

Meeting Minutes
SOUTH DAKOTA COSMETOLOGY COMMISSION
Pierre, South Dakota
July 27, 2018 (CDT)

President Tammy Ugofsky called the meeting to order at 8:30 am on Friday, July 27, 2018 at the Ramkota Hotel, Lake Lewis & Clark Room located at 920 West Sioux Avenue, Pierre, South Dakota.

President Tammy Ugofsky called the meeting to order at 8:30 am.

Secretary-Treasurer Crystal Carlson read the roll and a quorum was established.

Members Present: Crystal Carlson
Lori Little (via teleconference)
Debbie Pageler
Tami Stokes
Tammy Ugofsky

Others Present: Executive Director Kate Boyd
Graham Oey, Staff Attorney, Department of Labor & Regulation
(via teleconference)
Kelsey Skoglund, Cosmetology Commission Staff
Mary Rasmussen, Cosmetology Inspector
Shawn Conder, Utah Esthetician
Rachael Maag, LATI Cosmetology Program
Liz Lloyd, LATI Cosmetology Program
Holly Keszler, Black Hills Beauty College
Wendy Beaumont, Black Hills Beauty College
Joy Poloncic, Black Hills Beauty College
Tom Poloncic, Black Hills Beauty College
Stephanie Williams, Headlines Academy
Desaree Dargatz, Headlines Academy
Caitlin Hoogland, Stewart School
Angela Taylor, Stewart School (via teleconference)

Executive Director Kate Boyd requested that the agenda be amended to include (1) Election of Officers and (2) Violations Committee composition.

Tammy Ugofsky moved approval of the agenda as amended. Debbie Pageler seconded the motion. **MOTION PASSED.** (Carlson yea; Little yea; Pageler yea; Stokes yea; Ugofsky yea).

Crystal Carlson moved approval of the April 27, 2018 Commission Meeting as presented. Lori Little seconded the motion. **MOTION PASSED.** (Carlson yea; Little yea; Pageler yea; Stokes yea; Ugofsky yea).

Treasurer Crystal Carlson reported that as of June 30, 2018 the available cash balance is (\$34,811.80) and the Cash Center balance is \$178,326.65. Executive Director Boyd stated that

in the past few years the Commission's revenues are not meeting expenses. She presented five proposed fee increases that could be pursued through administrative rules change. This would result in approximately \$37,000 additional revenues. It was noted that if we raise these fees as proposed, we would be at the cap set by the Legislature for fee amounts. The Commission has not done any fee increases since 2008 when personal license renewals were increased from \$15 to \$20 per year.

Tammy Ugofsky made a motion to pursue an administrative rule change to increase the following fees: Exam Application-raise from \$80 to \$100; Exam Retake Fees-raise from \$40 for one exam, \$50 for 20 exams, and \$60 for 3 exams to, \$60, \$70, and \$80 respectively; Personal License Renewals-raise from \$20 to \$25; Instructor Licenses-raise from \$25 to \$35; Certifications-raise from \$20 to \$25. Crystal Carlson seconded the motion. **MOTION PASSED.** (Carlson yea; Little yea; Pageler yea; Stokes yea; Ugofsky yea).

Executive Director Kate Boyd's report was included in the Commission meeting packet and is attached to these Minutes. The items reported on included: (1) Effective July 1, 2018 the Cosmetology Commission staff will now provide staff support for the South Dakota Board of Barber Examiners; (2) The administrative rules changes will be presented to the Legislature's Interim Rules Review Committee on August 20, 2018. Following approval by the Rules Review Committee, the rules will be filed with the Secretary of State and become effective 20 days later; HB 1172 became law July 1, 2018 and amends and clarifies the State's open meeting laws. No action is required by the Commission at this time.

