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COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS

F I N A L M I N U T E S

MEETING OF:

STATE BOARD OF COSMETOLOGY

TIME: 9:13 A.M.

BOARD ROOM C

One Penn Center

2601 North Third Street

Harrisburg, Pennsylvania 17110

Monday, September 9, 2019

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State Board of Cosmetology
September 9, 2019

BOARD MEMBERS:

- Tammy Y. O'Neill, Chair, Professional Member
- Felicia Brown-Haywood, Vice Chair, Professional Member
- Tracy E. Bruno, Secretary, Professional Member
- K. Kalonji Johnson, Acting Commissioner, Bureau of Professional and Occupational Affairs
- Elisa Gonzalez, Professional Member
- Kristal L. Ferron, Consumer Protection Member
- Carolyn R. Folk, Professional Member - Absent
- Stephen A. Wallin, Professional Member
- Deborah S. Neatock, Professional Member

BUREAU PERSONNEL:

- Shana M. Walter, Esquire, Board Counsel
- Tara J. Wikhian, Esquire, Board Prosecution Liaison
- Colby B. Widdowson, Esquire, Board Prosecutor
- Kelly I. Diller, Board Administrator

1 State Board of Cosmetology
2 September 9, 2019 (Continued)

3
4 ALSO PRESENT:

5
6 Kyle Shaeffer, Gmerek Government Relations
7 Bobby Keyes, Image Studios 360
8 Sue Jacquette, Image Studios 360
9 Debbie Eckstine Weidner, DeRielle
10 Henry Cumminson, PaSSBW
11 S.J. Szabo, PaSSBW
12 Amanda Nicole Viti, DeRielle
13 Dgea Mish, DeRielle
14 Charles Hartwell, Esquire
15 Justin Lehman, PaPSA
16 Jenn Navarro, MY SALON Suite
17 John Cowan, MY SALON Suite
18 Jennifer Dugan, DeRielle
19 Anastasia Biler, DeRielle
20 Mike Gent, PA DOC
21 Brian Abela, Bravo Group
22 Chris Lammando, Gmerek Government Relations
23 Robert (Bo) Breuner, Owner, Sola Salon Studios
24 Luke Fishel, Central PA Literacy Council
25 Donald Moore, Calista Grand Salon & Spa
26 Marc Farrell, Deputy Policy Director, PA DOS
27 Sandra Dugan, DeRielle
28 Nicole Beedy, DeRielle
29 Mary Lou Enoches, West Chester, PA

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1 ***

2 State Board of Cosmetology

3 September 9, 2019

4 ***

5 The regularly scheduled meeting of the State
6 Board of Cosmetology was held on Monday, September 9,
7 2019. Tammy Y. O'Neill, Chair, Professional Member,
8 called the meeting to order at 9:13 a.m. The Pledge
9 of Allegiance was recited. K. Kalonji Johnson, Acting
10 Commissioner, Bureau of Professional and Occupational
11 Affairs, was not present at the commencement of the
12 meeting.

13 Roll call was taken. A quorum was noted to be
14 present.

15 ***

16 [Chair O'Neill requested the introduction of audience
17 members in attendance.]

18 ***

19 Approval of minutes of the July 8, 2019 meeting

20 CHAIR O'NEILL:

21 Approval of our minutes from July 8,
22 2019. Can I get a motion?

23 MS. BRUNO:

24 I'll make a motion.

25 MS. BROWN-HAYWOOD:

1 Second.

2 CHAIR O'NEILL:

3 Thank you.

4 [The motion carried unanimously.]

5 ***

6 [K. Kalonji Johnson, Acting Commissioner, Bureau of
7 Professional and Occupational Affairs, entered the
8 meeting at 9:18 a.m.]

9 ***

10 Report of Prosecutorial Division

11 [Colby B. Widdowson, Esquire, presented Consent
12 Agreements for Case No. 17-45-03344, Case No. 18-45-
13 011638, and Case No. 18-45-005435.

14 Charles Hartwell, Esquire, was present on behalf
15 of the Respondent for the discussion on Case No. 18-
16 45-005435.]

17 ***

18 [Tara J. Wikhian, Esquire, on behalf of Angela B.
19 Lucci, Esquire, presented Consent Agreements for Case
20 No. 18-45-01762, Case No. 18-45-006362, and Case No.
21 16-45-04752.]

22 ***

23 [Tara J. Wikhian, Esquire, presented a Consent
24 Agreement for Case No. 17-45-02299.]

25 ***

1 Report of Deputy Commissioner - No Report

2 ***

3 Report of Board Chair - No Report.

4 ***

5 Report of Board Administrator

6 [Kelly I. Diller, Board Administrator, asked Board

7 members to read, sign, and return the requested

8 information at the end of the meeting.]

