

SOUTH DAKOTA COSMETOLOGY COMMISSION MEETING MINUTES

May 24, 2016

Call Meeting to Order

A meeting of the Cosmetology Commission was called to order by Vice President Lori Berreth at 8:30 am. The meeting was held at the Department of Labor and Regulation office located at 2330 N Maple Avenue, Suite 101, Rapid City, South Dakota.

Roll Call

Attendance was taken by Secretary-Treasurer Laurie Brandner, with the following members present: Lori Berreth, Laurie Brandner, Crystal Carlson, and Lori Little. Members Absent: Tammy Ugofsky. Staff present: Attorney Aaron Arnold, Executive Director Kate Boyd. Others present included: Angela Taylor and Penny Thompson from Stewart School; Joy Poloncic and Tom Poloncic from Black Hills Beauty College; Cricket Rick and Peggy Sproat from Headlines Academy, Shawn Venjohn from Lake Area Technical School Cosmetology Programs and via conference call Eileen Donley and Stephanie Mortimore.

2. Minutes of the March 11 and April 19, 2016 Meeting

IT WAS MOVED by Lori Little, seconded by Crystal Carlson to approve the Minutes of the March 11 and April 19, 2016 meeting as written. The motion prevailed on a voice vote.

3. Treasurer's Report

Secretary-Treasurer Laurie Brandner reported that as of March 31, 2016 the available budget was \$8,966.30 and the cash center balance was \$257,622.16.

IT WAS MOVED by Crystal Carlson, seconded by Lori Little to approve the Treasurer's Report as presented. The motion prevailed on a voice vote.

4. Executive Director's Report

Executive Director Kate Boyd reported on four subjects, including:

(1) Open Position - Beth Marnell recently resigned and accepted a position with a different state office. We are beginning the process of advertising to fill this position.

(2) Smocks for Exam Administration - In the past there had been discussion about those who participate test administration wearing a uniform of a smock. Commission member Crystal Carlson had done some research and brought several smocks for the commission to see. No consensus was reached as some members felt smocks were unnecessary.

(3) Cosmetology Practical Examination Content - At the March 11, 2016 meeting, the commission had reviewed the newly updated NIC Cosmetology Practical Exam content. At that time the commission requested a delayed implementation of the new exam until January 1,

2017 to allow our test examiners to be trained on the new exam this Fall during our annual examiner certification and so that the schools can become familiar with the new exam requirements.

Executive Director Kate Boyd had attended the NIC Region Meeting recently and spoke with Rosanne Kinley, the head of the National Exam Committee. Ms. Kinley recommended that South Dakota make two changes to the optional services that we test: (1) Replace Acrylic Nail with Manicure/Polish, and (2) Replace Facial with Removal of Hair on Eyebrows by Tweezing and Using Simulated Soft Wax. The reason for the change would be to more accurately test what the typical cosmetologist performs in the salon.

It was noted that it would take action by our commission to change the two optional services that we test.

IT WAS MOVED by Laurie Brandner, seconded by Crystal Carlson, to change the optional services that we currently include the cosmetology practical exam: (1) Replace Acrylic Nail with Manicure/Polish, and (2) Replace Facial with Removal of Hair on Eyebrows by Tweezing and Using Simulated Soft Wax. The motion prevailed on a voice vote.

(4) Failed Inspection Reports - Commission members were informed that we have started posting all failed inspection reports on our website. This has resulted in phone calls from licensees who believe their business has been impacted. There was a brief discussion about whether or not we should post an update after a salon has been re-inspected and passes the recheck inspection. It was stated that this is a work in progress and that in the future we hope to have our inspectors equipped with tablet devices to perform inspections and upload all inspections directly to our website and database.

5. Continuing Education for Licensees

Laurie Brandner and Crystal Carlson reviewed notes from the Continuing Education Task Force that met on April 22, 2016 in Sioux Falls. South Dakota cosmetology law authorizes the Cosmetology Commission to adopt administrative rules *“pertaining to continuing education for licensees on health issues, safety issues, and services that require the use of chemicals or electrical or mechanical apparatus.”*

The task force had considered many different aspects of licensee continuing education including the goal of continuing education should be “protecting the public and licensees and increased professionalism; what would be an appropriate number of required hours, what the content should include, how to verify the licensee has actually attended the continuing education, whether or not there should be an exemption for licensees over a certain age or years of experience and whether to proceed with implementing continuing education.

It was noted that only 14 other states require licensee continuing education and some states have dropped continuing education, considering it a barrier to practice.

It was agreed that further research needs to be done on this subject and that any recommendations to proceed or not to proceed with continuing education need to be submitted by the end of 2016.

