

Meeting Minutes
SOUTH DAKOTA COSMETOLOGY COMMISSION
Watertown and Sioux Falls, South Dakota
May 4 & 5, 2017

Thursday, May 4, 2017

A. Call to Order

President Tammy Ugofsky called the meeting to order at 2:00 pm on Thursday, May 4, 2017 at Lake Area Technical Institute located at 1201 Arrow Avenue, Watertown, South Dakota.

B. Roll Call

Secretary-Treasurer Crystal Carlson read the roll.

Members Present: President Tammy Ugofsky, Laurie Brandner, Crystal Carlson

Members Absent: Lori Berreth, Lori Little

Staff Present: Executive Director Kate Boyd

Others Present: Shawn Venjohn, Angela Larson and Kim Bellum from Lake Area Technical Institute.

C. 1. Tour LATI Cosmetology Program Classrooms & Observe Students and 2. Meet with LATI Cosmetology Program School Representatives

The Commission toured the LATI cosmetology program classrooms and met with LATI school representatives Shawn Venjohn, Angela Larson and Kim Hallum.

D. Recess for the Day

CRYSTAL CARLSON MOVED, seconded by Laurie Brandner to recess for the day. **MOTION PASSED ON A VOICE VOTE.**

The meeting was recessed at 3:30 pm.

Friday, May 5, 2017

E. Reconvene

President Tammy Ugofsky called the meeting back to order at 8:30 am on Friday, May 5, 2017 at Black Hills Beauty College-Sioux Falls located at 3501 S Kelley Avenue, Sioux Falls, South Dakota.

F. Roll Call

Secretary-Treasurer Crystal Carlson read the roll.

Members Present: President Tammy Ugofsky, Laurie Brandner, Crystal Carlson

Members Absent: Lori Berreth, Lori Little

Staff Present: Executive Director Kate Boyd

Others Present: Tom Poloncic and Joy Poloncic, owners of Black Hills Beauty College-Sioux Falls.

G. 1. Tour Black Hills Beauty College-Sioux Falls Classrooms & Observe Students and 2. Meet with LATI Cosmetology Program School Representatives

The Commission toured Black Hills Beauty College-Sioux Falls classrooms and met with Black Hills Beauty College owners Tom and Joy Poloncic and School Director Monica Engeltjes.

H. Recess

CRYSTAL CARLSON MOVED, seconded by Laurie Brander to recess. **MOTION PASSED ON A VOICE VOTE.**

The meeting was recessed at 9:40 am.

I. Reconvene

The meeting was called back to order at 10:00 am at Stewart School located at 604 N West Avenue, Sioux Falls, South Dakota.

J. Roll Call

Secretary-Treasurer Crystal Carlson read the roll.

Members Present: President Tammy Ugofsky, Laurie Brandner, Crystal Carlson

Members Absent: Lori Berreth, Lori Little

Staff Present: Executive Director Kate Boyd

Others Present: Angela Taylor, Matt Fiegen and Caitlin Hoogland from Stewart School.

K. 1. Tour Stewart School Classrooms & Observe Students and 2. Meet with Stewart School Representatives

The Commission toured Stewart School classrooms and met with Stewart School representatives Matt Fiegen, Angela Taylor and Caitlin Hoogland.

L. Recess for Lunch

LAURIE BRANDNER MOVED, seconded by Crystal Carlson to recess. **MOTION PASSED ON A VOICE VOTE.**

The meeting was recessed at 11:10 am.

M. Reconvene

The meeting was called back to order at 2:00 pm at the Department of Labor and Regulation Office located at 811 East 10th Street, Sioux Falls, South Dakota.

N. Roll Call

Secretary-Treasurer Crystal Carlson read the roll.

Members Present: President Tammy Ugofsky, Laurie Brandner, Crystal Carlson and Lori Berreth and Lori Little via teleconference

Staff Present: Attorney Graham Oey and Executive Director Kate Boyd

Others Present:

Tom Poloncic, Black Hills Beauty College, Rapid City and Sioux Falls
Joy Poloncic, Black Hills Beauty College, Rapid City and Sioux Falls

Trish Bates, Hollywood Style Salon
Angela Taylor, Stewart School
Matt Fiegen, Stewart School
Caitlin Hoogland, Stewart School
Darla Bierwagen, Absolute Bliss
Angela Larson, Lake Area Technical Institute-Cosmetology Program
Shawn Venjohn, Lake Area Technical Institute-Cosmetology Program
Tonya Beynon, Reflections Hair Designs
Maria Flores, Reflections Hair Designs
Danielle May

O. March 20, 2017 Meeting Minutes

CRYSTAL CARLSON MOVED, seconded by Lori Little, to approve the Minutes of the March 20, 2017 Meeting. **MOTION PASSED ON A ROLL CALL VOTE** with Lori Berreth, Laurie Brandner, Crystal Carlson, Lori Little and Tammy Ugofsky voting aye.

