

SOUTH DAKOTA COSMETOLOGY COMMISSION MEETING MINUTES

April 11, 2011

Call Meeting to Order

The regular meeting of the Cosmetology Commission was called to order by President Nora Slykhuis on Monday, April 11, 2011 at 4:30 p.m. in the Cosmetology Commission Office, Pierre, South Dakota.

1. Roll Call

Attendance was taken by Secretary-Treasurer Pat Clark, with the following members present: Pat Clark, Ila Davis, Kory McKay, Lois Porch, and Nora Slykhuis. Staff present: Executive Director Kate Boyd.

2. Minutes of the January 11, 2011 Regular Meeting & February 8, 2011 Special Meeting

IT WAS MOVED BY PAT CLARK, SECONDED BY KORY MCKAY, TO APPROVE THE MINUTES OF THE JANUARY 11, 2011 REGULAR MEETING AND FEBRUARY 8, 2011 SPECIAL MEETING AS WRITTEN. THE MOTION PREVAILED ON A VOICE VOTE.

3. Treasurer's Report

Secretary-Treasurer Pat Clark reported that as of March 31, 2011, the available budget was \$74,246.29, and the cash center balance was \$194,143.54.

IT WAS MOVED BY LOIS PORCH, SECONDED BY ILA DAVIS, TO APPROVE THE TREASURER'S REPORT AS PRESENTED. THE MOTION PREVAILED ON A VOICE VOTE.

4. Executive Director's Report

The Executive Director's Report had previously been mailed to Commission members and is included with these Minutes as Attachment 1. The report included the following:

(1) Rude Phone Callers - Examples of the increase in rude phone calls that the office staff deals with on regular basis

(2) NIC Fee Increase - Copy of a letter from NIC stating that in 2013 the fees for the written and practical exams will increase from \$15 each to \$18 for the written and \$20 for the practical exam.

(3) NIC Administration of State Laws Examination - Report that the inclusion of the South Dakota Laws/Rules exam for NIC administration will be completed in the near future.

(4) Scheduling of Reciprocity Applicants for State Board Exams - Executive Director Kate Boyd Requested that the Commission to adopt a policy to provide guidance on the scheduling of reciprocity applicants for State Board Exams. When a reciprocity applicant's documentation is complete, how close to a State Board Exam should a reciprocity applicant be scheduled. This can present a problem because reciprocity applicants are mailed a copy of the South Dakota Cosmetology Laws/Rules to study prior to taking that exam. These individuals need sufficient time to study this book prior to the examination.

Following discussion, IT WAS MOVED BY LOIS PORCH, SECONDED BY KORY MCKAY, TO ADOPT A POLICY THAT IS A RECIPROCITY APPLICANT'S DOCUMENTATION IS COMPLETED 20 DAYS OR LESS BEFORE THE NEXT STATE BOARD EXAMINATION, THE APPLICANT WOULD HAVE THE CHOICE TO WAIT FOR THE FOLLOWING STATE BOARD EXAMINATION DATE OR

COME RIGHT AWAY TO THE EXAM SCHEDULED LESS THAN 20 DAYS BEFORE RECEIVING THE STATE LAWS/RULES BOOK. THE APPLICANT WOULD STILL BE ELIGIBLE FOR A TEMPORARY LICENSE, IF NOT PREVIOUSLY ISSUED A TEMPORARY LICENSE. THE MOTION PREVAILED ON A VOICE VOTE.

(5) Businesses Selling Flat Irons in Mall Kiosks - There was a brief discussion of businesses that sell flat irons in mall kiosks. No action was taken.

(6) Credit for Previous Hours Following Lapse in Education - Executive Director Kate Boyd asked for guidance from the Commission about crediting prior education hours for individuals who re-enroll in cosmetology school after a lapse in their education. It was noted that each school in South Dakota can make a determination of what hours they will recognize of prior cosmetology education. However, the schools are also seeking guidance from the Commission in this regard.