6. Proposed Changes to Cosmetology Education Hours/Curriculum

The discussion on proposed change to the cosmetology education hours and curriculum began with the cosmetology schools that were present each stating what their position is on a change in education hours.

Cricket Rick from Headlines Academy stated that they would like to maintain 2100 hours but understand that in the future South Dakota may need to lower the numbers, but would like to see them no lower than 1800 hours.

Angela Taylor from Stewart School stated that their school would to stay at 2100 hours and would like to see the Commission to move slower on any attempt to lower cosmetology education hours. Their school also would not like to see the hours lowered below 1800 hours. They also stated that they would like to have a hair design license to accommodate those students who really only want to do hair and not nails or esthetics. Headlines added they would also be in favor of a hair design license.

Tom Polonic of Black Hills Beauty College stated that they think the Commission should wait for more information from the national level and to determine what the education needs actually are. They added that they feel comfortable and will be prepared to educate students at whatever level the hours end up being.

Shawn Venjohn from Lake Area Technical Institute Cosmetology Program stated that she thinks the hours should not be any lower than 1800 hours, if a reduction needs to be made.

Following further discussion, it was agreed that the Education Hour Task Force could continue to monitor this topic and meet from time to time if further information becomes available at the national level. Attorney Aaron Arnold stated that the Task Force would need to have a definitive plan by May, 2017 if legislation is to be considered and pursued by the Commission for the 2018 legislative session.

7. Upcoming Meeting Dates

The following meeting dates for the remainder of 2016 were brought up, with special emphasis on the September 24, 2016 NIC School Overview, the September 25, 2016 NIC Examiner Training that is mandatory for anyone seeking certification as an NIC practical examiner, and the annual NIC Conference in Tampa, Florida September 30-October 3, 2016. Commission members were asked to contact the office if they are interested in submitting an out-of-state travel request to attend the NIC Conference.

- July 11-12, 2016 - State Board Exams & Commission Meeting - Pierre
- September 24, 2016 - NIC School Overview

- September 25, 2016 - NIC Examiner Training (Mandatory)
- September 29-30, 2016 - State Board Administrators Meeting
- September 30 - October 3, 2016 - NIC Conference - Tampa, Florida - who should attend??
- October 20-22, 2016 - School Visits, Commission Meeting and State Board Exams
- Sioux Falls/Watertown
- November 19, 2016 - State Board Exams - Watertown

At 10:15 am the meeting was recessed for a short break and was called back to order at 10:25 am.

8. Referral of Applications to the Commission

8 (a) Applicant #13145-TL - The Commission had reviewed this application at the 3/11/16 meeting. The reasons for referral to the commission included omissions on the application regarding prior license and after receiving a second application, there were discrepancies in the dates of education. At the 3/11/16 meeting the Commission had asked the staff to invite the applicant to attend the next Commission meeting to speak on his own behalf. That letter had been sent inviting this individual to attend today's meeting. He had phoned on 5/9/16 to state that he would not be attending the meeting.

IT WAS MOVED by Crystal Carlson, seconded by Laurie Brandner to deny Application #13145 and inform the applicant that he cannot reapply for one year. The motion died for lack of a second.

IT WAS MOVED by Laurie Brandner, seconded by Lori Little, to deny Application #13145 and notify the applicant that he cannot reapply for 90 days. If and when the applicant reapplies, he will need to appear before the Commission to seek approval of his license application. The motion prevailed on a voice vote.

8 (b) Applicant #13185 - NT - The Commission reviewed information about a reciprocity applicant who omitted information on his first reciprocity application, was asked to fill out a second application to clarify, and there were discrepancies between the two applications.

IT WAS MOVED by Lori Little, seconded by Laurie Brandner, to deny Application #13185 and inform the applicant that he can reapply after 90 days and will need to appear before the Commission to seek approval of his license application. The motion prevailed on a voice vote.

9. Complaint from Nail Technician - The individual did not attend the meeting to address her concerns.

10. Report of Apprenticeship at Leo Thomas Salon

Executive Director Kate Boyd informed the Commission that the apprenticeship at Leo Thomas Salon in Rapid City appears to be going well. Weekly reports are being sent to the Commission office in a timely manner and attendance has been excellent. Senior Instructor Holly Ringo had

sent an email that was presented to the Commission stating that both she and the apprentice are pleased with the progress.

Apprenticeships are approved with a ninety-day probationary period. Since there do not appear to be any problems, a letter will be sent confirming the continuation of the apprenticeship.

11. NIC Region Meeting

Executive Director Kate Boyd reported on her attendance at the Board Administrators Meeting March 31-April 1 and she, together with Commission members Crystal Carlson and Lori Little, reported on the Region Meeting April 1-3, 2016 in Nashville, Tennessee. Kate stated that she missed the first morning of the Board Administrators meeting due to a weather-related flight delay. Most of the Board Administrators meeting was spent sharing information about new laws or rules that have passed in various states since the last meeting and working on a uniform model cosmetology law. The group had formed various committees to meet throughout the year to work on specific portions of the model law.