P. Treasurer's Report

Executive Director Kate Boyd reported that as of March 31, 2017, the available funds balance was \$39,322.80 and the cash center balance was \$216,622.94.

Q. Executive Director's Report

Executive Director Kate Boyd reported on her attendance at the NIC Executive Directors Meeting held April 18 & 19, 2017 in St. Paul, Minnesota. The important topics included, (1) future of the Beauty Industry Coalition Report, (2) Legislative and Administrative rules updates by the states in attendance, (3) development of a Uniform Model Cosmetology Practice Act, and (4) Infection Control Best Practices. The written report is attached to these Minutes.

R. Disciplinary Actions

1. Violations Hearing - Case Y-2015

President Tammy Ugofsky stated that the Commission would not be conducting a disciplinary action hearing for Case Y-2015 - Absolute Bliss Salon and Darla Bierwagen. Darla Bierwagen was present to represent herself and the complaint Danielle May was also present. The hearing was originally set for December 2, 2016. A second notice of hearing was mailed on January 3, 2017, with the hearing set for February 24, 2017. Ms. Bierwagen requested a new hearing date if she could not appear telephonically due to a broken foot. A new notice of hearing was sent to Ms. Bierwagen on February 7, 2017 for hearing on May 5, 2017 in Sioux Falls. The notice of hearing was returned by the post office. The May 5, 2017 notice of hearing was again sent on March 3, 2017 and the signed Admission of Service was received from Ms. Bierwagen on March 23, 2017.

Attorney Graham Oey stated his first witness was Danielle May, who had filed a complaint that Ms. Bierwagen injured her during a Brazilian sugaring hair removal service at Absolute Bliss Salon in Sioux Falls, South Dakota on December 19, 2015.

President Tammy Ugofsky swore in Danielle May as a witness.

Attorney Oey asked Ms. May to describe the service and injury that she had received on December 19, 2015. Ms. May testified that there was a lack of safety and infection control, that Ms. Bierwagen took some meat off a tray and ate it without washing her hands prior to starting the service. She further testified that Ms. Bierwagen did not wear gloves throughout the service and would not stop when Ms. May requested that she do so due to the intense pain. Ms. May stated that Ms. Bierwagen kept going over the same area several times. Ms. May said that she was bleeding and finally grabbed a towel herself to wipe up the blood. Ms. May stated that Ms. Bierwagen did not provide any antiseptic prior to giving her a bandaid.

Following this testimony, President Ugofsky asked Ms. Bierwagen if she wanted to question the witness. Ms. Bierwagen asked Ms. May if she saw a hand-washing station and Ms. May stated that she did not see a hand-washing station.

Attorney Oey called Cosmetology Commission Executive Director Kate Boyd as his next witness. President Tammy Ugofsky swore in Ms. Boyd as a witness. Attorney Oey asked Ms. Boyd to describe her duties as Executive Director of the Commission. Ms. Boyd responded that she maintains the licensing database, handles reciprocity applications, directs and participates in State Board examination administration. She testified that Darla Bierwagen has been actively licensed as a cosmetologist since July 27, 2010. Ms. Bierwagen opened Absolute Bliss Hair Skin & Nails salon on October 14, 2014 and closed the salon on October 27, 2016.

Mr. Oey stated he did not have any further witnesses.

Ms. Bierwagen was sworn in by President Tammy Ugofsky and spoke on her own behalf. Ms. Bierwagen stated that she did not remember a meat tray in the salon and she reviewed her normal procedures for providing sugaring hair removal. Ms. Bierwagen stated that she did use tweezers to try to remove an ingrown hair that looked infected.

Commission member Crystal Carlson asked Ms. Bierwagen why she did not stop the service when Ms. May requested that she do so. Ms. Bierwagen responded that it is not uncommon for clients to be nervous and she tells them to relax prior to continuing the service.

