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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: 9:03 A.M.

BOARD ROOM C

One Penn Center

2601 North Third Street

Harrisburg, Pennsylvania 17110

Monday, November 4, 2019

State Board of Cosmetology
November 4, 2019

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BOARD MEMBERS:

Tammy Y. O'Neill, Chair, Professional Member
Felicia Brown-Haywood, Vice Chair, Professional Member
Tracy E. Bruno, Secretary, Professional Member
Katelin Lambert, Deputy Commissioner, Bureau of
Professional and Occupational Affairs, on behalf of
K. Kalonji Johnson, Acting Commissioner, Bureau of
Professional and Occupational Affairs
Kristal L. Ferron, Consumer Protection Member
Carolyn R. Folk, 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
Monty J. Batson, Esquire, Board Prosecutor
Angela B. Lucci, Esquire, Board Prosecutor
Heather McCarthy, Esquire, Board Prosecutor
Marc Farrell, Deputy Policy Director, Department of
State
Kelly I. Diller, Board Administrator

State Board of Cosmetology
November 4, 2019

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ALSO PRESENT:

- Stephen J. Szabo, Chief Operating Officer, Stephen Szabo Salon & Spa, Pennsylvania Salon Spa Business Network
- Henry Pelusi, Owner/Vice President, Studio of Elegance/Philip Pelusi Salons, Pennsylvania Salon Spa Business Network
- Kyle Schaeffer, Gmerck Government Relations, Inc.
- Chris Lammando, Gmerck Government Relations, Inc.
- Kelli Barnes, Career and Technical Education Instructor, Delaware County Intermediate Unit
- MacKenzie Miller, Supervisor/Director, Cosmetology At Toni & Guy Hairdressing Academy
- Jenna Van Horn, Salon Owner, The Gloss Society, LLC
- John Cowan, Owner, MY SALON Suite
- Jenn Navarro, Owner, MY SALON Suite
- Teka Le, Administrator, Queen Beauty Academy
- Madeline Kuhn, Shears Cosmetology School
- Brian Abela, Government Relations Specialist, Bravo Group,
- Aaron Shank, Pennsylvania Association of Private School Administrators

1 ***

2 State Board of Cosmetology

3 November 4, 2019

4 ***

5 The regularly scheduled meeting of the State
6 Board of Cosmetology was held on Monday, November 4,
7 2019. Tammy Y. O'Neill, Chair, Professional Member,
8 called the meeting to order at 9:03 a.m.

9 ***

10 Introduction of Audience Members

11 [Tammy Y. O'Neill, Chair, Professional Member,
12 requested the introduction of audience members.]

13 ***

14 [The Pledge of Allegiance was recited.]

15 ***

16 [Roll call was taken. A quorum was noted to be
17 present.]

18 ***

19 Approval of Minutes

20 [Tammy Y. O'Neill, Chair, Professional Member, noted
21 the draft minutes were not scanned in and will be
22 addressed at the next meeting.]

23 ***

24 Report of Prosecutorial Division

25 [Colby B. Widdowson, Esquire, Board Prosecutor,

1 presented the Consent Agreement for Case No. 16-45-
2 02660.]

3 ***

4 [Tara J. Wikhian, Esquire, Board Prosecution Liaison,
5 presented the Consent Agreements for Case No. 17-45-
6 12999, Case No. 17-45-04661, Case No. 18-45-011187,
7 Case No. 18-45-012236, and Case No. 17-45-13164.]

8 ***

9 [Monty J. Batson, Esquire, Board Prosecutor, presented
10 the Consent Agreements for Case No. 17-45-01246 and
11 Case No. 17-45-10955.]

12 ***

13 [Angela B. Lucci, Esquire, Board Prosecutor, presented
14 the Consent Agreement for Case No. 16-45-10132.

15 Ms. Lucci announced this was her last Cosmetology
16 Board Meeting.]

17 ***

18 Report of Deputy Commissioner

19 [Katelin Lambert, Deputy Commissioner, Bureau of
20 Professional and Occupational Affairs, on behalf of
21 Acting Commissioner, K. Kalonji Johnson, discussed new
22 lobby hours from 8:30 to 4:00 to maintain policies and
23 procedures consistent with the Capitol Complex.

24 Deputy Commissioner Katelin noted building
25 security would be maintained by Capitol Police as of

1 November 1, 2019. She commented that the change would
2 not impact Board members from arriving earlier with
3 their badges. She mentioned lobby and customer
4 service hours for the public from 8:30 to 4:00 was
5 posted on the website. The licensing community was
6 provided notices.]

