

**Teleconference
Meeting Agenda
BOARD OF BARBER EXAMINERS**
Public Access at the Barber Board Office
629 Main St., Spearfish (605) 642-1600
August 28, 2017 1:00 p.m. MDT-Rules Hearing Convenes
Business meeting immediately following rules hearing.

Persons interested in joining the meeting may do so by appearing in person for the Conference call at the location listed above. Those attending by phone can call (605) 224-1125, enter the access code of 0118628#. For assistance call (605) 642-1600.

- A. Call to Order
- B. Corrections or additions to the agenda
- C. Approval of Minutes from June 5, 2017
- D. FY Financial Update
- E. Renewal Update
- F. Inspection Update
- G. Foreign Applicants
- H. Complaints/Investigations
- I. Timeline policy for criminal record
- J. Code of Conduct-FYI
- K. Next Meeting Date
- L. Any other business coming in between date of mailing and date of meeting

20:39:02:04. Practices prohibited in barber shops and barber schools. A barber, apprentice, or barber school student may not engage in any of the following prescribed practices:

(1) Allowing the use of the head rest of any barber chair under the control of the barber, apprentice, or barber school student unless the head rest is covered by a towel that has been washed since its last use or by a clean, new paper;

(2) Knowingly servicing a person afflicted with erysipelas, eczema, impetigo, sycosis, tuberculosis, or any other contagious or infectious disease;

(3) Allowing the use or possession on the work premises of styptic pencils, lump alum, or powder puffs.

Source: SL 1975, ch 16, § 1; 12 SDR 151, 12 SDR 155, effective July 1, 1986.

General Authority: SDCL 36-14-9.

Law Implemented: SDCL 36-14-9.

20:39:03:01. General requirements for approval of state barber schools. Each barber school shall meet the following prescribed requirements before the school receives board accreditation:

- (1) One instructor is required for each 12 students or fraction thereof;
- (2) No school may enroll more than one student per barber chair in the school;
- (3) At least one instructor shall be in attendance at the school at all times during school hours; and
- (4) All instructors employed at the school shall have a state barber license, a high school diploma, ~~two years of college~~, and a minimum of three years of practical experience in the trade of barbering. Upon application to the board, any person complying with these requirements may take the board's ~~teacher~~ instructor examination. Upon passing the examination, the person shall receive an instructor diploma issued by the board. ~~Teacher~~ Instructor examinations shall be administered at the same time, location, and frequency as board ~~apprentice~~ barber examinations.

Source: SL 1975, ch 16, § 1; 6 SDR 106, effective May 12, 1980; 12 SDR 151, 12 SDR 155, effective July 1, 1986.

General Authority: SDCL 36-14-9.

Law Implemented: SDCL ~~36-14-15~~ 36-14-17.

20:39:03:02. Equipment requirements. Each barber school shall possess the following equipment:

- (1) A blackboard in the lecture room;
- (2) A set of enlarged anatomic charts showing nerves, muscles, blood vessels, bones of the head and neck, structure of the hair, and skin structure;
- (3) A library of reference books on anatomy, physiology, and diseases of the skin; and
- (4) A medical dictionary.

Source: SL 1975, ch 16, § 1; 12 SDR 151, 12 SDR 155, effective July 1, 1986.

General Authority: SDCL 36-14-9.

Law Implemented: SDCL ~~36-14-15~~ 36-14-17.

20:39:03:03. Accreditation. Each barber school desiring to obtain board accreditation for the first time shall apply to the board on forms requested from the secretary-treasurer. Two inspections shall be made of each school applying for accreditation. The first inspection shall inspect the physical location of the school. The second inspection shall inspect the condition of the school plant, walls, ceilings, floors, required classrooms, cloakrooms, school office, lighting, plumbing, equipment, fixtures, and records, and the qualifications of instructors.

Source: SL 1975, ch 16, § 1; 12 SDR 151, 12 SDR 155, effective July 1, 1986.

General Authority: SDCL 36-14-9.

Law Implemented: SDCL ~~36-14-15~~ 36-14-17.

