

# **SOUTH DAKOTA COSMETOLOGY COMMISSION MEETING MINUTES**

**September 23, 2016**

## **Call Meeting to Order**

A meeting of the Cosmetology Commission was called to order by President Tammy Ugofsky at 1:00 pm on Friday, September 23, 2016. The meeting was held at the Ramkota Hotel located at 920 West Sioux Avenue, Pierre, South Dakota.

## **Roll Call**

Attendance was taken by Secretary-Treasurer Crystal Carlson, with the following members present: Lori Berreth, Laurie Brandner, Crystal Carlson, Lori Little and Tammy Ugofsky. Staff present: Department of Labor and Regulation Deputy Secretary Tom Hart, Attorney Graham Oey, Executive Director Kate Boyd and Cosmetology office staff member Kelsey Skoglund. Others present included: School Representatives--AngelaTaylor-Stewart School via teleconference; Cricket Rick-Headlines Academy; Shawn VenJohn-Lake Area Technical Institute Cosmetology Program; Fallon Helm-Revive Day Spa and TSPA School; Tom and Joy Poloncic-Black Hills Beauty College. Members of the public who were present and addressed the Commission included: Ryan Howlett, Rachael Gorsuch, Priscilla and David Noble, Karen Brown, Amy Brech, Coleen Globke, Michalee Globke, Jennie and Cara Hohn.

## **2. Minutes of the July 12 and August 26, 2016 Meetings**

IT WAS MOVED BY CRYSTAL CARLSON, SECONDED BY LORI BERRETH, TO APPROVE THE MINUTES OF THE JULY 12 AND AUGUST 26, 2016 MEETINGS. THE MOTION PREVAILED ON A VOICE VOTE.

## **3. Treasurer's Report**

Executive Director Kate Boyd reported that as of August 31, 2016 the available budget was \$221,400.07 and the cash center balance was \$237,925.22, with August revenue of \$23,415.86.

IT WAS MOVED BY LORI BERRETH, SECONDED BY LORI LITTLE, TO APPROVE THE TREASURER'S REPORT. THE MOTION PREVAILED ON A VOICE VOTE.

It was agreed to delay agenda items 4 and 5 until later in the meeting so that the subject of hair braiding licensure could be discussed to accommodate the members of the public that had driven to Pierre for the meeting from various locations around the state.

## **6. Proposed Hair Braiding Legislation**

At the recent request of members of the public, the subject of professional hair braiding was put on the agenda. Several individuals had written letters to the Commission asking for a change in current cosmetology that requires 2100 hours of education and a full cosmetology license to perform ethnic hair braiding services. Draft legislation to create a professional hair braiding license was reviewed by the Commission. The details of the legislation include: (1) Eight-hour safety and infection control course, (2) \$20 per year license, and (3) professional hair braiders must work in a licensed salon or booth. Several members of the public, including adoptive

parents who have children with ethnic hair, as well as individuals who have the skill to care for and braid ethnic hair, were present to urge the Commission to proceed with legislation to lessen the burden for individuals who would like to work as professional hair braiders.

There was discussion about whether or not individuals who want to work as a hair braider should be required to attend educational classes in the art of ethnic hair braiding and care and take some kind of exam prior to licensure. Throughout the discussion, the Commission made changes to the draft bill to remove the option to sew or use adhesives when performing hair braiding services.

IT WAS MOVED BY LORI BERRETH, SECONDED BY CRYSTAL CARLSON, TO MOVE FORWARD WITH THE AMENDED DRAFT BILL FOR INTRODUCTION IN THE 2017 LEGISLATIVE SESSION. THE MOTION PREVAILED ON A VOICE VOTE.

At this time the meeting adjourned for a short break at 2:15 pm and the meeting reconvened at 2:30 pm.

