

Meeting Minutes
SOUTH DAKOTA COSMETOLOGY COMMISSION
221 W. Capitol Ave, Suite 101, Pierre, South Dakota
April 17, 2020 (CDT)

President Crystal Carlson called the meeting to order at 10:00 am.

Secretary-Treasurer Tami Stokes read the roll and a quorum was established.

Members Present: Crystal Carlson
Renee Graf
Debbie Pageler
Annette Petersen
Tami Stokes

Members Absent: N/A

Others Present: Graham Oey, Senior Staff Attorney
Kate Boyd, Executive Director
Teresa Diederich, Program Assistant 1
Peggy Sproat, Paul Mitchell The School Rapid City
Desaree Dargatz, Paul Mitchell The School Rapid City
Stephanie Williams, Paul Mitchell The School Rapid City
Melissa Regan, Paul Mitchell The School Rapid City
Angela Larson, LATI
Liz Lloyd, LATI
Rachael Maag, LATI

Annette Petersen made a motion to approve the agenda as presented. Debbie Pageler seconded the motion. **MOTION PASSED.** (Carlson yea; Graf yea; Pageler yea; Petersen yea; Stokes yea).

Debbie Pageler pointed out two corrections to the minutes on page 6 where the second to the motion is not shown. Crystal Carlson made a motion to approve the minutes of the January 24, 2020 meeting as amended. Tami Stokes seconded the motion. **MOTION PASSED.** (Carlson yea; Graf yea; Pageler yea; Petersen yea; Stokes yea).

Treasurer Tami Stokes stated the available funds balance is \$104,554.84 and the cash center balance is \$129488.02.

The Executive Director's Report was included in the meeting handouts and included the following information: (1) Changes due to Coronavirus pandemic, such as NIC Spring Symposium scheduled for April 24-26, 2020 in Biloxi, Mississippi has been canceled; State Board exam testing has been suspended; Governor issued an Executive Order for all non-essential state employees to work remotely until at least May 2, 2020, and Commission staff continue to perform duties; numerous phone calls and emails about why whether or not salons must close; CARES stimulus law passed by Congress included financial provisions for independent contractors and business owners to apply for unemployment, with the details still being worked out how to file a claim; Governor Noem issued an Executive Order on April 15, 2020 that, among other things, suspends the statutory provision of SDCL 36-15-29 requiring cosmetology schools to only conduct educational program on the premises of the school and

suspends the regulatory provision of ARSD 20:42:06:10 governing the requirement that all students must be under the direct supervision of an instructor while earning clock hours – the suspensions of this law and rule allows South Dakota cosmetology schools to offer both theory and practical education via distance learning; (2) The declaratory rulings will not be presented at this meeting for the Commission's consideration, due to staff devoting time with questions about salon closure during this pandemic and other pandemic issues; (3) There has been no work to date to draft administrative rules for cross-over licensing, but the Commission is not under a mandate to do so. A copy of the Executive Director's Report is attached to these minutes.

Case I- 2019 -- Tami Stokes made a motion to approve the Consent Agreement with the following conditions:

- a. Bethany Ophiem personal license will be suspended for a period of 7 days beginning May 1, 2020.
- b. The 7 days of suspension will be held in abeyance for a period of one year and her personal license will not be actively suspended so long as the following conditions are observed:
- c. Ms. Ophiem will pay \$50 by May 1, 2020.
- d. Comply with all laws and regulations of the Commission.

Annette Petersen seconded the motion. **MOTION PASSED.** (Carlson yea; Graf yea; Pageler yea; Petersen yea; Stokes yea.)

Case K- 2019 -- Crystal Carlson made a motion to approve the Consent Agreement with the following conditions:

- a. Estetica's salon license will be suspended for a period of 15 days beginning May 1, 2020.
- b. The 15 days of suspension will be held in abeyance for a period of one year and her personal license will not be actively suspended so long as the following conditions are observed:
- c. Estetica Unisex Salon LLC will pay \$450 by May 1, 2020.
- d. Estetica Unisex Salon LLC will be subject to no more than four unannounced inspections for a period of one year from the date the agreement is accepted by the Commission.
- e. Comply with all laws and regulations of the Commission.