At this point the testimony was ended. Attorney Oey stated that at the July 14, 2017 Commission meeting, he would be presenting Findings of Fact and Conclusions of Law for the Commission's consideration. Ms. Bierwagen can also submit her own Findings of Fact and Conclusions of Law for the Commission's consideration.

The hearing ended at 3:04 pm.

2. Proposed Consent Agreement - Case X-2016

CRYSTAL CARLSON MOVED, seconded by Tammy Ugofsky, to approve the Consent Agreement for Case X-2016 with the following terms:

- a. Ms. Stolp's license, Lic. #CO-11303, will be suspended for a period of 2 days with 2 days being held in abeyance: Ms. Stolp's license will not actively be suspended.

- b. The 2 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. Stolp 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) Pursuant to SDCL 36-15-58.5 the Commission imposes a monetary penalty of \$50.00 to be paid prior to May 31, 2017.

MOTION PASSED ON A ROLL CALL VOTE with Lori Berreth, Crystal Carlson, Lori Little and Tammy Ugofsky voting aye and Violations Committee member Laurie Brandner abstaining.

S. Proposed Legislation - Cosmetology Education Hours

The Commission had reviewed and discussed the current 2100 cosmetology education hour requirement at the March 20, 2017 meeting. At that time the staff had informed the Commission that if they wish to pursue legislation in 2018 to lower the hours from 2100, the Commission would need to provide direction to the staff at the May 5, 2017 meeting to draft legislation for the Commission's review and approval at the July 14, 2017 meeting.

This subject was further discussed and input was provided by members of the public that were in attendance.

TAMMY UGOFKY MOVED, seconded by Lori Berreth, to direct the staff to bring draft legislation to the July 14, 2017 meeting to lower the cosmetology education hours from 2100 to 1500 hours.

Laurie Brandner offered a substitute motion, to have legislation drafted to lower the cosmetology education hours to 1600 hours. MOTION DIED FOR LACK OF A SECOND.

THE ORIGINAL MOTION to lower the cosmetology education hours to 1500 hours **PASSED ON A ROLL CALL VOTE** with Lori Berreth, Lori Little and Tammy Ugofsky voting aye, Laurie Brandner voting nay, and Crystal Carlson abstaining.

T. Practical Examinations

At the previous meeting there had been discussion about discontinuing the Commission administered practical examination and having the schools conduct the practical examination. The Commission reviewed information prepared by the staff on the costs of the examinations and the pass/fail rate for 2015 and 2016.

Executive Director Kate Boyd informed the Commission that they did not have to make a decision at this time. She recommended that if we continue to administer the practical examination that we should move most of the examinations back to Pierre and to also continue to test in Watertown once or twice a year. The examinations are costing a great deal to administer in both Rapid City and Sioux Falls due to the cost of renting examination space.

Additionally, testing on Saturdays means that staff members are required to work adjust the following week and that creates a staff shortage. The exams can be administered during work days. There would be no charges to administer the exams in Pierre at a state office building that has a large meeting room for the practical exam and a computer lab across the hall. Further, due to the fact that we do not test a large number of candidates throughout the year, the current system of testing on both sides of the state is causing some exam candidates to drive across the state to take their exams, whereas Pierre is centrally located.

U. Commission Review of Reciprocity Application

The Commission reviewed a reciprocity application from Morgan Witzel from Minnesota. She is currently licensed in Minnesota and completed 2100 hours at Model College of Hair Design in St. Cloud, Minnesota. Ms. Witzel's school had led her to believe that if she completed 2100 hours from their school, she then would not need to have her Minnesota cosmetology work hours validated by her employer.

LORI LITTLE MOVED, seconded by Crystal Carlson, to accept 2100 hours of cosmetology education from Model College of Hair Design for Morgan Witzel. **MOTION PASSED ON A ROLL CALL VOTE** with Lori Berreth, Crystal Carlson, Lori Little and Tammy Ugofsky voting aye. Laurie Brandner had departed the meeting and was absent and not voting.