#### **4. Executive Director's Report**

Executive Director Kate Boyd brought the Commission up-to-date on several items. **(1) New Staff Member** - Kelsey Skoglund was introduced as the new Program Assistant I. Kelsey will be dealing with formal complaints and disciplinary action, coordinate IT projects, assist with State Board exam administration, and various other duties around the office. **(2) Instructor Licensing** - Three cosmetologists took the Instructor State Board examinations to become licensed Senior Instructors. Also, an individual who was a nail technology instructor in 1983-84 has moved back to the state and is opening a salon. This individual has expressed an interest in becoming licensed as a senior instructor in the future to mentor nail technician apprentices. The commission does not need to take any action at this time, but in the future may possibly be asked to make a decision about reinstatement of an instructor license that has been expired for more than thirty years. **(3) Tablets for Practical Exams** - Due to the unreliability of the tablets that have been used in the past for administration of the practical exams, including screens freezing, tablets that won't turn on or charge properly, we recently purchased a higher quality of tablet for practical exam administration. **(4) NIC Exam Changes** - New changes to the NIC exams will be presented during the next day's NIC School Overview and the September 25 NIC Examiner Training.

#### **5. Disciplinary Actions**

**The Commission reviewed and took action on the following proposed Consent Agreements that have been signed by the licensee:**

##### **Case A-2015**

IT WAS MOVED BY LORI BERRETH, SECONDED BY CRYSTAL CARLSON, TO APPROVE THE CONSENT AGREEMENT FOR CASE A-2015 WITH THE FOLLOWING TERMS.

- a. Scent-sational Massage and Spa's application for licensure shall be permanently denied;

- b. Spa Utopia Salon's application for licensure, received in the Commission office on October 28, 2015, shall be permanently denied;
- c. Ms. Nedved's license, Lic. # EO-08827, shall be suspended for a period of 180 days with 135 days being held in abeyance. Ms. Nedved's license will be actively suspended for 45 days beginning October 1, 2016 **through** November 15, 2016;
- d. The remaining 135 days of suspension for Ms. Nedved's personal 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. Nedved 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 effective date of this agreement;
  - 2) Ms. Nedved will successfully pay for and successfully complete the online course entitled "Infection Control Online Class", sponsored by Milady, found at [www.miladypro.com](http://www.miladypro.com) . Ms. Nedved must submit to the Commission the Certificate of Completion received after successful completion of the course by October 31, 2016.
  - 3) Ms. Nedved's current workspace will be subject to additional inspections for a period of 1 year from the date of execution of this agreement. Ms. Nedved will make a onetime payment to the Commission for the additional expenses of the inspections in the amount of \$350.00 by October 31, 2016; and
  - 4) Ms. Nedved will attend a meeting with Commission staff at the Commission's office located in Pierre, SD, to discuss licensure law requirements. At the conclusion of the meeting, Ms. Nedved will successfully pay for and successfully complete the Commission's State Laws course by Successfully passing the post-course exam by October 31, 016. The cost of the course and exam is \$50.00;

THE MOTION PREVAILED ON A VOICE VOTE WITH LORI BERRETH, CRYSTAL CALSON, LORI LITTLE AND TAMMY UGOFKY VOTING AYE AND VIOLATIONS COMMITTEE LAURIE BRANDNER ABSTAINING.

**Case G-2015**

IT WAS MOVED BY CRYSTAL CARLSON, SECONDED BY LAURIE BRANDNER, TO APPROVE THE CONSENT AGREEMENT FOR CASE G-2015 WITH THE FOLLOWING TERMS.

- a. Ms. Rutz license, Lic. #NT-12541, will be suspended for a period of 180 days with 135 days being held in abeyance; Ms. Rutz's license will be actively suspended for 45 days beginning October 3, 2016 **through** November 16, 2016.
- b. The remaining 135 days of suspension for Ms. Rutz'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. Rutz will comply with all the 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 effective date of this agreement;
  - 2) Ms. Rutz will successfully pay for and successfully complete the online course entitled "Infection Control Online Class", sponsored by Milady, found at [www.miladypro.com](http://www.miladypro.com). Ms. Rutz must submit to the Commission the Certificate of Completion received after successful completion of the course by October 31, 2016.
  - 3) Ms. Rutz will contact the commission inspector in Rapid Ciyt, SD. MS. Rutz will pay for and successfully complete the Commission's State Laws course, Ms. Rutz must successfully pass the post-course and exam by October 31, 2016. The cost of the course and exam is \$50.00
  - 4) Ms. Rutz will pay \$60.00 to the Commission for the booth permit that was not received for the time she worked at Heartland Hair Salon.
- c. Theresa Rutz Booth's license, #NB-07565, shall be suspended for a period of 180 days with 135 days held in abeyance. Theresa Rutz Booth license will be actively suspended for 45 days beginning October 3, 2016 **through** November 16, 2016.
- d. The remaining 135 days of suspension for the booth'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 condition is met;
  - 1) Theresa Rutz Booth will comply with all the 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 effective date of this agreement;

THE MOTION PREVAILED ON A VOICE VOTE WITH LORI BERRETH, CRYSTAL CALSON, LORI LITTLE AND TAMMY UGOFKY VOTING AYE AND VIOLATIONS COMMITTEE LAURIE BRANDNER ABSTAINING.