Debbie Pageler seconded the motion. **MOTION PASSED.** (Carlson yea; Graf yea; Pageler yea; Petersen yea; Stokes yea.)

Case L-2019 -- Renee Graf made a motion to approve the Consent Agreement with the following conditions:

- a. Pretty Nail's Salon license will be suspended for a period of 15 days beginning May 1, 2020.
- b. The 15 days of suspension will be held in abeyance for a period of one year and the salon license will not be actively suspended so long as the following conditions are observed:
- c. Pretty Nails Salon will pay \$450 by May 1, 2020.
- d. Pretty Nails Salon will be subject to no more than four unannounced inspections for a period of one year from the date the agreement is accepted by the Commission.
- e. Comply with all laws and regulations of the Commission.

Crystal Carlson seconded the motion. **MOTION PASSED.** (Carlson yea; Graf yea; Pageler yea; Petersen yea; Stokes yea.)

Case N-2019 -- Tami Stokes made a motion to approve the Consent Agreement with the following conditions:

- a. Milan Nail Studio's salon license will be suspended for a period of 15 days beginning May 1, 2020.
- b. The 15 days of suspension will be held in abeyance for a period of one year and the salon license will not be actively suspended so long as the following conditions are observed:
- c. Milan Nail Studio will pay \$450 by May 1, 2020.
- d. Milan Nail Studio will be subject to no more than four unannounced inspections for a period of one year from the date the agreement is accepted by the Commission.
- e. Comply with all laws and regulations of the Commission.

Crystal Carlson seconded the motion. **MOTION PASSED.** (Carlson yea; Graf yea; Pageler yea; Petersen yea; Stokes yea.)

Lapsed Case 34-2019 -- Debbie Pageler made a motion to approve the Consent Agreement with the following conditions:

- a. Deborah Aduddell's personal license will be suspended for a period of 5 days beginning May 1, 2020.
- b. The 5 days of suspension will be held in abeyance for a period of one year and her personal license will not be actively suspended so long as the following conditions are observed:
 1. Ms. Aduddell will pay \$100 by February 14, 2020.
 2. Comply with all laws and regulations of the Commission.

Annette Petersen seconded the motion. **MOTION PASSED** (Carlson yea; Graf yea; Pageler yea; Petersen yea; Stokes yea.)

Lapsed Case 35-2019 -- Crystal Carlson made a motion to approve the Consent Agreement with the following conditions:

- a. Nichole Wood's personal and booth license will be suspended for a period of 10 days beginning May 1, 2020.
- b. The 10 days of suspension will be held in abeyance for a period of one year and her personal license will not be actively suspended so long as the following conditions are observed:
- c. Ms. Wood will pay \$200 by May 1, 2020.
- d. Comply with all laws and regulations of the Commission.

Renee Graf seconded the motion. **MOTION PASSED** (Carlson yea; Graf yea; Pageler yea; Petersen yea; Stokes yea.)

Lapsed Case 36-2019 -- Annette Petersen made a motion to approve the Consent Agreement with the following conditions:

- a. Kayla Hanson's personal license will be suspended for a period of 5 days beginning May 1, 2020.
- b. The 5 days of suspension will be held in abeyance for a period of one year and her personal license will not be actively suspended so long as the following conditions are observed:
- c. Ms. Hanson will pay \$100 by May 1, 2020.
- d. Comply with all laws and regulations of the Commission.

Debbie Pageler seconded the motion. **MOTION PASSED.** (Carlson yea; Graf yea; Pageler yea; Petersen yea; Stokes yea.)

Lapsed Case 37-2019 -- Annette Petersen made a motion to approve the Consent Agreement with the following conditions:

- a. Melanie Willemsen's booth license will be suspended for a period of 10 days beginning May 1, 2020.
- b. The 10 days of suspension will be held in abeyance for a period of one year and her personal license will not be actively suspended so long as the following conditions are observed:
- c. Ms. Willemsen will pay \$125 by May 1, 2020.
- d. Comply with all laws and regulations of the Commission.

