: -- during reasonable

1 business hours and all the rest. But within the 4th
2 Amendment, it dictates you could go in. You have
3 that authority. So yes -- the answer is yes, upon a
4 complaint, because you can inspect for unlicensed
5 activity.

6 MR. HANKS: What if an inspector was
7 walking down the street and saw in a window somebody
8 was doing that? Would they have the right to go in
9 and inspect at that point?

10 MS. DEMASER: I would think so too because
11 then they are the complainant. Yeah.

12 EXECUTIVE DIRECTOR PEARSON: We don't have
13 authority going further than that. We can't just go
14 in and apply those fines or shut them down or do
15 anything of that nature. We do not have that type
16 of authority --

17 MR. TANEFF: Wait a minute. You do have
18 the authority, though, to pursue injunctive relief.
19 You don't have the authority to pursue the levy of
20 the fine.

21 EXECUTIVE DIRECTOR PEARSON: Right. We
22 have the authority to go in and then go the next
23 step. It has to go then beyond us too is what we
24 have --

25 DR. GUPTA: I guess what I'm understanding

1 with these boutique services, like airbrush tanning
2 or hair extensions and whatnot, is that these people
3 who practice, let's say, threading, they don't want
4 to go through the whole cosmetology curriculum
5 because they are really not interested in hair and
6 this and that and the other stuff. So, I mean, for
7 the boutique services, can't they just have some
8 kind of a minimal safety or whatever, you know,
9 course or something they would get certification and
10 just basic safety of skin that would encompass all
11 the boutique kind of servicing, and then define
12 which -- what those boutique services --

13 MS. SHEIPLINE: Communicable diseases,
14 because I agree with, you know, Mr. Taneff.
15 Conjunctivitis is an issue and you don't want to get
16 that. So --

17 DR. GUPTA: And they would be restricted
18 in just practicing their boutique service.

19 CHAIRMAN THOMPSON: House Bill 453 -- I
20 know you were part of the committee, Luke, and maybe
21 others were on it -- was there any type of
22 certification that was going to go on as far as
23 safety and sanitation in House Bill 453?

24 MS. OSTERHAGE: No.

25 CHAIRMAN THOMPSON: There was nothing?

1 MR. HANKS: No.

2 MS. OSTERHAGE: No. It created licenses
3 for braiding and for threading and added eyelash
4 extensions to the verbiage about the practice of --
5 I don't remember if it was under esthetics or
6 cosmetology, but that was additional verbiage. So
7 it was two new licenses, both of which had a
8 manager's license component.

9 CHAIRMAN THOMPSON: And they had an
10 education requirement with them?

11 MS. OSTERHAGE: Right, correct. There
12 was -- we -- part of it was the recommendation of a
13 curriculum, a set number of hours, not only for the
14 license, but also for the -- which included the
15 safety and sanitation and all of those things.

16 CHAIRMAN THOMPSON: Too bad that didn't
17 pass.

18 MS. DEMASER: It would make it a lot
19 easier.

20 I do want to correct one thing. You can
21 technically go after fines. It would be through the
22 hearing officer procedure pursuant to Revised Code
23 Chapter 119, fines for people who are practicing
24 without a license. It's like any other -- you know,
25 if there was someone who was writing wills without a

1 law license, that's an illegal act. You can go
2 after that person.

3 Under Revised Code 4713-14(C), no person
4 shall do any of the following: Practice a branch of
5 cosmetology without a license, without a proper --
6 the appropriate license. Under 64(A)(1), the State
7 Board of Cosmetology may take disciplinary action
8 for any of the following: Failure to comply with
9 the requirements of this chapter. Well, a
10 requirement of this chapter is you that have a
11 license to practice cutting hair or whatever it is.
12 You can -- you have authority to deny, revoke or
13 suspend a license. Well, that doesn't apply.

14 Impose a fine. So you could fine people,
15 but you'd have to go through the hearing officer
16 procedure. I'm not sure you want to get into that.
17 Usually it's not done because it's just a lot of
18 effort for not much. You're better off going for an
19 injunction. It's a lot more power to the punch with
20 an injunction.

21 MS. OSTERHAGE: So our interpretation --
22 up to this point in your clarification, our
23 interpretation has not been accurate.

24 MS. DEMASER: Tell me again your
25 interpretation.

1 MS. OSTERHAGE: Well, the interpretation
2 is that we do not have jurisdiction over people who
3 are practicing these -- these services, providing
4 these services.

5 MS. DEMASER: That depends on whether you
6 feel these services fit into one of the branches you
7 regulate. If it does, then, yeah, you could go
8 after them. If it doesn't, no, you can't.

9 MS. OSTERHAGE: Chairman, I would -- I
10 would love -- it would be really great if -- I can't
11 say your last name -- it's Ms. Hilary.

12 MS. DEMASER: Hilary Demaser. That's
13 okay. That's fine.

14 MS. OSTERHAGE: Perhaps she and Lori could
15 work on sort of digesting this a little bit and
16 making a recommendation --

17 CHAIRMAN THOMPSON: The whole unlicensed
18 facility?

19 MS. OSTERHAGE: Well, everything that
20 we've just talked about. That, and, I mean, Lori is
21 looking for some direction with 4713-11-10. And I
22 think before we do that, I think if they spent the
23 time looking at all of the things that we kind of
24 talked about, you know, like the person who licensed
25 the salon as an esthetician salon, what do we do

1 with that violation because she's not a licensed --
2 you know what I'm saying?

3 CHAIRMAN THOMPSON: Right.

4 MS. OSTERHAGE: But it would be -- instead
5 of spending the next hour trying to figure this out,
6 it would be good, don't you think, for them to spend
7 some time.

8 MR. TANEFF: If I could, Chairman
9 Thompson, with this new mission that you guys are
10 about to embark upon, you know, clearly, our
11 paramount concern is the health, safety and welfare
12 of the community.

13 MS. DEMASER: Yeah.

14 MR. TANEFF: Please keep in mind the
15 Governor's mandate to us, and that is to do as
16 little as possible to stand in the way of
17 unnecessary regulation and strangling of the
18 business community and somebody's attempt to make a
19 decent living with this.

20 I don't have a problem in regulating
21 something, but let's not regulate something for the
22 sake of regulating it to a point where we make it
23 impossible for somebody to make a living.

24 MS. DEMASER: That's actually a policy
25 decision. That's nothing that we would do. So

1 that's a decision and a weighing that the Board has
2 to do. All we can do is tell you that you can or
3 cannot regulate it. It's up to you as to what you
4 want to do with that information.

5 CHAIRMAN THOMPSON: Any more discussion
6 over the eyelash extension, the scope of practice?
7 I think it would be interesting to hear back and see
8 what kind of regulation that we do have over an
9 unlicensed facility, a facility that's practicing --
10 unlicensed facility that's practicing services.

11 MS. OSTERHAGE: Again, I'm not sure we've
12 necessarily been of the belief that we had any
13 jurisdiction, so I'm kind of excited for some
14 clarification. That will be good.

15 MR. HANKS: My understanding has always
16 been that the authority is there, it just never
17 could go anywhere. You know, when you're going to
18 the prosecutor's office saying, hey, go after this
19 person, we were getting laughed out of the
20 prosecutor's office. So that's where the subpoena
21 power became important and even became a topic of
22 discussion, and that's what makes this appealing.

23 CHAIRMAN THOMPSON: Yes, because the
24 injunction would have to be filed --

25 MS. DEMASER: To subpoena what? Why would

1 you need subpoena power? I'm not sure -- I'm trying
2 to understand why that's come up.

