

SOUTH DAKOTA COSMETOLOGY COMMISSION MEETING MINUTES

May 9, 2011

Call Meeting to Order

The regular meeting of the Cosmetology Commission was called to order by President Nora Slykhuis on Monday, May 9, 2011 at 4:40 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: Attorney Aaron Arnold and Executive Director Kate Boyd.

2. Minutes of the April 11, 2011 Meeting

Attorney Aaron Arnold informed the Commission of a needed amendment to the April 11, 2011 Meeting Minutes. In response to a request from the attorney representing Pro Nails By Vu owners, the Commission had passed a motion stating that the owners should wait 5 years before applying for a new salon license. Attorney Arnold stated that the Commission should not take action on this or any future licensing requests without having first received an application for licensure. IT WAS MOVED BY ILA DAVIS, SECONDED BY PAT CLARK TO AMEND THE MINUTES OF THE APRIL 11, 2011 MEETING TO RESCIND THE MOTION REGARDING PRO NAILS BY VU LICENSURE TIMELINE, SINCE THE COMMISSION ACTED WITHOUT RECEIVING AN APPLICATION FOR LICENSURE. THE MOTION PREVAILED ON A VOICE VOTE.

IT WAS MOVED BY LOIS PORCH, SECONDED BY KORY MCKAY, TO APPROVE THE MINUTES OF THE APRIL 11, 2011 MEETING AS AMENDED. THE MOTION PREVAILED ON A VOICE VOTE.

3. Treasurer's Report

Secretary-Treasurer Pat Clark reported that as of April 30, 2011, the available budget was \$57,765.64, and the cash center balance was \$198,146.49.

IT WAS MOVED BY KORY MCKAY, SECONDED BY LOIS PORCH, 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. An updated Director's Report was handed out at the meeting and is included with these Minutes as Attachment 1. The report included the following:

(1) Commission Reappointment - Pat Clark was reappointed as a public member of the Commission for the term April 15, 2011 - April 14, 2014.

(2) Department of Labor and Regulation Executive Directors' Meeting - A meeting was held in April of the Executive Directors who serve the various boards and commission of the Department of Labor and Regulation .

(3) OSHA Health Alert-Hair Smoothing Products That Could Release Formaldehyde - Copies of this report were passed out to the Commission members for their information and review.

(4) Instructor Continuing Education - There is a possibility that cosmetology school instructors could obtain their 12 hours of instructor continuing education from the technical schools in Sioux Falls and Rapid City.

(5) Headlines Academy - Nail Technician Program - Headlines Academy has contacted the Commission office to indicate that they intend to increase their nail technician education from 400 to 600 hours.

5. Disciplinary Actions

Case 2011-A - Star Nails - Huron

The Commission was presented a proposed consent agreement for Case 2011-A - Star Nails - Huron, in which an unlicensed individual was performing nail technician services on a client.

IT WAS MOVED BY PAT CLARK, SECONDED BY KORY MCKAY TO GO INTO EXECUTIVE SESSION FOR DELIBERATIVE PURPOSES OF CASE 2011-A - STAR NAILS - HURON. THE MOTION PREVAILED ON A VOICE VOTE.

IT WAS MOVED BY PAT CLARK, SECONDED BY KORY MCKAY TO END EXECUTIVE SESSION. THE MOTION PREVAILED ON A VOICE VOTE.

IT WAS MOVED BY KORY MCKAY, SECONDED BY PAT CLARK, TO APPROVE THE PROPOSED CONSENT AGREEMENT THAT HAS BEEN SIGNED BY CYNTHIA HOANG, OWNER OF STAR NAILS, HURON. THE CONSENT AGREEMENT INCLUDES: (1) ADDITIONAL INSPECTIONS FOR ONE YEAR AT A ONE-TIME COST OF \$350; (2) CYNTHIA HOANG TO PAY \$50 TO TAKE AND PASS THE SAFETY/SANITATION/STATE LAWS COURSE; (3) SUSPENSION OF THE SALON LICENSE AND CYNTHIA HOANG'S NAIL TECHNICIAN FOR ONE WEEK. THE MOTION PREVAILED ON A VOICE VOTE.

Case 2010-G - Nails Plus - Sioux Falls

The attorney representing Nails Plus had requested that the salon be allowed to have their license suspended on a different set of dates instead of June 3-10, 2011. The Commission did not take any action on this request.

Re-inspection Fee

There was discussion about the \$50 re-inspection fee that is contained in the Cosmetology Commission laws and administrative rules. The re-inspection fee has not been imposed in the past. IT WAS MOVED BY LOIS PORCH, SECONDED BY KORY MCKAY, TO BEGIN CHARGING THE \$50 FEE FOR RE-INSPECTION OF SALONS & BOOTHS THAT FAIL THEIR INSPECTION. THE \$50 FEE NEEDS TO BE PAID WITHIN 30 DAYS OF NOTIFICATION OF THE FAILED INSPECTION. THE MOTION PREVAILED ON A VOICE VOTE.