The NIC Meeting included discussions about developing standards for regulated professions; a report from AEQUO representative Brentni Henderson about fraudulent documents and action that can be taken to identify fraudulent documents; OSHA compliance for salons and spas, a motivational speaker on leadership, and an overview from the Board Administrators on development of a Uniform Model cosmetology law. On Sunday there were breakout sessions for the various regions to meet and discuss topics of interest to their specific area of the country.

12. Legislative Changes from 2016 Session

Attorney Aaron Arnold informed the Commission about various new laws that were passed during the 2016 Legislative Session that affect Boards and Commissions. Among the bills he discussed here HB 1066 that requires that in order to comply with the opening meeting laws, meeting agenda must be posted two consecutive business days prior to the meeting; HB 1117, dealing with other languages in meetings, SB 73 that deals with Boards and Commissions communicating via the internet and email and care must be taken to not violate the open meetings law, SB 90 allows citizens to record meetings as long as the recording is not disruptive to the meeting and SB 104 removes 75 days limit between public meeting and filing with Secretary of State (SOS) without going before IRRC and must be filed with SOS office within 60 days of presenting to the IRRC.

13. Amanda Premus - Request for Alternative Education Approval for Senior Instructor License

Amanda Premus had submitted a request for approval of her plan to obtain a senior instructor license through independent study. She needs to have 1000 hours of instructor education and then take the Instructor State Board examination. She will receive 600 hours for her years of experience. Amanda was requesting that the Commission allow up to 300 hours for advanced professional education, training and certifications she has taken.

It was noted that instructor education is to be on teaching methodology, not individual professional development.

IT WAS MOVED by Laurie Brandner, seconded by Crystal Carlson, to deny Amanda Premus' request for 300 hours of credit for her personal professional development as a cosmetologist, and direct her to obtain 400 hours in courses previously preapproved by the commission to supplement her 600 previously approved by the Commission for years of experience. The motion prevailed on a voice vote.

14. Instructor Laws Exam Update

Crystal Carlson, together with Executive Director Kate Boyd had recently reviewed the Instructor State Laws Exam and presented four proposed changes to the exam.

After reviewing the changes, IT WAS MOVED by Lori Little, seconded by Crystal Carlson, to approve the proposed changes to the Instructor Laws and Rules exam as presented. The motion prevailed on a voice vote.

15. Disciplinary Actions

15 (a) Appropriate Disciplinary Action for Violations

At the previous Commission meeting, the request was made to have a discussion about disciplinary actions and appropriate action for 1st, 2nd, 3rd, etc violations. In recent years the standard length of actual suspension of a license has been 7 days for a first offense and 30 days for a second offense, with additional weeks being held in abeyance provided the licensee obeys all laws and rules for one year. The consensus of the commission was to have first offenses be 14 days of actual suspension, second offenses would be 45 days of actual suspension, and 3rd offenses would go to a formal hearing.

15 (b) Proposed Consent Agreement - Case J-2014

IT WAS MOVED by Crystal Carlson, seconded by Laurie Brandner to approve the Consent Agreement for Case J-2014 with the following terms:

- a. Artist Studio Salon's lapsed license, #CS-06344, shall be permanently revoked and not eligible for late renewal;
- b. Ms. Anderson's Knaughty Lox Salon's application for licensure shall be denied. Ms. Anderson may reapply for a salon license upon successful completion of her one year probationary period;
- c. Ms. Anderson's personal license, #CO-08087, will be suspended for a period of 90 days with 60 days being held in abeyance. Ms. Anderson's license will be actively suspended for 30 days beginning July 15, 2016, through August 13, 2016;

- d. The remaining 60 days of suspension of Ms. Anderson's license will be held in abeyance for a period of 1 year, beginning on the effective date of this agreement, so long as the following conditions are met:
- 1) Ms. Anderson will comply with all laws and regulations relating to their profession under SDCL chapter 36-15 and ARSD article 20:42 for a period of 1 year beginning on the effective date of this Agreement;
 - 2) Ms. Anderson will successfully pay for and successfully complete the online course entitled "Infection Control Online Class", sponsored by Milady, found at www.miladypro.com. Ms. Anderson must submit to the Commission the Certification of Completion received after successful completion of the course within 60 days from the execution date of this Agreement;
 - 3) Ms. Anderson's work area will be subject to additional inspections for a period of one year from the date of execution of this Agreement. Ms. Anderson will make a onetime payment to the Commission for the additional expenses of the inspections in the amount of \$350.00 within 60 days from the execution date of this Agreement.