3 MR. HANKS: Well, I'm sure there are 1,000
4 different reasons that -- I don't have firsthand
5 experience.

6 MS. DEMASER: For subpoenas, agencies
7 usually subpoena records or testimony prior to a
8 hearing as part of an investigation. What would you
9 be subpoenaing?

10 MS. OSTERHAGE: The subpoena power wasn't
11 in relationship to the jurisdiction.

12 MS. DEMASER: It's not -- it's not an
13 inspection power. That's different.

14 MS. OSTERHAGE: Yeah, I think you're
15 confusing, because we -- Ms. Katz had us -- we
16 pursued the subpoena power. Do you remember that?
17 I don't remember when it was, but I don't think that
18 was related to our jurisdiction or ability to go in
19 to inspect someplace where we thought someone was
20 conducting business -- providing services that you
21 license. I think those were two separate things.

22 MR. HANKS: Maybe we have to look at it
23 again.

24 MS. OSTERHAGE: Yeah. So table?

25 CHAIRMAN THOMPSON: Yeah, we'll table this

1 until next month. Hopefully, they get back with a
2 little better interpretation of what we need here.

3 Okay. The next piece of new business
4 is -- we've kind of already talked about it -- is
5 4713-11-10.

6 EXECUTIVE DIRECTOR PEARSON: Yes.

7 Chairman Thompson, Members of the Board, this --
8 actually, it's kind of the same but there are some
9 different avenues to it. Recently the inspectors
10 have had several cases of what services can be
11 provided in a salon. And, specifically, it comes
12 back to something that we, as the Board, do not
13 actually regulate, but it goes to if it involves
14 touching, you know, they have to have this Ohio
15 license or an Ohio certification. So a licensed
16 massage therapist could provide massage in one of
17 our salons because they are given a license through
18 the Medical Board.

19 But we have this, say, ethical massage
20 that has come up, and it's a relaxation massage.
21 They do not hold a certificate or a license from a
22 body -- a regulatory body in Ohio. So with our rule
23 11.10, that would not be permitted in our salon.

24 But then what the inspectors run up
25 against is they will say, well, it is a separate

1 business, okay. It's not part of the salon. It's a
2 separate business even though it's in the salon; and
3 then, you know, we're having some trouble with where
4 we go with that. And if you wouldn't mind,
5 supervisor of inspectors, Meg LaMantia, has some
6 information on this issue. If you would let her
7 speak on that, it would be great.

8 MS. LaMANTIA: That's one of the biggest
9 hurdles we've encountered is the ethical massage.
10 They will be in a room down the hall, a separate
11 door, a separate vendor's license, separate name, no
12 affiliation with the cosmetology portion of the
13 facility. But they are a separate business. Well,
14 then you'll have, is that allowed? Can we allow
15 that? It's still within the body of the beauty
16 salon, but it's a separate room.

17 Another one we run into is a holistic
18 health practitioner. They don't necessarily do
19 touching of the body. Don't always know what they
20 do even. It could just be looking at your skin,
21 supplement for sales, whatever, whatever in the
22 beauty salon. Might even be doing it like right in
23 the body of the beauty salon but they are not
24 licensed by us at all. They have no cosmetology
25 affiliation. But they are a separate business.

1 So we've got, like, a real gray area there
2 as to whether or not we can allow them in the beauty
3 salon. We don't want to hinder businesses at all,
4 like Mr. Taneff said. We don't want to say somebody
5 can't have their business in here, because they are
6 in a beauty salon. But, there again, like, if they
7 are doing the ethical massage like Lori spoke of,
8 that really has no certificate or anything. It's
9 more than an 8-hour relaxation massage certificate
10 but it's not near as much as an LMT that is licensed
11 by the Medical Board. It's just some kind of a
12 little middleman in there that some schools in Ohio
13 and neighboring states issue a certification on. So
14 it's like that's what -- we need some guidance on
15 that.

16 Can it be a separate business behind a
17 separate door?

18 EXECUTIVE DIRECTOR PEARSON: Also, our
19 definition for beauty salon states that it means any
20 premise, building or part of a building in which a
21 person is authorized to engage in all branches of
22 cosmetology. So when we, the Board, license a salon
23 facility, we're licensing that entire address
24 because we do not ask for floor plans any longer, so
25 there's no floor plan submitted to say, well, you

1 know, this section is the salon and this section is
2 going to be some other type of business. So, in
3 essence, we are licensing that entire address on the
4 application as the salon.

5 CHAIRMAN THOMPSON: So the question here
6 is No. 2, if the service involves touching parts of
7 the body, that's --

8 EXECUTIVE DIRECTOR PEARSON: Correct.

9 CHAIRMAN THOMPSON: -- that's the gray
10 area.

11 MS. LaMANTIA: That can be a good driving
12 tool right there: If they are touching, then, no.
13 But what if they are not touching?

14 EXECUTIVE DIRECTOR PEARSON: But then when
15 they say, well, we're a separate business, is that
16 okay?

17 MS. LaMANTIA: Yeah, even if they are
18 touching?

19 MS. SHEIPLINE: They don't have a
20 cosmetology license at all or --

21 MS. LaMANTIA: The ones in question
22 that -- our biggest question would be, no.

23 MS. SHEIPLINE: Okay. Because if they did
24 have a cosmetology license, they could do relaxation
25 massage and that wouldn't be a question as long as

1 it was massaging the scope of practice, which is --
2 we outline. But you're saying the ones that are
3 operating the separate business, they don't -- they
4 don't have a cosmetology license, they don't have a
5 licensed massage therapist, they don't have any of
6 the above?

7 MS. LaMANTIA: Right. They have no --

8 MS. SHEIPLINE: And I don't know the
9 holistic -- I don't know who they would be governed
10 under, because in No. 1 of the same law, you know,
11 if they were licensed under another board, they
12 could operate within the salon --

13 MS. LaMANTIA: Right.

14 MS. SHEIPLINE: -- and be fine.

15 MS. LaMANTIA: And I don't know that
16 holistic has any kind of certificate or license or
17 what kind of comes along --

18 MS. OSTERHAGE: Are they people that are
19 just selling product or have you observed --

20 MS. LaMANTIA: I don't know. There's
21 different ones all the time. They all kind of have
22 a little bit of a different practice. But if they
23 are in a separate room down the hall behind a door
24 with a separate name and they are not on the salon
25 menu, maybe in a separate vendor's license, I mean,

1 would we allow that?

2 MS. BENFER: In my salon I have a cosmetic
3 studio that's a third of the size of the building
4 and in two-thirds we do hair, and I have people that
5 are certified who went to -- it was Merle Norman.
6 They go to California, they get trained and come
7 home, but they can't put makeup on under my roof
8 because it has to be a cosmetologist touching the
9 skin. Even though they have been trained by the
10 company, they can't do it. I have to have a
11 cosmetologist touching them. But it's not a
12 separate room with a separate slate on the door, so
13 I see what you're saying.

14 MS. DEMASER: Well, still, because salon
15 is defined as a building or part thereof -- again,
16 this is my interpretation of that, but you're really
17 looking at what you're licensing. And at this point
18 it sounds like all you're licensing is an address.
19 So a separate door may not be part -- may be exactly
20 your situation, even if it has a different door in
21 it; or it may be Suite A versus Suite B, depending
22 on how they applied for the license.

23 MS. SHEIPLINE: Chairman, how about for an
24 independent contractor, because, you know, I know in
25 some setups those people -- would they have to

1 have their own -- are there setups for independent
2 contractors where they would have to have their own
3 vendor's license, because, in essence, they are
4 leasing that and they are their own business, their
5 own entity? I know yours is not set up that way,
6 but are there ones like that?