7 ***

8 Report of Board Chair - No Report

9 ***

10 Report of Board Administrator - No Report

11 ***

12 Old/New Board Business - Election of Officers

13 [Tammy Y. O'Neill, Chair, Professional Member, noted
14 election of officers under old/new business.

15 Chair O'Neill inquired of the members of the
16 public as to any old or new business to bring forth.

17 Aaron Shank, Pennsylvania Association of Private
18 School Administrators, questioned whether there were
19 any updates regarding the discussion on a potential
20 change in policy related to lash extensions in
21 esthetics from the last meeting. He noted discussion
22 at the Pennsylvania Association of Private School
23 Administrators (PAPSA) Meeting about a month ago
24 referring back to the old policy.

25 Ms. Walter read an announcement from the

1 Pennsylvania State Board of Cosmetology's website,
2 where lash extensions fall into the category of
3 esthetics and can be applied by licensed estheticians
4 or licensed cosmetologists.]

5 ***

6 CHAIR O'NEILL:

7 Next, we are going to move on to the
8 election of officers for the Board.
9 Could we have nominations for Chair?

10 MS. NEATOCK:

11 I make a motion that Tammy O'Neill
12 remain as Chair for the Board for the
13 next term.

14 MS. BROWN-HAYWOOD:

15 Second.

16 CHAIR O'NEILL:

17 All in favor, say aye.

18 [The motion carried unanimously.]

19 ***

20 CHAIR O'NEILL:

21 Next, we will have nominations for Vice
22 Chair.

23 MS. NEATOCK:

24 Motion for Felicia Brown-Haywood to
25 continue as Vice Chair.

1 MS. BRUNO:

2 Second.

3 CHAIR O'NEILL:

4 All in favor, say aye.

5 [The motion carried unanimously.]

6 ***

7 CHAIR O'NEILL:

8 Next, we have for the Secretary. Any
9 nominations for Secretary?

10 MS. BRUNO:

11 I nominate myself, Tracy.

12 CHAIR O'NEILL:

13 Motion?

14 MS. FERRON:

15 I make a motion.

16 MS. BROWN-HAYWOOD:

17 Second.

18 CHAIR O'NEILL:

19 All in favor, say aye.

20 [The motion carried unanimously.]

21 ***

22 Report of Committees - No Report

23 ***

24 Variance Committee - No Report

25 ***

1 Miscellaneous

2 [Shana M. Walter, Esquire, Board Counsel, noted exam
3 statistics on the agenda for the Board's review.]

4 ***

5 Report of Board Counsel

6 [Shana M. Walter, Esquire, Board Counsel, noted one
7 final Adjudication and Order, several Motions to Enter
8 Default and Deem Facts Admitted, hearing examiner
9 proposed Adjudications and Orders, a Citation appeal,
10 and one application for discussion during Executive
11 Session.

12 Ms. Walter announced that Cynthia Montgomery will
13 provide a regulatory presentation at 9:30 a.m.

14 Ms. Walter referred to Act 41 of 2019 that went
15 into effect in August as an alternative path to
16 licensure for individuals coming to the state of
17 Pennsylvania. She noted Board members discussed the
18 parameters and the requirements for an individual to
19 obtain a license through Act 41 for licensure by
20 endorsement at the last meeting. She stated the
21 application committee was reviewing those applications
22 and issued several licenses pursuant to Act 41.

23 Ms. Walter updated the Board on the status of the
24 regulations of the Board to promulgate pursuant to Act
25 41, noting parameters of the Board will be written

1 into the regulation. She also noted working on the
2 fee regulation as voted on by the Board at the last
3 meeting.]

4

5 Appointment - Regulatory Process Presentation
6 [Cynthia K. Montgomery, Esquire, Deputy Chief Counsel,
7 Department of State, addressed the regulatory process.

8 Ms. Montgomery stated Pennsylvania has a very
9 robust regulatory review process designed to gather
10 considerable input from the regulated community,
11 interested parties, and stakeholders to ensure
12 sensible regulations that can be enforced.

13 Ms. Montgomery provided an overview of the eight
14 basic steps to the regulatory process. She explained
15 commencing with the drafting of the regulations,
16 pre-publication review, proposed regulation published
17 for public comment, Legislative Committee and the
18 Independent Regulatory Review Commission (IRRC)
19 review, revisions to the final rulemaking, post-
20 publication review, Legislative Committee and IRRC
21 review part 2, and then the final regulation
22 publication.