Executive Director Kate Boyd was directed to draft a letter for review by Attorney Aaron Arnold explaining the re-inspection fee to the salon/booth owners that fail their inspection.

OLD BUSINESS

6. Alternative Locations for State Board Exams

President Nora Slykhuis and Executive Director Kate Boyd reported on their visits to Western-Dakota Technical Institute and Southeast Technical Institute in Sioux Falls. Both facilities had classroom space that would be adequate to conduct State Board examinations in the future. Nora and Kate had also met with Schroeder Measurement Technologies representatives at the recent NIC Region Meeting in Nashville to review the computerized testing option for both the written and practical exams. We could use the computer labs at the tech schools to administer the NIC theory and State laws exams and our practical examiners could each use a laptop computer or I-pad to score the practical exam. The additional cost for the computerized testing would be \$10 each for the written and practical exams. By doing the computerized testing, we would eliminate any issues with exam security, since no paper exams would be transported around the state and we would have the results at the end of the test day. This would enable us to get the test results and licenses mailed the next day that the staff is in the office.

The Commission was given several handouts, including: a cost comparison estimate of testing in Pierre versus in Rapid City, Sioux Falls, and Watertown; cosmetology school start and tentative finish dates, and a working calendar for 2012 tentative testing dates/locations.

It was agreed that we will continue to administer esthetics testing in Pierre, during January and July. At that same time, nail technician exams will also be held. Nora and Kate commented that the tech schools can most easily accommodate our testing requirements on Saturday instead of weekdays. Considerable time was spent discussing a potential schedule for testing in the various cities. It was agreed that Executive Director Kate Boyd would contact the cosmetology schools to try to determine how many graduating cosmetology students they will have each month in the late Fall of 2011 through 2012. The Commission will use that information to develop the 2012 testing schedule.

7. Administrative Rules Changes - Consider Fee Increase to Cover Upcoming NIC Exam Administration Cost Increase

At the previous meeting, the Commission had been informed that beginning in 2013 NIC will increase their exam fees from \$15 each for the written and practical exams to \$18 and \$20 respectively. That will result in an \$8 increase per candidate. If we undertake computerized testing, there will also be increased charges. However, the applicants will not have the expense of traveling to Pierre for their exams. With the additional charges for examinations in the future, the Commission reviewed the Current Fee Schedule, including the maximum amount that could be charged by our laws and the current amount being charged by administrative rule.

IT WAS MOVED BY PAT CLARK, SECONDED BY KORY MCKAY, TO PROPOSE THE FOLLOWING ADMINISTRATIVE RULES CHANGES REGARDING FEES:

EXAM FEES - INCREASE FROM \$80 TO \$100

RETAKE FEE - 1 TEST - INCREASE FROM \$40 TO \$60

RETAKE FEE - 2 TESTS - INCREASE FROM \$50 TO \$70

RETAKE FEE - 3 TESTS - INCREASE FROM \$60 TO 80

COSMETOLOGIST, NAIL TECHNICIAN, ESTHETIC LICE RENEWAL - INCREASE FROM \$20 TO \$25

INSTRUCTOR LICENSE - INCREASE FROM \$25 TO \$35

THE MOTION PREVAILED ON A VOICE VOTE.

NEW BUSINESS

8. Stewart School - Application or Renewal of School License

The Commission reviewed the application for renewal of the Stewart School License. IT WAS MOVED BY KORY MCKAY, SECONDED BY LOIS PORCH, TO APPROVE THE STEWART SCHOOL LICENSE. THE MOTION PREVAILED ON A VOICE VOTE.

9. Microdermabrasion Provider Application - Ramona Reicherts

The Commission reviewed an application from Ramona Reicherts to be an approved provider of the 16-hour microdermabrasion required by the Commission in order for an esthetician or cosmetologist to be certified to perform that service on clients. IT WAS MOVED BY LOIS PORCH, SECONDED BY KORY MCKAY, TO APPROVE THE MICRODERMABRASION PROVIDER APPLICATION RECEIVED FROM RAMONA RECHERTS. THE MOTION PREVAILED ON A VOICE VOTE.

10. 2011 School Visits - Do We Want to Do Visits this Year, and if so, When?

The consensus of the Commission was to not do visits to the cosmetology schools this year. Instead, with exams taking place in Sioux Falls, Rapid City, and Watertown in the future, school visits can be held in conjunction with exam dates.

11. August 27-29 2011 NIC Conference & August 26-27, 2011 State Administrators Meeting - Fort Lauderdale, Florida - Who Should Attend?

The consensus of the Commission was to request out-of-state travel approval for President Nora Slykhuis, Vice President Lois Porch, and Executive Director Kate Boyd to attend the 2011 NIC Conference.

12. Other Business - N/A

13. Upcoming Meeting Dates

The Commission was reminded of the following upcoming meeting dates: July 11 & 12, 2011 - State Board Exams & Commission Meeting (Meeting at 4:30 pm on Monday, July 11) - 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 7:45 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.