**Case L-2015 - Kevin Lee**

IT WAS MOVED BY LAURIE BRANDNER, SECONDED BY CRYSTAL CARLSON, TO APPROVE THE CONSENT AGREEMENT FOR CASE L-2015 WITH THE FOLLOWING TERMS.

- a. Mr. Lee's license, Lic. #NT-12451 will be suspended for a period of 45 days with 31 days being held in abeyance; Mr. Lee's license will actively be suspended for 14 days from January 2, 2017 through January 15, 2017.
- b. The remaining 31 days of suspension for his 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. Lee will comply with all the will comply with all laws and regulations relating to his 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) Mr. Lee will successfully pay for and successfully complete the online course entitled "Infection Control Online Class", sponsored by Milady, found at [www.miladypro.com](http://www.miladypro.com). Mr. Lee must submit to the Commission the Certificate of Completion received after successful completion of the course by January 31, 2017.

THE MOTION PREVAILED ON A VOICE VOTE WITH LORI BERRETH, CRYSTAL CALSON, LORI LITTLE AND TAMMY UGOFKY VOTING AYE AND VIOLATIONS COMMITTEE LAURIE BRANDNER ABSTAINING.

**Case L-2015 - Kathy Lee**

IT WAS MOVED BY LORI LITTLE, SECONDED BY LAURIE BRANDNER, TO APPROVE THE CONSENT AGREEMENT FOR CASE L-2015 WITH THE FOLLOWING TERMS.

- a. Ms. Lee's license, Lic. #CO-12410 will be suspended for a period of 45 days with 31 days being held in abeyance; Ms. Lee's license will actively be suspended for 14 days from January 2, 2017 **through** January 15, 2017.
- b. The remaining 31 days of suspension for her 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. Lee will comply with all the 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 effective date of this agreement;
- 2) Ms. Lee will successfully pay for and successfully complete the online course entitled "Infection Control Online Class", sponsored by Milady, found at [www.miladypro.com](http://www.miladypro.com). Ms. Lee must submit to the Commission the Certificate of Completion received after successful completion of the course by January 31, 2017.

THE MOTION PREVAILED ON A VOICE VOTE WITH LORI BERRETH, CRYSTAL CALSON, LORI LITTLE AND TAMMY UGOFKY VOTING AYE AND VIOLATIONS COMMITTEE LAURIE BRANDNER ABSTAINING.

**Case L-2015 - Kevin Lee**

IT WAS MOVED BY CRYSTAL CARLSON, SECONDED BY LAURIE LITTLE, TO APPROVE THE CONSENT AGREEMENT FOR CASE L-2015 WITH THE FOLLOWING TERMS.

- a. Mr. Nguyen's license, Lic. #NT-12450 will be suspended for a period of 45 days with 31 days being held in abeyance; Mr. Nguyen's license will actively be suspended for 14 days from January 2, 2017 **through** January 15, 2017.
- b. The remaining 31 days of suspension for her 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. Nguyen will comply with all the will comply with all laws and regulations relating to his 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) Mr. Nguyen will successfully pay for and successfully complete the online course entitled "Infection Control Online Class", sponsored by Milady, found at [www.miladypro.com](http://www.miladypro.com). Ms. Lee must submit to the Commission the Certificate of Completion received after successful completion of the course by January 31, 2017.

THE MOTION PREVAILED ON A VOICE VOTE WITH LORI BERRETH, CRYSTAL CALSON, LORI LITTLE AND TAMMY UGOFKY VOTING AYE AND VIOLATIONS COMMITTEE LAURIE BRANDNER ABSTAINING.