20:39:03:04. Length and annual renewal of accreditation. Each barber school shall be accredited for a period of one year. Each school desiring renewal of its accreditation shall apply to the board before July 1. The application shall state that the school has complied with SDCL 36-14 and this article during the previous year. A member of the board or an authorized board employee shall inspect the school prior to board action on the application for renewal. If the board denies or fails to act on any application for renewal, the school may, within 60 days after application or denial, whichever is later, demand a board hearing pursuant to SDCL 1-26.

Source: SL 1975, ch 16, § 1; 6 SDR 106, effective May 12, 1980; 12 SDR 151, 12 SDR 155, effective July 1, 1986.

General Authority: SDCL 36-14-9.

Law Implemented: SDCL ~~36-14-15~~ 36-14-17.

20:39:03:05. Curriculum and materials requirements for accredited state barber schools. Each accredited state barber school shall do the following:

(1) Submit its curriculum at least once annually for review by the board of barber examiners;

~~(2) Not teach from question books, question and answer books, or combinations of them;~~

~~(3)~~ Supply each student with a textbook of barbering which has received prior approval of the board. Board approval shall be given upon satisfaction by the board that the textbook sought to be approved deals with each subject area prescribed by SDCL 36-14-17; and

~~(4)~~ (3) Supply each student with a tool kit containing one razor, one thinning shears, two haircutting shears, ~~one combination razor strap, one hone, one changeable blade razor, one box of blades,~~ four haircutting combs, one electric clipper, one box of styptic powder, one carrying case for these instruments, and one approved textbook;

~~(5) Subject all prospective students to screening examinations prior to enrollment to determine that each student has sufficient intelligence and physical aptitude to learn the art of barbering.~~

Source: SL 1975, ch 16, § 1; 12 SDR 151, 12 SDR 155, effective July 1, 1986.

General Authority: SDCL 36-14-9.

Law Implemented: SDCL ~~36-14-15,~~ 36-14-17.

20:39:03:06. Allocation of hours in school day. The school shall allocate ~~six~~ seven hours of the students' school day to practical work and ~~two hours~~ one hour to lectures and demonstrations.

Source: SL 1975, ch 16, § 1; 12 SDR 151, 12 SDR 155, effective July 1, 1986.

General Authority: SDCL 36-14-9.

Law Implemented: SDCL ~~36-14-15~~, 36-14-17.

CHAPTER 20:39:04

EXAMINATIONS

Section

- 20:39:04:01 Number and location of examinations.
- 20:39:04:02 Location of examinations -- Notice.
- 20:39:04:03 Passing scores for barber and ~~apprentice barber~~ instructor examinations.

20:39:04:01. Number and location of examinations. The board shall administer examinations for barber, ~~apprentice~~, and instructor certificates ~~at least four times annually~~ at a location designated by the board.

Source: SL 1975, ch 16, § 1; 12 SDR 151, 12 SDR 155, effective July 1, 1986.

General Authority: SDCL 36-14-9.

Law Implemented: SDCL ~~36-14-15~~, 36-14-13, 36-14-19.

20:39:04:02. Location of examinations -- Notice. The board shall, by notice posted one month in advance of each examination in the office of ~~department of commerce and regulation~~ Department of Labor and Regulation, prescribe the location and date of each barber examination.

Source: SL 1975, ch 16, § 1; 12 SDR 151, 12 SDR 155, effective July 1, 1986.

General Authority: SDCL 36-14-9.

Law Implemented: SDCL ~~36-14-15~~, 36-14-13, 36-14-19.

20:39:04:03. Passing scores for barber and ~~apprentice barber~~ examinations. Each applicant for ~~registered apprentice barber~~ and registered barber and instructor shall pass a practical and written examination with a minimum score on each examination of 75 percent.

Source: 6 SDR 106, effective May 12, 1980; 12 SDR 151, 12 SDR 155, effective July 1, 1986.

General Authority: SDCL 36-14-9.

Law Implemented: SDCL 36-14-13, ~~36-14-15~~ 36-14-17.

CHAPTER 20:39:05

FEES REQUIRED

Section

- 20:39:05:01 Renewal fee for barber certificate of registration.
- 20:39:05:02 ~~Renewal fee for apprentice barber certificate of registration~~ Repealed.
- 20:39:05:03 Fee to operate a barber school.
- 20:39:05:04 Fee to operate a barber shop.

