

SOUTH DAKOTA COSMETOLOGY COMMISSION MEETING MINUTES

October 18, 2010

1. Call Meeting to Order

The regular meeting of the Cosmetology Commission was called to order by President Nora Slykhuis on Monday, October 18, 2010 at 4:00 p.m. in the Cosmetology Commission Office, Pierre, South Dakota.

2. 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, and Attorney Aaron Arnold.

3. Minutes of September 14 2010 Meeting

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

4. Treasurer's Report

Secretary-Treasurer Pat Clark reported that as of September, 2010 the available budget was \$164,476.30, and the cash center balance was \$155,049.18.

IT WAS MOVED BY KORY MCKAY, SECONDED BY ILA DAVIS, 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 - Executive Director Kate Boyd had her one-year anniversary with the Commission on October 1, 2010.

Secretarial Position – Executive Director Kate Boyd proposed that the Commission consider increasing the office secretarial position from 28 hours per week to full-time 40 hours per week. If approved by the Commission, this would require approval by the Secretary of Labor as well.

IT WAS MOVED BY ILA DAVIS, SECONDED BY LOIS PORCH, TO APPROVE THE INCREASE OF THE OFFICE SECRETARIAL POSITION FROM 28 HOURS PER WEEK TO 40 HOURS PER WEEK, IF APPROVED BY THE DEPARTMENT OF LABOR. THE MOTION PREVAILED ON A VOICE VOTE.

Laws Governing Violations Hearings – The commission packets included a copy of the laws governing violations hearings. Attorney Aaron Arnold had provided this packet for the commission's information and review prior to the two violations hearings scheduled for November 16, 2010.

Hair Extensions - A South Dakota newspaper recently contained an ad promoting a business offering European hair extensions. Director Boyd phoned the number listed and explained to

the owner that hair extensions can only be done in a licensed cosmetology salon by a licensed cosmetologist. The owner originally believed she could do this because it was legal in Florida. A follow-up letter was sent to the business owner reiterating the telephone conversation. Additionally the inspector has been asked to check out this location the next time she is in that community.

6. Disciplinary Actions

Case 2010-E - Motion to Appear Telephonically at November 16, 2010 Hearing - The attorney representing the individual involved in Case 2010-E, has filed a motion requesting that they appear telephonically instead of in person at the hearing on November 16, 2010.

IT WAS MOVED BY ILA DAVIS, SECONDED BY KORY MCKAY, TO DENY THE MOTION TO APPEAR TELEPHONICALLY AT THE VIOLATIONS HEARING ON NOVEMBER 16, 2010

Reciprocity Applicant Involved in Alleged Violation – An individual whose activity has resulted in a formal violations investigation, has applied for reciprocity. The Commission was asked to make a decision whether or not to proceed with this reciprocity application.

IT WAS MOVED BY KORY MCKAY, SECONDED BY PT CLARK, TO DENY THE RECIPROCITY APPLICATION, PENDING THE OUTCOME OF THE VIOLATION INVESTIGATION. THE MOTION PREVAILED ON A VOICE VOTE.

Possible Fraudulent License Renewal - The Commission office recently received three license renewal requests that may not be from the actual individuals whose names appear on the licenses. IT WAS MOVED BY ILA DAVIS, SECONDED BY KORY MCKAY, TO DELAY RENEWAL OF THESE LICENSES PENDING AND INVESTIGATION OF THE CIRCUMSTANCES SURROUNDING THE RENEWAL REQUESTS. THE MOTION PREVAILED ON A VOICE VOTE.

September 15, 2010 Hearing Re: Colorful Nails, Watertown - A violations hearing was held on September 15, 2010, regarding an unlicensed individual working as a nail technician at Colorful Nails, Watertown. The proposed decision from the Office of Hearing Examiners was reviewed by the Commission.

IT WAS MOVED BY ILA DAVIS, SECONDED BY KORY MCKAY, TO ACCEPT THE FINDINGS OF FACT AND CONCLUSIONS OF LAW IN THE MATTER OF COLORFUL NAILS, WATERTOWN. THE MOTION PREVAILED ON A VOICE VOTE, WITH VIOLATIONS COMMITTEE MEMBER LOIS PORCH ABSTAINING, AND PAT CLARK ABSTAINING SINCE SHE WAS NOT PRESENT FOR THE SEPTEMBER 15, 2010 HEARING.