Case B-2018 – Tami Stokes made a motion to approve Consent Agreement for Case B-2018 with the following terms:

- a. Nails studio Salon's license, Lic #NS-04791, will be suspended for a period of 14 days beginning September 1, 2018.
- b. The 14 days of suspension will be held in abeyance for a period of 1 year, and Nails Studio Salon's license will not be actively suspended, so long as the following conditions are met:
 - 1) Nails Studio Salon pay a penalty in the amount of \$125.00 to the Commission prior to September 1, 2018, as a condition for the immediate reinstatement of Nails Studio Salon's license pursuant to SDCL 36-15-58.5; and
 - 2) Nails Studio Salon will comply with all laws and regulations relating to its profession under SDCL chapter 36-15 and ARSD article 20:42 for a period of 1 year beginning on the day this agreement is signed by the Commission.
- c. Ms. Vuong's license, Lic. #NT-09218, will be suspended for a period of 14 days beginning September 1, 2018.
- d. the 14 days of suspension will be held in abeyance for a period of 1 year, and Ms. Vuong's license will not be actively suspended, so long as the following conditions are met:

- 1) Ms. Vuong pay a penalty in the amount of \$125.00 to the Commission prior to September 1, 2018, as a condition for the immediate reinstatement of Ms. Vuong's license pursuant to SDCL 36-15-58.5; and
 - 2) Ms. Vuong will comply with all laws and regulations relating to her profession under SDCL chapter 36-15 and ARSD article 20:42 for a period of 1 year beginning on the day this agreement is signed by the Commission.
- e. Nails Studio Salon and Ms. Vuong will be subject to additional inspections for a period of 1 year from the date of execution of this agreement. Ms. Vuong, as owner of the salon, will make a one-time payment to the Commission for the additional expenses of the inspections in the amount of \$350.00 by September 1, 2018.
- 1) Nails Studio Salon and Ms. Vuong agree and understand that any failed inspection during the abeyance period will result in both licenses being automatically suspended for a period of 24 hours beginning immediately after the failed inspection.
 - 2) Any 24-hour period of suspension shall not count towards the periods of abeyance in paragraph 11 or any of its subdivision above, disciplinary action due to any failed inspection.

12. If, prior to September 1, 2018, Ms. Vuong decides to terminate her salon license and does not apply for a new salon or booth license prior to September 1, 2019, then the \$350.00 for inspections set forth in paragraph 11. e. shall be waived.

- a. if the license termination in paragraph 12 occurs after September 1, 2018, Ms. Vuong shall receive a refund for any inspections not performed up to a maximum of \$300.00

Tammy Ugofsky seconded the motion. **MOTION PASSED.** (Carlson yea; Little yea; Pageler yea; Stokes yea; Ugofsky yea).

Case J-2018 – Tammy Ugofsky made a motion to approve Consent Agreement for Case J-2018 with the following terms:

- a. Ms. Bierwagen's, Cosmetology Lic. #CO-10096 and Darla Bierwagen Booth Lice. #CB-08273 will be suspended for a period of 14 days beginning September 1, 2018.
- b. The 14 days of suspension will be held in abeyance for a period of one year, and neither license will be actively suspended, so long as the following conditions are met:
 - 1) Ms. Bierwagen makes a onetime payment to the Commission in the amount of \$350.00 by September 1, 2018 for the immediate reinstatement of her licenses pursuant to SDCL 36-15-58.5, and to cover the cost of additional inspections.
 - 2) Ms. Bierwagen complies with all laws and regulations relating to her profession under SDCL chapter 36-15 and ARSD article 20:42 for a period of one year beginning on the day this agreement is signed by the Commission.
- c. Any failed inspection during the one year period of abeyance will result in Ms. Bierwagen's personal cosmetology license and Darla Bierwagen Booth's license being automatically suspended for a period of one day beginning immediately after the failed inspection.

Tami Stokes seconded the motion. **MOTION PASSED.** (Carlson yea; Little yea; Pageler yea; Stokes yea; Ugofsky yea).

Lapsed Case 25-2017 – Crystal Carlson made a motion to approve Lapsed Case 25-2017 Consent Agreement with the following terms:

- a. Radiance Day Spa license, Lic. #CS-04071, will be suspended for a period of 10 days with 10 days being held in abeyance; Radiance Day Spa's license will not actively be suspended.
- b. The 10 days of suspension for the salon 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) Radiance Day Spa will comply with all laws and regulations relating to its profession under SDCL chapter 36-15 and ARSD article 20:423 for a period of 1 year beginning on the effective date of this agreement;
 - 2) Pursuant to SDCL 36-15-58.5 the Commission imposes a monetary penalty of \$175.00, as a condition for the immediate reinstatement of the salon license, to be paid prior to September 1, 2018.