20:39:05:02. Renewal fee for apprentice barber certificate of registration. ~~For the annual renewal of an apprentice certificate of registration to practice barbering the fee is \$25. For the restoration of an expired apprentice certificate the fee is \$15, plus \$12 for each expired year, plus the annual license fee Repealed.~~

Source: 6 SDR 106, effective May 12, 1980; 12 SDR 159, effective April 10, 1986; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 21 SDR 214, effective June 20, 1995; 33 SDR 212, adopted May 15, 2007, effective July 1, 2007.

General Authority: ~~SDCL 36-14-9, 36-14-24.~~

Law Implemented: ~~SDCL 36-14-22, 36-14-24.~~

**OFFICIAL BOARD MINUTES June 5, 2017
TELECONFERENCE**

Members Present: Darrell Deheer, President
Kristy Wright, Secretary/Treasurer (newly elected)
Randy Scott, Member
Alex Jensen, Lay Member

Others Present: Carol Tellinghuisen, Executive Secretary
Jill Lesselyoung, Executive Assistant
Brooke Tellinghuisen Geddes, Executive Assistant
Graham Oey, Assistant Attorney General

Members Absent: None

President Deheer called the meeting to order at to order at 1:01 PM MDT and welcomed the new members to the Board, Kristy Wright and Alex Jensen..

Corrections or additions to the agenda: There were no corrections or additions to the agenda.

Election of Officers: Scott moved and Jensen seconded to re-elect Deheer for President. Motion carried by unanimous roll call vote. Scott moved and Jensen seconded to elect Wright as Secretary/Treasurer. Motion carried by unanimous roll call vote.

Approval of the Minutes: Scott moved and Wright seconded to approve the minutes from June 13, 2016 and August 18, 2016. Motion carried by unanimous roll call vote.

FY Financial Update: Lesselyoung reported fiscal yearend figures as of June 30, 2016: revenue of \$20,083.79, expenditures of \$23,750.37 and cash on hand of \$48,713.01. Lesselyoung reported fiscal year to date figures as of April 30, 2017: revenue of \$11,165.16, expenditures of \$22,047.32 and cash on hand of \$37,830.85. Scott moved and Jensen seconded to approve the financials as presented. Motion carried by unanimous roll call vote.

Applicant #111: Jensen moved and Scott seconded to approve applicant #111 for licensure. Motion carried by unanimous roll call vote.

Applicant #112: Jensen moved and Scott seconded to approve applicant #112 for licensure. Motion carried by unanimous roll call vote.

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Executive Secretary contract renewal: Tellinghuisen requested to renew the Executive Secretary contract at the current contract rate with no increase. Jensen moved and Wright seconded to renew the contract as requested. Motion carried by unanimous roll call vote.

Data Collection Update: Lesselyoung reported the final quote for the Data Collection and Technology upgrade in the Board office. Scott moved and Deheer seconded to approve moving forward with implementing the upgrade. Motion carried by unanimous roll call vote.

Legislative/Rule Changes: The new law repealing the apprentice level of licensure, repealing reciprocity and replacing with provisions to transfer a license to South Dakota is effective July 1, 2017. Oey advised he is working on amending the administrative rules referencing apprentices and other recommended rules changes.

Overlap Education Cosmetology: Oey advised certain cosmetology schools may be interested in a "hair only" license and asked the Board if certain educational requirements could possibly transfer from cosmetology to barbering, specifically the sanitation requirements. Following discussion, several members advised they believe sanitation could possibly transfer but that the overall training between the professions is different. Oey advised a school would still have to meet the statutory requirements and rules for a school.

Inspection Update: Deheer, Scott and Wright advised on the current status of inspections for their respective areas.

Complaints/Investigations: There are no complaints or investigations.

Next Meeting Date: The next meeting is scheduled by teleconference for August 28, 2017 at 1:00PM MDT.

Any Other Business: There was no other business.

Scott moved and Deheer seconded to adjourn the meeting at 1:50PM MDT. Motion carried by unanimous roll call vote.

