

INTERIM JOINT COMMITTEE ON LICENSING, OCCUPATIONS, AND ADMINISTRATIVE REGULATIONS

Minutes of the 3rd Meeting of the 2023 Interim

August 22, 2023

Call to Order and Roll Call

The 3rd meeting of the Interim Joint Committee on Licensing, Occupations, and Administrative Regulations was held on Tuesday, August 22, 2023, at 10:00 AM, in Room 154 of the Capitol Annex. Senator John Schickel, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator John Schickel, Co-Chair; Representative Matthew Koch, Co-Chair; Senators Julie Raque Adams, Donald Douglas, Michael J. Nemes, Damon Thayer, and Reginald Thomas; Representatives Kim Banta, Kevin D. Bratcher, Emily Callaway, Mike Clines, Daniel Fister, Patrick Flannery, Al Gentry, Samara Heavrin, Keturah Herron, Thomas Huff, Kevin Jackson, Nima Kulkarni, Michael Meredith, Phillip Pratt, Tom Smith, and Killian Timoney.

Guests: Cambodian Ambassador to the United States KEO Chhea; Representative Wade Williams; Bob Babbage, Founder, Babbage Cofounder; James Morris, Opticians Association of Kentucky; Molida Soth, Nail Technician; Kim Huynh, Owner, The Nails Shop Salon; Mike Carter, Retired Nail Technician and Eyelash Artist, Previous Owner of Eyelashes Now and Cosmo Nails; Lianna Nguyen, Licensed Instructor, Nail School Owner; Brian Miller, Executive Vice President, Building Industry Association of Northern Kentucky; and Dr. Vicki Berling, Director of Professional Development, Building Industry Association of Northern Kentucky.

LRC Staff: Bryce Amburgey, Jasmine Williams, Wendy Craig, CaraBell Preece, and Lisa W. Moore

Approval of the July 31, 2023, Meeting Minutes

Senator Douglas motioned to approve the IJC on Licensing, Occupations, and Administrative Regulations meeting minutes and Representative Timoney seconded the motion. The minutes were approved by voice vote.

Nail Technicians

Senator Thomas introduced Cambodian Ambassador to the United States KEO Chhea. Chairman Schickel is optimistic an agreement will be reached prior to the 2024

Regular Session. Molida Soth, Nail Technician, supports the new nail industry bill, which proposes to add a cosmetology board member who is a certified nail technician and understands the concerns of the salon owners and employees.

Ms. Soth said the nail technicians wish to have the nail technician certification exam offered in multiple languages, such as Cambodian, Vietnamese, and Chinese. Written theory tests would be given in the applicant's first or second language, allowing the applicant's actual knowledge to be assessed. The board shall provide and compensate an interpreter certified in an applicant's first or second language during oral practical demonstrations. This would facilitate the applicant's ability to ask relevant questions and to request instruction clarification if necessary. With the applicant's consent, the board may use electronic device technology or telephonic services for this purpose. An applicant who fails a written theory test or an oral practical demonstration may retake that portion after one month from the date the applicant received actual notice of the failure. An applicant may retake any failed examination for an unlimited number of times, with the retesting fee capped at \$35 per examination per applicant. Currently, the administrative regulation requires a six-month waiting period after three failed exam attempts, and a three-year ban after five failed attempts. This is a financial burden to applicants whose first language is not primarily English. It also contributes to high unemployment rates and increases burdens on government assistance programs for these applicants who cannot work and pay taxes.

Ms. Soth said Asian applicants work long hours and dedicate themselves to their work craft. Taxes are paid in local communities, and Asian workers should be seen as an asset, not a liability. She is hopeful an agreement can be reached and a bill passed in the 2024 Regular Session of the Kentucky General Assembly. The four overall requests include: adding a nail technician to the board to provide ample representation; offering the exam in multiple languages; allowing unlimited test retakes; and giving the salon owner a written warning notice before taking punitive action, such as shutting down the salon.

Ms. Kim Huynh, Owner, The Nails Shop Salon, said the nail industry has grown into a \$10 billion industry. With half of all nail salon owners being of Asian descent, it is time to offer the exam in languages besides English. Applicants are concentrating more on learning the English words, than understanding and being able to apply the material being tested, which could lead to poor health and sanitary issues for consumers. They are not asking to make the exam easier, but more accessible, and offered in their native language.

Mike Carter, Retired Nail Technician and Eyelash Artist, would like fair, inclusive treatment for the nail industry, which is primarily comprised of Cambodian and Vietnamese immigrants, whether they be citizens or permanent residents. The Kentucky State Board of Cosmetology has implemented numerous roadblocks against the group, including tying English proficiency to earning higher tip wages. He said a seat on the board would help bridge the gap between the two groups and help the board understand the needs

and difficulties of nail technician salons. It is important to give this population the opportunity to succeed and have a seat at the table.