23 Ms. Montgomery stated the initiative to draft a
24 regulation can come from legislature, the courts, the
25 public, the bureau, the prosecution division, and the

1 Board.

2 Ms. Montgomery explained that Board counsel will
3 generally draft the annex, which is the text of the
4 regulation or the amendment to the existing
5 regulation. She commented that an exposure draft is
6 then distributed, noting Executive Order 1996-1 from
7 Governor Ridge's administration, that requires all
8 regulations be drafted and promulgated with early and
9 meaningful input from the public to stakeholders and
10 interested parties who have an interest in the Board's
11 regulatory agenda in order to provide notice of the
12 Board's proposed regulation.

13 Ms. Montgomery stated the Board reviews all
14 comments. Once the Board is satisfied with the text
15 of the regulations, staff will draft a preamble. She
16 described the preamble as an explanatory document of
17 the Board's proposed regulation. She explained that
18 the Office of General Counsel (OGC) determines the
19 pertinent information for the preamble and includes an
20 effective date, the background for the regulation, a
21 description of the requirements and reasoning for the
22 regulation, an analysis of fiscal impact, paperwork
23 requirements, and then boilerplate details of the
24 regulatory review process, and how interested parties
25 can submit formal comments during the review process.

1 Ms. Montgomery stated counsel also has to
2 complete a document called the Regulatory Analysis
3 Form required by the Independent Regulatory Review
4 Commission under the Regulatory Review Act, which
5 contains what the Independent Regulatory Review
6 Commission considers to be pertinent information for
7 consideration in determining whether the regulation is
8 in the public's interest.

9 Ms. Montgomery addressed pre-publication review,
10 where the regulation is reviewed by regulatory counsel
11 and the Policy Office to assure appropriate statutory
12 authority, whether the regulation is consistent with
13 the legislative intent and conforms to the Legislative
14 Reference Bureau of Style Manual.

15 Ms. Montgomery stated after the draft is finished
16 with internal review, the regulation goes to the
17 Office of General Counsel and Governor Wolf's Office
18 of the Budget and Office of Policy and Planning. She
19 explained that the Office of the Budget does a fiscal
20 note for all regulatory actions of the administrative
21 agencies and then the Office of Policy and Planning
22 reviews the same to make sure the regulation is in the
23 public's interest and the cost reasonably relates to
24 the benefits.

25 Ms. Montgomery noted Executive Order 1996-1

1 again, where it states no agency shall proceed with a
2 proposed final or final-omitted regulation until
3 General Counsel, Secretary of Budget, and the Policy
4 Director have informed the agency that the regulation
5 is consistent with the regulatory principles and
6 overall policies of the administration. She mentioned
7 that the regulation then goes under the Commonwealth
8 Attorneys Act to the Office of Attorney General, where
9 there is a 30-day time limit.

10 Ms. Montgomery explained a process called
11 tolling, where OAG can stop the 30-day review period
12 if there are any questions or objections. The
13 regulation would then be sent back to the agency for a
14 resolution.

15 Ms. Montgomery stated, once the Office of
16 Attorney General has approved the regulation, it goes
17 back to the agency for a process called delivery,
18 which is under the Regulatory Review Act and the
19 regulations of the Independent Regulatory Review
20 Commission. She stated the regulation is then
21 delivered personally by staff to the Legislative
22 Committees: House Professional Licensure Committee,
23 the Senate Consumer Protection & Professional
24 Licensure Committee, Independent Regulatory Review
25 Commission, and the Legislative Reference Bureau on

1 the same day.

2 Ms. Montgomery addressed a new electronic
3 delivery process that will be moved out to other
4 agencies if successful.

5 Ms. Montgomery explained, once the regulation
6 goes through those entities, it is published in the
7 Pennsylvania Bulletin for a 30-day public comment
8 period. She mentioned the Commonwealth Documents Law
9 that requires all agencies to publish and note its
10 intention to promulgate regulations in the
11 Pennsylvania Bulletin.

12 Ms. Montgomery addressed the review by IRRC under
13 the Regulatory Review Act, which was enacted in 1982
14 to address a concern by the legislature that executive
15 agencies were promulgating a law out of regulations
16 and to confirm an effective review. It created the
17 Independent Regulatory Review Commission.

18 Ms. Montgomery noted that the House and Senate
19 Committees have an opportunity to review and convey
20 their comments up until delivery of the final-form
21 rulemaking.

22 Ms. Montgomery noted that the regulation would
23 then be reviewed by the Independent Regulatory Review
24 Commission, where it is published about 10 days later
25 with a 30-day public comment period and 30 days until

1 IRRC's comments, which is a 70-day process once it is
2 delivered. She stated the regulation will be deemed
3 approved by IRRC if they do not comment.