IT WAS MOVED BY KORY MCKAY, SECONDED BY LOIS PORCH, TO ADOPT A POLICY THAT FOLLOWING A LAPSE IN EDUCATION, THE MAXIMUM NUMBER OF PREVIOUS HOURS THE COMMISSION WILL ACCEPT FOR AN INDIVIDUAL IS AS FOLLOWS:

| Lapse in Education | Maximum Credit of Prior Cosmetology Education Hours |
|--------------------|---|
| 0.1 - 3 years | 100% |
| 3.1 - 7 years | 50% |
| Over 7 years | No credit |

THE MOTION PREVAILED ON A VOICE VOTE.

(7) INSPECTOR STATUS - The Commission was informed that Susan O'Neill resigned her position as Western Area Inspector in February, 2011. Following interviews conducted by Executive Director Kate Boyd and President Nora Slykhuis, Georgia Linn from Black Hawk was offered the position, accepted, and began her employment on April 4, 2011. Inspector Karen Dossett is training Georgia and will continue to mentor her as she learns the inspection process.

(8) On-Line Renewal of Licenses & Computer Conversion - The Commission was informed that computer programming will likely begin in the near future to allow licensees to renew their licenses on-line through the use of credit or debit cards. The second phase of this project would be to move our database to different software, as we are outgrowing our current database. At that same time, programming can be done so that inspectors can perform their inspections on laptop computers and then upload their inspection reports directly to our database.

5. Disciplinary Actions

5.a. 2010-Case G - Action Required by Commission

IT WAS MOVED BY PAT CLARK, SECONDED BY LOIS PORCH, TO GO INTO EXECUTIVE SESSION FOR DELIBERATIVE PURPOSES ON 2010-CASE G. THE MOTION PREVAILED ON A VOICE VOTE.

IT WAS MOVED BY PAT CLARK, SECONDED BY ILA, TO COME OUT OF EXECUTIVE SESSION. THE MOTION PREVAILED ON A VOICE VOTE.

IT WAS MOVED BY PAT CLARK, SECONDED BY KORY MCKAY, TO ADOPT THE FINDING OF FACTS AND CONCLUSIONS OF LAW SUBMITTED BY THE OFFICE OF HEARING EXAMINERS WITH REGARD TO 2010-CASE G, NAILS PLUS SALON, SIOUX FALLS. THE MOTION PREVAILED ON A VOICE VOTE WITH VIOLATIONS COMMITTEE MEMBER LOIS PORCH ABSTAINING.

IT WAS MOVED BY ILA DAVIS, SECONDED BY KORY MCKAY, TO ADOPT THE FOLLOWING ORDER WITH REGARD TO THE SALON LICENSE OF NAIL PLUS SALON, SIOUX FALLS:

Ordered that:

1. License number NS-05610-2012 of Nails Plus, Sioux Falls, is suspended for 8 days from June 3-10, 2011;
2. From the date of the order to suspend license, Nails Plus has no further violations of SDCL Ch. 36-15 or any administrative regulations adopted pursuant to said chapter or the salon license will be revoked
3. Nails Plus be subject to any number of random inspections from the date of the order to suspend license until April 1, 2012, and pay a one-time fee of \$350.00 for the total expenses of the inspections;
4. Nails Plus salon owner Sandra Huynh pay \$50 to take the Commission's Safety & Sanitation/State Laws Course and take and pass the course exam;
5. Nails Plus to pay costs of \$870.

THE MOTION REGARDING SUSPENSION OF NAILS PLUS SALON LICENSE PREVAILED ON A ROLL CALL VOTE WITH VIOLATIONS COMMITTEE MEMBER LOIS PORCH ABSTAINING.

IT WAS MOVED BY KORY MCKAY, SECONDED BY ILA DAVIS, TO APPROVE THE ISSUANCE OF A NAIL TECHNICIAN LICENSE TO SANDRA HUYNH. THE MOTION PREVAILED ON A VOICE VOTE WITH VIOLATIONS COMMITTEE MEMBER LOIS PORCH ABSTAINING.