7 CHAIRMAN THOMPSON: Our girls all have
8 their own separate vendor's license.

9 MS. SHEIPLINE: Okay. So, essentially,
10 you have multiple businesses operating under --

11 CHAIRMAN THOMPSON: But they are all
12 licensed too.

13 MS. OSTERHAGE: Independently, and you
14 don't have doors, where a lot of independent
15 contracting salons have doors.

16 CHAIRMAN THOMPSON: No.

17 MS. LaMANTIA: Like The Lofts.

18 MS. OSTERHAGE: Right. But you're talking
19 about providing other services behind those doors
20 besides licensed cosmetology services. That's big.

21 What do you think?

22 MS. DEMASER: Well, like I said, I think
23 the salon is defined as -- well, no, I shouldn't say
24 is defined. The way you're accepting -- the way
25 you're licensing salons now, it's an address.

1 You're not asking for floor plans, you're not asking
2 them to designate which is the salon and which is
3 not the salon, so it's whatever the license covers
4 is the definition of salon, so that practice would
5 not be permitted unless you have a license to do it,
6 whatever it is.

7 MS. OSTERHAGE: Unless it's an unlicensed
8 service.

9 MS. DEMASER: No. If it's an unlicensed
10 service and it's touching the body, you cannot do it
11 in a salon.

12 MS. OSTERHAGE: Right. So --

13 EXECUTIVE DIRECTOR PEARSON: If it's an
14 unregulated service and it does not involve
15 touching, so it's like a traveling agent or
16 something like that, then that would be okay. It
17 all comes back to if it involves any type of --

18 MS. DEMASER: Right. If you were doing a
19 law practice in a salon, that would be fine.

20 MS. LaMANTIA: Or changing the oil in a
21 car. That was an example that was used years ago.

22 MS. DEMASER: Right, changing the oil in a
23 car. It's a good thing. You have some strange
24 places that you inspect, but okay.

25 CHAIRMAN THOMPSON: What if they had --

1 somehow they had a -- let's say they had a separate
2 U.S. Post Office address.

3 MS. DEMASER: That's what I was
4 suggesting. If it was Suite A versus Suite B,
5 then -- and you only licensed Suite B, then, yeah,
6 Suite A is not part of Suite B.

7 MS. OSTERHAGE: But now we're really
8 complicating things.

9 CHAIRMAN THOMPSON: Right.

10 MS. OSTERHAGE: I mean, I'd rather you go
11 back to the floor plan request as opposed to making
12 you go to the Post Office and have them declare --
13 that's a nightmare. And then what if the Post
14 Office doesn't agree to -- I mean, that's not easy.

15 MS. DEMASER: Yeah. That's why I'm
16 uncomfortable with saying this, because you're
17 really depending on another agency's interpretation
18 of what you're licensing. You are licensing
19 something, you should know what you're licensing.
20 You've got in the definition that a salon is
21 basically what you're licensing as this entity, you
22 know, this physical location. What are the
23 parameters of that physical location?

24 MS. OSTERHAGE: Would it not be the things
25 that are -- the business that's conducted as

1 cosmetology services or manicuring or --

2 MS. DEMASER: Where was the definition?
3 Oh, it's up front. It's in here.

4 EXECUTIVE DIRECTOR PEARSON: Of a salon?

5 MS. DEMASER: Salon is defined -- yeah,
6 well, salon -- I just found this recently. Salon
7 means a beauty salon, esthetic salon, et cetera. So
8 you go to each of those. Beauty salon means any
9 premises, building or part of a building in which a
10 person is authorized to engage in all branches of
11 cosmetology. Well, the authorization comes from the
12 Board. That's your license; so premises, building
13 or part of a building that the Board has said you're
14 allowed to practice in. That wasn't grammatically
15 correct -- in which the Board says you're allowed to
16 practice.

17 So if the Board is licensing 123
18 Washington Street, then I would say the premises,
19 building or part of the building that's authorized
20 is 123 Washington Street, whatever that is -- you
21 know, whatever that is.

22 MS. OSTERHAGE: Well, but where there's
23 no -- where it gets really, really gray is, I may
24 have licensed 123 Washington Street, but you didn't
25 ask me what else I was going to do there. And maybe

1 my business plan has a travel agency on the back
2 side.

3 MS. DEMASER: I don't know. Do you ask
4 that kind of stuff?

5 EXECUTIVE DIRECTOR PEARSON: No, we do not
6 require that any longer.

7 MS. OSTERHAGE: It's the application. The
8 application just asks for the address, what type of
9 salon.

10 MS. DEMASER: There you're asking what
11 type of salon. And, again, the laws that the
12 licensees are subject to are in -- are your rules
13 and statutes. So they, theoretically, already know
14 that they are -- if it involves touching within the
15 licensed premises, then it must have a license. So
16 we don't care if you're doing travel.

17 MS. OSTERHAGE: Right. That's clear to me
18 because you applied for a beauty salon license, so
19 that's what you've applied for. And I can do other
20 things. As long as I'm not touching people, there
21 can be other services being rendered.

22 MS. DEMASER: Correct. Right.

23 MS. OSTERHAGE: Does that help you?

24 MS. LaMANTIA: But what if it's in a
25 separate area in there with a separate door, it's a

1 separate business?

2 MS. DEMASER: What she's -- and this is
3 where I can't answer your question. All I'm saying
4 is that it's a licensed premises.

5 Let me compare -- my other major client,
6 as you all remember from when I was working with you
7 before, is the Fire Marshal. So let's compare it to
8 fireworks. Fireworks, the Fire Marshal requires --
9 throughout the fireworks chapter is the term
10 "licensed premises." And that's here, any premises,
11 building or part of building.

12 The way they know premises is they are
13 required to put in not just a floor plan of the
14 building, but a site plan of the premises so we know
15 the boundaries of everything, we know what they are
16 doing and where they are doing it.

17 You guys don't. All you have is a postal
18 address, so you're stuck with the licensees' -- one,
19 the licensees' presentation of where he or she is;
20 and two, what the Post Office defines as its
21 premises. So if you want to require more
22 information, that is certainly -- I'm sure those
23 rules provide for that.

24 CHAIRMAN THOMPSON: Hilary, what would be
25 your advice to us, that we consider the premises

1 layout again on the salon application?

2 MS. DEMASER: You need to look at what you
3 want to do. Do you consider these practices to be
4 something you want to have -- do you care? Look at
5 it that way. Do you care that they are in another
6 room doing ethical massages? If you don't, I don't
7 think you need to worry about it. If you do --

8 DR. GUPTA: I've never heard of an ethical
9 massage.

10 MS. DEMASER: I never had either.

11 MR. HANKS: What's an unethical massage?

12 MS. OSTERHAGE: Strike that from the
13 minutes.

14 MR. HANKS: I doubt we have the answer to
15 this question, but maybe if we found the answer to
16 this question, it would help. How would an ethical
17 massage standalone joint be viewed? Because I think
18 what you're saying is they don't have the 8-hour
19 certificate so they can't be included under that
20 group. They are not LMT's, so they can't be
21 included under that group. They think they are
22 doing something legal, and maybe they are, without a
23 license or certificate with this holistic ethical
24 massage.

25 What would happen to them if they were

1 completely separate from a salon and in a standalone
2 facility?

3 EXECUTIVE DIRECTOR PEARSON: Nothing.

4 MS. LaMANTIA: Nothing. They are all over
5 the place. They are not illegal.

6 EXECUTIVE DIRECTOR PEARSON: It's not --
7 it's not regulated -- basically, it's a relaxation
8 massage, which is not necessarily regulated. We
9 only regulate if it's within one of our licensed
10 salons is when we get into this situation. The
11 Medical Board might care because of their LMT's but,
12 you know, we would not.

