

Presentations, Discussions and Sharing Ideas

Highlights of the 49th NIC Conference in Richmond, Virginia

To place the proper evaluation upon the accomplishments of the 2004 Conference in Richmond, it is necessary to carefully analyze the speakers and classes from the three days of the conference's program "Work as One to Get It Done." From the opening address by Louise Fountain Ware, to the final fall of the gavel – each session was loaded with important information and subject matter. The inspiring presentations left the delegates from over 30 states with a good feeling of optimism and confidence for the future of the Cosme-

tology profession for the 21st Century.

To comment briefly on all of the highlights of the 3 day agenda would be impossible for one issue of the newsletter, so the next issue will also continue with some of the speaker's presentations.

The members of NIC should give a standing ovation to Immediate Past President Wendall Petersen and his conference committee for a truly remarkable performance. It would be amiss not to recognize Darlene Battaiola of MT, Education Chair and her Committee for a truly outstanding job well done.



NIC 2004-2005 executive board. Front Row (left to right) Rosanne Kinley, Kirby Morris, Wendell Petersen. Back row (left to right) LaFaye Austin, Jackie Dahlquist, John Tirre, Debbie Elliot and Eddie Jones. Not pictured: Geneal Thompson.

Ultronics—Update on Infection Control

Jerry Ceuetillo-Tuccillo, General Manager, once again gave the delegates an update on National statistics on Hepatitis, SARS and AIDS from the Center of Disease Control.

- Estimated AIDS cases in U.S. = one million.
- One out of 250 people in U.S. is infected with HIV.
- HIV now effects 40 million people, half of whom are women.
- HIV/AIDS is now the third leading cause of death among women, ages 25 to 44.
- Methods and transmission and exposure of HIV-1, Hepatitis B and Hepatitis C in the salon: **Hairstylist** - by openings in the scalp and clipper blades; **Nail Technician** - cutting cuticles, sharp files; **Esthetician** - extraction procedures with devices.
- SARS - how it spreads and the symptoms and how to determine the difference from the flu or SARS.

Jerry quoted "that Ultronics mission is to offer optimum protection for salon personnel and clients." Infection control standards in the beauty and barber industry have been upgraded in most states to reflect the new CDC guidelines that were issued in June 2003. These guidelines have been adopted by NIC and the National Association of Barber Boards. The following guidelines read as such "All tools and implements which have come in contact with blood or body fluids must be disinfected, at a minimum, by complete immersion in an EPA registered disinfectant that is effective against HIV-1 and human Hepatitis B virus or Tuberculocidal that is mixed and used according to the manufacturer's directions."

NIC 2004-2005

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Minnesota Regains New Board for Barbers and Cosmetologists

After years on much consideration the Minnesota Legislature has removed all oversight and regulation of cosmetology away from the Commerce Department. In its place, all such duties and responsibilities will be transferred to a newly merged independent board with the existing Board of Barber Examiners on August 1, 2004.

The new Board of Barbers and Cosmetologist Examiners will be responsible for all aspects regarding regulation, licensing, inspections and collection of fees that are remitted to the state. The license fees for all categories have doubled under the new legislation and will be collected no later than September of the year due.

The new transaction from the Commerce

Department to the new board should be complete by March 2005. An "inter-agency agreement" was signed by all appropriate representatives to allow the Department of Commerce to continue the functions till then. This was critical because of licensure renewal notices and fee collections for the current calendar year. The legislation proposes to appropriate \$572,000 annually to the new board to cover the cost of hiring inspectors, contracting for exams and other expenses.

Minnesota Governor Pawlenty has appointed three professional members to the new board: Donna Ruhland of Robbinsdale, Robert Salmonson of Rice and Susan Schaefer of New Brighton. They will join three barber representatives and one at-large member on the seven member board.