5.b. 2010-Case E

The Commission was informed that the previous owners of Pro Nails By Vu, Sioux Falls, did not appeal the Commission's revocation of their salon license. Instead, the salon was opened as Pro Nails by a new owner. The previous owners work in the new salon at the same location.

The Commission reviewed a letter from Attorney Daniel Nichols, representing the former owners of Pro Nails By Vu salon, asking for input when his clients may apply for reinstatement of their salon license.

IT WAS MOVED BY PAT CLARK, SECONDED BY ILA DAVIS, THAT JOHN, AHN AND KRISTINA VU SHOULD WAIT FIVE YEARS BEFORE APPLYING FOR REINSTATEMENT OF THEIR SALON LICENSE. THE MOTION PREVAILED ON A VOICE VOTE WITH VIOLATIONS COMMITTEE MEMBER LOIS PORCH ABSTAINING. (Note: At the May 9, 2011 meeting, action was taken by the Commission to rescind this motion, as it was pointed out that the Commission should not have taken action prior to receiving an application for licensure.)

IT WAS MOVED BY KORY MCKAY, SECONDED BY PAT CLARK, TO AUTHORIZE WITNESS FEES AND MILEAGE FOR GAYLA AND EMILY WIPF, WHO WERE WITNESSES AT THE

HEARING FOR 2010-CASE E. THE MOTION PREVAILED ON A VOICE VOTE WITH VIOLATIONS COMMITTEE MEMBER LOIS PORCH ABSTAINING.

5.c. 2010-Case I - Update

The Commission was informed that oral arguments will be held in Watertown later in April on the appeal of 2010-Case I, Colorful Nails, Watertown.

5.d. 2010-Case L - Update

The Commission was informed that the Commission's order has been complied with in regard to 2010-Case L, Da-Vi Nails, Spearfish.

OLD BUSINESS

6. Alternative Locations for State Board Exams

Due to the lengthy agenda, it was suggested that Item 6 - Alternative Locations for State Board Exams be deferred to the May meeting.

IT WAS MOVED BY PAT CLARK, SECONDED BY KORY MCKAY, TO DEFER DISCUSSION OF AGENDA ITEM 6 - ALTERNATIVE LOCATIONS FOR STATE BOARD EXAMS. THE MOTION PREVAILED ON A VOICE VOTE.

7. Waiver of Cosmetology Practical Exam for Certain Reciprocity Applicants

As a follow-up to action taken by the Commission during the February 8, 2011 special meeting, there was discussion about offering a waiver of the practical exam for certain reciprocity applicants. It was noted that 9 states currently do not have a State Board-administered practical examination for cosmetology. Following discussion, IT WAS MOVED BY PAT CLARK, SECONDED BY KORY MCKAY, TO WAIVE THE COSMETOLOGY PRACTICAL FOR RECIPROCITY APPLICANTS WHO HAVE NOT PREVIOUSLY TAKEN A PRACTICAL EXAM ADMINISTERED BY A DIFFERENT STATE BOARD OF COSMETOLOGY (OR ITS REPRESENTATIVES) WITH THE FOLLOWING CONDITIONS TO BE MET BY THE APPLICANT:

1. PROVIDES WRITTEN PROOF OF AT LEAST 3 YEARS OF COSMETOLOGY EXPERIENCE;
2. TAKES THE COMMISSION'S SAFETY & SANITATION/STATE LAWS COURSE TO BE ADMINISTERED BY A MEMBER OF THE COMMISSION STAFF;
3. TAKES AND PASSES THE SOUTH DAKOTA COSMETOLOGY LAWS/RULES EXAM, TO BE ADMINISTERED BY A MEMBER OF THE STAFF; AND
4. CERTIFICATIONS FROM STATE(S) WHERE THE INDIVIDUAL HAS BEEN PREVIOUSLY LICENSED STATE THE INDIVIDUAL HAD NO VIOLATIONS IN THAT STATE.