Lianna Nguyen, Licensed Instructor, Nail School Owner, requested better inspection procedures, transparent protocols, and nail salon shutdowns as a last resort after mediation attempts. Nail salon shutdowns are occurring at a higher level than ever before and this can hurt the business owner and employees, and results in lost revenue dollars for the state. Licensees are not allowed to discuss the board's decision or ask questions. Violations should be aligned with fair fine amounts and salons should have the opportunity to rectify non-severe violations. The board should have paper trails of due process attempts before a shutdown is issued and this should be pending for a week for review and confirmed by another inspector.

Chairman Schickel communicated his disappointment with the Kentucky Board of Cosmetology not being represented at the committee meeting. He also commented that many of his constituents value the nail salon services and recognize their hard work and commitment to their local communities.

Representative Timoney said Cambodian people just want the American dream. He said the Kentucky Board of Cosmetology may have overregulated the issue and red tape should be removed to let people work.

Senator Thayer said he is a huge supporter of people pursuing legal paths to citizenship and realizing the American dream. He hopes the legislature can pass a bill in the 2024 Regular Session and continue to remove barriers to free enterprise. He said many industries are being targeted in the current administration and the legislature will work to correct it.

Responding to a question from Representative Bratcher, Mr. Carter stated that the nail technician examination is a separate test and license from the cosmetology exam license. They want the board to administer the nail technician exam in Cambodian upon request.

Senator Adams said multiple boards and memberships need to be reexamined and updated based upon a different Kentucky economy. She encouraged the committee members to always look for new and innovative ways to increase competitiveness in Kentucky as the economy has changed.

Senator Nemes said the Kentucky Board of Cosmetology needs to be updated, as the boards were created to protect their own people. In response to his question regarding interpreters, Ms. Huynh said there are tools that can easily convert English to different languages such as Cambodian, Chinese, and Vietnamese. Senator Nemes said there are several services helping with this in South Louisville.

Representative Flannery said he is pleased the issue is being discussed as he has been faced with this as a lawyer and a legislator. He believes a heavy-handed government is playing a role and looks forward to finding a resolution to help these hard-working people and ultimately Kentucky consumers.

Dual Credit for Building Trade Students

Brian Miller, Executive Vice President, Building Industry Association of Northern Kentucky, said the building institute has been in operation since 1967. It is the longest operating trade school for skilled construction education under the auspices of the National Association of Home Builders. He said inflation has hurt construction at a higher rate, and part of this is employing skilled labor and workforce costs. The communities that provide more affordable and attainable housing for their citizens will be the economic development winners of the next decade.

Mr. Miller would like the legislature to pass a dual credit program for the building trade students in the construction industry. He said the dual credit program offered by the Kentucky Community College and Technical System for industries such as nursing is a great approach and could easily be replicated in the construction trades in licensure obtainment. Articulation agreements would be the best route for the dual credit program, and could offset the inflationary issues with wages.

Dr. Vicki Berling, Director of Professional Development, Building Industry Association of Northern Kentucky, said each program would have its own articulation agreement that would specify the exact requirements to gain credit for prior learning in the postsecondary programs. The agreements would be specific to the institutions and the relevant programs.

Opticians

Representative Wade Williams said the proposed bill draft is a cleanup modernization bill that updates the ophthalmic dispenser license renewal fee from the flat rate of \$75, established in 1994. The bill will allow the optician board to adjust the fees through regulation. The financial needs of the American Board of Opticianry-National Contact Lens Examiners (ABO-NCLE) and the Kentucky optician board cannot be met through the \$75 optician renewal fee. Proper funding is crucial since opticians are the first line responder to the eye care patient.

Responding to a question from Chairman Schickel regarding the fee being in statute, Representative Williams said the \$75 fee was in statute.

James Morris, Executive Director, ABO-NCLE, told a personal story about how opticians can change lives and the importance of the job to the health, safety, and welfare of children and consumers. There are no known opticians, ophthalmologists, or optometrists opposed to the bill.

Curt Duff, Chairman, American Board of Opticians, said no occupational board can conduct its business on \$75 per licensee, and Kentucky has the lowest optician license renewal fee in the country. Chairman Schickel said the current Kentucky General Assembly would never set professional licensing fees in statute, preferring their establishment through administrative regulations instead.

Adjournment

With no further business before the committee, the meeting adjourned at 10:40 a.m.