Tammy Ugofsky seconded the motion. **MOTION PASSED.** (Carlson yea; Little yea; Pageler yea; Stokes yea; Ugofsky yea).

Lapsed Case 3-2018 – Crystal Carlson made a motion to approve Lapsed Case 3-2018 Consent Agreement with the following terms:

- a. Ms. Sedy's personal license, Lic. #CO-08314, will be suspended for a period of 5 days beginning May 31, 2018.
- b. The 5 days of suspension will be held in abeyance for a period of 1 year, and Ms. Sedy's personal license will not be actively suspended, so long as the following conditions are met:
 - 1) Ms. Sedy will comply with all laws and regulations relating to her profession under SDCL chapter 36-15 and ARSD article 20:42 for a period of 1 year beginning on the day this agreement is signed by the Commission; and
 - 2) Ms. Sedy pay a penalty in the amount of \$100.00 to the Commission prior to May 31, 2018, as a condition for the immediate reinstatement of Ms. Sedy's personal license pursuant to SDCL 36-15-58.5.

Debbie Pageler seconded the motion. **MOTION PASSED.** (Carlson yea; Little yea; Pageler yea; Stokes yea; Ugofsky yea).

Lapsed Case 4-2018 – Tami Stokes made a motion to approve Lapsed Case 4-2018 Consent Agreement with the following terms:

- a. Ms. Rische's personal license, Lic. #CO-08409, will be suspended for a period of 10 days beginning September 1, 2018.

- b. The 10 days of suspension will be held in abeyance for a period of 1 year, and Ms. Rische's personal license will not be actively suspended, so long as the following conditions are met:
 - 1) Ms. Rische will comply with all laws and regulations relating to her profession under SDCL chapter 36-15 and ARSD article 20:42 for a period of 1 year beginning on the day this agreement is signed by the Commission; and
 - 2) Ms. Rische pay a penalty in the amount of \$100.00 to the Commission prior to September 1, 2018, as a condition for the immediate reinstatement of Ms. Rische's personal license pursuant to SDCL 36-15-58.5.
- c. Camille Rische Booth's license, Lic. #CB-08284, will be suspended for a period of 5 days beginning September 1, 2018.
- d. The 5 days of suspension will be held in abeyance for a period of 1 year, and Camille Rische Booth's license will not be actively suspended, so long as the following conditions are met:
 - 1) Camille Rische Booth will comply with all laws and regulations relating to its profession under SDCL chapter 36-15 and ARSD article 20:42 for a period of 1 year beginning on the day this agreement is signed by the Commission.

Crystal Carlson seconded the motion. **MOTION PASSED.** (Carlson yea; Little yea; Pageler yea; Stokes yea; Ugofsky yea).

Lapsed Case 8-2018 – Tammy Ugofsky made a motion to approve Lapsed Case 8-2018 Consent Agreement with the following terms:

- a. Davi Nails Salon #2443 license, Lic. #NS-08025, will be suspended for a period of 10 days beginning September 1, 2018.
- b. The 10 days of suspension will be held in abeyance for a period of 1 year, and Davi Nails Salon #2443 license will not be actively suspended, so long as the following conditions are met:
 - 1) Davi Nails Salon #2443 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 day this agreement is signed by the Commission; and
 - 2) Mr. Phung as owner of Davi Nails Salon #2443 pay a penalty in the amount of \$125.00 to the Commission prior to September 1, 2018, as a condition for the immediate reinstatement of Davi Nails Salon #2443 license pursuant to SDCL 36-15-58.5.

Crystal Carlson seconded the motion. **MOTION PASSED.** (Carlson yea; Little yea; Pageler yea; Stokes yea; Ugofsky yea).

Lapsed Case 9-2018 – Debbie Pageler made a motion to approve Lapsed Case 9-2018 Consent Agreement with the following terms:

- a. Ms. Fritzsche's personal license, Lic. #CO-06332, will be suspended for a period of 10 days beginning September 1, 2018.