13 MS. DEMASER: The only reason you'd care
14 is because a salon may provide non cosmetology
15 services as follows: The salon may offer a service
16 not regulated in Ohio if the service offered is
17 legal, does not involve touching. And since we're
18 talking about a salon, a salon is defined as, as I
19 said, what you have authorized -- whatever premises
20 you have authorized to conduct salon activities. So
21 that's the only reason you care.

22 Do you -- so then you have to look at it
23 from a policy point of view, do you consider -- do
24 you want to direct the Board to start collecting
25 more information so that you really do know what the

1 premises are? Or if it's in another door, we're
2 going to consider that not part of the premises?

3 You could, if you want to get this down
4 and make it official, draft rules that would define
5 premises.

6 MS. OSTERHAGE: I think, because it seems
7 to me -- would you agree, Meg -- that there --
8 there's an increasing number of situations where
9 people are behind a closed door, and now you can't
10 do anything.

11 MS. LaMANTIA: Yes.

12 MS. OSTERHAGE: I mean, if it's locked,
13 you're not doing anything.

14 MS. LaMANTIA: That's right. And it's
15 like the example Mr. Hanks gave: If it's down the
16 street, is it going to matter? If it's not here in
17 the beauty salon, this room, and it's the next block
18 over in their own separate building, are they
19 allowed to do it?

20 Like permanent makeup, in our facility,
21 somebody can do permanent makeup if they are a
22 licensed esthetician or cosmetologist and they have
23 60 hours of permanent makeup training. But if they
24 go a block down the street, open up their own
25 permanent makeup business, they don't even

1 necessarily have to have 60-hour certification
2 training. They just have to have a permit by the
3 local health department to do that basically.

4 MS. OSTERHAGE: Right.

5 MS. DEMASER: With the Board's permission,
6 what do you do if you -- because I like that example
7 of the permanent makeup. If you have a permanent
8 makeup person down the hall at a separate door, like
9 your ethical massage therapist, what do you do with
10 that person?

11 MS. LaMANTIA: That's allowed. That's a
12 licensed -- that's a service that we allow in your
13 facilities if they are a cosmetologist --

14 MS. DEMASER: Right. What if they are not
15 a cosmetologist? Because you said they could be
16 down the street without a license; correct?

17 MS. LaMANTIA: That's one of --

18 MS. DEMASER: All right. So it's the same
19 situation. They are Suite A or not Suite A, they
20 are just down the hall --

21 MS. LaMANTIA: Separate room.

22 MS. DEMASER: -- separate room, maybe even
23 the same entrance -- let's make it harder. Same
24 entrance, separate room, doing permanent makeup or
25 ethical massages or something else that touches the

1 body that you don't normally have to have a license
2 for, but because they are somewhat connected with a
3 salon, they now have to because of 11.10.

4 MR. HANKS: Is that the only two things --

5 MS. OSTERHAGE: If they are doing
6 tattooing, they just need to be -- they have to
7 have -- regulates them --

8 MS. LaMANTIA: Permanent makeup. Yeah, so
9 if they are someplace else, yes.

10 MS. OSTERHAGE: They can be in our salon
11 as long as they have what they need from the Health
12 Department.

13 CHAIRMAN THOMPSON: And a license from us.

14 MS. LaMANTIA: And they are a
15 cosmetologist or an esthetician in our facilities.

16 DR. GUPTA: So it's not good enough for an
17 unlicensed person to have a certification. They
18 actually have to have a license from some other --

19 MS. OSTERHAGE: This doesn't say that.

20 MS. LaMANTIA: On permanent makeup it
21 does. Only on permanent makeup --

22 EXECUTIVE DIRECTOR PEARSON: Permanent
23 makeup is in a separate section.

24 MS. OSTERHAGE: So it's not listed because
25 this very clearly says licensed by the Board or the

1 agency regulating the service.

2 EXECUTIVE DIRECTOR PEARSON: We have a
3 separate section for permanent makeup that states
4 that it needs to be a cosmetologist or an
5 esthetician with 60 hours of training, and a Health
6 Department --

7 DR. GUPTA: And for ethical massage, they
8 could not be certified by whatever ethical massage
9 training certification there is, they would actually
10 have to have a State issued -- Ohio State issued
11 license, which does not exist?

12 EXECUTIVE DIRECTOR PEARSON: Correct.

13 MS. DEMASER: That's right, because the
14 State of Ohio does not regulate that practice,
15 whatever it is.

16 DR. GUPTA: Maybe the massage people
17 should look at it and incorporate that into --

18 MS. OSTERHAGE: Do boards ever do that?

19 MS. DEMASER: I'm sorry?

20 DR. GUPTA: -- boutique massage services.

21 MS. OSTERHAGE: Do boards, like, make
22 recommendations to other boards to look at things?
23 We're talking about standalone, not --

24 MS. DEMASER: Not officially. I haven't
25 seen any. They might, but I haven't seen it.

1 Executive directors talk to other executive
2 directors, though.

3 MS. OSTERHAGE: That would be good. I
4 think with the growing number of closed doors, it
5 probably would behoove us, as much as I hate to say
6 this, to consider looking at the floor plan
7 requirement when an application is made so that when
8 the inspector goes in, you know exactly which
9 corners are included where salon cosmetology
10 practices are occurring.

11 MS. LaMANTIA: Where the boundaries are
12 drawn. So if there were a separate room with a
13 separate door that was not encompassed in the salon
14 service area, and they were doing something else
15 over there, that would be a separate entity and we
16 wouldn't go there?

17 MS. OSTERHAGE: What do you think?

18 MS. DEMASER: Yeah. And my recommendation
19 is you wouldn't -- unless you suspected they were
20 doing cosmetology in that separate room --

21 MS. OSTERHAGE: Or somebody complained.

22 MS. DEMASER: Right. Well, and that would
23 be your suspicion. If you had some reasonable
24 suspicion that there was -- you don't have to use
25 criminal in your context. But, anyway -- let me

1 stay away from that. If you had a suspicion that
2 there was some --

3 MS. LaMANTIA: Illegal activity.

4 MS. DEMASER: No, some branch of
5 cosmetology being practiced in that separate room,
6 so ethical massages is not that. Painting bodies or
7 whatever the permanent makeup is is not that. But
8 if, for instance, somebody was cutting hair next
9 door in a -- you know, for pay, right, then, yeah,
10 you could go in, inspect and nail them for
11 practicing in an unlicensed premises.

12 MS. LaMANTIA: If they had over-stepped
13 the boundaries of the services --

14 MS. DEMASER: Of the outline of what they
15 applied for, right. If they were selling fireworks
16 outside of what they sent the Fire Marshal, believe
17 me, they are going to get you for selling fireworks
18 without a license or on an unlicensed premises.

19 MS. LaMANTIA: They couldn't do those in a
20 separate room of a beauty shop either?

21 MS. DEMASER: No. Touching or not
22 touching the body?

23 MR. HANKS: My recommendation, I guess, is
24 that no matter what we decide, we're either going to
25 leave our inspectors in a difficult situation or we

1 have to change the rule. But I don't want to get in
2 a situation where we're saying this applies except
3 for this list of 400 things. So is there a way that
4 we could come up with some very carefully thought
5 out language that would give us some wiggle room in
6 these situations and change the rule?

7 MS. DEMASER: I'm not sure -- when you say
8 "wiggle room," we don't like wiggle room usually.
9 Inspectors like to know where their lines are and
10 the law wants you to know where your lines are.

11 MR. HANKS: And the only way I see that we
12 can do that is to specifically name ethical massage.

13 MS. DEMASER: No. I think the better idea
14 is, as Mr. Osterhage suggested, I think maybe you
15 should be requiring floor plans.