IT WAS MOVED BY KORY MCKAY, SECONDED BY ILA DAVIS, TO APPROVE THE FINAL DECISION WITH THE FOLLOWING CHANGES & ADDITIONS INCORPORATED INTO THE DECISION:

THE SALON LICENSE SHALL BE SUSPENDED FOR 88 DAYS, WITH THE FIRST 14 DAYS OF CONSECUTIVE CLOSURE BEING DECEMBER 1-14, 2010 AND A SECOND 14 DAYS OF CONSECUTIVE CLOSURE BEING JUNE 15-29, 2011, WITH THE OTHER 60 DAYS OF THE SUSPENSION BEING HELD IN ABEYANCE UPON THE FOLLOWING CONDITIONS:

- THE SALON OWNER BE REQUIRED TO PAY \$50 TO TAKE THE SAFETY & SANITATION REVIEW COURSE;
- ADDITIONAL RANDOM INSPECTIONS FOR ONE YEAR, WITH THE SALON OWNER PAYING A ONE-TIME INSPECTION FEE OF \$350;
- THERE BE NO VIOLATIONS OF SOUTH DAKOTA COSMETOLOGY LAWS FOR A PERIOD OF ONE YEAR;
- OWNER TO REIMBURSE THE COMMISSION WITHIN 30 DAYS FOR THE ADDITIONAL INSPECTIONS AND HEARING EXPENSE;
- THAT LOC VAN TO AND COLORFUL NAILS NOT PERMIT LINH THI NGO TO WORK IN COLORFUL NAILS IN ANY CAPACITY UNLESS AND UNTIL SHE ACQUIRES A LICENSE FROM THE COMMISSION.

THE MOTION PREVAILED ON A VOICE VOTE WITH VIOLATIONS COMMITTEE MEMBER LOIS PORCH ABSTAINING, AND PAT CLARK ABSTAINING SINCE SHE WAS NOT PRESENT FOR THE SEPTEMBER 15, 2010 HEARING. (Note: Following the Commission Meeting, it was pointed out by Assistant Attorney General Aaron Arnold that Loc Van To's personal nail technician license cannot be made a part of the decision, since the notice of hearing did not include his personal license.)

IT WAS MOVED BY PAT CLARK, SECONDED BY ILA DAVIS, THAT MY LINH THI NGO NOT BE PERMITTED TO REAPPLY FOR RECIPROCITY UNTIL AT LEAST JUNE 1, 2011. THE MOTION PREVAILED ON A VOICE VOTE.

7. OLD BUSINESS

7.a. October 29, 2010 School Visits

Commission members were reminded that a special commission meeting will be held on October 29, 2010 to visit the school in the western part of the state - Black Hills Beauty College-Rapid City, Headlines Academy, Inc., and Desaree & Company School of Beauty.

7.b. Finalize 2011 Schedule for Testing & Commission Meetings

Proposed State Board Exam and Commission meeting dates had been briefly reviewed at the September 14, 2010 Commission meeting. The dates were presented to the Commission for

approval at this time, with the October dates being noted as tentative dates that will only be held if the number of State Board applicants necessitates exam dates in October.

IT WAS MOVED BY PAT CLARK, SECONDED BY LOIS PORCH, TO APPROVE THE 2011 STATE BOARD EXAM & COMMISSION MEETING DATES AS PRESENTED. THE MOTION PREVAILED ON A VOICE VOTE.

7.c. Request from Individual to Take Nail Theory Exam for the 9th Time

Thu Hoa Thi Ngo sent a written request to be allowed to take the nail technician theory examination for the 8th time. Earlier in the year the Commission had considered her request and suggested that she attend a South Dakota school for 100 additional hours of theory education. Ms. Ngo's letter stated that the South Dakota schools have declined her request to attend for 100 hours, so she attended a Minnesota school for the additional 100 hours.

IT WAS MOVED BY PAT CLARK, SECONDED BY KORY MCKAY, THAT THU HOA THI NGO SUBMIT VERIFICATION OF THE 100 HOURS OF THEORY EDUCATION SHE RECEIVED IN A MINNESOTA SCHOOL BEFORE GRANTING HER REQUEST TO RETEST FOR THE 8TH TIME. THE MOTION PREVAILED ON A VOICE VOTE.