- b. The 10 days of suspension will be held in abeyance for a period of 1 year, and Ms. Fritzsche's personal license will not be actively suspended, so long as the following conditions are met:
 - 1) Ms. Fritzsche will comply with all laws and regulations relating to her profession under SDCL chapter 36-15 and ARSD article 20:42 for a period of 1 year beginning on the day this agreement is signed by the Commission; and
 - 2) Ms. Fritzsche pay a penalty in the amount of \$175.00 to the Commission prior to September 1, 2018, as a condition for the immediate reinstatement of Ms. Fritzsche's personal license pursuant to SDCL 36-15-58.5.

Tammy Ugofsky seconded the motion. **MOTION PASSED.** (Carlson yea; Little yea; Pageler yea; Stokes yea; Ugofsky yea).

Lapsed Case 10-2018 – Crystal Carlson made a motion to approve Lapsed Case 10-2018 Consent Agreement with the following terms:

- a. Kerrie Smythe Booth license, Lic. #CB-05400, will be suspended for a period of 10 days beginning September 1, 2018.
- b. The 10 days of suspension will be held in abeyance for a period of 1 year, and Kerrie Smythe Booth license will not be actively suspended, so long as the following conditions are met:
 - 1) Kerrie Smythe Booth will comply with all laws and regulations relating to her profession under SDCL chapter 36-15 and ARSD article 20:42 for a period of 1 year beginning on the day this agreement is signed by the Commission; and
 - 2) Kerrie Smythe Booth pay a penalty in the amount of \$100.00 to the Commission prior to September 1, 2018, as a condition for the immediate reinstatement of Kerrie Smythe Booth license pursuant to SDCL 36-15-58.5.

Debbie Pageler seconded the motion. **MOTION PASSED.** (Carlson yea; Little yea; Pageler yea; Stokes yea; Ugofsky yea).

Tammy Ugofsky made a motion to go into Executive Session to review an application for an apprenticeship reinstatement. Tami Stokes seconded the motion. **MOTION PASSED.** (Carlson yea; Little yea; Pageler yea; Stokes yea; Ugofsky yea).

When the Commission returned to regular open session, Lori Little made a motion to deny the reinstatement of the apprenticeship at Leo Thomas Apprentice Salon. Tammy Ugofsky seconded the motion. **MOTION PASSED.** (Carlson yea; Little yea; Pageler yea; Stokes yea; Ugofsky yea).

Crystal Carlson made a motion to approve the school license renewal application of Headlines Academy, Rapid City. Tammy Ugofsky seconded the motion. **MOTION PASSED.** (Carlson yea; Little yea; Pageler yea; Stokes yea; Ugofsky yea).

Crystal Carlson made a motion to approve the school license renewal application of Lake Area Technical Institute Cosmetology Program. Tammy Ugofsky seconded the motion. **MOTION PASSED.** (Carlson yea; Little yea; Pageler yea; Stokes yea; Ugofsky yea).

In 2012 the Commission began offering State Board Exams in various locations around the state. In the past two years we discontinued Rapid City and Sioux Falls exams and moved the exams back to Pierre. We also continued to administer exams in Watertown two times a year. Crystal Carlson made a motion to move all State Board Exam administration back to Pierre. Tami Stokes seconded the motion. **MOTION PASSED.** (Carlson yea; Little yea; Pageler yea; Stokes yea; Ugofsky yea).

Effective January 1, 2018, Cosmetology education hours for licensure in South Dakota are being reduced from 2100 hours to a minimum of 1500 hours. Some of the schools have indicated that they are going to only offer a program of more than 1500 hours. Director Boyd asked the Commission to clarify if the office should certify the minimum required 1500 hours or the actual hours the student earns (if it is more than 1500).

Lori Little made a motion to certify a maximum of 1500 hours of education for any cosmetology education earned after January 1, 2019. Tammy Ugofsky seconded the motion. **MOTION PASSED.** (Carlson yea; Little yea; Pageler yea; Stokes yea; Ugofsky yea).

Commission members were reminded of upcoming meeting dates for the remainder of 2018, as noted on the agenda. It was noted that in an effort to combine the November Commission meeting date scheduled for Pierre and the December 2 State Board exam originally scheduled for Watertown, we will instead hold the State Board exams on Thursday, November 29, 2018 in Pierre and Commission meeting on Friday, November 30, 2018 in Pierre.