Respectfully submitted,

Carol Tellinghuisen
Executive Secretary

STATE OF SOUTH DAKOTA
 REVENUE SUMMARY BY BUDGET UNIT
 FOR PERIOD ENDING: 06/30/2017

AGENCY 10 LABOR & REGULATION
 BUDGET UNIT 1032 BOARD OF BARBER EXAMINERS

CENTER	COMP	ACCOUNT	DESCRIPTION	CURRENT MONTH	YEAR-TO-DATE
COMPANY NO 6503					
COMPANY NAME PROFESSIONAL & LICENSING BOARDS					
103200061804	6503	4293946	BARBER LICENSE FEES	8,815.00	24,061.00
ACCT: 4293			BUSINESS & OCCUP LICENSING (NON-GOVERNMENTAL)	8,815.00	24,061.00 *
ACCT: 42			LICENSES, PERMITS & FEES	8,815.00	24,061.00 **
103200061804	6503	4920045	NONOPERATING REVENUES	.00	669.16
ACCT: 4920			NONOPERATING REVENUE	.00	669.16 *
ACCT: 49			OTHER REVENUE	.00	669.16 **
CNTR: 103200061804				8,815.00	24,730.16 ***
COMP: 6503				8,815.00	24,730.16 ****
B UNIT: 1032				8,815.00	24,730.16 *****

STATE OF SOUTH DAKOTA
MONTHLY OBJECT/SUB-OBJECT REPORT BY BUDGET UNIT
FOR PERIOD ENDING: 06/30/2017

AGENCY 10 LABOR & REGULATION
BUDGET UNIT 1032 BOARD OF BARBER EXAMINERS
CENTER-5 10320 BOARD OF BARBER EXAMINERS

CENTER	COMP	ACCOUNT	DESCRIPTION	CURRENT MONTH	YEAR-TO-DATE
COMPANY NO 6503					
COMPANY NAME PROFESSIONAL & LICENSING BOARDS					
103200061804	6503	51010100	F-T EMP SAL & WAGES	411.00	2,433.03
103200061804	6503	51010300	BOARD & COMM MBRS FEES	240.00	1,200.00
ACCT: 5101					
103200061804	6503	51020100	EMPLOYEE SALARIES	651.00	3,633.03
103200061804	6503	51020200	OASI-EMPLOYER'S SHARE	54.42	283.63
103200061804	6503	51020600	RETIREMENT-ER SHARE	24.65	145.99
103200061804	6503	51020800	HEALTH/LIFE INS.-ER SHARE	53.45	296.30
103200061804	6503	51020900	WORKER'S COMPENSATION	.48	2.97
103200061804	6503	51020900	UNEMPLOYMENT COMPENSATION	.13	.91
ACCT: 5102					
103200061804	6503	52030300	EMPLOYEE BENEFITS	133.13	729.80
103200061804	6503	52031000	PERSONAL SERVICES	784.13	4,362.83
103200061804	6503	52033000	AUTO-PRIV (IN-ST.) H/RTE	474.18	2,295.30
103200061804	6503	52031400	LODGING/IN-STATE	.00	125.16
103200061804	6503	52031500	TAXABLE MEALS/IN-STATE	76.00	142.00
103200061804	6503	52031500	NON-TAXABLE MEALS/IN-ST	18.00	136.00
ACCT: 5203					
103200061804	6503	52040300	TRAVEL	568.18	2,698.46
103200061804	6503	52040900	LEGAL DOCUMENT FEES	.00	55.00
103200061804	6503	52041800	MANAGEMENT CONSULTANT	1,814.09	17,628.33
103200061804	6503	52041810	COMPUTER SERVICES-STATE	.00	66.13
103200061804	6503	52042000	BIT DEVELOPMENT COSTS	.00	234.60
103200061804	6503	52044900	CENTRAL SERVICES	5.05	1,642.50
103200061804	6503	52045300	RENDS-PRIVATE OWNED PROP.	50.00	600.00
103200061804	6503	52045300	TELECOMMUNICATIONS SRVCS	82.00	124.00
103200061804	6503	52045900	INS PREMIUMS & SURETY BDS	.00	268.00
ACCT: 5204					
103200061804	6503	52079010	CONTRACTUAL SERVICES	1,951.14	20,618.56
103200061804	6503	52280000	COMPUTER HARDWARE	231.28	231.28
ACCT: 5207					
103200061804	6503	52280000	CAPITAL OUTLAY	231.28	231.28
103200061804	6503	52280000	OPER TRANS OUT -NON BUDGT	4.48	200.58
ACCT: 5228					
103200061804	6503	52280000	NONOP EXP/NONBGTD OP TR	4.48	200.58
103200061804	6503	52280000	OPERATING EXPENSES	2,755.08	23,748.88
ACCT: 52					
COMP: 6503 PROFESSIONAL & LICENSING BOARDS					
CENTER: 103200061804				3,539.21	28,111.71
B UNIT: 1032				3,539.21	28,111.71
				3,539.21	28,111.71

