

SOUTH DAKOTA COSMETOLOGY COMMISSION MEETING MINUTES

September 14, 2010

1. Call Meeting to Order

The regular meeting of the Cosmetology Commission was called to order by President Nora Slykhuis on Tuesday, September 14, 2010 at 4:00 p.m. in the Cosmetology Commission Office, Pierre, South Dakota.

2. Roll Call

Attendance was taken by Vice President Lois Porch, with the following members present: Ila Davis, Kory McKay, Lois Porch, and Nora Slykhuis. Staff present: Executive Director Kate Boyd, Administrator Todd Kolden, and Attorney Aaron Arnold.

3. Minutes of July 14, 2010 Meeting

IT WAS MOVED BY KORY MCKAY, SECONDED BY LOIS PORCH, TO APPROVE THE MINUTES OF THE JULY 14, 2010 MEETING AS PRESENTED. THE MOTION PREVAILED ON A VOICE VOTE.

4. Treasurer's Report

Lois Porch reported that as of August 31, 2010 the available budget was \$1`80,925.55, and the cash center balance was \$140396.20.

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

5. Executive Director's Report

The Executive Director's written report is incorporated as Attachment 1. The report included:

Duplicate Licenses - Information on an individual who requested three separate duplicate licenses in recent months. She stated she had left her license in salons when moving to a new salon. The third request was denied by the staff, as it appeared the individual was negligent in repeatedly leaving her license in a salon where others may be tempted to try to work under her license. Executive Director Kate Boyd asked the Commission to establish a policy with regard to the issuance of duplicate licenses. Following discussion, IT WAS MOVED BY ILA DAVIS, SECONDED BY LOIS PORCH, TO ADOPT A POLICY TO ALLOW A LICENSEE TO PURCHASE ONE DUPLICATE LICENSE PER YEAR. FUTURE REQUESTS DURING THAT RENEWAL YEAR WILL REQUIRE A WRITTEN REQUEST EXPLAINING WHY THE ADDITIONAL DUPLICATE LICENSE IS NEEDED. THE MOTION PREVAILED ON A VOICE VOTE.

Application for Testing vs Application for Licensing – We have been advised by Department of Labor attorneys that we cannot request a social security number on an application for testing. We can and are required to request social security numbers on license applications. Further, we need to discontinue the use of social security numbers on NIC tests. Some other states have also discontinued the use of social security numbers for NIC test administration. In the future we will use the applicant's 5-digit license number assigned by our database, followed by the year on the license.

Building Sign – The new sign has been installed on the outside of our building and should help individuals more easily find our office.

6. Disciplinary Actions

Case 2010-G - Denial of Nail Technician License Pending Violations Investigation - The Violations Committee and staff had denied the issuance of a nail technician to Sandra Huynh, due to a pending violations investigation, Case 2010-G. Commission confirmation of this decision was requested at this time. IT WAS MOVED BY KORY MCKAY, SECONDED BY ILA DAVIS, TO DENY ISSUANCE OF A NAIL TECHNICIAN LICENSE TO SANDRA HUYNH, PENDING THE OUTCOME OF A VIOLATIONS INVESTIGATION. THE MOTION PREVAILED ON A VOICE VOTE.

The 9:00 a.m., September 15, 2010 hearing in Case 2010-G was cancelled, pending further evaluation by the Violations Committee. This case will be presented to the Commission in the near future.

Case 2010-E - Violations Hearing Scheduled for September 15, 2010 – A violations hearing had been scheduled for Case 2010-E. Meanwhile, the attorney representing the individual & salon involved in this case has submitted two motions to the Commission for consideration.

The first motion was for a change of venue to have the hearing in Sioux Falls instead of Pierre. IT WAS MOVED BY LOIS PORCH, SECONDED BY ILA DAVIS, TO DENY THE CHANGE OF VENUE MOTION. THE MOTION PREVAILED ON A VOICE VOTE.

The second motion was for a continuation of the hearing for a period of 60 days. IT WAS MOVED BY KORY MCKAY, SECONDED BY LOIS PORCH, TO GRANT THE MOTION FOR A CONTINUANCE IN THIS CASE TO NOVEMBER, 2010. THE MOTION PREVAILED ON A VOICE VOTE.