National Examination Committee

Sue Sansom, Board Administrator from Arizona, has been elected Chairman of the National Examination Committee of N.I.C. Other officers elected were Larry Walthers, Nevada, Vice Chairman; and Wendell Peterson, Montana, Secretary. Other committee members are Aurie Gosnell, Emeritus, South Carolina, Rosanne Kinley, South Carolina; and Ken Young, Oklahoma.

Chairman Sansom reported that the committee was finishing up on the new Task Analysis for Estheticians. The Committee will start working in 2005 on the development of new exams for esthetics based on the study from the new Task Analysis.

Honorary Members

At the Richmond, VA conference one of the very pleasant actions taken was the recognition and evidence of appreciation to three individuals who have worked diligently for the N.I.C. and who have contributed to it's well-being.

These members may no longer be members or associated with their own State Boards. However, N.I.C. expressed its sincere thanks and appreciation by electing these individuals as Honorary members of N.I.C. They have all the rights

and privileges as regular members but they cannot vote.

This year the N.I.C. unanimously voted to bestow these honors to: David Bagwell of South Carolina, former N.I.C. officer and State Board Member; Carroll Roberts of Kentucky, past administrator of the Kentucky Board of Cosmetology; and Mary Manna, Nevada, past administrator for the Nevada Board of Cosmetology for their past services to N.I.C.

Message

From the President



The office of the President would like to take this opportunity to address the new and old readers of the NIC bulletin. First I would like to thank Lois Wiskur for taking responsibility of the news bulletin. There has been much work put into this bulletin and I believe we all appreciate Lois' efforts in the past and today in serving NIC.

There are always new members in our great organization; therefore, I would like to take the time to explain a little about NIC. The NIC annual conference started 50 years ago this year. It has always been the mission of NIC to help regulatory entities of Cosmetology, Barbering and related practices to better protect the consumers of this industry. In 1968, Mrs. Aurie J. Gosnell started the NIC National Testing Program to provide a standardized, valid, and legally defensible National Examination Program. When this program was started, there were no other National Testing Programs offered in our industry. To maintain standardization of the testing program, NIC does not develop state specific examinations. It is this criterion that distinguishes the NIC testing program when making endorsement decisions. All states own the NIC National Examinations and because the states own the program it is permissible to sole source the NIC testing program in many states.

NIC has faced much change in the past five years that has improved our organization. The executive board and regions were downsized. All administrative, training and marketing services that were previously provided by salaried employees with benefits are now provided by contract labor. Legal services are now provided on an as-needed basis as opposed to paying a retainer/partner

fee. By changing our organizational structure, we reduced expenses. There were questions at the conference about officers receiving compensation for services rendered to the organization. Currently I train examiners, along with Brenda Mathre and Michael Hill, to administer the NIC practical examinations. In addition to the services I provide as an examiner trainer, I also serve as marketer for the testing program. We were previously advised by legal counsel and since the conference legal counsel has reaffirmed that while officers are prohibited from receiving compensation for performing their duties as officers, officers may receive compensation if they perform duties not required by their office as prescribed in the bylaws. Since the duties of the officers of NIC as prescribed in the bylaws do not require them to provide marketing or training services any officer that provides such services may be compensated.

I have been fortunate to have the support of you the delegates, the wisdom of many past presidents and the knowledge of Mrs. Gosnell. There is also another group, The National Examination Committee (NEC), that deserves acknowledgment. The NEC is responsible for the day-to-day operations of the testing program. The Committee prescribes the policies and procedures of the testing program subject to final approval by the Executive Board. The members currently serving on the NEC are Sue Sansom, Chairman, Larry Walthers, Vice Chairman, Wendell Petersen, Secretary, Rosanne Kinley, Ken Young, and lifetime member Aurie J. Gosnell, Coordinator of Testing Emeritus.

NIC needs more active members who are enthusiastic and willing to work on the many

committees that NIC offers. Please visit our website www.nictesting.org and see all that is being done to help regulate our great industry. If there is a committee you are interested in please contact the chairman of that committee to offer your services. We have much for you to do.