It was noted that the staff in Pierre or the inspectors located throughout the state can administer the Safety & Sanitation/State Laws Course and the State Laws/Rules exam.

THE MOTION PREVAILED ON A VOICE VOTE.

8. April 2 & 3, 2011 NIC Region Meeting Report

President Nora Slykhuis and Executive Director Kate Boyd reported on their attendance at the April 2 & 3, 2011 NIC Region Meeting they attended in Nashville, Tennessee. Both reported that the agenda was excellent with many subjects of interest to the states. Copies of the various meeting hand-outs were shared with the Commission. Many of the agenda topics pertained to individuals trying to fraudulently obtain a license through fraudulent documentation, taking tests for someone else, cheating, etc. Additionally, there was discussion about appropriate sanctions for violations, working on high risk clients, Brazilian blow outs, and lash extensions. There was also a round-table discussion in which a variety of topics were discussed. Kate Boyd also reported that she was asked to serve on the committee of State Board Administrators to plan the Administrators meeting that will precede the NIC Conference at the end of August in Florida.

NEW BUSINESS

9. SOUTH DAKOTA COSMETOLOGY SCHOOLS

9.a. Black Hills Beauty College-Sioux Falls - Application for School License Renewal

The Commission reviewed the application received from Black Hills Beauty College-Sioux Falls, for renewal of their school license. IT WAS MOVED BY KORY MCKAY, SECONDED BY PAT CLARK, TO APPROVE THE SCHOOL LICENSE RENEWAL APPLICATION OF BLACK HILLS BEAUTY COLLEGE-SIOUX FALLS. THE MOTION PREVAILED ON A VOICE VOTE.

9.b. Desaree & Company School of Beauty - Application for School License Renewal

The Commission reviewed the application received from Desaree & Company School of Beauty, Sturgis, for renewal of their school license. IT WAS MOVED BY ILA DAVIS, SECONDED BY PAT CLARK, TO APPROVE THE SCHOOL LICENSE RENEWAL APPLICATION OF DESAREE & COMPANY SCHOOL OF BEAUTY, STURGIS. THE MOTION PREVAILED ON A VOICE VOTE.

9.c. Desaree & Company School of Beauty - Provider Application for 8-Hour Electric File Continuing Education

The Commission reviewed a provider application from Desaree & Company School of Beauty for the 8-Hour Electric File Continuing Education. IT WAS MOVED BY KORY MCKAY, SECONDED BY LOIS PORCH, TO APPROVE THE PROVIDER APPLICATION FOR 8-HOUR ELECTRIC FILE CONTINUING EDUCATION FROM DESAREE & COMPANY SCHOOL OF BEAUTY, STURGIS. THE MOTION PREVAILED ON A VOICE VOTE.

9.d. Headlines Academy, Inc., Rapid City - Provider Application for 8-Hour Electric File Continuing Education

The Commission reviewed a provider application from Headlines Academy, Inc., Rapid City for the 8-Hour Electric File Continuing Education. IT WAS MOVED BY KORY MCKAY, SECONDED BY PAT CLARK, TO APPROVE THE PROVIDER APPLICATION FOR 8-HOUR ELECTRIC FILE CONTINUING EDUCATION FROM HEADLINES ACADEMY, INC., RAPID CITY. THE MOTION PREVAILED ON A VOICE VOTE.

9.e. Headlines Academy, Inc., Rapid City - Provider Application for 16-Hour Microdermabrasion Continuing Education

The Commission reviewed a provider application from Headlines Academy, Inc., Rapid City for the 16-Hour Microdermabrasion Continuing Education. IT WAS MOVED BY LOIS PORCH, SECONDED BY KORY MCKAY, TO APPROVE THE PROVIDER APPLICATION FOR 16-HOUR MICRODERMABRASION CONTINUING EDUCATION FROM HEADLINES ACADEMY, INC., RAPID CITY. THE MOTION PREVAILED ON A VOICE VOTE.