The November hearing was tentatively set for Wednesday, November 17, 2010 at 9:00 a.m. (Note: The hearing was later scheduled for Tuesday, November 16, 2010 at 1:00 p.m. That will allow the witnesses in this case to travel to Pierre for an afternoon hearing and home the same day.)

Case 2010-I - Violations Hearing – The Commission was reminded that a hearing will be held on September 15, 2010 at 11:00 a.m. in the Kneip Building to hear Case 2010-I.

7. OLD BUSINESS

7.a. State Laws Exam – Results of July 14 Commission Review

The Commission and office staff had each independently reviewed the current State Laws/Rules Exam during the July 14, 2010 Commission meeting. The purpose of the review was to arrive at consensus of the 25 most important questions so that they can be forwarded to

Schroeder Measurement Technologies (SMT) to be incorporated with the NIC theory exam. The tabulation results clearly showed the 25 most important questions. This would allow us to have the nail technician exam translated into Vietnamese for those individuals who have difficulty reading/writing English.

There was discussion about how this will work with including the State laws questions with the NIC theory test. It is our understanding that there will be a separate test booklet for the laws test, although the answers will be done on the theory exam answer sheet. SMT officials had earlier indicated there would be no additional charge to include 25 State laws questions with the NIC exam, nor will there be a charge for occasional changes in the laws/rules test questions. There may be a fee to initially translate our State laws questions into Vietnamese. The cost of obtaining the theory/laws booklets would be the same as for the English version.

IT WAS MOVED BY LOIS PORCH, SECONDED BY KORY MCKAY TO SEND THESE 25 QUESTIONS TO SCHROEDER MEASUREMENT TECHNOLOGIES FOR INCORPORATION WITH THE NIC THEORY EXAM. THE MOTION PREVAILED ON A VOICE VOTE.

The Commission also discussed offering the written exams in Vietnamese (after the State Laws/Rules test has been incorporated with the NIC theory exam). IT WAS MOVED BY KORY MCKAY, SECONDED BY LOIS PORCH, TO OFFER THE NIC THEORY AND STATE LAWS/RULES EXAMS IN VIETNAMESE AFTER THE LAWS/RULES TEST HAS BEEN INCORPORATED WITH THE NIC THEORY EXAM. THE MOTION PREVAILED ON A VOICE VOTE.

7.b. Report of State Administrators Meeting & NIC Annual Conference

Executive Director Kate Boyd reported on her attendance at the State Administrators Meeting held prior to the NIC Annual Conference in Seattle. She stated that it was extremely worthwhile to meet many of the other State Administrators and discuss areas of common concern. Reciprocity issues and fraudulent documents to obtain licensure is a concern shared by all of the states. An extensive presentation was given by the representatives in attendance from Ohio regarding human trafficking and the investigation their State has been doing in this area. They plan to send letters to all other 49 Governors and Attorney Generals when their investigation is complete. There had also been a presentation about a proposed electronic system for the states to use to provide certifications, to try to catch some of the fraudulent documents that get submitted. The State Administrators re-elected Betty Abernathy of Wyoming to represent the group on the NIC Executive Board.

President Nora Slykhuis and Commission member Kory McKay added comments on the NIC Conference. Some of the sessions that had been attended by Kate, Nora and Kory included: Nail Salon Infection Control; Automated Inspection Tracking Systems; and breakout sessions on NIC Exam Administration Security, use of technology for communication, and basic & advanced esthetics licensing. Additionally, the proposed bylaws amendments were all voted down. This means that outgoing NIC President Jackie Dahlquist, from South Dakota, will be allowed to serve on the NIC Executive Board as the Immediate Past President. All three

attendees felt the conference had been excellent and well worth the time and expense to attend.

8. NEW BUSINESS

8.a. Lake Area Technical Institute School License Renewal Application

The Commission members reviewed the annual school license renewal application received by Lake Area Technical Institute. The school did not submit any field trip requests. IT WAS MOVED BY ILA DAVIS, SECONDED BY LOIS PORCH, TO APPROVE THE SCHOOL LICENSE RENEWAL APPLICATION SUBMITTED BY LAKE AREA TECHNICAL INSTITUTE. THE MOTION PREVAILED ON A VOICE VOTE.