Crystal Carlson seconded the motion. **MOTION PASSED.** (Carlson yea; Graf yea; Pageler yea; Petersen yea; Stokes yea.)

Lapsed Case 39-2019 -- Tami Stokes made a motion to approve the Consent Agreement with the following conditions:

- a. Linda Maclauchlin Keen's salon license will be suspended for 5 days and her booth license will be suspended for a period of 10 days beginning May 1, 2020.
- b. The 5 days of suspension for her salon license and the 10 days of suspension for her booth license will be held in abeyance for a period of one year and her salon and booth license will not be actively suspended so long as the following conditions are observed:
- c. Ms. Keen will pay \$175 by May 1, 2020
- d. Comply with all laws and regulations of the Commission.

Debbie Pageler seconded the motion. **MOTION PASSED.** (Carlson yea; Graf yea; Pageler yea; Petersen yea; Stokes yea.)

Lapsed Case 40-2019 -- Crystal Carlson made a motion to approve the Consent Agreement with the following conditions:

- a. Jennifer Sedlacek's personal and booth license will be suspended for a period of 5 days beginning May 1, 2020.
- b. The 5 days of suspension will be held in abeyance for a period of one year and her personal license will not be actively suspended so long as the following conditions are observed:
- c. Ms. Sedlacek will pay \$100 by May 1, 2020
- d. Comply with all laws and regulations of the Commission.

Renee Graf seconded the motion. **MOTION PASSED.** (Carlson yea; Graf yea; Pageler yea; Petersen yea; Stokes yea.)

Lapsed Case 41-2019 -- Annette Petersen made a motion to approve the Consent Agreement with the following conditions:

- a. Luann Kroh's personal license will be suspended for a period of 5 days beginning May 1, 2020.
- b. The 5 days of suspension will be held in abeyance for a period of one year and her personal license will not be actively suspended so long as the following conditions are observed:
- c. Ms. Kroh will pay \$125 by May 1, 2020
- d. Comply with all laws and regulations of the Commission.

Crystal Carlson seconded the motion. **MOTION PASSED.** (Carlson yea; Graf yea; Pageler yea; Petersen yea; Stokes yea.)

Lapsed Case 43-2019 -- Crystal Carlson made a motion to approve the Consent Agreement with the following conditions:

- a. Willow Salon LLC's salon license will be suspended for a period of 15 days beginning May 1, 2020.
- b. The 15 days of suspension will be held in abeyance for a period of one year and her personal license will not be actively suspended so long as the following conditions are observed:
- c. Ms. Fisher will pay \$225 by May 1, 2020
- d. Comply with all laws and regulations of the Commission.

Debbie Pageler seconded the motion. **MOTION PASSED.** (Carlson yea; Graf yea; Pageler yea; Petersen yea; Stokes yea.)

Lapsed Case 44-2019 -- Tami Stokes made a motion to approve the Consent Agreement with the following conditions:

- a. Darsha Cecil's booth license will be suspended for a period of 5 days beginning May 1, 2020.
- b. The 5 days of suspension will be held in abeyance for a period of one year and her personal license will not be actively suspended so long as the following conditions are observed:
- c. Ms. Cecil will pay \$100 by May 1, 2020
- d. Comply with all laws and regulations of the Commission.

Crystal Carlson seconded the motion. **MOTION PASSED.** (Carlson yea; Graf yea; Pageler yea; Petersen yea; Stokes yea.)

Lapsed Case 1-2020 -- Annette Petersen made a motion to approve the Consent Agreement with the following conditions:

- a. Kayla Mellma's booth license will be suspended for a period of 5 days beginning May 1, 2020.
- b. The 5 days of suspension will be completed on May 5, 2020.
- c. Comply with all laws and regulations of the Commission.

Tami Stokes seconded the motion. **MOTION PASSED.** (Carlson yea; Graf yea; Pageler yea; Petersen yea; Stokes yea.)

Lapsed Case 2-2020 -- Debbie Pageler made a motion to approve the Consent Agreement with the following conditions:

- a. Branding 605's Salon license will be suspended for a period of 5 days beginning May 1, 2020.
- b. The 5 days of suspension will be held in abeyance for a period of one year and her personal license will not be actively suspended so long as the following conditions are observed:
- c. Ms. Sudbeck will pay \$100 by May 1, 2020
- d. Comply with all laws and regulations of the Commission.