16 MR. HANKS: Well, let's say I open a
17 salon, and for the first two years I'm using that
18 room for something that's involved with my salon.
19 But then three years later I decide --

20 MS. DEMASER: You amend your application.
21 You amend your application.

22 MS. OSTERHAGE: We would need to create a
23 process so that people could amend -- could change
24 their floor plan and say this area is now designated
25 for something else.

1 MS. DEMASER: Right. Absolutely. Let's
2 say you increase your size and now you want to --
3 all you're doing is cutting hair, you're not doing
4 any of the permanent whatever, but you now want to
5 get -- you've now purchased the next door suite and
6 you want to cut hair next door as well. Now you're
7 going to amend your application to include --

8 MS. OSTERHAGE: Which right now we
9 don't -- is there anything stipulated in the law --
10 like, if I bring on extra square footage, we don't
11 notify anybody, where we might have used to when it
12 was a floor plan. If I was going to increase or
13 decrease my space, I probably would have --

14 DR. GUPTA: So if an inspector goes into a
15 salon where there's an area that's not on the
16 regulated floor plan, do they still have the right
17 to at least know what's going on in those doors or
18 that area? If they go to a place, do they still
19 have the right to at least know that there's no --
20 whatever it is that's going on --

21 MS. OSTERHAGE: You would ask -- you would
22 ask; right?

23 MS. LaMANTIA: Right, yeah. That's how
24 come these issues have arisen, because they are
25 going on in there, but then it's a separate

1 business. This isn't part of the beauty shop. I
2 can do this over here. Well, maybe -- maybe you
3 can, maybe you can't. What are you doing, you know?
4 And then you kind of break it down and figure it
5 out. Well, then there might be a violation issue,
6 then they want to contest the violation.

7 MS. OSTERHAGE: You know, my hope is we're
8 not creating rules, laws, things for the minority.
9 You know what I mean? If 5 percent of the time
10 people are doing bad things they shouldn't be, I
11 hope we're not making things hard for the people
12 that are trying to do the right thing.

13 EXECUTIVE DIRECTOR PEARSON: Right.

14 MS. LaMANTIA: Right, and I agree with you
15 too.

16 MS. BENFER: But it's going to help the
17 inspectors to know what their parameters are. I'd
18 think that would help them.

19 CHAIRMAN THOMPSON: Would these services
20 be in violation -- with today's rules, would they be
21 in violation because -- if the service involves
22 touching parts of the body, would that be --

23 MS. DEMASER: If they are on a licensed
24 premises.

25 CHAIRMAN THOMPSON: Right now a lot of

1 these you could say is a violation?

2 MS. DEMASER: If we consider them to be on
3 a licensed premises. And what we're coming down to
4 is how do we define licensed premises. And so the
5 easiest way out of that conundrum is to just require
6 floor plans. Licensed premises is defined at where
7 they submitted their floor plan. And if it's
8 outside, then we don't care. If it's inside, we do.

9 DR. GUPTA: And there's no way to amend it
10 saying that they can have a certification or an Ohio
11 license?

12 MR. HANKS: Yeah. These people don't have
13 the relaxation massage certification or --

14 MS. DEMASER: Oh, yeah.

15 DR. GUPTA: You'd think there is some sort
16 of an ethical massage license or certification or
17 something --

18 MS. DEMASER: All right. First of all,
19 you can't just invent certifications unless a
20 General Assembly says that, which is what you're
21 going to get with all these things we've been
22 talking about.

23 MR. HANKS: She said she thinks the
24 certification exists.

25 MS. DEMASER: Oh, that I don't know about.

1 EXECUTIVE DIRECTOR PEARSON: There's a
2 certification, but it's not a license or it's not
3 through a regulatory board or any type of --

4 MS. LaMANTIA: It's through a school.

5 EXECUTIVE DIRECTOR PEARSON: It's just a
6 school.

7 MS. DEMASER: Yeah, or private company.

8 DR. GUPTA: That could be amended.

9 MS. DEMASER: It would have to be a
10 statutory change through the General Assembly. It
11 says here -- this is Revised Code, not
12 Administrative Code: A person holding a current
13 valid license or certificate issued by a
14 professional regulatory board of this state, which
15 is the way it's normally considered. We don't --
16 the State doesn't consider, you know, as a -- an
17 industry may decide to regulate itself. But until
18 the government steps in, it's generally not
19 recognized. And it's a good thing when an industry
20 decides to regulate itself. I'm not knocking that.

21 CHAIRMAN THOMPSON: Okay. I think we
22 should -- I think we should research the option --
23 or not the option, but research taking on a premises
24 floor plan again.

25 MS. OSTERHAGE: It would be great if they

1 would talk more and come back to us and chitchat
2 about it.

3 CHAIRMAN THOMPSON: Yeah, seek some legal
4 options. We're not going to figure this out here
5 today.

6 MS. OSTERHAGE: Right. And on behalf of
7 the salons, I hate adding that -- I mean, we're
8 reinstating a burden that many people were very
9 excited was gone. And creating a floor plan, if
10 you're -- if you're not required by -- to pull a
11 permit to do work, which sometimes if you're not
12 changing plumbing or electric or HVAC, if you're not
13 doing any of that stuff, you don't have to permit
14 it. And if you're not permitting it, then we're
15 asking people to create a floor plan that may be
16 undue expense. So I kind of feel bad about that.
17 It would be good to understand what we're doing to
18 people before we do it.

19 MS. SHEIPLINE: I was just going to ask,
20 can they do it -- it doesn't have to be an
21 official -- like, signed by a contractor or an
22 architect?

23 MS. OSTERHAGE: I would imagine our
24 inspectors would want to know -- I mean, you'd want
25 to know if it's 12 foot across the back.

1 MS. DEMASER: Yeah. If you're sectioning
2 off a portion, you're going to want to know.

3 MS. OSTERHAGE: It should be verified.

4 MS. DEMASER: But you don't have to have
5 it maybe stamped by a licensed architecture or
6 something. That costs a lot of money.

7 But the -- what Lori and I were just
8 talking about is -- and this would -- I'd need to
9 look through the statutes, but possibly you could
10 say we need a floor plan if you're going to be
11 including other -- offering other services, or we
12 need a floor plan if your -- if your licensed
13 premises is smaller than the four walls of the
14 building. You know, it's easy for us -- you know,
15 if you're just licensing, again, an address, well,
16 then we're going to automatically assume it's the
17 four walls of that building or that apartment or
18 whatever it is. But if you can check off a box that
19 says, I'm certifying that, yes, my licensed premises
20 is the entirety of this building, or it's the
21 entirety of this office suite, then we don't require
22 a floor plan.

23 MS. OSTERHAGE: That's good. That's good.

24 MS. DEMASER: So, you know, make it a
25 little bit easier for people. And it makes sense,

1 because the people who are sectioning off the
2 bathroom are the ones who are doing this stuff
3 anyway. So, you know, they should submit a floor
4 plan.

5 CHAIRMAN THOMPSON: Hilary, thank you.

6 MS. DEMASER: You're welcome. It may not
7 be me who's doing this research, but you will get
8 someone and you will get someone permanently.

9 CHAIRMAN THOMPSON: Oh, we're not getting
10 you permanently?

11 MS. DEMASER: Probably not. As a matter
12 of fact, you're probably going to get --

13 MR. TANEFF: We're keeping you here.

14 MS. DEMASER: I have a full client load.
15 But you're probably going to get Keith McCarthy, who
16 has been out for a year on a military unit, worked
17 for the JAG. He's a very good attorney. He's been
18 with us for many years and he's been doing --
19 actually, he's been located, not overseas this
20 time -- I shouldn't say this time. He's never been
21 overseas, but he's been doing -- working for the
22 soldiers doing all manner of stuff, including a lot
23 of administrative work. So he should -- at the
24 federal level, but he's done a lot of administrative
25 work for us as well.