9.f. Headlines Academy, Inc., Rapid City - Request for Instructor Continuing Education Approval

The Commission reviewed a request from Headlines Academy, Inc., Rapid City for approval of their proposed 2011 Instructor Continuing Education. IT WAS MOVED BY KORY MCKAY, SECONDED BY LOIS PORCH, TO APPROVE THE REQUEST FROM HEADLINES ACADEMY, INC., RAPID CITY FOR THEIR PROPOSED 2011 INSTRUCTOR CONTINUING EDUCATION. THE MOTION PREVAILED ON A VOICE VOTE.

9.g. Stewart School - Esthetics Field Trip Approval Request

The Commission reviewed a request from Stewart School, Sioux Falls, for approval of their proposed esthetics field trips. IT WAS MOVED BY LOIS PORCH, SECONDED BY ILA DAVIS, TO APPROVE THE REQUEST FROM STEWART SCHOOL, SIOUX FALLS, FOR APPROVAL OF THEIR PROPOSED 2011 ESTHETICS FIELD TRIPS. THE MOTION PREVAILED ON A VOICE VOTE.

10. NIC NEWS

10.a. Cosmetology Written & Practical Exam Changes Effective June 1, 2011

The Commission members were given copies of the new NIC Cosmetology written and practical exam changes Candidate Information Bulletins (CIB). The changes will become effective June 1, 2011.

10.b. Nail Technician Written Candidate Information Bulletin Updated

Copies of the newly updated NIC Nail Technician Written Candidate Information Bulletin (CIB) were passed out to the Commission. The only changes were updated references to the Milady textbooks.

10.c. NIC Notice of Exam Fee Increase in 2013

Copies of the NIC Memorandum regarding the exam fee increase in 2013 were included in the Commission meeting packets.

10.d. NIC 2010 Pass/Fail Rates for Nation & South Dakota

Copies of the NIC 2010 Pass/Fail Rates for the Nation and South Dakota were included in the Commission meeting packets. The report showed that South Dakota is right in line with the national averages.

11. INFORMATION HANDOUTS

The following informational items were included in the meeting packets:

- a. HIV/AIDS Discrimination in Occupational Training & State Licensing
- b. Conducting the Public's Business In Public (A guide to South Dakota's Open Meetings Law Revised November 2010)
- c. Updated Commission & Staff Contact Information

12. Other Business - N/A

13. Upcoming Meeting Dates

The Commission was reminded of the following upcoming meeting dates:

May 9 & 10, 2011 - State Board Exams & Commission Meeting (Meeting at 4:30 pm on Monday, May 9) - Pierre

Adjournment

IT WAS MOVED BY LOIS PORCH, SECONDED BY KORY MCKAY, TO ADJOURN. THE MOTION PREVAILED ON A VOICE VOTE.

The meeting adjourned at 8:05 p.m.

Respectfully submitted by:

Kate Boyd, Recording Secretary

and

Pat Clark, Secretary-Treasurer

Attachment 1

Executive Director's Report - April 11, 2011

1. RUDE PHONE CALLERS

There has been a dramatic increase in rude phone callers to our office in recent months. In late January the Commission was emailed the details of one such case. Shown below are examples of other types of irate phone calls we have received since then:

A. Caller was rude because she had mailed her license renewal 2 days ago and still had not received her license in the mail. Our response was to tell the caller that renewals can take 7-10 days. *Note: While we have already printed our licenses for 2011, I suggest that when we print the 2012 licenses, we include a statement on the renewal form stating that it will be 7-10 days for receipt of the new license.*