Best Regards,

Kirby Morris NIC President

By-Law Changes Referred Back to Committee

The By-Laws Committee Chairman Sue Sansom, AZ, presented the new changes to the delegates to be voted on with a 2/3 vote for passing.

The new changes presented were:

1. To change the bonding fee for the comptroller by lowering it from twice the net worth of the Council at the end of the preceding fiscal year to one hundred thousand dollars.
2. An extra member to be added to the National Education Committee from three to four.
3. Allow the officers of NIC and the National Examination Committee members to receive compensation and allowance for expenses as approved by the board with all other committees to receive allowances for expenses by approval of the Executive Board.

After lengthy discussions among the delegates, the changes were unanimously defeated and referred back to committee. The existing By-Laws remain in their present form with no changes.

NACCAS Names Acting Executive Director

National Accrediting Commission of Cosmetology Arts and Sciences, Inc. board of Commissioner's Executive Committee has appointed Mr. Christopher C. Walek as Acting Executive Director of NACAS. Mr. Walek has worked for the Commission for over twenty-two years in various positions, prior to this announcement, Mr. Walek was the Associate Chief Executive Officer/Director of Accrediation. He is responsible for the day to day operation of the NACCAS office and accreditation related activities.

2004 CONFERENCE HIGHLIGHTS



“WORK AS ONE TO GET IT DONE.”



The FDA and Esthetic Devices

Every year thousands of pieces of esthetic equipment are purchased for use in salons and spas across the country. In the excitement of introducing new equipment and services into their businesses, many professionals overlook the legalities and risks involved with these technologies. It is generally assumed that if a device manufacturer is advertising in esthetic magazines and exhibiting at esthetic trade-shows, that the device they manufacture or sell must be appropriate for use by estheticians. Unfortunately, this is not always the case. In order to protect yourself and your business from the possible legal ramifications of operating an inappropriate device, or marketing and offering a service that is outside your licensure, it is important to realize the relationship between the FDA and the esthetic industry.

Many things we use or enjoy in our daily lives, in one way or another, is regulated by the FDA; including esthetic equipment. Esthetic equipment is technically classified as medical equipment according to the definition set forth by the FDA:

An instrument, apparatus, implements, or machine intended to affect the structure or any function of the body of man or other animal . . .

The liberal language of the FDA allows its umbrella to encompass just about everything you can imagine ranging from end consumer products such as band aids, and tooth brushes, to the most invasive products such as pace makers and cosmetic implants. Understanding the FDA, and the concepts of regulation, are vitally important for you as a successful skin care professional as they will guide your purchases, the services you offer, the fashion in which you market and advertise, the type of insurance you obtain, as well as the type of licensed professionals that you hire.

We have all heard sales people make statements such as “We are not using it medically, therefore we are not regulated by the FDA”, or “We do not deal with the FDA because we are in skin care, rather than medical”. These types of statements are entirely false and misleading. Even a simple electric massager that you can purchase at Costco is considered a medical device, and as such, must be manufactured under the control parameters set forth by the FDA. This means by a Medical Device Manufacturer registered with the FDA. So what does it mean to be “FDA Approved”, “FDA Registered”, or “FDA Cleared”? Are these even correct terms?

You will find many different opinions and interpretations of what the FDA is, how it works, what products or devices it pertains to, how they regulate, and who they regulate.

In a nutshell, there are two separate components of the FDA that are of particular interest to us as estheticians:

1. The device itself:
 - 510K number if applicable
 - Intended Use Statement
 - Classification
2. The manufacturer

FDA registered medical device manufacturer

In many cases, the device that you may be considering purchasing may not be manufactured by the business that is marketing and selling it. Establishing who originally manufactured the device is necessary to verify that it was manufactured under the control of the FDA GMP (Good Manufacturing Practices) by a manufacturer properly registered and inspected by the FDA. This holds true regardless of whether it is manufacturer based in the United States or abroad, as long as the intention is to sell the

finished device into the United States market.