V. Black Hills Beauty College-Sioux Falls - Request for Approval of Conditional Senior Instructor License

Black Hills Beauty College-Sioux Falls submitted a Statement of Emergency Need for a Conditional Senior Instructor for Mallory Donovan, due to a staff shortage. TAMMY UGOFKY MOVED, seconded by Crystal Carlson to approve the conditional Senior Instructor License for Mallory Donovan. **MOTION PASSED ON A ROLL CALL VOTE** with Lori Berreth, Crystal Carlson, Lori Little and Tammy Ugofsky voting aye. Laurie Brandner was absent and not voting.

W. Other Business

Instructor Licensing

President Tammy Ugofsky requested that the staff present proposed legislation at the July 14, 2017 meeting for an exemption for substitute instructors who plan to teach 80 hours of less in a calendar year and for one-tier instructor licensing, eliminating junior and senior instructor licenses.

X. Upcoming Meeting Dates for the Remainder of 2017

- July 14, 2017 - Commission Meeting am & NIC School Overview pm - Pierre
- July 15-16, 2017 - NIC Examiner Training/Certification (MANDATORY) - Pierre
- August 3-4, 2017 - NIC Executive Directors Meeting - Charleston, WV
- August 5-7, 2017 - NIC Conference - Charleston, WV
- Sept. 21-22, 2017 - Commission Meeting & School Visits - Rapid City & Sturgis
- October 23, 2017 - State Board Exams - Rapid City
- November 17, 2017 - Commission Meeting - Pierre
- December 2, 2017 - State Board Exams - Watertown

Adjourn

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LORI LITTLE MOVED, seconded by Crystal Carlson to adjourn. **MOTION PASSED ON A ROLL CALL VOTE** with Lori Berreth, Crystal Carlson, Lori Little and Tammy Ugofsky voting aye. Laurie Brandner was absent and not voting.

The meeting was adjourned at 4:30 pm.

Respectfully submitted,

Kate Boyd, Recording Secretary

Crystal Carlson, Secretary-Treasurer

NIC Executive Directors Meeting - April 18 & 19, 2017 - St. Paul, Minnesota

I recently attended the NIC Executive Directors Meeting April 18 & 19, 2017 in St. Paul, Minnesota. This was a busy 1.5 days with a great deal of material to review. Major topics of discussion included:

Future of the Beauty Industry Coalition (FBIC) Report

Myra Irizarry of the Professional Beauty Association (PBA) reported on the current status of the FBIC. This coalition was formed a couple of years ago to try to unify the cosmetology industry in an effort to: (1) Prevent deregulation, (2) develop uniform standards, (3) improve reciprocity and mobility of licensure from state to state, (4) focus on health and safety standards, and (5) develop a unified voice to work with State Legislators to ensure consistent regulatory laws. FBIC previously implemented two studies about cosmetology education and curriculum. Some of the highlights include: (1) graduation rates are not improved or affected by more curriculum hours, (2) licensing hour requirements do not lead to increased exam passing rates; (3) more curriculum hours do not lead to high wages, (4) longer programs create a greater risk for students by increasing student loan debt.

Legislative and Administrative Rules Updates

There was a sharing of recent or upcoming legislative and administrative rules changes in the various states. Arkansas and Nevada stated that they are turning their practical exam over to the cosmetology schools to administer. Deregulation of natural hair braiding continues to grow across the country. Several states have or are in the process of passing laws to lower their cosmetology education hours. Texas and Ohio have bills introduced to lower their full cosmetology education hours to 1000 hours. Minnesota has passed a law to allow for mobile salons. The mobile salons must keep the State Board office notified of what cities they will be in and where their mobile salon will be parked in a city so that surprise inspections can still occur.

Uniform Model Cosmetology Practice Act

The Executive Directors have been working on the development of a Uniform Model Cosmetology Practice Act. At previous meetings we had volunteered for task forces to develop language for Infection Control Best Practices, Reciprocity, Curriculum, Examinations. The group understands that states will continue to have their own laws and rules. The intent of the Uniform Practice Act is to have a resource that states can use if they are considering law or rules changes. Attached is the proposed Curriculum for Cosmetology, Hair Styling, Nail Technology, and Esthetics. You will note a change from Anatomy and Biology to Physiology. This change is being made because in the future cosmetology students will be taught more about what observations should cause them to suggest a potential client seek medical care. In the past there was an emphasis on memorizing anatomy and biology. Future textbooks and exams will reflect the new philosophy.

Infection Control Best Practices

We reviewed the Infection Control Best Practices that was developed by that task force with the assistance of Leslie Rose of King Research. These are available on the NIC website.