B. We received an irate phone call last week from an individual who had not yet received her Admission Notice for the March 8 State Board exams. While double-checking her mailing address it was learned that she had moved recently and had failed to notify our office of her new address. *Note: When an individual is scheduled for State Boards, we mail them a notice of their tentative exam date and tell them that if they move before a certain date (the date we will be mailing Admission Notices) they need to notify our office.*

C. Holly fielded a phone call on Feb 28 from a cosmetology reciprocity applicant scheduled for State Board exams on March 7. This individual was upset about the nail portion of the exam. Holly kept referring her to the Candidate Information Bulletin she received in the mail, but the individual kept accusing Holly of not helping her and not understanding her question. The individual finally stated she does not know how to do a sculpted nail. *Note: We are not comfortable advising anyone about the specific details of the practical examination and would like to simply tell State Board applicants to read their Candidate Information Bulletin, and if they still don't understand, they should contact their school for further instructions.*

In light of the increase in rude phone callers lately, I have advised Holly that, (1) she should direct all reciprocity phone calls to me, and (2) if anyone treats her rudely on the telephone, she should transfer those phone calls to me as well.

2. NIC FEE INCREASE

Enclosed with the Commission packets is notice from NIC that the fees for the written and practical exams will increase in 2013 from \$15 each to \$18 for the written exam and \$20 for the practical exam.

3. NIC ADMINISTRATION OF STATE LAWS EXAMINATION

On February 14, I participated in a web-based meeting with two representatives from Schroeder Measurement Technologies regarding their administration of our State Laws examination. Minor changes were made to some of the questions to put them in the same format as the NIC theory examinations. I was assured that the State Laws test booklets will be ready for use in our May 2 & 3, 2011 State Board Examinations.

4. SCHEDULING OF RECIPROCITY APPLICANTS FOR STATE BOARD EXAMS

I am seeking guidance from the Commission on the latest possible time to schedule a reciprocity applicant for future State Board Exams. We have an applicant who was issued a temporary nail technician license and scheduled for State Boards on March 9. She received her State Board packet, including State Laws/Rules book on February 25 -- we had just received her completed paperwork the previous day. She phoned on February 25 and stated that she won't be ready to take the exam 13 days later and is requesting that the Commission

grant her an extension of her temporary nail technician license and allow her to take State Boards the next time (after March 9) that we test nail technician candidates.

5. BUSINESSES SELLING FLAT IRONS IN MALL KIOSKS

Discussion on businesses that sell flat irons in mall kiosks.

6. CREDIT FOR PREVIOUS HOURS FOLLOWING LAPSE IN EDUCATION

I am seeking guidance from the Commission about individuals who re-enroll in cosmetology school after a lapse in their education. I suggest the Commission adopt some kind of policy such as:

| Lapse in Education | Credit of Prior Education Hours |
|--------------------|---------------------------------|
| 0.1 - 5.0 years | 100% |
| 5.1 - 10.0 years | 50% |
| Over 10 years | No credit |

7. INSPECTOR STATUS

Susan O'Neill resigned her position as the Western Area Inspector in February, 2011. President Nora Slykhuis and Executive Director Kate Boyd interviewed applicants on March 17, 2011. Georgia Linn from Black Hawk was offered the position and began her employment on April 4, 2011.

8. ON-LINE RENEWAL OF LICENSES & COMPUTER CONVERSION

Computer programming will likely begin in the near future to allow licensees to renew their licenses on-line through the use of a credit or debit card. BIT staff will be doing the programming. The estimated cost of this project is \$43,200.

We have also been advised that we are outgrowing our current Access (software) database. The second phase of this project would be to move our database to a different type of software. At the same time, programming can be done so that our inspectors can use laptop computers to perform their inspections. They would each have a small printer to print out the inspection report to give to the salon or booth owner. The inspectors would then, at the end of the day or week, connect via the internet to our database and upload their inspection reports directly to the individual file of the salon or booth. The estimate of the programming to accomplish this is \$35,520, with approximately \$850-\$1,000 for each laptop computer/printer for the inspectors.