At the time of FDA registry, manufacturers are required to disclose the type of device(s) that they intend on manufacturing, noting the corresponding category and classification that the device(s) fall under. Also with registry, is the declaration by the registered device manufacturer that they adhere to the Good Manufacturing Practices (GMP) set forth by the FDA and will be able to demonstrate this during their inspection audits. The guidance for the GMP is as thick as the New York Yellow Pages, and details every requirement that must be adhered to. Through regular audits, the FDA insures that the manufacturer maintains controlled, tested, safe, designs with safety tested and approved parts made by certified vendors who also follow the FDA GMP when applicable. They insure that each device is tested and inspected in comparison to the controlled design. They insure that there is complete traceability for every part in every device, similar to the way that the Aerospace industry can trace which technician put a single rivet in the wing of any Boeing 747 in the air today.

The FDA is considered by many to be the most rigorous organization in the world. Being registered with the FDA as a Medical Device Manufacturer, and maintaining and demonstrating a history of registry status should be respected, as well as serve as the first qualification of a legitimate, quality esthetic equipment supplier. FDA registered medical device manufacturers can be verified at www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfRL/registration.cfm

FDA 510K#

“a pre-market notification (510K) is a marketing application submitted to FDA to demonstrate that the medical device you wish to market is as safe and effective or substantially equivalent to a legally marketed device that was or is currently on the US market and that does not require pre-market approval.” (foot note www.FDA.gov)

FDA Pre-Market Approval

“required process of scientific review to ensure the safety and effectiveness of new Class II and Class III devices as well as existing devices that claim a new intended use”

Intended Use Statement

“the description of the intended use of the device”

Classification

“medical devices are classified into three categories; Class I, Class II, and Class III. The classification is determined by the intended use, the invasiveness, and the level of public risk that the device may pose.

A 510K is an FDA registration number that states that a device has been evaluated by the FDA and has demonstrated substantial equivalency to that of another existing legally marketed device. For example, if company X manufactures a heart monitor and has been granted FDA Pre-Market Approval, company Y and company Z can claim that their heart monitors are substantially equivalent to company X and therefore should be able to bring their heart monitors to market without having to submit efficacy and clinical proof that have already been established by company X. Bearing this in mind, the first company to submit a new device or a new “intended use” of an existing device, carries the burden of proving that it works for the intended use and that it is safe for the intended use. The price tag on this begins at \$154,000 to begin the process of approval via the FDA, not to mention the cost of clinical trials, attorney fees, consulting fees, etc. As you can imagine, the process can take years.

There are three key components to every medical device; 510K#, Classification, and Intended Use. Class I

devices are typically exempt from 510K submissions due to their low risk and non-invasive nature. Bearing this in mind, manufacturers who only manufacture Class I devices will not be able to supply a 510K, however they are still required to be registered with the FDA and adhere to the GMP accordingly. This can be verified at www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfRL/registration.cfm

There are three major categories of classification; I, II, and III. Most devices that are found in the end consumer and esthetic industry are Class I and II. For example, hand held massagers, microcurrent facial toning devices, microdermabrasion, and vacuum massage cellulite systems are all Class I. Laser hair removal in most cases are Class II, and laser resurfacing, heart difibrulators and pacemakers would be good examples of Class III devices. The classifications are typically defined by intended use, invasiveness, and the level of public risk that the device poses. Class I devices are almost always allowed to be used without medical supervision and are often marketed directly to end consumers. Conversely, the intended use statement of Class II and III devices note that they are to be sold under, or used by a licensed physician or licensed practitioner. The term licensed practitioner is positioned so that each state can define their interpretation depending on the current structure of their licensures. What may be allowed in one state may not be allowed in another.