The motion prevailed on a voice vote.

15 (c) Proposed Consent Agreement - Case C-2015

IT WAS MOVED by Laurie Brandner, seconded by Lori Little, to approve the Consent Agreement for Case C-2015 with the following terms:

- a. The Commission shall issue Ms. Arampatzis a cosmetology license;
- b. Once issued, Ms. Arampatzis' personal license, #CO-12554, will be suspended for a period of 30 days with 23 days being held in abeyance. Ms. Arampatzis' license will be actively suspended for 7 days beginning June 5, 2016 through June 11, 2016;
- c. The remaining 23 days of suspension of Ms. Arampatzis' license will be held in abeyance for a period of 1 year, beginning on the effective date of this agreement, so long as the following conditions are met:
 - 1) Mr. Arampatzis will comply with all laws and regulations relation to their profession under SDCL chapter 36-15 and ARSD article 20:42 for a period of 1 year beginning on the effective date of this Agreement;
 - 2) Ms. ARampatzis will successfully pay for and successfully complete the online course "Infection Control Online Class", sponsored by Milady, found at www.miladypro.com. Ms. Arampatzis must submit to the Commission the Certificate of Completion received after successful completion of the course by July 31, 2016; and,

- 3) Ms. Arampatzis shall pay to the Commission an administrative penalty in the amount of \$350.00 by July 31, 2016.

The motion prevailed on a voice vote.

16. Other Business

State Board Exams

Commission member Laurie Brandner brought up the current process for State Board examination administration. We are now required to have a proctor at the practical exam who reads the verbal instructions, operates the time clock, and settles any disputes or handles emergencies. That means that we need one more individual every time we administer practical exams. She stated that she believes there should always be two staff members present at the exams due to the amount of work required by staff in both the practical exam room and the computer-based written exam computer lab. She expressed the opinion that it is too much for one person to deal with, especially if that person would become ill or an emergency developed. Due to testing requirements, the practical examiners are not allowed to know the names of the individuals they are testing so they cannot deal with entering candidate data into the tablet devices.

Other Commission members expressed the opinion that they do not feel as if Commission members should be required to participate in State Board exams and that we should come up with a group of six individuals in eastern South Dakota and six in western South Dakota who could be trained and certified as practical examiners. This search for other practical examiners will be undertaken so these individuals could be trained on September 25 at the annual NIC Examiner Training in Pierre.

One other change for the future will be to not hold Commission meetings at the same time as State Board examinations.

Adjourn

There being no further business, IT WAS MOVED by Lori Little, seconded by Crystal Carlson, to adjourn. The motion prevailed on a voice vote.

The meeting was adjourned at 12:10 pm.

Respectfully submitted,

Kate Boyd, Recording Secretary

Laurie Brandner, Secretary-Treasurer

EXECUTIVE DIRECTOR'S REPORT

May 24, 2016

1. **Letter of Resignation & Search for New Staff Member** - As commission members are aware, Beth Marnell recently resigned and accepted a position in State government. This is a promotion for Beth and while we will miss her, we wish her well in her new position.

We have begun the process of advertising this position and will keep the commission informed as the process proceeds.

2. **Uniforms/Smocks for Test Administration** - In the past there has been discussion about test administration personnel wearing smocks/uniforms so that all test administration personnel look professional and are easily identifiable. Commission member Crystal Carlson has been doing some research and plans to bring samples to the May 24 meeting for consideration by the commission.

3. **Cosmetology Practical Examination Content** - At the March 11 commission meeting, it was stated that NIC has revised the cosmetology practical examination. The commission voted to request an extension of administering the current cosmetology exam until January 1, 2017. This will allow practical examination scorers to be trained this fall on the new exam content. We are granted the extension of time to implement the new exam to January 1, 2017.

Following that meeting, when I attended the NIC Region Meeting in early April I spoke with Rosanne Kinley, the head of the NIC Exam Committee about delaying the exam. Ms. Kinley recommended that South Dakota make two changes to the optional services that we test. She suggested that we make the following changes in order to more accurately reflect the nail and esthetic services that most cosmetologist perform:

Replace the Acrylic Nail with the Manicure
Replace the Facial with Removal of Facial Hair Using Simulated Soft Wax

The Commission will need to take action by vote if you would like to drop testing acrylic nail and facial and replace them with manicure and removal of facial hair using simulated soft wax.

4. **Failed Inspection Reports** - Recently we started having all Failed Inspection Reports posted to our website. This has resulted in phone calls from licensees who believe their business is being impacted as a result of the postings. In the future we hope to have our inspectors equipped with tablet devices to perform inspections and upload all inspections directly to our website and database.