**Case K-2016**

IT WAS MOVED BY LORI LITTLE, SECONDED BY LAURIE BRANDNER, TO APPROVE THE CONSENT AGREEMENT FOR CASE K-2015 WITH THE FOLLOWING TERMS.

- a. Ms. Nguyen's license, Lic. #NT-11950, will be suspended for a period of 45 days with 31 days being held in abeyance; Ms. Nguyen's license will actively be suspended for 14 days from October 16, 2016 **through** October 29, 2016.
- b. The remaining 31 days of suspension for her 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. Nguyen will comply with all the 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 effective date of this agreement;
  - 2) Ms. Nguyen will successfully pay for and successfully complete the online course entitled "Infection Control Online Class", sponsored by Milady, found at [www.miladypro.com](http://www.miladypro.com). Ms. Lee must submit to the Commission the Certificate of Completion received after successful completion of the course by November 1, 2016.
- c. Best Nails Salon's license, #NS-07990, will be suspended for a period of 45 days with 31 days being held in abeyance. Best Nails Salon's license will actively be suspended for 14 days from October 16, 2016 **through** October 29, 2016.
- d. The remaining 31 days of suspension for the salon'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) Best Nails Salon will comply with all the 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 effective date of this agreement;

Best Nails Salon will be subject to additional inspections for a period of 1 year from the date of execution of this agreement. Ms. Nguyen, as owner of the salon, will make a onetime payment to the Commission for the additional expenses of the inspections in the amount of \$350.00 by November 1, 2016.

THE MOTION PREVAILED ON A VOICE VOTE WITH LORI BERRETH, CRYSTAL CALSON, LORI LITTLE AND TAMMY UGOFKY VOTING AYE AND VIOLATIONS COMMITTEE LAURIE BRANDNER ABSTAINING.

## **7. Licensee Continuing Education**

Commission members Laurie Brandner and Crystal Carlson reviewed the August 19, 2016 Licensee Continuing Education Task Force meeting. In addition to two Commission members, the task force included licensees and instructors from cosmetology schools. The purpose of the August 19 meeting had been to develop details for a proposed administrative rules change to require licensee continuing education. The Commission was presented with the following outline of the Continuing Education Task Force recommendation.

### **LICENSEE CONTINUING EDUCATION RECOMMENDATION**

1. Eight hours of continuing education will be required every two years in order to renew a cosmetologist, esthetics or nail technician license in South Dakota.
  - a. Individuals whose date of birth falls in an even-numbered year must complete the continuing education prior to the expiration date in even-numbered years.
  - b. Individuals whose date of birth falls in an odd-numbered year must complete the continuing education prior to the expiration date in odd-numbered years.
2. The content of the continuing education shall include:
  - a. Four (4) hours of health, safety, infection control and South Dakota Laws/Rules
  - b. Four (4) hours on technical practice of cosmetology, nail technician or esthetics, to include health, safety and infection control
3. The continuing education must be done by a Commission preapproved provider.
  - a. Schools or education companies that wish to be providers of licensee continuing education must apply for preapproval that will be valid for a two-year period of time.
  - b. The cost of the provider application is \$100.

Note: The task force recommended there not be an exemption for any licensees based on age or years of licensure. The task force felt that it is important for all licensees to keep abreast of health, safety and infection control procedures.

Discussion was held about the breakdown of hours for safety, infection control and South Dakota cosmetology laws and rules versus technical practice of cosmetology, nail technology or esthetics.

IT WAS MOVED BY LORI LITTLE, SECONDED BY LORI BERRETH, TO PROCEED WITH FINALIZING ADMINISTRATIVE RULES CHANGES FOR CONSIDERATION BY THE COMMISSION AT THE DECEMBER 2, 2016 MEETING, AS OUTLINED ABOVE, WITH THE FOLLOWING CHANGES: (1) TWO HOURS OF HEALTH, SAFETY, INFECTION CONTROL AND SOUTH DAKOTA COSMETOLOGY LAWS AND RULES AND SIX HOURS ON



TECHNICAL PRACTICE OF COSMETOLOGY, NAIL TECHNOLOGY OR ESTHETICS, TO INCLUDE HEALTH, SAFETY AND INFECTION CONTROL; (2) EXEMPT FROM CONTINUING EDUCATION ANY LICENSEE WITH 30 OR MORE YEARS OF COSMETOLOGY LICENSURE OR OVER THE AGE OF 70. THE MOTION PREVAILED ON A VOICE VOTE.