This leads us to the final part of the equation: Intended Use. The intended use of a device is stated on the 510K document or Pre-Market Approval that is issued by the FDA. If the device you are considering is a Class I device and does not have a 510K, ask the manufacturer for an Intended Use Statement on their letterhead and request that they include the Product Code. You can look up the product code on the FDA website at www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfRL/listing.cfm and confirm that the intended use statement that they have given you matches what the FDA has listed for the corresponding product code. The intended use statement should be one of the focal points of consideration when determining if a technology is appropriate for the scope of your licensure. This point if very, very important as many State Board Code of Regulations have not been updated to reflect the ever changing technology. In some cases the burden of educating the state rests upon the first to utilize the technology in that state; in some cases you may find this education as your defense. The intended use statement is also what is typically referred to when an insurance agent is attempting to determine whether or not they will insure you to operate the device, as well as extend your coverage in a liability situation. A medical practitioner can utilize a device in a way that is outside the FDA's Intended Use Statement. This is called “off label” use, and is a common practice even with pharmaceuticals. However, this rule does not go both ways. In other words, an esthetician may not take a device intended for medical use and utilize it as an esthetic fashion without medical supervision. As an esthetician, be wary of a device that has an intended use that appears to be outside the scope of your licensure. To verify this fact, you can ask them for the Product Code

The key to being a successful businessperson is to be well informed in all aspects of your business. Do not be swayed by flowery advertising or promises, be direct and get the facts. Once a piece of equipment is in your salon, it is your responsibility not only to deliver the results your clientele desires, but also to ensure their safety. Make the best choice to protect both your business and your clientele, choose to do business with companies that can prove that they are registered with the United States FDA as Medical Device Manufacturer. This is the absolute best filtering device when making an investment in your spa, salon or clinic.

By David Suzuki

Executive Board Profiles

Wendell Peterson Immediate Past President



Education/School:
Attended Big Sky
College of Barbers
Styling and Modern Beauty School.

Current Employment Occupation:
Manager of Tangles Salon.

Three words that best describe you:
Honest, personable, fair.

What made you decide to run for NIC office and what experience do you bring to NIC? I first ran for the Executive Board because I wanted to help create a change that would move NIC forward. I hope that what we've gained does not fall to the side and go backwards with repeat leadership.

If there is anything you've learned about NIC by being an officer it is: I have learned the process of test development first hand by being a subject matter expert and by serving on most of the committees of NIC.

What future goal do you see for NIC: To continue the support of the State Boards and provide the needed assistance that my self or NIC can give. We are more than an exam.

What would people be surprised to know about you? That I love to work in our yard and I raise cocker spaniels. My job is a passion and hobby. I am president of my local water district and secretary of my Home Owner's Association.

Wendell served as NIC president in 2003-2004, was First Vice President for two years and Secretary/Treasurer for two years. He is currently a member on the Montana Cosmetology Board and lives in Missoula, MT.

John L. Tirre Region Two Director



Education/School:
Meramac C. Col-
lege, St. Louis, MO.

Current Employment Occupation:
Owner Current Trends Academy, St. Peters, MO and Wentzville, MO.

Three words that best describe you:
Honest, fair and compassionate.

What made you decide to run for NIC office and what experience do you bring to NIC? A school owner's perspective.

If there is anything you've learned about NIC by being an officer it is: That all state boards have basically the same problems.

What future goal do you see for NIC: Expansion of the testing program.

What would people be surprised to know about you? I was a police officer for 12 years and I am a Harley Davidson owner.

John is a comparative new comer to the NIC. He has established himself as Regional Director with prospects for future leadership in NIC.

Jackie Dahlquist Region Three Director



Education/School:
Beauty School of
Fashion, Casper,
WY.

Current Employment Occupation: receptionist at the Mystique Edge Spa and Salon, Rapid City, SD, and city councilman for the city of New Underwood, SD.

Two words that best describe you: Reliable, dedicated.