1 MR. TANEFF: And he'll be here next month?
2 MS. DEMASER: Yes. He starts tomorrow.
3 He comes back tomorrow.
4 MR. TANEFF: What is his rank?
5 MS. DEMASER: He was just promoted.
6 Lieutenant maybe. Do you know? Are you a part --
7 no, because JAG officers start at lieutenant, so he
8 might be a captain. I know he got a promotion, so
9 maybe he's a captain. Don't quote me on it.
10 MS. OSTERHAGE: Thank you.
11 MS. DEMASER: You're welcome. But I
12 heartily recommend Keith, and that's who we're
13 probably looking at.
14 CHAIRMAN THOMPSON: All righty. The next
15 order of business is rescind orders A1.
16 MS. OSTERHAGE: Chairman, I'd like to move
17 that we rescind orders A1.
18 MR. TANEFF: Second.
19 CHAIRMAN THOMPSON: Second is by
20 Mr. Taneff.
21 Roll call, please.
22 MS. FLANERY: Mr. Thompson.
23 CHAIRMAN THOMPSON: Yes.
24 MS. FLANERY: Mr. Hanks.
25 MR. HANKS: Yes.

1 MS. FLANERY: Mr. Taneff.
2 MR. TANEFF: Yes.
3 MS. FLANERY: Ms. Osterhage.
4 MS. OSTERHAGE: Yes.
5 MS. FLANERY: Ms. Benfer.
6 MS. BENFER: Yes.
7 MS. FLANERY: Ms. Sheipline.
8 MS. SHEIPLINE: Yes.
9 MS. FLANERY: Dr. Gupta.
10 DR. GUPTA: Yes.
11 MR. TANEFF: And I was assuming there were
12 no Board members comments or discussion.
13 CHAIRMAN THOMPSON: Oh, okay. It's our
14 first day back.
15 Okay. The next item on the agenda is
16 Board orders to enforce notice of violations 1
17 through 37.
18 MS. OSTERHAGE: Chairman, I'd like to move
19 that we approve Board orders to enforce notice of
20 violation 1 through 37.
21 MR. TANEFF: Second.
22 CHAIRMAN THOMPSON: We have a first and
23 second. Any discussion?
24 Seeing no discussion, roll call, please.
25 MS. FLANERY: Mr. Thompson.

1 CHAIRMAN THOMPSON: Yes.

2 MS. FLANERY: Mr. Hanks.

3 MR. HANKS: Yes.

4 MS. FLANERY: Mr. Taneff.

5 MR. TANEFF: Yes.

6 MS. FLANERY: Ms. Osterhage.

7 MS. OSTERHAGE: Yes.

8 MS. FLANERY: Ms. Benfer.

9 MS. BENFER: Yes.

10 MS. FLANERY: Ms. Sheipline.

11 MS. SHEIPLINE: Yes.

12 MS. FLANERY: Dr. Gupta.

13 DR. GUPTA: Yes.

14 CHAIRMAN THOMPSON: The next item of new
15 business is to accept Board orders to approve
16 settlement agreements 38 through 101.

17 MS. OSTERHAGE: Chairman, I'd like to move
18 that we approve Board orders to approve settlement
19 agreements 38 through 101.

20 MR. TANEFF: Second.

21 CHAIRMAN THOMPSON: Any discussion?
22 Roll call, please.

23 MS. FLANERY: Mr. Thompson.

24 CHAIRMAN THOMPSON: Yes.

25 MS. FLANERY: Mr. Hanks.

1 MR. HANKS: Yes.

2 MS. FLANERY: Mr. Taneff.

3 MR. TANEFF: Yes.

4 MS. FLANERY: Mr. Osterhage.

5 MS. OSTERHAGE: Yes.

6 MS. FLANERY: Ms. Benfer.

7 MS. BENFER: Yes.

8 MS. FLANERY: Ms. Sheipline.

9 MS. SHEIPLINE: Yes.

10 MS. FLANERY: Dr. Gupta.

11 DR. GUPTA: Yes.

12 CHAIRMAN THOMPSON: Next we have hearing
13 officers' reports. Is there any reports that
14 anybody feels we need executive session for?

15 MS. OSTERHAGE: Executive session, no.
16 But I have a question about one of them. You want
17 me to ask my question when we get to it?

18 MR. TANEFF: Well, I would make a motion
19 that we adopt the findings of fact on MANS.100655.

20 MS. OSTERHAGE: Second.

21 CHAIRMAN THOMPSON: Any discussion?
22 Roll call.

23 MS. FLANERY: Mr. Thompson.

24 CHAIRMAN THOMPSON: Yes.

25 MS. FLANERY: Mr. Hanks.

1 MR. HANKS: Yes.

2 MS. FLANERY: Mr. Taneff.

3 MR. TANEFF: Yes.

4 MS. FLANERY: Ms. Osterhage.

5 MS. OSTERHAGE: Yes.

6 MS. FLANERY: Ms. Benfer.

7 MS. BENFER: Yes.

8 MS. FLANERY: Ms. Sheipline.

9 MS. SHEIPLINE: Yes.

10 MS. FLANERY: Dr. Gupta.

11 DR. GUPTA: Yes.

12 MR. TANEFF: Move for the adoption of
13 conclusion of law MANS.100655.

14 CHAIRMAN THOMPSON: Second? Anyone
15 second?

16 MR. HANKS: Second.

17 CHAIRMAN THOMPSON: Second by Mr. Hanks.
18 Any discussion?
19 Roll call, please.

20 MS. FLANERY: Mr. Thompson.

21 CHAIRMAN THOMPSON: Yes.

22 MS. FLANERY: Mr. Hanks.

23 MR. HANKS: Yes.

24 MS. FLANERY: Mr. Taneff.

25 MR. TANEFF: Yes.

1 MS. FLANERY: Ms. Osterhage.
2 MS. OSTERHAGE: Yes.
3 MS. FLANERY: Ms. Benfer.
4 MS. BENFER: Yes.
5 MS. FLANERY: Ms. Sheipline.
6 MS. SHEIPLINE: Yes.
7 MS. FLANERY: Dr. Gupta.
8 DR. GUPTA: Yes.
9 MR. TANEFF: I'd move for the adoption of
10 hearing officer's recommendations on MANS.100655, by
11 the way, also known as Case No. 2013-415.
12 MS. OSTERHAGE: Second.
13 CHAIRMAN THOMPSON: Any discussion?
14 Roll call.
15 MS. FLANERY: Mr. Thompson.
16 CHAIRMAN THOMPSON: Yes.
17 MS. FLANERY: Mr. Hanks.
18 MR. HANKS: Yes.
19 MS. FLANERY: Mr. Taneff.
20 MR. TANEFF: Yes.
21 MS. FLANERY: Ms. Osterhage.
22 MS. OSTERHAGE: Yes.
23 MS. FLANERY: Ms. Benfer.
24 MS. BENFER: Yes.
25 MS. FLANERY: Ms. Sheipline.

