

SOUTH DAKOTA COSMETOLOGY COMMISSION MEETING MINUTES

December 2, 2016

Call Meeting to Order

A meeting of the Cosmetology Commission was called to order by President Tammy Ugofsky at 8:00 am on Friday, December 2, 2016. The meeting was held at the Department of Labor and Regulation office located at 123 W Missouri St, Pierre, South Dakota. Several Commission members joined the meeting via conference call.

Roll Call

Attendance was taken by Vice President with the following members present: Lori Berreth, Laurie Brandner, Lori Little and Tammy Ugofsky. Commission member absent: Crystal Carlson. Staff present: Attorney Graham Oey, Executive Director Kate Boyd and Cosmetology office staff member Kelsey Skoglund.

2. Minutes of the September 23 and October 20, 2016 Meetings

IT WAS MOVED BY LAURIE BRANDNER, SECONDED BY LORI BERRETH, TO APPROVE THE MINUTES OF THE SEPTEMBER 23 AND OCTOBER 20, 2016 MEETINGS. THE MOTION PREVAILED ON A ROLL CALL VOTING WITH LORI BERRETH, LAURIE BRANDNER, LORI LITTLE AND TAMMY UGOFKY VOTING AYE.

3. Treasurer's Report

Executive Director Kate Boyd reported that as of October 31, 2016 the available budget was \$169,510.35 and the cash center balance was \$227,156.99.

IT WAS MOVED BY LORI BRANDNER, SECONDED BY LORI BERRETH, TO APPROVE THE TREASURER'S REPORT. THE MOTION PREVAILED ON A ROLL CALL VOTE WITH LORI BERRETH, LAURIE BRANDNER, LORI LITTLE AND TAMMY UGOFKY VOTING AYE.

4. Executive Director's Report

Executive Director Kate Boyd's written report included: (1) Office Update - Kelsey Skoglund has settled into her new position and things are running very smoothly in the office with all three staff members working very well together. (2) Proposed Hair Braiding Legislation - The Department of Labor and Regulation will be introducing a bill in the 2017 Legislative Session to exempt hair braiding from the scope of practice of a cosmetologist. This will replace the draft hair braiding licensure bill from September 2016. (3) Cosmetology Education Hours - If we are going to move forward if the bill in the 2018 Legislative Session on cosmetology education hours, we will need to have a tentative proposal for the Commission review at the May 5, 2017 meeting and then draft legislation for the Commission's approval at the July 14, 2017 meeting. Executive Director Boyd suggested and the Commission agreed to ask the Education Hour Task Force to meet again to come up with a proposal for the Commission's consideration in 2017. (5) The Commission requires individual with education from outside the U.S. to have their education translated and evaluated by AEQUO International. The meeting handouts included an update from AEQUO regarding the procedures they follow with regard to verification of Vietnamese diplomas.

5. Disciplinary Actions

Executive Director Kate Boyd informed the Commission that the Disciplinary Action Hearings for Cases J-2015 and Y-2015 are being delayed to a later hearing date.

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

Case F-2016

IT WAS MOVED BY TAMMY UGOFISKY, SECONDED BY LORI, TO APPROVE CONSENT AGREEMENT CASE F-2016 WITH THE FOLLOWING TERMS:

- a. Mr. Phung's license, Lic. # NT-10815, shall be suspended for a period of 90 days with 83 days being held in abeyance. Mr. Phung's license will be actively suspended for 7 days beginning January 8, 2017 **through** January 14, 2017;
- b. The remaining 83 days of suspension for Mr. Phung'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) Mr. Phung 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. Phung will successfully pay for and successfully complete the online course entitled "Infection Control Online Class", sponsored by Milady, found at www.miladypro.com. Mr. Phung must submit to the Commission the Certificate of Completion received after successful completion of the course by January 31, 2017.
 - 3) Mr. Phung agrees not to sell or transfer in any way Envy Nails and Spa LLC prior to June 1, 2017.
- c.
- d. Envy Nails and Spa LLC's license, #LS-07490, will be suspended for a period of 90 days with 83 days being held in abeyance. Envy Nails and Spa LLC's license will actively be suspended for 7 days from January 1, 2017 **through** January 7, 2017:
- e. The remaining 83 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) Envy Nails and Spa LLC 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; and
- 2) Envy Nails and Spa LLC will be subject to additional inspections for a period of one year from the date of execution of this Agreement. Mr. Phung, 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 February 28, 2017.