Crystal Carlson seconded the motion. **MOTION PASSED.** (Carlson yea; Graf yea; Pageler yea; Petersen yea; Stokes yea.)

Lapsed Case 3-2020 -- Tami Stokes made a motion to approve the Consent Agreement with the following conditions:

- a. Christy Talley's booth license will be suspended for a period of 10 days beginning May 1, 2020.
- b. The 10 days of suspension will be held in abeyance for a period of one year and her booth license will not be actively suspended so long as the following conditions are observed:
 - c. Ms. Talley will pay \$200 by May 1, 2020.
 - d. Comply with all laws and regulations of the Commission.

Renee Graf seconded the motion. **MOTION PASSED.** (Carlson yea; Graf yea; Pageler yea; Petersen yea; Stokes yea.)

Lapsed Case 4-2020 -- Debbie Pageler made a motion to approve the Consent Agreement with the following conditions:

- a. Amber Sandve's personal and booth license will be suspended for 10 days beginning May 1, 2020.
- b. The 10 days of suspension will be held in abeyance for a period of one year and her personal license will not be actively suspended so long as the following conditions are observed:
 - c. Ms. Van Dyke will pay \$244 by May 1, 2020
 - d. Comply with all laws and regulations of the Commission.

Tami Stokes seconded the motion. **MOTION PASSED.** (Carlson yea; Graf yea; Pageler yea; Petersen yea; Stokes yea.)

Lapsed Case 5-2020 -- Crystal Carlson made a motion to approve the Consent Agreement with the following conditions:

- a. Haley Nehl's personal license will be suspended for a period of 10 days beginning May 1, 2020.
- b. The 10 days of suspension will end on May 10, 2020.
- c. Comply with all laws and regulations of the Commission.

Tami Stokes seconded the motion. **MOTION PASSED.** (Carlson yea; Graf yea; Pageler yea; Petersen yea; Stokes yea.)

Lapsed Case 6-2020 -- Debbie Pageler made a motion to approve the Consent Agreement with the following conditions:

- a. Michelle Whitlock's personal license will be suspended for a period of 10 days and her booth license will be suspended for a period of 5 days beginning May 1, 2020.
- b. The 10 days of suspension for her personal license and the 5 days of suspension for her booth license will be held in abeyance for a period of one year and her personal and booth license's will not be actively suspended so long as the following conditions are observed:
 - c. Ms. Whitlock will pay \$225 by May 1, 2020
 - d. Comply with all laws and regulations of the Commission.

Crystal Carlson seconded the motion. **MOTION PASSED.** (Carlson yea; Graf yea; Pageler yea; Petersen yea; Stokes yea.)

There were no public comments.

Crystal Carlson made a motion to cease administration of a hands-on practical examination as part of the State Board examination testing for licensure with the Cosmetology Commission. Debbie Pageler seconded the motion. **MOTION PASSED.** (Carlson yea; Graf yea; Pageler yea; Petersen yea; Stokes yea).

For clarification, the Commission will continue to issue the NIC theory examination and the South Dakota Cosmetology Laws/Rules examination for purposes of qualifying for a license issued by the Commission.

Tami Stokes made a motion to notify the cosmetology schools at least 30 days before beginning to administer the written practical examination that should be available sometime in the next several months. Crystal Carlson seconded the motion. **MOTION PASSED.** (Carlson yea; Graf yea; Pageler yea; Petersen yea; Stokes yea).

Debbie Pageler made a motion to approve the school license renewal application submitted by Stewart School. Annette Petersen seconded the motion. **MOTION PASSED.** (Carlson yea; Graf yea; Pageler yea; Petersen yea; Stokes yea).

Crystal Carlson made a motion to approve the microdermabrasion file education provider application submitted by Ramona Reicherts. Debbie Pageler seconded the motion. **MOTION PASSED.** (Carlson yea; Graf yea; Pageler yea; Petersen yea; Stokes yea).