9 ***

10 Items for Discussion

11 2020 Board Meeting Dates

12 [Board members reviewed the 2020 meeting dates.]

13 CHAIR O'NEILL:

14 Can I get a motion to approve?

15 MS. BROWN-HAYWOOD:

16 Approve.

17 ACTING COMMISSIONER JOHNSON:

18 Second.

19 [The motion passed unanimously.]

20 ***

21 Correspondence

22 Letter from Luke Fishel

23 [Luke Fishel, a tutor from the Central Pennsylvania

24 Literacy Council, on behalf of Mary Alizada, presented

25 before the Board for discussion of an email letter she

1 wrote requesting that someone be appointed to read the
2 examination to Mary as English is her fourth language.

3 Ms. Fishel requested that the Board either extend
4 the time to test her or have someone physically read
5 the test to her.

6 It was noted that Ms. Fishel had presented at a
7 meeting previously and the Board voted to approve Ms.
8 Alizada to listen to a recorded version of the test
9 through headphones. It was further noted that Pearson
10 Vue does not have that capability so other options are
11 being explored. Ms. Fishel suggested that if Ms.
12 Alizada could have extended time to take the test, she
13 could read it on her own to herself just like any
14 other candidate. She requested 45 minutes of
15 additional time.

16 The matter would be discussed further during
17 Executive Session and that Ms. Fishel would be
18 contacted with the Board's decision.]

19

20 New Business

21 [Donald Moore and Mary Lou Enoches, West Chester,
22 Pennsylvania, noted his attendance at the last meeting
23 and discussion regarding dimensions of the salon
24 suites and restrictions and the 180-square foot
25 requirement. He stated all suites meet the 180-square

1 foot requirement but had concerns with two double
2 suites. He requested an investigation to determine
3 whether the two suites could operate as two separate
4 salons.

5 Ms. Walter stated any regulation complaints can
6 be made through the PALS online system. The Board is
7 charged with enforcing regulations and not
8 investigations.

9 Mr. Moore offered to provide input and support as
10 it concerns State Board of Cosmetology rules and
11 regulations. Ms. Walter explained the regulatory
12 process and stated there would be discussion at the
13 meeting today regarding Act 41 regulations, and that a
14 presentation from the Finance Bureau would also be
15 given.

16 Mary Lou Enoches commented that she had been
17 Board Chair for many years and respects Board members
18 for the time that they give. On behalf of the salons,
19 Ms. Enoches asked that the salons "be kept on the same
20 playing field" by keeping the 180 square foot
21 requirement.

22 Ms. Walter explained that the regulations allow
23 the Board to grant a variance request under reasonable
24 circumstances.]

25

1 [Justin Lehman, Jean Madeline Aveda Institute and
2 PaPSA, presented before the Board asking for
3 clarification of the Board's decision that lash
4 extensions are not part of an aesthetician's license.

5 Ms. Walter explained that the Board issued a
6 Memorandum Order in 2018 where it determined that the
7 application of lash extensions was a practice of
8 cosmetology. She stated an attorney would be able to
9 provide information concerning the legal process and a
10 legislator would be able to provide information
11 regarding changes to the regulations concerning lash
12 extensions.]

13 ***

14 [Sandra Dugan, DeRielle student, provided a brief
15 summary of her professional and educational
16 background. She stated it was DeRielle's
17 understanding that lash extensions are still covered
18 under an aesthetician's license and was looking
19 forward to a career including application of lash
20 extensions. Ms. Dugan would like to be a part of
21 regulations regarding this matter.]

22 ***

23 [Debbie Eckstine Weidner, DeRielle, commented she knew
24 nothing about the Order and inquired why the schools
25 in the state that teach aesthetics weren't notified.

1 She suggested that the Order be changed to allow both
2 aestheticians and cosmetologists to do lash
3 extensions. Ms. Eckstine Weidner further requested
4 that Pearson Vue also be notified of the change. She
5 talked about other issues that need clarification for
6 testing purposes.

7 There was discussing regarding the definition of
8 aesthetics. Ms. Walter would have further information
9 regarding the definition of cosmetic preparation at
10 the next meeting.]

11 ***

12 [Nicole Beedy, DeRielle student, inquired whether an
13 aesthetician can or cannot do eyelash extensions.

14 Ms. Walter explained that the Board entered an
15 Order that eyelash extension falls under the practice
16 of Cosmetology, and that Cosmetology encompasses
17 aesthetics, cosmetology and natural hair braiding.