AGENCY: 10 LABOR & REGULATION
BUDGET UNIT: 1032 BOARD OF BARBER EXAMINERS

COMPANY	CENTER	ACCOUNT	BALANCE	DR/CR	CENTER DESCRIPTION
6503	103200061804	1140000	45,331.46	DR	BOARD OF BARBER EXAMINERS
COMPANY/SOURCE TOTAL 6503 618			45,331.46	DR *	
COMP/BUDG UNIT TOTAL 6503 1032			45,331.46	DR **	
BUDGET UNIT TOTAL 1032			45,331.46	DR ***	

STATE OF SOUTH DAKOTA
 REVENUE SUMMARY BY BUDGET UNIT
 FOR PERIOD ENDING: 07/31/2017

AGENCY 10 LABOR & REGULATION
 BUDGET UNIT 1032 BOARD OF BARBER EXAMINERS

CENTER	COMP	ACCOUNT	DESCRIPTION	CURRENT MONTH	YEAR-TO-DATE
COMPANY NO 6503					
COMPANY NAME PROFESSIONAL & LICENSING BOARDS					
103200061804	6503	4293946	BARBER LICENSE FEES	2,620.00	2,620.00
ACCT:	4293	BUSINESS & OCCUP LICENSING (NON-GOVERNMENTAL)		2,620.00	2,620.00 *
ACCT:	42	LICENSES, PERMITS & FEES		2,620.00	2,620.00 **
CNTR:	103200061804				
COMP:	6503				
B UNIT:	1032				
				2,620.00	2,620.00 ***
				2,620.00	2,620.00 ****
				2,620.00	2,620.00 *****

AGENCY 10 LABOR & REGULATION
BUDGET UNIT 1032 BOARD OF BARBER EXAMINERS
CENTER-5 10320 BOARD OF BARBER EXAMINERS

CENTER	COMP	ACCOUNT	DESCRIPTION	CURRENT MONTH	YEAR-TO-DATE
COMPANY NO 6503					
PROFESSIONAL & LICENSING BOARDS					
103200061804	6503	51010100	F-T EMP SAL. & WAGES	255.66	255.66
103200061804	6503	51010300	BOARD & COMM MERS FEES	180.00	180.00
ACCT: 5101 EMPLOYEE SALARIES					
103200061804	6503	51020100	OASI-EMPLOYER'S SHARE	435.66	435.66 *
103200061804	6503	51020200	RETIREMENT-ER SHARE	32.64	32.64
103200061804	6503	51020600	HEALTH/LIFE INS. -ER SHARE	15.36	15.36
103200061804	6503	51020800	WORKER'S COMPENSATION	33.57	33.57
103200061804	6503	51020900	UNEMPLOYMENT COMPENSATION	.45	.45
ACCT: 5102 EMPLOYEE BENEFITS					
103200061804	6503	52040900	MANAGEMENT CONSULTANT	2,167.24	2,167.24
103200061804	6503	52041800	COMPUTER SERVICES-STATE	11.57	11.57
103200061804	6503	52042000	CENTRAL SERVICES	424.95	424.95
103200061804	6503	52044900	RENTS-PRIVATE OWNED PROP.	50.00	50.00
ACCT: 5204 CONTRACTUAL SERVICES					
103200061804	6503	5228000	OPER TRANS OUT -NON BUDGT	2,653.76	2,653.76 *
ACCT: 5228 NONOP EXP/NONBGTD OF TR					
103200061804	6503	52040900	OPERATING EXPENSES	40.93	40.93 *
COMP: 6503 PROFESSIONAL & LICENSING BOARDS					
CENTER: 103200061804					
B UNIT: 1032					
				3,212.45	3,212.45 ***
				3,212.45	3,212.45 ****
				3,212.45	3,212.45 *****