It was noted that the Governor's Hunt will be held in Pierre the weekend of October 26-28, 2018. State Board exams are scheduled for Thursday and Friday, October 25 and 26. This may affect the availability of hotel rooms for exam administrators and candidates on the night of Thursday, October 25, 2018. The staff was directed to check hotel room availability for October 25 and move the exams to a different date if necessary.

Attorney Graham Oey asked the Commission to decide whether or not they want to continue to have a Commission member service on the Violations Committee with the staff. Staff members who participate on this committee include, attorney, Executive Director, and Disciplinary Action staff member. The Commission would continue to vote on all Consent Agreements or on cases where a formal hearing is held. Oey stated that most boards and commissions rely on staff for the initial violations committee work, with the final voting being done by the board or commission.

Tami Stokes made a motion to have Crystal Carlson service on the Violations Committee for the upcoming year. **MOTION PASSED.** (Carlson yea; Little yea; Pageler yea; Stokes yea; Ugofsky yea).

Tami Stokes made a motion to elect Tammy Ugofsky as President. Debbie Pageler seconded the motion. **MOTION PASSED.** (Carlson yea; Little yea; Pageler yea; Stokes yea; Ugofsky yea).

Tammy Ugofsky made a motion to elect Tami Stokes as Vice President. Crystal Carlson seconded the motion. **MOTION PASSED.** (Carlson yea; Little yea; Pageler yea; Stokes yea; Ugofsky yea).

Tammy Ugofsky made a motion to elect Crystal Carlson as Secretary-Treasurer. Debbie Pageler seconded the motion. **MOTION PASSED.** (Carlson yea; Little yea; Pageler yea; Stokes yea; Ugofsky yea).

The meeting was recessed at 9:45 am and went back into session at 10:00 am.

Shawn Conder was present to provide information on two-tier esthetics licensure. Across the nation states are moving to a basic esthetics license and an advanced or master esthetician license. The advanced esthetics license allows qualified individuals who have completed a higher level of education to perform more invasive procedures. Mr. Conder discussed the different types of microdermabrasion equipment and the safety features of the equipment.

Tami Stokes made a motion to form a task force comprised to two Commission members, cosmetology school representatives and staff to develop draft legislation and request that legislation be introduced in 2019 to allow for two-tier esthetics licensure. The task force will also draft curriculum for the Commission's consideration. If legislation is passed to allow two-tier esthetics licensure, the curriculum would be set later in administrative rule. The motion was seconded by Tammy Ugofsky. **MOTION PASSED.** (Carlson yea; Little yea; Pageler yea; Stokes yea; Ugofsky yea).

It was agreed that Tammy Ugofsky and Tami Stokes will serve as the Commission representatives on the task force. The schools will be invited to have an instructor service on the task force as well. Mr. Conder offered to work with the task force. He said that there would be no charge if he participates in conference calls or email discussions.

Tammy Ugofsky made a motion to adjourn. Crystal Carlson seconded the motion. **MOTION PASSED.** (Carlson yea; Little yea; Pageler yea; Stokes yea; Ugofsky yea).

President Ugofsky adjourned the meeting at 10:30 am.

Respectfully submitted,

Kate Boyd, Executive Director

Crystal Carlson, Secretary-Treasurer

EXECUTIVE DIRECTOR'S REPORT
July 27, 2018

1. **South Dakota Board of Barber Examiners** – Effective July 1, 2018, the administration of the Barber Board has been assigned to the Cosmetology Commission staff. The two boards will remain as separate entities and it should not affect the Cosmetology Commission members of licensees. It means that the staff will provide services to both cosmetology and barbering.
2. **Cosmetology Administrative Rules** – We have been scheduled to present our updated administrative rules to the Legislature's Interim Rules Review Committee on August 20, 2018. After approval by the Interim Rules Review Committee, the rules get filed with the Office of the Secretary of State and become formally approved 20 days later.
3. **HB 1172 – An Act to revise certain provisions regarding meetings of certain public bodies.** – HB 1172 was passed by the 2018 South Dakota Legislature and signed into law by Governor Dugaard. HB 1172 amends and clarifies requirements for the state's open meeting laws. No action is required by the Commission at this time; this is included in the meeting packets for your information and review.