8.b. Mobile Salons – Request from Jeri Cady to Allow Mobile Salons in South Dakota

The July Commission meeting, the Executive Director report had included information from an individual who had emailed the office to determine if mobile salons were allowable in South Dakota. The staff response had been no. Now the individual, Jeri Cady, has submitted a proposal to the Commission requesting that the Commission consider allowing this practice. The members of the Commission felt it would be difficult to regulate and inspect mobile salons. IT WAS MOVED BY LOIS PORCH, SECONDED BY KORY MCKAY, TO NOT ALLOW MOBILE SALONS IN SOUTH DAKOTA. THE MOTION PREVAILED ON A VOICE VOTE.

8.c. 2010 Annual Report

Executive Director presented copies of a spreadsheet she had developed in order to complete the Annual Report that is required to be submitted to the Department of Labor each year. The spreadsheet showed the monthly income by the various categories of income that the Commission has. No action was necessary, this was merely an informational report.

8.d. Tentative 2011 Schedule for Testing & Commission Meetings

A draft copy of the 2011 schedule for State Board Exams and Commission Meetings was included with the Commission meeting packets. The Commission members were asked to review the draft schedule in preparation for voting on the 2011 schedule at the October Commission meeting.

8.e. Esthetics Testing Dates

Executive Director Kate Boyd suggested that the Commission attempt to set two months each year in which esthetics testing will be done. Besides giving the staff direction, this will also assist the two schools in the State that teach esthetics in scheduling start/end dates for esthetics students. It was agreed to schedule esthetics testing at the time of the January and July State Board exams each year. We will, this year, have esthetics testing in October to accommodate students that are graduating in August & September.

9. Other Business – N/A

10. Upcoming Meeting Dates

The Commission was reminded of the following upcoming testing and meeting dates:

October 18-19, 2010 – State Board Testing & Commission Meeting

October 29, 2010 – Special Commission Meeting to Visit Black Hills Beauty College-Rapid City, Headlines Academy and Desaree & Company

November 14, 2010, 4:00 p.m. – Long-Term Planning Meeting

November 15-16, 2010 – State Board Testing & Commission Meeting & Violations Hearing

Lois Porch commented that she would be unable to present for the October 18 & 19 State Board exams and Commission Meeting. It was agreed to ask one of the inspectors to be an examiner for the practical exam. (Lois later checked her schedule and learned that she will be in attendance in October.)

Adjournment

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

The meeting adjourned at 5:30 p.m.

Respectfully submitted by:

Kate Boyd, Recording Secretary

and _____
Nora Slykhuis, President

Attachment 1

Executive Director's Report - September 14, 2010

DUPLICATE LICENSES

We have an individual who requested a duplicate license in March. We sent it to her and then in June she requested another duplicate license. In both instances she paid for the duplicate and it was mailed to her. She phoned our office in mid-August to request a third duplicate license. She initially told Holly that she didn't receive the duplicate we mailed to her in June. Due to the frequency of her requesting a duplicate, Holly turned the phone call over to me. Her story changed from "she didn't receive the June duplicate" to "she is leaving the salon in Sioux Falls on bad terms and moving back to Rapid City and doesn't want to go back in and get her license. I informed her that she needed to get her license from the salon and that she can't keep leaving her licenses and requesting a duplicate license every 3-4 months. (The salon she left in Sioux Falls has had violations of unlicensed individuals providing services.)

APPLICATION FOR TESTING VS APPLICATION FOR LICENSING

We have been advised by department attorneys that we cannot request a social security number on an application for testing. However, we can, and need to request social security numbers on license applications.

The social security number is used to determine if the individual owes back child support. By South Dakota law, individuals who seek professional licensing are not issued professional licenses if they owe child support. The social security number is how we match them up.

In the future, we also are not to use the social security number of an individual on tests that we send to NIC. I have checked with NIC and learned that some other states do not use the social security number of the applicants. We can create our own number (up to 9 digits) to use for this purpose. I suggest that we use the 5-digit license number that our database assigns to each applicant when we first enter their personal information into the database.

BUILDING SIGN

Our new sign has been installed on the outside of our building. This should help individuals more easily find our office.