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STATE OF SOUTH DAKOTA
CASH CENTER BALANCES
AS OF: 07/31/2017

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AGENCY: 10 LABOR & REGULATION
BUDGET UNIT: 1032 BOARD OF BARBER EXAMINERS

COMPANY	CENTER	ACCOUNT	BALANCE	DR/CR	CENTER DESCRIPTION
6503	103200061804	1140000	44,739.01	DR	BOARD OF BARBER EXAMINERS
COMPANY/SOURCE TOTAL 6503 618			44,739.01	DR *	
COMP/BUDG UNIT TOTAL 6503 1032			44,739.01	DR **	
BUDGET UNIT TOTAL 1032			44,739.01	DR ***	

Jill Lesselyoung

From: Brentni Henderson <bhenderson@aequointernational.com>
Sent: Wednesday, June 21, 2017 12:16 PM
To: Jill Lesselyoung
Cc: Rachel Mevis
Subject: RE: (External) SD Board of Barber Examiners

Good Afternoon, Carol and Jill –

Thank you for reaching out to Aequo International for education evaluations for the South Dakota Board of Barber Examiners. We are pleased to learn that you are interested in our services and I would love to help get the process moving forward.

Aequo provides education evaluations for international and domestic high schools as well as cosmetology/barbering schools located internationally and in the United States. At Aequo International, the board is considered our client and the official report is never released to the candidate (this cuts down on the possibility of fraud – someone altering our reports). We can send education evaluations to the board either via secure email or by postal service.

In addition, we assume the role of providing customer service to your candidates. You may direct them to our office for inquiries and we can reduce your call volume by assisting them. Our turnaround time is typically 5 – 10 business days once all required documentation has been received for evaluation. However, due to the complexities surrounding primary source verification, there are some countries who are not as technologically developed and written records must be checked manually. This is typical for certain provinces in Vietnam and most Asian countries. The greatest length of time for verification has been 20 days.

We customize our reports according to the board's specifications. All reports include a statement of authenticity which identify how the documents were verified and determined to be accurate. If we find fraudulent documents were submitted, we will contact the board directly with the candidate's information.

Please note that all services are free to the board and we can also provide data analytics/statistics on your candidates. In order to begin providing services, we need the board to declare us as an approved provider. From there, we can begin the onboarding process. On your side, we only need to make a website change to direct candidates to our service.

Here is a link to our [homepage](#) and [application](#) for cosmetology and barbering candidates. As soon as we receive approval from the board, I can have South Dakota barbers added to the application on our website.

Would it be possible to send me the regulatory statutes surrounding education and barbering requirements? Our senior evaluator, Rachel Mevis, and I will draft a report template and send it to you for review. We are happy to work with your staff to address any issues, ensure the format is easy to understand and incorporate any suggestions or additional information that the board may require. Rachel is copied on this email as well.

We look forward to hearing from you and working to serve the South Dakota Board of Barber Examiners!

Best,
Brentni

Brentni Henderson

Associate Director, Business Development & Research

150 Fourth Ave North, Suite 850
Nashville, TN 37219-2417
P/ (615) 312-3801
E/ bhenderson@aequointernational.com



From: Jill Lesselyoung [mailto:proflic@rushmore.com]
Sent: Wednesday, June 21, 2017 10:37 AM
To: Brentni Henderson <bhenderson@aequointernational.com>
Subject: (External) SD Board of Barber Examiners

Hi Brentni,

We are interested in referring foreign applicants to your service for evaluation and credentialing for licensing for the South Dakota Board of Barber Examiners. The Cosmetology Commission in South Dakota uses your service. Please advise on procedure.

Thank you,

Carol Tellinghuisen
Executive Secretary
SD Board of Barber Examiners

Jill Lesselyoung
Executive Assistant
810 N. Main Street #298
Spearfish, SD 57783
PH: (605)642-1600
Fax: (605)722-1006

State Board and Commission Members Code of Conduct

Policy on Acceptance of Gratuities, Rebates, Reward Points and Other Perquisites

This policy prohibits the acceptance of personal gratuities, rebates, reward points and perquisites by state board and commission members in the performance of their duties.