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

Case P-2016

IT WAS MOVED BY TAMMY UGOFKY, SECONDED BY LORI BERRETH, TO APPROVE CONSENT AGREEMENT CASE P-2016 WITH THE FOLLOWING TERMS:

- a. Mr. Nguyen's license, Lic. # NT-10771 will be suspended for a period of 45 days with 38 days being held in abeyance. Mr. Nguyen's license will be actively suspended for 7 days beginning January 1, 2017 **through** January 7, 2017;
- b. The remaining 38 days of suspension for Mr. Nguyen'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) Mr. Nguyen 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. Mr. Phung must submit to the Commission the Certificate of Completion received after successful completion of the course by January 31, 2017.
 - 3) Mr. Nguyen agrees not to sell or transfer in any way Nails Art Salon prior to December 2, 2017.

- c. Nails Art Salon's license, #NS-07294, will be suspended for a period of 45 days with 38 days being held in abeyance. Nails Art Salon's license will actively be suspended for 7 days from January 1, 2017 **through** January 7, 2017:
- d. The remaining 38 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) Nails Art 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 effective date of this Agreement; and
 - 2) Nails Art Salon will be subject to additional inspections for a period of one year from the date of execution of this Agreement. Mr. 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 January 31, 2017.

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

Case J-2015

IT WAS MOVED BY LORI BERRETH, SECONDED BY TAMMY UGOFKY, TO APPROVE CONSENT AGREEMENT CASE J-2015 WITH THE FOLLOWING TERMS:

- a. Ms. Quinlivan license, Lic. # CO-09367, will be suspended for a period of 45 days with 31 days being held in abeyance. Ms. Quinlivan's license will be actively suspended for 14 days beginning December 24, 2016 **through** January 6, 2017;
- b. The remaining 31 days of suspension for Ms. Quinlivan'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. Quinlivan 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. Quinlivan will successfully pay for and successfully complete the online course entitled "Infection Control Online Class", sponsored by Milady, found at www.miladypro.com. Ms. Quinlivan must submit to the Commission the Certificate of Completion received after successful completion of the course by January 31, 2017.

- 3) Ms. Quinlivan will attend a meeting with Commission Staff to discuss licensure law requirements. At the conclusion of the meeting, Ms Quinlivan will successfully pay for and successfully complete the Commission's State Laws course by successfully passing the post-course exam by January 31, 2017. The cost of the course and exam is \$50.00;

- c. Due to resent closure of Body & Soul Salon there will be no active days of suspension for the salon license.

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

6. Initiated Measure 22 and Its Effect on State Employees

Attorney Graham Oey provided information about Initiated Measure 22 that was passed in the November, 2016 General Election. He addressed some of the details of this new law and its implication for state employees. He said that some details still need to be worked out through administrative rule.

7. Microdermabrasion Provider Application

IT WAS MOVED BY TAMMY UGOFKY, SECONDED BY LORI BERRETH TO APPROVE THE MICRODERMABRASION PROVIDER APPLICATION SUBMITTED BY RAMONA REICHERTS. THE MOTION PREVAILED ON A VOICE VOTE WITH LORI BERRETH, LORI BRANDNER, LORI LITTLE AND TAMMY UGOFKY VOTING AYE.

8. Proposed Administrative Rules Changes

The Commission reviewed the draft administrative rules changes and provided guidance to the staff on wording and intent.

11. Other Business

N/A

Adjourn

There being no further business, IT WAS MOVED BY LORI BERRETH, SECONDED BY LORI LITTLE, TO ADJOURN. THE MOTION PREVAILED ON A ROLL CALL VOTE WITH LORI BERRETH, LORI BRANDNER, LORI LITTLE AND TAMMY UGOFKY VOTING AYE.

The meeting was adjourned at 9:30 a.m.

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Respectfully submitted,

Kate Boyd, Recording Secretary

Lori Berreth, Vice President

Executive Director's Report

December 2, 2016

1. **Office Update** - Kelsey Skoglund has settled very well into her new position with the Commission office. She has quickly become an asset to the overall operation of the office. Kelsey, Bradi and I have developed a mutual respect for each other and function efficiently as a staff of three.
2. **Proposed Hair Braiding Legislation** - The Department of Labor and Regulation will be introducing a bill in the 2017 Legislative Session to exempt hair braiding from the scope of practice of a cosmetologist. This will replace the hair braiding licensure bill originally proposed by the Commission in September, 2016.
3. **Cosmetology Education Hours** - Additional information has become available about cosmetology education hours nationwide. I would like to suggest that the Commission direct the 2016 Cosmetology Education Hour Task Force to begin meeting again to continue work on possible legislation for the lowering of cosmetology education hours. If we are going to request a bill be introduced in the 2018 Legislative Session, the Commission would need to approve the concept by the May 5, 2017 Commission meeting and direct the staff to draft legislation for the Commission's approval at the July 14, 2017 meeting. After that the bill would need to go thru review by the Department of Labor and Regulation and the Governor's Legislative Task Force.
4. **AEQUO International Updates** - Attached to this report is communication received from Brentni Henderson of AEQUO International regarding changes in verification procedures for candidates with Vietnamese high school education.