What made you decide to run for NIC office and what experience do you bring to NIC? My state likes to see diversity on the NIC board and rotation of officers, so I thought it was time for South Dakota to take a turn. I am committed to the testing program and the sharing and standardization of regulations. I have served 13 years on SD Cosmetology Commission, appointed by 4 governors, and my experiences range from that of salon stylist to salon manager to cosmetology school instructor.

If there is anything you've learned about NIC by being an officer it is: Hoping to find out how it all works!

What future goal do you see for NIC: Continue professional development of the testing program, keeping updated on current sanitation requirements and methods used in our industry and keeping abreast of legislative needs.

What would people be surprised to know about you? You can't grow up in Sturgis, SD, home of the Sturgis Motorcycle Rally and Races, without participating in riding a motorcycle! I also like to scrapbook.

As Regional Director, Jackie is a new-comer to the executive board but has attended and participated in many NIC conferences in the past. Jackie is currently a member of and chairperson for the South Dakota Cosmetology Commission.

Make plans to attend
NIC's
50th Annual
Conference



Washington, D.C.
August 27-29, 2005

NIC Elects New Officers

Kirby Morris, WY, was elected 2004-2005 president of the National Interstate Council at the Annual Conference in Richmond.

Also elected were Rosanne Kinley, S.C., First Vice President; Lafaye Austin, OK, Secretary/Treasurer; Debbie Elliott, ME, Region One Director; John Tirre, MO, Region Two Director; Jackie Dahlquist, SD, Region Three Director; Geneal Thompson, ID, Region Four Director; Eddie Jones, SC, was elected to the Board Administrator position. Wendell Petersen is the Immediate Past President.

Bulletin

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Conference Sponsors

Once again NIC would like to recognize and thank the sponsors who have so diligently supported NIC by providing food functions during the conference a success.

Job Well Done

Regis/Supercuts – Rose Ann Perea, Director of Industry Relations, told how the corporation spends over \$16 million a year for education and ongoing training for their stylists. Each spring and fall they will make the award winning Regis DVD training program available to any school member free of charge in English and Spanish. This is their way of helping to give back to the industry in a meaningful way.

Ultronics – Article printed in this issue.

Milady/Delmar Learning – Dawn Gerrain, Vice President of Career Education SBU and Sandra Bruce, Channel Manager, gave a presentation on Milady's services to cosmetology education. They have been serving the education markets at every level for 70 years. Their goals are to partner with their customers to create superior learning solutions that support licensure success and professional development. Sandra commented on how they have been a great supporter of NIC by participating in Regional Meetings, conferences, NIC newsletter, testbook committee, item writing, workshops, school overview meetings, content reviews and market survey/feedback. She also explained that they give student support to help the needs of the schools, educators and students along with exam reviews by allowing the online licens-

ing preparation program. Their online "Review Mode" gives the student feedback on exam questions, responses and rationales. Coming in 2005 a new text on "professional barbering" will be available along with a comprehensive package on faculty and student supplements. Also a 12 book series on "Milady's Medical Aesthetician Series" will be available December 2004. Nationally recognized leaders from the medical and esthetics industry helped in developing the new series for Milady. Also, the faculty support program has become available online with additional modules to be added spring of 2005.

Pivot International – Tamie Fowler, Northeast Sales Consultant, spoke on the "7 Mindframes", a learning system with specific ways to use brain power. The 7 Mind Frames were: 1. preview, 2. naming, 3. connecting, 4. self checking, 5. applying, 6 self testing and 7. journaling. She told how these mind frames could be transferred into thoughts, which got the attendees attention. She also gave an update on the new teacher's support material on Salon Fundamentals Of The Learning System for Esthetics.

Also sponsoring functions were the Society of Virginia Skin Care Specialists, the Professional Esthetics Alliance and Universal Companies, Inc., the Hair Cuttery and Schroeder Measurement Technologies.

The articles provided are for informational purposes only and are not a position or endorsement of NIC.

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