18 Ms. Walter explained the complaint investigative
19 process.

20 Acting Commissioner Johnson explained regulations
21 are changed through due process and regulatory or
22 legislative amendments. He explained that the Board
23 does not have the power to change the statute, and
24 noted that power belongs to the legislative branch of
25 the government.]

1 ***

2 Appointment
3 Bureau of Finance and Operations
4 [Kimberly Adams, Chief of Fiscal Management, Bureau of
5 Finance and Operations, presented before the Board for
6 discussion of the Board's 2018-2019 and 2019-2020
7 budget.

8 She indicated that revenues are being surpassed
9 by expenses and is currently showing a negative
10 balance.

11 Acting Commissioner Johnson explained that all
12 Boards are required to maintain a balance that covers
13 operating costs, administrative costs and expenses.
14 He stated currently there was a slight deficit. And
15 indicated that the Independent Regulatory Review
16 Commission (IRRC) is the Commonwealth agency that
17 regulates and oversees the regulatory process. Acting
18 Commissioner Johnson further indicated that what the
19 Board is facing today is the start of a "very
20 deliberate, very transparent process" that does not
21 happen overnight.

22 Ms. Adams had discussion regarding the licensing
23 population, noting 129,095 licensees in the various
24 cosmetology license classes. She referred to revenue
25 and expenses from 2011 to current, noting expenses

1 year to date of \$5,041,889.05 and revenues of
2 \$5,257,989.96. Ms. Adams explained that if nothing is
3 done to correct the expenditures from going beyond the
4 revenues, the Board would be \$5.9 million "in the
5 hole".

6 Ms. Adams discussed the current application costs
7 and fees and proposed increasing renewals and
8 applications on a step basis, and that her
9 calculations were a fair increase to cover expenses
10 and would get the Board "out of the "red". Acting
11 Commissioner Johnson explained that the largest
12 percentage of expenses due to legal costs and
13 complaint investigation costs have risen dramatically.
14 The Board had discussion regarding the proposed fee
15 increases and application costs.]

16 CHAIR O'NEILL:

17 If I could get a motion for the Counsel
18 to draft regulation for the licensure fee
19 increase proposal.

20 MS. NEATOCK:

21 Motion.

22 ACTING COMMISSIONER JOHNSON:

23 Second.

24 [Chair O'Neill stated information regarding the annex
25 for the fee regulation would be presented at the

1 October meeting.]

2 CHAIR O'NEILL:

3 We're actually going to do a roll call
4 vote on the fee increase.

5

6 Ms. Brown-Haywood, yes; Ms. Bruno, yes;
7 Ms. Gonzalez, yes; Ms. Ferron, yes; Mr.
8 Wallin, yes; Ms. Neatock, yes; Acting
9 Commissioner Johnson, yes; Chair O'Neill,
10 yes.

11

12 [Pursuant to Section 708(a)(5) of the Sunshine Act, at
13 10:40 a.m. the Board entered into Executive Session
14 with Shana M. Walter, Esquire, Board Counsel, for the
15 purpose of conducting quasi-judicial deliberations and
16 to receive advice of Counsel. The Board returned to
17 open session at 12:12 p.m.]

18

19 MOTIONS

20 MS. WALTER:

21 Returning from Executive Session, the
22 Board members received advice from
23 Counsel and deliberated on the matters
24 on the agenda that are listed under
25 Report of Board Counsel.

1 And those are one Final
2 Adjudication and Order, a motion to
3 Enter Default and Deem Facts Admitted
4 and Proposed Adjudications and Orders
5 from the Hearing Examiner.

6 The Board also deliberated on the
7 applications at Items Nos. 16 through 18
8 on the agenda as well as the various
9 requests at 19 and 20 on the agenda.

10 Now, I will hand it over to the
11 Chair.

12 CHAIR O'NEILL:

13 First on our order here, motion for
14 approval of Consent Agreements.

15 Motion to accept Consent Agreements,
16 and I'm going to read all the files down
17 through, and then we'll have a motion.

18 A motion to approve Consent Agreements
19 for File Nos. 17-45-03344, 18-45-011638,
20 18-45-005435, 18-45-01762, 18-45-006362,
21 16-45-04752 and 17-45-02299?

22 MS. NEATOCK:

23 I make a motion.

24 CHAIR O'NEILL:

25 Motion one. Thank you.

1 MS. GONZALEZ:

2 Second.

3 CHAIR O'NEILL:

4 Thank you.

5 [The motion carried unanimously.]