1 MS. SHEIPLINE: Yes.

2 MS. FLANERY: Dr. Gupta.

3 DR. GUPTA: Yes.

4 MR. TANEFF: I move for the adoption of
5 Case No. 042172 findings of fact.

6 MR. HANKS: Second.

7 CHAIRMAN THOMPSON: Second by Mr. Hanks.
8 Any discussion?
9 Roll call, please.

10 MS. FLANERY: Mr. Thompson.

11 CHAIRMAN THOMPSON: Yes.

12 MS. FLANERY: Mr. Hanks.

13 MR. HANKS: Yes.

14 MS. FLANERY: Mr. Taneff.

15 MR. TANEFF: Yes.

16 MS. FLANERY: Ms. Osterhage.

17 MS. OSTERHAGE: Yes.

18 MS. FLANERY: Ms. Benfer.

19 MS. BENFER: Yes.

20 MS. FLANERY: Ms. Sheipline.

21 MS. SHEIPLINE: Yes.

22 MS. FLANERY: Dr. Gupta.

23 DR. GUPTA: Yes.

24 MR. TANEFF: Move for the adoption of the
25 conclusion of law on COSM.042172.

1 MS. OSTERHAGE: Second.
2 CHAIRMAN THOMPSON: Any discussion?
3 Roll call, please.
4 MS. FLANERY: Mr. Thompson.
5 CHAIRMAN THOMPSON: Yes.
6 MS. FLANERY: Mr. Hanks.
7 MR. HANKS: Yes.
8 MS. FLANERY: Mr. Taneff.
9 MR. TANEFF: Yes.
10 MS. FLANERY: Ms. Osterhage.
11 MS. OSTERHAGE: Yes.
12 MS. FLANERY: Ms. Benfer.
13 MS. BENFER: Yes.
14 MS. FLANERY: Ms. Sheipline.
15 MS. SHEIPLINE: Yes.
16 MS. FLANERY: Dr. Gupta.
17 DR. GUPTA: Yes.
18 MR. TANEFF: Move for the adoption of the
19 hearing officer's recommendation of COSM.42172.
20 MS. OSTERHAGE: Second.
21 CHAIRMAN THOMPSON: Any discussion?
22 Roll call, please.
23 MS. FLANERY: Mr. Thompson.
24 CHAIRMAN THOMPSON: Yes.
25 MS. FLANERY: Mr. Hanks.

1 MR. HANKS: Yes.

2 MS. FLANERY: Mr. Taneff.

3 MR. TANEFF: Yes.

4 MS. FLANERY: Ms. Osterhage.

5 MS. OSTERHAGE: Yes.

6 MS. FLANERY: Ms. Benfer.

7 MS. BENFER: Yes.

8 MS. FLANERY: Ms. Sheipline.

9 MS. SHEIPLINE: Yes.

10 MS. FLANERY: Dr. Gupta.

11 DR. GUPTA: Yes.

12 MR. TANEFF: Move for the adoption of the

13 findings of fact on COSS.031212, also known as Case

14 No. 2003 -- I'm sorry, 2013-1127.

15 MS. DEMASER: Could I interrupt you for

16 just a moment? You did this on one before. You

17 moved and seconded and then voted in Case

18 No. 2013-882 for the adoption of the finding of fact

19 but not the recommendation.

20 MR. TANEFF: I thought we did.

21 MS. OSTERHAGE: Yeah, he did.

22 MS. DEMASER: You said and recommendation?

23 MR. TANEFF: Yes, hearing officer's

24 recommendation.

25 MS. DEMASER: Okay. And what I just heard

1 in your motion just now is finding of fact only.

2 MR. TANEFF: We do them one at a time.

3 MS. DEMASER: Okay.

4 MS. OSTERHAGE: Do we have to do it that
5 way?

6 MS. DEMASER: No, that's fine, what you're
7 doing. I just want to make sure you are also
8 covering the recommendation.

9 MR. TANEFF: We were always told by all
10 previous Assistant Attorney Generals that we had to
11 do them separately.

12 MS. OSTERHAGE: All three, the findings --

13 MS. DEMASER: If you're going to differ --
14 separately is great. There's nothing wrong with
15 separately. But if you're not -- if you're just
16 going to do it wholesale and not change anything,
17 then you can do it together.

18 MR. TANEFF: Then we can do all three in
19 one swoop?

20 MS. DEMASER: No -- oh, the three have to
21 be separate. I just heard in your motion --

22 MR. TANEFF: Within one case.

23 MS. OSTERHAGE: Within one case, three
24 motions, three seconds --

25 MS. DEMASER: You can do all those all

1 together.

2 MS. OSTERHAGE: We were told we couldn't,
3 we had to do them separately.

4 MS. DEMASER: It's beautiful that way.
5 I'm not complaining. I just want to make sure
6 you're picking up all three.

7 MS. OSTERHAGE: I'm glad you're here
8 today.

9 MR. TANEFF: Can I start over,
10 Mr. Chairman?

11 MS. DEMASER: I'm sorry.

12 MR. TANEFF: No, thank you.

13 I would move that we adopt the findings of
14 fact, conclusions of law and the hearing officer's
15 recommendations for COSS.031212, also known as Case
16 No. 2013-1127.

17 MS. OSTERHAGE: I second, but I have a
18 question. Is this where I ask my question?

19 CHAIRMAN THOMPSON: This is the time.

20 MS. DEMASER: Yeah.

21 MS. OSTERHAGE: Now is the time?

22 I'm a little confused with this one,
23 because we ended up -- the hearing officer called
24 for a recess, determined, in fact, it was a
25 corporation and must be represented by counsel at

1 hearing. I understand that. But then our Attorney
2 General -- the Assistant Attorney General present
3 made a motion to dismiss the charges, which seems
4 confusing to me. So we recessed because there
5 needed to be counsel present because it was an
6 incorporation -- or a corporation, I'm sorry. They
7 came back from recess and we dismissed the charges.
8 And nowhere in the findings of fact does it talk
9 about what the violation was about. So I'm just
10 wondering if we could get some more information on
11 that.

12 MS. DEMASER: Yeah. From what I can tell,
13 the -- and I'm not sure why Ms. Katz would have
14 moved to dismiss instead of just continue until she
15 could be represented, which I guess leaves it to
16 this Board. If you adopt this entire document, the
17 findings and ruling -- and really it's not a ruling.
18 A hearing officer cannot grant a motion to dismiss.
19 Only the Board can. If you choose to adopt this
20 recommendation -- let's call it a recommendation --
21 you're dismissing the charges; or another way to
22 think of it is withdrawing the charges, because you
23 really voted, just like you just did now, to charge
24 the person.

25 MS. OSTERHAGE: Right.

1 MS. DEMASER: So you would be dismissing
2 it. You would then have to reissue if you wanted to
3 charge the person for real. And I want to say
4 again, because you -- yeah, again, because you
5 charged them first -- you could reject this finding,
6 and instead say it's not dismissed, instead, it's
7 just being continued for hearing, at which point the
8 person is represented.

9 MS. OSTERHAGE: Can we -- or can we ask
10 for more information because there's not
11 information --

12 MS. DEMASER: You can remand it to the
13 hearing officer for further -- for more information.

14 MS. OSTERHAGE: So we have a motion and a
15 second. How do we get it back to --

16 MR. HANKS: We vote it down.

17 MS. DEMASER: You have to vote it down.
18 You can either withdraw and then second the
19 withdrawal of the motion or just vote it down.

20 MR. TANEFF: I'll withdraw my motion.

21 MS. OSTERHAGE: I'll second the withdraw.
22 Now do we have to move to --

23 MS. DEMASER: You have to move to do
24 something else.

25 CHAIRMAN THOMPSON: Want me to go to the

1 next one?

2 MS. OSTERHAGE: No. Move that this
3 case be --

4 MS. DEMASER: Why don't you move? Why
5 don't you move?

6 MS. OSTERHAGE: I would like to make a
7 motion that we -- Case No. 2013.1127 be returned to
8 the hearing officer for additional information.

9 MR. TANEFF: Second.

10 MS. OSTERHAGE: Is that okay?

11 MS. DEMASER: That's fine. But without
12 calling you out right now, do you have more
13 information on this one? Is there some reason that
14 it was deferred -- dismissed as opposed to
15 continued?