A state board and commission member shall not accept gratuities, money, discounts, or any type of gift or service from a company that does business or that actively aspires to do business with the board or commission to which the member is appointed in the following circumstances:

1. When it could be reasonably inferred that the gift was intended to influence the member;
2. When it could reasonably be expected to influence the member, in the performance of the member's duties;
3. When it was intended as a reward for any official action on the member's part; or
4. When it was a gift from an individual or entity that does business with the board or commission to which the member is appointed.

This policy does not apply to gifts received by a member while serving in other capacities when it is clear that such gifts were not intended to influence the member with respect to his or her duties on the state board or commission to which appointed. In addition, this policy does not apply to promotional items or activities associated with business conferences where vendors provide promotional gifts and food.

This policy does not apply to frequent flier miles or lodging reward points accumulated by a member for State sponsored or reimbursed travel expenses. A member using a personal credit card to pay travel expenses may accumulate frequent flier miles, reward points and rebates offered by the credit card company. However, in making travel decisions, the member must make arrangements that provide the best value for the State of South Dakota.

Anti-Harassment/Discrimination Policy

The State of South Dakota will not tolerate harassment, discrimination or offensive behavior based on race, color, religion, national origin, sex (including pregnancy), age (40 years or older), genetic information, disability or any other legally protected status or characteristic.

Board and commission members must not engage in harassment, discriminatory or offensive behavior and must avoid any conduct that could be viewed as harassing, discriminatory or offensive even if the conduct does not violate federal or state law.

Harassment includes conduct that creates a hostile work environment. This prohibition against harassment and discrimination also encompasses sexual harassment. Sexual harassment includes unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexually harassing nature, when: (1) submission to the harassment is made either explicitly or implicitly a term or condition of employment; (2) submission to or rejection of the harassment is used as the basis for employment decisions affecting an individual, or (3) the harassment has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

Harassment, discriminatory or offensive behavior may take different forms and may be verbal, nonverbal, or physical in nature. To aid members in identifying inappropriate conduct, the following examples of harassment, discriminatory or offensive behavior are provided (these examples are not all-inclusive):

- unwelcome physical contact such as kissing, fondling, hugging, or touching;
- demands for sexual favors; sexual innuendoes, suggestive comments, jokes of a sexual nature, sexist put-downs, or sexual remarks about a person's body; sexual propositions, or persistent unwanted courting;
- swearing, offensive gestures, or graphic language made because of a person's race, color, religion, national origin, sex, age or disability;
- slurs, jokes, or derogatory remarks, email, or other communications relating to race, color, religion, national origin, sex, age, or disability; or
- calendars, posters, pictures, drawings, display, cartoons, images, lists, e-mails, or computer activity that reflects disparagingly upon race, color, religion, national origin, sex, age or disability.

A member who has a complaint of harassment, discriminatory or offensive behavior by anyone, should immediately notify the board or commission legal counsel, the head of the state agency under which the board or commission is associated, or the EEO officer for the Bureau of Human Resources at (605) 773-4918. The board or commission legal counsel or the EEO officer who receives a harassment or discrimination complaint shall immediately report the matter to the head of the state agency under which the board or commission is associated.

The State will investigate all complaints. If the investigation supports charges of harassment, discrimination, a violation of this policy, or inappropriate behavior, appropriate corrective action will take place. If a board or commission member is engaging in the improper behavior, the member will be subject to discipline, up to and including removal from the board or commission.

The State will protect the confidentiality of harassment/discrimination allegations to the maximum extent possible, and information will only be shared with those individuals who need to know about it. While the State cannot guarantee complete confidentiality because it cannot conduct an effective investigation without revealing certain information to the alleged harasser and potential witnesses, it will keep information as confidential as possible.

The State will not tolerate adverse treatment of a board or commission member because the member reports harassment, opposes discrimination participates in the complaint process, or provides information related to a complaint. If a member feels that he or she has been subjected to retaliation, the member should immediately report the alleged retaliation to the board or commission legal counsel, the head of the state agency under which the board or commission is associated, or the EEO officer for the Bureau of Human Resources.

Conflict of Interest Laws

Contract Restrictions: There are laws associated with conflict of interests for state employees and officers, including board and commission members in the area of contracts. These laws apply to members who:

- Approve, award or administer a contract;
- Recommend the approval or award of a contract; or
- Supervise persons who approve, award or administer a contract.