6 CHAIR O'NEILL:

7 I'm going to read the names of the files
8 for the Consent Agreements that were
9 accepted: Case No. 17-45-03344, Veronica
10 L. Widner-Hession; Case No. 18-45-011638,
11 Jacqueline M. Efkowitz; Case No. 18-45-
12 005435, Adrien E. Douglass; Case No. 18-
13 45-01762, Dallas A. Sauers, t/b/a Dallas
14 Beauty Lounge; Case No. 18-45-006362,
15 Naifeng Xu, t/d/b Sparkling Nail Spa;
16 Case No. 16-45-04752, Sara E. Giordano;
17 and Case No. 17-45-02299, Laura L.
18 Conarton.

19 ***

20 CHAIR O'NEILL:

21 Next, we're going to move on to Case No.
22 9, Hope Thomas. And this is a motion to
23 move that the Board adopt the
24 Adjudication and Order as presented by
25 Board Counsel in the case of Hope Thomas,

1 File No. 17-45-01593, and direct Board
2 Counsel to prepare the Board's Final
3 Order.

4 Can I have a motion?

5 MS. BROWN-HAYWOOD:

6 Motion. Second motion?

7 MS. GONZALEZ:

8 Second.

9 CHAIR O'NEILL:

10 Thank you.

11 [The motion carried unanimously.]

12 ***

13 CHAIR O'NEILL:

14 Next is No. 10 on our agenda, Motion to
15 Enter Default and Deem Facts Admitted.

16 Is there a motion in the case of
17 Alecia Martin, Case No. 16-45-06513 to
18 move that the Board grant the motion to
19 Enter Default and Deem Facts Admitted,
20 and that the Board Counsel be directed to
21 prepare an Adjudication and Order in
22 accordance with our discussion in
23 Executive Session.

24 Can I get a motion?

25 MS. BRUNO:

1 Motion.

2 MS. BROWN-HAYWARD:

3 Second.

4 CHAIR O'NEILL:

5 Thank you.

6 [The motion carried unanimously.]

7 ***

8 CHAIR O'NEILL:

9 Next is Nos. 11 and 12. And these are a
10 motion adopting Proposed Adjudications
11 and Orders. I move that the Board adopt
12 the Hearing Examiner's Proposed
13 Adjudication and Order in the cases of
14 Roxxette Harp, Case No. 16-45-05709 and
15 Shannon Zeller, t/d/b/a Zenergy Spa, Case
16 No. 17-45-011899, and direct Board
17 Counsel to prepare the Board's Final
18 Order.

19 Can I get a motion?

20 MS. NEATOCK:

21 Motion.

22 MS. FERRON:

23 I make a motion.

24 CHAIR O'NEILL:

25 Second.

1 [The motion carried unanimously.]

2 ***

3 CHAIR O'NEILL:

4 And we will move on to No. 15 on our
5 agenda, the letter from Luke Fishel we
6 will be taking a vote.

7 Motion to deny the extended time
8 requested?

9 MR. WALLIN:

10 I'll make the motion.

11 MS. GONZALEZ:

12 I'll second it.

13 CHAIR O'NEILL:

14 All in favor, say aye?

15 [The motion carried. Acting Commissioner Johnson
16 abstained from voting on the motion.]

17 ***

18 CHAIR O'NEILL:

19 No. 16 on our agenda. Motion granted to
20 sit for the exam. We have Samantha Pond,
21 Trent Lanier. Can I get a motion?

22 MS. NEATOCK:

23 I make a motion.

24 CHAIR O'NEILL:

25 Thank you.

1 MS. GONZALEZ:

2 I second.

3 CHAIR O'NEILL:

4 With Samantha Pond, for her motion to sit
5 for the exam, we also had discussed
6 probation concurrent with her charges.

7 Motion?

8 MS. BRUNO:

9 Motion.

10 CHAIR O'NEILL:

11 Second?

12 MS. BROWN-HAYWOOD:

13 Second.

14 CHAIR O'NEILL:

15 And then the same for Trent Lanier. His
16 motion to sit for the state exam will be
17 probational concurrent with his current
18 probation and immediate suspension for
19 any further law violations.

20 MS. BRUNO:

21 Motion.

22 CHAIR O'NEILL:

23 Motion one.

24 MS. BROWN-HAYWOOD:

25 Second.

1 CHAIR O'NEILL:

2 Thank you.

3 [The motion carried unanimously.]

4 ***

5 CHAIR O'NEILL:

6 No. 18 on our agenda is Rodney Johnson.
7 I have to abstain from the decision on
8 this one here. This is from our formal
9 committee. We had spoken with the
10 gentleman himself.

11 Recommendation of the committee?

12 MS. GONZALEZ:

13 The committee has decided to grant his
14 application to take the exam.

15 CHAIR O'NEILL:

16 All in favor?

17 [The motion passed. Chair O'Neill and Acting
18 Commissioner Johnson abstained from voting on the
19 motion.]