8. NEW BUSINESS

8.a. Stewart School Request for Approval of Instructor Continuing Education

The Commission reviewed the request from Stewart School for approval of their proposed Instructor Continuing Education. While the course outline was well presented and appropriate in context, the Commission felt they needed more information on the two individuals listed as instructors for the continuing education. IT WAS MOVED BY KORY MCKAY, SECONDED BY PAT CLARK TO REQUEST BIOGRAPHICAL INFORMATION ON THE TWO INSTRUCTORS FOR THE STEWART SCHOOL INSTRUCTOR CONTINUING EDUCATION. THE MOTION PREVAILED ON A VOICE VOTE.

8.b. Discuss Format for November 14, 2010 Long-Term Planning Meeting

A brief discussion was held about the format for the November 14, 2010 Long-Term Planning Meeting. It was agreed the meeting would start at 4:00 p.m. and end no later than 8:00 p.m. Dinner will be brought in that evening. It was agreed that all members of the Commission will forward some items they would like placed on the agenda for the Long-Term Planning Meeting. At this time, it was suggested that the following items be discussed at the meeting: (1) Re-inspection fees, and (2) incorporating photo identification on licenses.

8.c. Consideration of Out-of-State School Transcript & Certification for an Applicant

Executive Director Kate Boyd asked the Commission to consider a school transcript and certification received from an esthetics applicant. This individual received 635??? Hours from an accredited school in Utah, but did not take State Boards there. She has moved to South

Dakota and wants to test here. The State of Utah will not certify school hours, only licensees. Kate indicated she spoke with the Utah Cosmetology Board and learned that, (1) no, they will not certify school hours, and (2) the school this individual attended is an accredited school in good standing with the State of Utah.

IT WAS MOVED BY LOIS PORCH, SECONDED BY KORY MCKAY, TO ACCEPT THE CERTIFICATION AND TRANSCRIPT RECEIVED FROM THE UTAH SCHOOL AND TO ALLOW THIS INDIVIDUAL TO TAKE HER ESTHETICS STATE BOARD EXAMINATION IN SOUTH DAKOTA. THE MOTION PREVAILED ON A VOICE VOTE.

9. Other Business – N/A

10. Upcoming Meeting Dates

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

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, 2010 – State Board Testing

November 16, 2010

8:00 - 9:30 a.m. - Commission Meeting

10:00 a.m. - 1st Violations Hearing

1:00 p.m. - 2nd Violations Hearing

November 17, 2010 - State Board Testing

Adjournment

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

The meeting adjourned at 6:15 p.m.

Respectfully submitted by:

Kate Boyd, Recording Secretary

and

Pat Clark, Secretary-Treasurer

Attachment 1

Executive Director's Report - October 18, 2010

ONE-YEAR ANNIVERSARY

October 1, 2010 was my one-year anniversary as your Executive Director. It has been a busy and enjoyable year. I have learned a great deal, but know there is still room for me to grow in this position. I extend my thanks to Commission members and DOL Administrator Todd Kolden for your support and guidance this past year. I look forward to working with all of you in the future.

SECRETARIAL POSITION HOURS

I would like to propose that the Commission consider increasing our secretarial position from 28 hours per week to full-time 40 hours per week. In addition to the Commission's approval, this would require approval by the Department of Labor as well. During the course of this past year, I have come to believe that this move would be in the best interest of the office and would help us to better serve the public.

LAWS GOVERNING VIOLATIONS HEARINGS

A copy of the laws governing violations hearings was enclosed with the Commission packets that were mailed on October 7, 2010. Commission members are encouraged to review this packet prior to the two violations hearings scheduled for November 16, 2010.

HAIR EXTENSIONS

Our office received in the mail recently an ad torn from a South Dakota newspaper promoting European hair extensions. The address shown is not a licensed cosmetology salon. I did phone the number listed and visited with the business owner and explained that hair extensions could only be done in licensed cosmetology salon by a licensed cosmetologist. The owner was of the opinion that she could do this, because she could do it in Florida without any licenses. I followed up with a letter to her and have asked the inspector to check this location out the next time she is in that city.

OFFICE COMPUTERS & BACKUP SYSTEM

The backup system for our computers is broken and not repairable. The State would like to have us on the State server, instead of having our own separate server in the office. We have been testing this, but the database was running very slowly, so they tried a different server, which apparently will work. Additionally, we were advised to replace both office computers. The new computers have arrived, but have not yet been set up. The cost for the computers is approximately \$1200