

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.

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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.

DRAFT

**SOUTH DAKOTA BOARD OF BARBER EXAMINERS
MINUTES OF PUBLIC HEARING**

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.

20:39:02:04, 20:39:03:01 to 20:39:03:06, inclusive, 20:39:04:01 to
20:39:04:03, inclusive, and 20:39:05:02

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

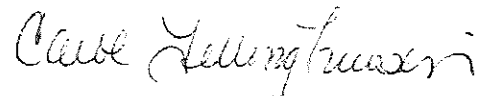
There was no written testimony to consider.

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.

STATE OF SOUTH DAKOTA
 REVENUE SUMMARY BY BUDGET UNIT
 FOR PERIOD ENDING: 04/30/2018

AGENCY	BUDGET UNIT	10	LABOR & REGULATION	BOARD OF BARBER EXAMINERS				
CENTER	COMP	ACCOUNT	DESCRIPTION	CURRENT MONTH	YEAR-TO-DATE			
COMPANY NO	6503		PROFESSIONAL & LICENSING BOARDS					
COMPANY NAME								
103200061804	6503	4293946	BARBER LICENSE FEES	2,661.00	8,694.00	*		
ACCT: 4293			BUSINESS & OCCUP LICENSING (NON-GOVERNMENTAL)	2,661.00	8,694.00	*		
ACCT: 42			LICENSES, PERMITS & FEES	2,661.00	8,694.00	**		
103200061804	6503	4920045	NONOPERATING REVENUES	.00	559.27			
ACCT: 4920			NONOPERATING REVENUE	.00	559.27	*		
ACCT: 49			OTHER REVENUE	.00	559.27	**		
CNTR: 103200061804				2,661.00	9,253.27	***		
COMP: 6503				2,661.00	9,253.27	****		
B UNIT: 1032				2,661.00	9,253.27	*****		

STATE OF SOUTH DAKOTA
MONTHLY OBJECT/SUB-OBJECT REPORT BY BUDGET UNIT
FOR PERIOD ENDING: 04/30/2018

AGENCY BUDGET CENTER-5	10 1032 10320	LABOR & REGULATION BOARD OF BARBER EXAMINERS BOARD OF BARBER EXAMINERS	COMP	ACCOUNT	DESCRIPTION	CURRENT MONTH	YEAR-TO-DATE
COMPANY NO	6503	PROFESSIONAL & LICENSING BOARDS					
103200061804	6503	F-T EMP SAL & WAGES				40.05	1,662.81
103200061804	51010300	BOARD & COMM MERS FEES				.00	1,020.00
ACCT: 5101		EMPLOYEE SALARIES				40.05	2,682.81
103200061804	6503	OASI-EMPLOYER'S SHARE				3.82	209.94
103200061804	6503	RETIREMENT-ER SHARE				2.41	99.86
103200061804	6503	HEALTH/LIFE INS.-ER SHARE				6.92	211.08
103200061804	6503	WORKER'S COMPENSATION				.08	3.04
103200061804	6503	UNEMPLOYMENT COMPENSATION				.01	.66
ACCT: 5102		EMPLOYEE BENEFITS				13.24	524.58
ACCT: 51		PERSONAL SERVICES				53.29	3,207.39
103200061804	6503	AUTO-PRIV (IN-ST.) H/RTE				76.44	1,927.80
103200061804	6503	LODGING/IN-STATE				.00	76.30
103200061804	6503	TAXABLE MEALS/IN-STATE				11.00	129.00
103200061804	6503	NON-TAXABLE MEALS/IN-ST				.00	92.00
103200061804	6503	AIR-COMM-OUT-OF-STATE				.00	49.87
ACCT: 5203		TRAVEL				87.44	2,274.97
103200061804	6503	MANAGEMENT CONSULTANT				1,562.24	15,730.13
103200061804	6503	WORKSHOP REGISTRATION FEE				.00	71.22
103200061804	6503	COMPUTER SERVICES-STATE				.00	34.07
103200061804	6503	BIT DEVELOPMENT COSTS				95.55	288.75
103200061804	6503	CENTRAL SERVICES				59.01	1,702.52
103200061804	6503	RENTS-PRIVATE OWNED PROP.				50.00	550.00
103200061804	6503	INS PREMIUMS & SURETY BDS				652.00	652.00
ACCT: 5204		CONTRACTUAL SERVICES				2,418.80	19,028.69
103200061804	6503	OPER TRANS OUT -NON BUDGT				.00	191.30
ACCT: 5228		NONOP EXP/NONBGTD OP TR				.00	191.30
ACCT: 52		OPERATING EXPENSES				2,506.24	21,494.96
COMP: 6503		PROFESSIONAL & LICENSING BOARDS				2,559.53	24,702.35
CENTER: 103200061804						2,559.53	24,702.35
B UNIT: 1032						2,559.53	24,702.35

STATE OF SOUTH DAKOTA
CASH CENTER BALANCES
AS OF: 04/30/2018

AGENCY: 10 LABOR & REGULATION
BUDGET UNIT: 1032 BOARD OF BARBER EXAMINERS

COMPANY	CENTER	ACCOUNT	BALANCE	DR/CR	CENTER DESCRIPTION
6503	103200061804	1140000	29,882.38	DR	BOARD OF BARBER EXAMINERS
COMPANY/SOURCE TOTAL 6503 618			29,882.38	DR *	
COMP/BUDG UNIT TOTAL 6503 1032			29,882.38	DR **	
BUDGET UNIT TOTAL 1032			29,882.38	DR ***	

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/authorityboardcommission.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.