16 EXECUTIVE DIRECTOR PEARSON: But the
17 inspector, Ms. Byerly is here. I'm wondering if she
18 has information.

19 MS. BYERLY: I don't remember the case.
20 I'm sorry. It's been a while.

21 EXECUTIVE DIRECTOR PEARSON: It's Modern
22 Male.

23 MS. BYERLY: I can't remember. I can go
24 get the inspection report, if you would like.

25 MS. OSTERHAGE: Let's just bring it back.

1 Not now.

2 Chairman, is that okay?

3 CHAIRMAN THOMPSON: We're going to bring
4 it back next month.

5 MS. OSTERHAGE: Get more information and
6 just bring it back, yeah.

7 So we have a first and a second. Now we
8 need -- right?

9 MS. DEMASER: Do you want to give the
10 hearing officer a little bit more information, like
11 why it was dismissed as opposed to continued? That
12 would give the hearing officer some idea what you're
13 thinking.

14 MS. OSTERHAGE: Yes. Well, the hearing
15 report as submitted doesn't have a lot of
16 information, so we're unclear as to what, first of
17 all, the issue was, the violation was. And,
18 secondly, outside of the fact that the party needed
19 to be represented by counsel, the recess that turned
20 into a dismissal, we're confused and would like
21 additional information.

22 Is that okay?

23 MS. DEMASER: Yes, that's fine.

24 MS. BYERLY: I can elaborate a little bit,
25 if I can remember. It was a license issue. There

1 was a lady working in the facility that was
2 unlicensed. I'll get the details. I'm sorry. I
3 don't want to get you all confused.

4 MS. OSTERHAGE: It's okay. I really would
5 like more information.

6 So do we do roll call now? We have a
7 first and second.

8 MS. FLANERY: Yeah. Mr. Thompson.

9 CHAIRMAN THOMPSON: No.

10 MS. FLANERY: Mr. Hanks.

11 MS. OSTERHAGE: Wait.

12 MR. HANKS: What's the motion now? Can
13 you repeat?

14 CHAIRMAN THOMPSON: To resurface it.

15 MR. TANEFF: To reconsider it.

16 MS. OSTERHAGE: My motion was to go get
17 more information, give us more information, and we'd
18 consider it.

19 MR. TANEFF: And I seconded it.

20 MS. DEMASER: To remand it to the hearing
21 officer.

22 CHAIRMAN THOMPSON: I say no.

23 MS. DEMASER: Are you done discussing or
24 do you want more discussion before you start to
25 vote?

1 Okay. Vote.

2 MS. FLANERY: Mr. Hanks.

3 MR. HANKS: Yes.

4 MS. FLANERY: Mr. Taneff.

5 MR. TANEFF: Yes.

6 MS. FLANERY: Ms. Osterhage.

7 MS. OSTERHAGE: Yes.

8 MS. FLANERY: Ms. Benfer.

9 MS. BENFER: Yes.

10 MS. FLANERY: Ms. Sheipline.

11 MS. SHEIPLINE: Yes.

12 MS. FLANERY: Dr. Gupta.

13 DR. GUPTA: Yes.

14 MR. TANEFF: All right. Next we have --

15 let me find it here --

16 CHAIRMAN THOMPSON: The esthetician one,

17 11930.

18 MR. TANEFF: I don't have a number on

19 this.

20 MS. OSTERHAGE: Here, Honey. It's EST.

21 MR. TANEFF: Right. But why isn't it on

22 here?

23 MS. OSTERHAGE: It's right here.

24 MR. TANEFF: It's a different number,

25 ESTM.

1 MS. OSTERHAGE: The case number is not
2 the -- this is the license number.

3 MR. TANEFF: I would move that we adopt
4 the findings of fact, conclusions of law and hearing
5 officer's recommendations on ESTM.011930, also known
6 as Case No. 2013-1231.

7 MS. OSTERHAGE: Second.

8 CHAIRMAN THOMPSON: Any discussion?

9 Roll call. Discussion? Did you lump them
10 all together?

11 MR. TANEFF: Yes.

12 MS. FLANERY: Mr. Thompson.

13 CHAIRMAN THOMPSON: Yes.

14 MS. FLANERY: Mr. Hanks.

15 MR. HANKS: Yes.

16 MS. FLANERY: Mr. Taneff.

17 MR. TANEFF: Yes.

18 MS. FLANERY: Ms. Osterhage.

19 MS. OSTERHAGE: Yes.

20 MS. FLANERY: Ms. Benfer.

21 MS. BENFER: Yes.

22 MS. FLANERY: Ms. Sheipline.

23 MS. SHEIPLINE: Yes.

24 MS. FLANERY: Dr. Gupta.

25 DR. GUPTA: Yes.

1 MR. TANEFF: I would move for the adoption
2 of the findings of fact, conclusions of law and
3 hearing officer's recommendations on MANM.072347,
4 also known as Case No. 2013-1663.

5 MS. OSTERHAGE: Second.

6 CHAIRMAN THOMPSON: Any discussion?

7 Roll call, please.

8 MS. FLANERY: Mr. Thompson.

9 CHAIRMAN THOMPSON: Yes.

10 MS. FLANERY: Mr. Hanks.

11 MR. HANKS: Yes.

12 MS. FLANERY: Mr. Taneff.

13 MR. TANEFF: Yes.

14 MS. FLANERY: Ms. Osterhage.

15 MS. OSTERHAGE: Yes.

16 MS. FLANERY: Ms. Benfer.

17 MS. BENFER: Yes.

18 MS. FLANERY: Ms. Sheipline.

19 MS. SHEIPLINE: Yes.

20 MS. FLANERY: Dr. Gupta.

21 DR. GUPTA: Yes.

22 MS. DEMASER: And -- I'm sorry. The -- to
23 revise my recommendation of grouping them together,
24 the problem with grouping them is if any of you vote
25 no, we don't know why you're voting no, we don't

1 know which part -- so that's probably why it was
2 recommended that you separate them. Since we all
3 voted yes, I'm not concerned about it. But that's
4 something to think about. Maybe you should keep it
5 separate.

6 MS. OSTERHAGE: Okay.

7 CHAIRMAN THOMPSON: Board members, any
8 other new business? Do I have a motion to --

9 MS. OSTERHAGE: Motion to adjourn.

10 CHAIRMAN THOMPSON: Motion to adjourn.

11 MR. HANKS: Second.

12 CHAIRMAN THOMPSON: Second by Mr. Hanks.
13 Roll call, please.

14 MS. FLANERY: Mr. Thompson.

15 CHAIRMAN THOMPSON: Yes.

16 MS. FLANERY: Mr. Hanks.

17 MR. HANKS: Yes.

18 MS. FLANERY: Mr. Taneff.

19 MR. TANEFF: Yes.

20 MS. FLANERY: Ms. Osterhage.

21 MS. OSTERHAGE: Yes.

22 MS. FLANERY: Ms. Benfer.

23 MS. BENFER: Yes.

24 MS. FLANERY: Ms. Sheipline.

25 MS. SHEIPLINE: Yes.

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MS. FLANERY: Dr. Gupta.

DR. GUPTA: Yes.

- - -

And, thereupon, the hearing was
concluded at 2:50 o'clock p.m.

- - -

C-E-R-T-I-F-I-C-A-T-E

I do hereby certify that the foregoing is a true, correct and complete written transcript of the proceedings in this matter, taken by me on the ____ day of _____, _____, and transcribed from my stenographic notes.

Shayna M. Griffin
Registered Professional
Reporter and Certified
Realtime Reporter

My Commission expires: June 12, 2018.

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