20 ***

21 CHAIR O'NEILL:

22 We move on to No. 19, the Variance for
23 the Elmcroft Elderly Home in State
24 College.

25 MR. WALLIN:

1 I make a motion to approve.

2 MS. BRUNO:

3 I second.

4 CHAIR O'NEILL:

5 Thank you.

6 [The motion carried unanimously.]

7 ***

8 CHAIR O'NEILL:

9 No. 20, Peachy's Therapeutic Massage,
10 motion to deny the variance?

11 MS. GONZALEZ:

12 Motion.

13 MS. BRUNO:

14 Second.

15 [The motion carried unanimously.]

16 ***

17 Items for Discussion

18 [Shana M. Walter, Esquire, reminded Board members of
19 the meaning of the Sunshine Act which essentially
20 states that all meetings are public and members of the
21 public have a right to be present. She stated the
22 Board publishes the date, place and time of all
23 meetings on the website and other public places.
24 Votes are required to be recorded and Board
25 discussions go into the Minutes of the meeting which

1 are posted on the website.

2 An exception to what would be public is the
3 Executive Session which is when the Board receives
4 advice from Counsel on legal matters and personnel or
5 pending litigation.

6 Ms. Walter had discussion regarding Act 41,
7 effective at the end of August, which allows people in
8 Pennsylvania to have another pathway to licensure
9 through endorsement. She requested that the Board
10 discuss two components of the Act, including whether
11 or not the individual seeking licensure in
12 Pennsylvania has an active license in another state,
13 and whether the way the individual obtained the
14 license is substantially equivalent to the education
15 required in Pennsylvania.

16 Ms. Walter noted some requirements for a
17 cosmetology license in the Commonwealth include 1,250
18 hours and passing the exam, two years of experience to
19 show competency is acceptable and that tests to obtain
20 licensure in other states are equivalent to tests in
21 PA. Board members had further discussion regarding
22 those requirements.

23 Acting Commissioner Johnson commented that
24 substantial equivalency differs from jurisdiction to
25 jurisdiction and was a question for the Board. He

1 stated the Boards are approaching the competency
2 matter differently. Board members had further
3 discussion regarding reciprocity and competency
4 matters and provisional licensure.

5 Board members agreed that with regard to
6 competency, two years of experience and 4,000 hours
7 would be required. Members talked about granting
8 substantial equivalency if an individual took and
9 passed an exam offered by their state or country and
10 have at least 1,000 hours of training.

11 For an aesthetician to be considered
12 substantially equivalent, that individual must have
13 completed the required training hours required by the
14 jurisdiction, completed training, passed the exam and
15 is licensed. Those individuals without a license in
16 good standing would be excluded from coming in under
17 Act 41. Matters regarding braiding will be looked at
18 on an individualized basis. Discussion regarding
19 reciprocity for teachers was addressed.]

20 ***

21 [Stephen A. Wallin, Professional Member, noted this
22 was his last Board meeting. Members thanked him for
23 his service and wished him well.

24 Acting Commissioner Johnson, on behalf of
25 himself, Governor Wolf and Acting Secretary Boockvar

1 presented Mr. Wallin with a Proclamation.]

2 ***

3 Adjournment

4 MS. NEATOCK:

5 I make a motion to adjourn?

6 ACTING COMMISSIONER JOHNSON:

7 Second.

8 ***

9 [There being no further business, the State Board of
10 Cosmetology Meeting adjourned at 1:26 p.m.]

11 ***

12

13 CERTIFICATE

14

15 I hereby certify that the foregoing summary
16 minutes of the State Board of Cosmetology meeting, was
17 reduced to writing by me or under my supervision, and
18 that the minutes accurately summarize the substance of
19 the State Board of Cosmetology meeting.

20

21

Bridget Hockenbroch

22

Bridget Hockenbroch,

23

Minute Clerk

24

Sargent's Court Reporting

25

Service, Inc.

26

STATE BOARD OF COSMETOLOGY
REFERENCE INDEX

September 9, 2019

TIME	AGENDA
9:13	Official Call to Order
9:13	Pledge of Allegiance
9:13	Roll Call
9:16	Approval of Minutes
9:17	Report of Prosecutorial Division
9:29	Report of Board Administrator
9:30	Items for Discussion
9:34	Correspondence
9:41	New Business
10:19	Appointment - Bureau of Finance and Operations
10:40	Executive Session
12:12	Return to Open Session
12:12	Motions
12:23	Items for Discussion - Act 41
1:26	Adjournment