Meeting Agenda
SOUTH DAKOTA BOARD OF BARBER EXAMINERS
Governor's Inn — Kneip Room
700 W. Sioux Ave., Pierre, SD
June 4, 2018 1:00 p.m. CDT

Persons wishing to join the business meeting via teleconference will need to contact the Board Office at (605) 642-1600 by May 30, 2018 to arrange for a call-in number.

A. Call to Order
B. Roll Call
C. Introductions
D. Approval of agenda
E. Public Comment
F. Transition to Kate Boyd/Cosmetology Commission
G. Election of Officers
H. Approval of Minutes from August 28, 2017 Public hearing, August 28, 2017 Board Meeting
I. FY Financial Update
J. Inspection Update
K. Complaints/Investigations
L. Timeline policy for criminal records
M. Code of Conduct
N. Next Meeting Date
O. Any other business coming in between date of mailing and date of meeting
P. Adjournment
Meeting Minutes
SOUTH DAKOTA BOARD OF BARBER EXAMINERS
Teleconference
August 28, 2017 1:06 p.m. MDT

President DeHeer called the meeting to order at 1:06 p.m. MDT. DeHeer called the roll. A quorum was present.

Members Present: Darrell DeHeer, President, Kristy Wright, Secretary/Treasurer, Randy Scott, Member, Alex Jensen, Lay Member (joined at 1:15 p.m.)

Others in Attendance: Carol Tellinghuisen, Executive Secretary, Jill Lesselyoung, Executive Assistant, Spearfish; Graham Oey, Assistant Attorney General, Pierre, Angela Taylor, Stewart School, Sioux Falls.

Corrections or additions to the agenda: None

Approval of Minutes from June 5, 2017: Wright made a motion to approve the minutes. Scott seconded the motion. MOTION PASSED by unanimous roll call vote.

FY Financial Update: Lesselyoung reported fiscal yearend figures as of June 30, 2017: revenue of $24,730.16, expenditures of $28,111.71 and cash on hand of $45,331.46. Lesselyoung reported fiscal year to date figures as of July 31, 2017: revenue of $2,620.00, expenditures of $3,212.45 and cash on hand of $44,739.01. Scott made a motion to approve the financials. Wright seconded the motion. Motion carried by unanimous roll call vote.

Renewal Update: Lesselyoung reported the Board office processed 188 barber license renewals and 113 shop license renewals during FY 17. Some of these were late renewals from the prior fiscal year. There have been 10 new barber licenses issued in 2017.

Inspection Update: The Board members were provided an updated list of shops that need inspections for 2017.

Foreign Applicants: The Board office advised they had contacted and established services with Aequo International for education evaluations for foreign applicants. There have been two foreign applicants referred to the service.

Complaints/Investigations: The Board office was notified of an unlicensed barber advertising services on Facebook. With assistance from Oey, the Board office contacted the barber to advise of licensing requirements in South Dakota and offer their assistance. There are no other complaints.

Timeline policy for criminal records: The Board discussed a possible policy on a timeline reference for criminal records. Oey will look into further and the Board office will research. It will be discussed at a future date.
Code of Conduct FYI: Oey advised the State Board of Internal Control is working on a Code of Conduct for Boards and Commissions. He will update in the future.

Next Meeting Date: The Board office will send dates for a Spring meeting unless the Board needs to convene for a practical examination.

Any other business coming in between date of mailing and date of meeting: Angela Taylor with Stewarts School in Sioux Falls advised they are interested in starting a barber school in South Dakota.

Jensen made a motion to adjourn the meeting at 1:36 p.m. Scott seconded the motion. 
MOTION PASSED by unanimous roll call vote.

Respectfully submitted,

Carol Tellinghuisen
Executive Secretary
Board of Barber Examiners

Adjournment: 1:36 p.m.
The Board of Barber Examiners convened at 1:00 p.m. MDT on Monday, August 28, 2017 via teleconference.

The reason for adopting the proposed rules is to update rules following the passage of HB 1050 during the 2017 legislative session.


The effect of the rules will be remove references to apprentice barbers, update and remove language, update reference to Department of Labor and Regulation, and update laws implemented.