### **8. Proposed Administrative Rules Changes**

The Commission meeting packets included a packet of proposed administrative rules changes, including the subject of licensee continuing education. Executive Director suggested that Commission members take the packets home with them to review and contact her with any changes to the proposed changes, deletions or additions. The December 2, 2016 meeting will include a review of all proposed administrative rules changes for the Commission to take action on to begin the formal rules adoption process.

### **9. Commission Review of License Applications and Requests**

- **Application # NR-12861** - This applicant had initially submitted a high school diploma for verification to AEQUO International that AEQUO determined was a fraudulent document. Based on that information, the decision was made by the Executive Director to cancel this reciprocity application since the individual did not qualify for a license in South Dakota with no high school diploma.

The individual obtained a GED certificate and reapplied for reciprocity. The GED certificate was received in the Cosmetology Commission office directly from a Community College.

IT WAS MOVED BY LAURIE BRANDNER, SECONDED BY CRYSTAL CARLSON, TO APPROVE APPLICATION #NR-12861. THE MOTION PREVAILED ON A VOICE VOTE.

- **Application # NR-13185** - The Commission originally denied this individual's license at the May, 2016 meeting due to the fact that the individual had submitted two separate applications with inconsistencies in terms of where the individual had previously been licensed and when the nail technology education had been obtained. In action taken at the May meeting, the Commission voted that the individual must wait 90 days to reapply and would need to appear before the Commission. The Commission office received a written note from the individual that he was currently working in Georgia and would not be able to attend the meeting. He did provide a telephone number in case the Commission would want to call him.

IT WAS MOVED BY LORI LITTLE, SECONDED BY LAURIE BRANDNER, TO APPROVE APPLICATION NR-13185. THE MOTION PREVAILED ON A VOICE VOTE.

### **10. 2017 Calendar Exam and Commission Meetings**

Copies of the proposed 2017 calendar for State Board Exams and Commission meeting was handed out for the Commission's information and review.

### **11. Other Business**

N/A

**Adjourn**

There being no further business, IT WAS MOVED BY CRYSTAL CARLSON, SECONDED BY LORI LITTLE, TO ADJOURN. THE MOTION PREVAILED ON A VOICE VOTE.

The meeting was adjourned at 4:30 pm.

Respectfully submitted,

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Kate Boyd, Recording Secretary

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Crystal Carlson, Secretary-Treasurer

## EXECUTIVE DIRECTOR'S REPORT

September 23, 2016

1. **New Staff Member** - Kelsey Skoglund was offered and accepted the Program Assistant I position. Kelsey is a licensed cosmetologist with recent experience in the banking industry. Kelsey will be present at the September 23 meeting to meet the Commission.
2. **Instructor Licensing**
  - In August three cosmetologists took the Instructor State Board exams. All three passed the practical exam and the State Laws, but one of the candidates failed the theory exam. She will be coming to Pierre in the near future to retake the theory exam.
  - I was recently contacted by an individual who was a nail technician instructor at a South Dakota cosmetology school back in 1983-84. This individual is a licensed cosmetologist, new owner of a limited salon (nails and esthetics) and would like to entertain the thought of mentoring two nail technician apprentices after her salon becomes firmly established. The Commission will need to decide what steps she would need to take to become licensed as a Senior Instructor. Since it has been over thirty years since she was a licensed instructor, the Commission may choose to have her take the full Instructor State Board Exams, including NIC written theory, NIC practical exam that includes development of lesson plans and doing a 20 minute lecture and a 20 minute demonstration on subjects assigned by the Commission member administering the exam, and the South Dakota Cosmetology Laws/Rules exam.
3. **Tablets for Practical Exams** - Due to the unreliability of the tablets that we initially purchased for administration of the practical exams, we have recently purchased a higher quality of tablet for practical exam administration. This should reduce the problem of screens freezing or tablets that won't charge properly or turn on.
4. **NIC Exam Changes** - On September 14, we received notification from Schroeder Measurement Technologies and NIC that they will be implementing some changes some of the practical exams. These changes will be reviewed during the September 24 NIC School Overview and the September 25 Examiner Training.