Those who fit within the categories above **cannot**:

- Have an interest in or receive a direct benefit from a contract within the jurisdiction or relates to the subject matter of the board or commission;
- Have an interest in or derive a direct benefit from a contract for a period of one year after they leave office;
- Enter into a contract with any state agency, except an employment contract, for a period of one year after they leave office

The phrase administer a contract is decision making or having a substantive influence on the decision making concerning the manner, method or means of a contract's performance or enforcement. Administer a contract does not include performing clerical tasks such as posting payments or communicating decisions made by others.

What does derive a direct benefit mean? A board or commission member, the member's spouse, or any other person with whom the member lives with and commingles assets **cannot**:

- Have more than a five percent ownership or other interest in an entity that is a party to the contract;
- Derive income, compensation or commission directly from the contract or the entity that is a party to the contract;
- Acquire property under the contract; or
- Serve on the board of an entity that derives income or commission directly from the contract or acquires property under the contract.

Waiver Process: A waiver process has been set up, which if approved, would allow the board or commission member to contract with state government or derive a direct benefit from a contract with a state agency.

A waiver for a **current** board or commission member may be granted if:

- The member provides full written disclosure to the board or commission;
- The board or commission has reviewed the essential terms of the contract and the member's role in the contract;
- The terms of the contract are fair, reasonable and not contrary to the public interest; and
- A waiver authorization is in writing. The form can be found in Conflict of Interest Waiver Instructions and Form document posted on BHR's website.

Alternatively, a **current** board or commission member may meet this conflict of interest policy if:

- The board or commission places on its agenda an inquiry for conflicts disclosure prior to any substantive matter;
- The member provides full public disclosure of the member's conflict with any item on the agenda;
- The member is excused from discussion and consideration of the contract and does not participate in the vote awarding the contract;
- The matter underlying the conflict is determined by the board or commission to be fair, reasonable, and not contrary to the public interest; and
- The disclosure is included in the minutes of the board or the commission.

A waiver for a **former** board or commission member may be granted if:

- The terms of the contract are fair, reasonable and not contrary to the public interest; and
- A waiver authorization is in writing. The form can be found in Conflict of Interest Waiver Instructions and Form document posted on BHR's website;

A member who would like to request a waiver shall provide the waiver request to the board or commission legal counsel for review prior to the board or commission considering the request. Members who on or after July 1, 2015, derive a benefit from a state contract in which they played a role prior to July 1, 2015, should go through the waiver process. These conflict of interest restrictions apply to those who administer contracts on or after July 1, 2015, even if the contract was awarded prior to July 1, 2015.

Penalties for Noncompliance: There are penalties for not complying with these conflict of interest contract restrictions. If a waiver is necessary but is not sought or granted, the contract that was involved may be voided and the board or commission member may be subject to removal from the board or commission to which the member is appointed.

If the contract was the result of a quid pro quo, or promise for something such as a cash payment or promise of future employment, the current or former board or commission member may be removed from office and be subject to criminal prosecution. If the current or former member failed to seek and obtain a waiver knowing one was likely required, the member may be removed from the board or commission to which the member is appointed and may be subject to criminal prosecution.

Board or commission member may not solicit or accept any gift, favor, reward, or promise of reward, including any promise of future employment, in exchange for recommending, influencing or attempting to influence the award of a state contract. This prohibition is absolute and cannot be waived.

For questions about the applicability of the laws and the process for requesting a waiver, members are encouraged to contact the board or commission legal counsel or the Bureau of Human Resources at 605.773.3148 or Aaron.Arnold@state.sd.us.

Non-Contract Restrictions: Each board or commission member shall be impartial in the execution of his or her duties as a member. A board or commission member shall abstain from taking official action on any matter before the board or commission when the member's impartiality can reasonably be questioned or on any matter that directly and specifically affects the member. "Official action" means a decision, recommendation, approval, disapproval or other action which involves discretionary authority. This restriction does not apply to official actions by the board or commission which impact an industry or profession as a whole.

A board or commission member shall not assist or represent any person or business for pay on matters before the board or commission.

A board or commission member who violates any of these non-contract restrictions may be subject to removal from the board or commission to which the member is appointed.

Confidential Information

Board and Commission members shall not disclose confidential information acquired during the course of their official duties. In addition, members are prohibited from the use of confidential information for personal gain or for any other person's benefit.