Members of the Board in Attendance: Darrell DeHeer, President, Kristy Wright, Secretary/Treasurer, Randy Scott, Member

Members of the Board Absent: Alex Jensen, Lay Member

Others in Attendance: Carol Tellinghuisen, Executive Secretary, Jill Lesselyoung, Executive Assistant, Spearfish; Graham Oey, Assistant Attorney General, Pierre, Angela Taylor, Stewart School, Sioux Falls.

Written Testimony

There was no written testimony to consider.

Oral Testimony

DeHeer called for any discussion from the Board members. There was no discussion. DeHeer called for any input from the public. Taylor advised she had no comments on the rules but was wanting to know if there may be a place for Stewarts to consider a barber school in South Dakota.

Scott made a motion to approve the rules as written. Wright seconded the motion. Motion carried by unanimous roll call vote.

Respectfully submitted,

Carol Tellinghuisen
Executive Secretary
Board of Barber Examiners

Adjournment: 1:05 p.m.
** 9/25/27
** 9/25/27
** 9/25/27
** 5/27
* 5/27
** 8/6/27
* 8/6/27
8/25.

B UNIT: 1032
COMP: 6593
COMP: 10320061804
ACCOUNT: 49
OTHER REVENUE
ACCOUNT: 4920
NONOPERATING REVENUE
ACCOUNT: 4920
NONOPERATING REVENUES
ACCOUNT: 4920
LICENSES, PERMITS & FEES
ACCOUNT: 4923
BUSINESS & OCCUP LICENSING (NON-GOVERNMENTAL)
ACCOUNT: 4923
BUREAU LICENSING FEES
ACCOUNT: 4923
NONPROFESSIONAL & LICENSING FEES
ACCOUNT: 4923
PROFESSIONAL & LICENSING FEES
ACCOUNT: 4923
COMPANY NO 6593

CURRENT MONTH
YEAR-TO-DATE

FOR PERIOD ENDING: 04/02/2018
STATE OF SOUTH DAKOTA
OFFICE OF THE UNIVERSITY OF SOUTH DAKOTA
Code of Conduct and Conflict of Interest Policy for Use By State Authority, Board, Commission, and Committee Members

Purpose

The purpose of this code of conduct and conflict of interest policy ("Code") is to establish a set of ethical principles and guidelines for members of state authorities, boards, commissions, or committees when acting within their official public service capacity. This Code applies to all appointed and elected members of state authorities, boards, commissions, and committees (hereinafter "Boards" and "Board member(s)").

Conflict of Interest for Board Members

Board members may be subject to statutory restrictions specific to their Boards found in state and federal laws, rules and regulations. Those restrictions are beyond the scope of this Code. Board members should contact their appointing authority or the attorney for the Board for information regarding restrictions specific to their Board.

General Restrictions on Participation in Board Actions

A conflict of interest exists when a Board member has an interest in a matter that is different from the interest of members of the general public. Examples of circumstances which may create a conflict of interest include a personal or pecuniary interest in the matter or an existing or potential employment relationship with a party involved in the proceeding.

Whether or not a conflict of interest requires a Board member to abstain from participation in an official action of the Board depends upon the type of action involved. A Board's official actions are either quasi-judicial or quasi-legislative. A quasi-judicial official action is particular and immediate in effect, such as a review of an application for a license or permit. In order to participate in a quasi-judicial official action of the Board, a Board member must be disinterested and free from actual bias or an unacceptable risk of actual bias. A Board member must abstain from participation in the discussion and vote on a quasi-judicial official action of the Board if a reasonably-minded person could conclude that there is an unacceptable risk that the Board member has prejudged the matter or that the Board member's interest or relationship creates a potential to influence the member's impartiality.

A quasi-legislative official action, also referred to as a regulatory action, is general and future in effect. An example is rule-making. If the official action involved is quasi-legislative in nature, the Board member is not required to abstain from participation in the discussion and vote on the action
unless it is clear that the member has an unalterably closed mind on matters critical to the disposition of the action.

“Official action” means a decision, recommendation, approval, disapproval or other action which involves discretionary authority. A Board member who violates any of these restrictions may be subject to removal from the Board to which the member is appointed.