Crystal Carlson made a motion to approve the electric file education provider application submitted by Revive Day Spa. Tami Stokes seconded the motion. **MOTION PASSED.** (Carlson yea; Graf yea; Pageler yea; Petersen yea; Stokes yea).

Tami Stokes made a motion to approve the eyelash extension education provider application submitted by National Salon Resources. Crystal Carlson seconded the motion. **MOTION PASSED.** (Carlson yea; Graf yea; Pageler yea; Petersen yea; Stokes yea).

Debbie Pageler made a motion to approve the student license application from an applicant with felony convictions. Crystal Carlson seconded the motion. **MOTION PASSED.** (Carlson yea; Graf yea; Pageler yea; Petersen yea; Stokes yea).

Tami Stokes made a motion to deny the request for license reinstatement from Ngoc Lan Thi Nguyen, because the Commission order approved October 4, 2015 stated that Ms. Nguyen could not reapply for a license for five years from the date the order was signed. Ms. Nguyen should be directed to reapply after October 4, 2020. Crystal Carlson seconded the motion. **MOTION PASSED.** (Carlson yea; Graf yea; Pageler yea; Petersen yea; Stokes yea).

The tentative meeting and exam calendar was briefly reviewed. However, it was noted that the calendar is subject to change due to the current Coronavirus pandemic.

Crystal Carlson made a motion to adjourn. Annette Petersen seconded the motion. **MOTION PASSED.** (Carlson yea; Graf yea; Pageler yea; Petersen yea; Stokes yea).

President Crystal Carlson adjourned the meeting at 11:00 am.

Respectfully submitted,

Kate Boyd, Executive Director

Tami Stokes, Secretary-Treasurer

**SOUTH DAKOTA COSMETOLOGY COMMISSION
EXECUTIVE DIRECTOR'S REPORT**

April 17, 2020

1. Changes Due to Coronavirus Pandemic

- NIC cancelled the Spring Symposium scheduled for April 24-26, 2020 in Biloxi, Mississippi.
- State Board Exam testing has been suspended. We cancelled the exams scheduled for March 16 & 17, 2020 and are not certain if we will be able to proceed with the May 17 & 18 exams.
- On March 13, 2020, the Governor issued an Executive Order for all non-essential state employees to work remotely. State offices will remain closed to the public until at least May 2, 2020. The Commission staff continues to perform our duties.
- The past three weeks have been filled with an unimaginable number of phone calls and emails from our licensees wondering if the Commission or the State will order the closure of salons, spas, and barber shops. The Commission does not have the authority to take such action and currently it does not appear that the Governor is planning to issue a mandated closure order. It remains up to the individual business owner whether or not to close their business.
- Many of the callers and email messages have been from individuals who are very upset by the Commission's inaction. We have tried to overlook or calm their anger as we realize the basis is likely fear for their health and the health of their family and clients, and fear for how they can meet their financial obligations with reduced or no earnings.
- The CARES stimulus law passed by Congress on March 31 includes financial provisions for independent contractors and business owners. The details are still being worked out of how to file for financial assistance.
- Governor Noem issued an Executive Order on April 15, 2020 that, among other things, suspends the statutory provision of SDCL 36-15-29 requiring cosmetology schools to only conduct educational program on the premises of the school and suspends the regulatory provision of ARSD 20:42:06:10 governing the requirement that all students must be under the direct supervision of an instructor while earning clock hours – the suspensions of this law and rule allows South Dakota cosmetology schools to offer both theory and practical education via distance learning. Along that line, the accrediting agencies have issued guidelines that schools must follow in order to meet accreditation standards during the pandemic if teaching via distance learning.

2. Declaratory Rulings

Due to the additional time being spent by our staff responding to individuals about the possibility of salon closure, and with the cancellation of the April 16 & 17 schools visits and in-person Commission meeting, we will not be presenting declaratory rulings for the Commission's consideration on April 17, 2020.

3. Administrative Rules for Cross-over Licensing

To date there has been no work done to create requirements for cross-over licensing. All of us, staff and Commission members, have been preoccupied with the current health pandemic. We are not under any time restraints to develop rules for cross-over licensing.