**Contract Restrictions**

There are federal and state laws, rules and regulations that address conflict of interest for elected and appointed Board members in the area of contracts. As an initial matter, a Board 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 or the terms of a state contract. This prohibition is absolute and cannot be waived.

Members of certain Boards are required to comply with additional conflict of interest provisions found in SDCL Chapter 3-23 and are required to make an annual disclosure of any contract in which they have or may have an interest or from which they derive a direct benefit. The restrictions apply for one year following the end of the Board member’s term. The Boards impacted by these laws are enumerated within SDCL 3-23-10. For more information on these provisions, see the State Authorities/Boards/Commissions page in the Legal Resources section of the Attorney General’s website at: http://atg.sd.gov/legal/opengovernment/authorityboardscommission.aspx.

Absent a waiver, certain Board members are further prohibited from deriving a direct benefit from a contract with an outside entity if the Board member had substantial involvement in recommending, awarding, or administering the contract or if the Board member supervised another state officer or employee who approved, awarded or administered the contract. With the exception of employment contracts, the foregoing prohibition applies for one year following the end of the Board member’s term. However, the foregoing prohibition does not apply to Board members who serve without compensation or who are only paid a per diem. See SDCL 5-18A-17 to 5-18A-17.6. For more information on these restrictions see the Conflict of Interest Waiver Instructions and Form on the South Dakota Bureau of Human Resources website at: http://bhr.sd.gov/forms/.

Other federal and state laws, rules and regulations may apply to specific Boards. For general questions regarding the applicability of SDCL Chapter 3-23 or other laws, a Board member may contact the attorney for the Board. However, because the attorney for the Board does not represent the Board member in his or her individual capacity, a Board member should contact a private attorney if the member has questions as to how the conflict of interest laws apply to the Board member’s own interests and contracts.

**Consequences of Violations of Conflict of Interest Laws**

A contract entered into in violation of conflict of interest laws is voidable and any benefit received by the Board member is subject to disgorgement. In addition, a Board member who violates conflict of interest laws may be removed from the Board and may be subject to criminal prosecution. For example, a Board member may be prosecuted for theft if the member knowingly
uses funds or property entrusted to the member in violation of public trust and the use resulted in a direct financial benefit to the member. See SDCL 3-16-7, 5-18A-17.4, and 22-30-46.

**Retaliation for Reporting**

A Board cannot dismiss, suspend, demote, decrease the compensation of, or take any other retaliatory action against an employee because the employee reports, in good faith, a violation or suspected violation of a law or rule, an abuse of funds or abuse of authority, a substantial and specific danger to public health or safety, or a direct criminal conflict of interest, unless the report is specifically prohibited by law. SDCL 3-16-9 & 3-16-10.

Board members will not engage in retaliatory treatment of an individual because the individual reports harassment, opposes discrimination, participates in the complaint process, or provides information related to a complaint. See SDCL 20-13-26.

**Anti-Harassment/Discrimination Policy**

While acting within their official capacity, Board members will not engage in harassment or discriminatory or offensive behavior based on race, color, creed, religion, national origin, sex, pregnancy, age, ancestry, genetic information, disability or any other legally protected status or characteristic.

Harassment includes conduct that creates a hostile work environment for an employee or another Board member. 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 or rejection of the harassment is made either explicitly or implicitly the basis of or a condition of employment, appointment, or a favorable or unfavorable action by the Board member; or (2) 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 or discriminatory or offensive behavior may take different forms and may be verbal, nonverbal, or physical in nature. To aid Board members in identifying inappropriate conduct, the following examples of harassment or discriminatory or offensive behavior are provided:

- 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, displays, cartoons, images, lists, e-mails, or computer activity that reflects disparagingly upon race, color, religion, national origin, sex, age or disability.
The above cited examples are not intended to be all-inclusive.

A Board member who is in violation of this policy may be subject to removal from the Board.

**Confidential Information**

Except as otherwise required by law, Board 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.

**Reporting of Violations**

Any violation of this Code should be reported to the appointing authority for the Board member who is alleged to have violated the Code.