4 Ms. Montgomery noted the Board is required by law
5 to review all of the comments. She mentioned the
6 Board is required to do either a separate comment
7 response document or incorporate the summary of the
8 comments and the Board's response in the preamble when
9 preparing the final-form rulemaking. She noted the
10 importance of the Board to not enlarge the purpose
11 when making modifications to the final-form rulemaking
12 of the original rulemaking or the Board will have to
13 publish the regulation as proposed again.

14 Ms. Montgomery noted that once the Board has made
15 all of its changes, counsel has updated the preamble
16 with the comments and response, and updated the
17 Regulatory Analysis Form with current data, the
18 regulation again goes through agency review through
19 the Office of Chief Counsel, Office of General
20 Counsel, Office of the Budget, and Office of Policy
21 and Planning the second time. She mentioned that all
22 Boards must deliver the regulations within two years
23 of the close of public comment period.

24 Ms. Montgomery stated, after the final-form
25 regulation is delivered, IRRC may not take action for

1 at least 20 days to allow the committees to review the
2 regulations. If the committees take no action up to
3 24 hours before IRRC meets, then the regulation is
4 deemed to be approved.

5 Ms. Montgomery stated IRRC has until its next
6 scheduled public meeting, which is no less than 30
7 days from the day of its delivery to take action. She
8 mentioned it is deemed the commission approved the
9 regulation if they do not act. She noted it is walked
10 to the Office of Attorney General, where the Attorney
11 General has 30 days to complete a review under the
12 Commonwealth Attorneys Act if the commission approves
13 it.

14 Ms. Montgomery noted the Board can either
15 withdraw the regulation, submit the regulation with
16 revisions that respond to IRRC's disapproval order, or
17 resubmit unchanged if IRRC disapproves.

18 Ms. Montgomery stated, after the regulation is
19 approved, it goes to the Attorney General for
20 approval, the Legislative Reference Bureau for
21 publication in the Pennsylvania Bulletin, and is
22 effective upon publication.

23 Ms. Montgomery mentioned that the Commonwealth
24 Documents Law does have a provision stating the
25 proposed rulemaking phase can be eliminated but only

1 in very limited circumstances.

2 Ms. Montgomery discussed sine die, which is the
3 final adjournment of a two-year legislative session.
4 She explained that once the legislature adjourns at
5 the end of a session, there are no committees. She
6 stated proposed regulations may be delivered to the
7 Legislative Reference Bureau and the Independent
8 Regulatory Review Commission with time-sensitive
9 regulations, which takes public comment and IRRC's
10 comments out of the way but would still have to wait
11 until legislature reconvenes.

12 Ms. Montgomery stated the committees are
13 designated, and that designation is published in the
14 Pennsylvania Bulletin before it can be delivered to
15 the committees for review, where it is reviewed for at
16 least 20 days. She noted final regulations may not be
17 delivered during sine die adjournment at all.

18 Ms. Montgomery provided an overview of the
19 process when legislation adjourns early.]

20

21 [Pursuant to Section 708(a)(5) of the Sunshine Act, at
22 10:17 a.m. the Board entered into Executive Session
23 with Shana M. Walter, Esquire, Board Counsel, for the
24 purpose of conducting quasi-judicial deliberations and
25 to receive advice of Counsel. The Board returned to

1 open session at 12:04 p.m.]

2 ***

3 MOTIONS

4 MS. WALTER:

5 The Board is now returning from
6 executive session where the Board
7 members received advice from counsel and
8 deliberated on matters that are set
9 forth on the agenda.

10 CHAIR O'NEILL:

11 Do we have motions to accept Case No.
12 17-45-10955, Case No. 16-45-02660, Case
13 No. 17-45-01246, Case No. 17-45-12999,
14 Case No. 17-45-04661, Case No. 18-45-
15 011187, Case No. 18-45-012236, Case No.
16 17-45-13164, and Case No. 16-45-10132?

17 Could I ask for a motion to accept?

18 MS. BRUNO:

19 I make a motion.

20 CHAIR O'NEILL:

21 Tracy.

22 MS. FERRON:

23 Second.

24 CHAIR O'NEILL:

25 Thank you.

1 [The motion carried unanimously. The names for the
2 Consent Agreements that were accepted are as follows:
3 Case No. 17-45-10955, Huong Tran t/d/b/a Nails 4 U;
4 Case No. 16-45-02660, Heather L. Stein; Case No. 17-
5 45-01246, Janine M. Petrilli; Case No. 17-45-12999,
6 Pure Nails; Case No. 17-45-04661, Jillian E. Mizenko;
7 Case No. 18-45-011187, Hong Hoa Pham; Case No. 18-45-
8 012236, Nail Trix; Case No. 17-45-13164, Nail Trix;
9 and Case No. 16-45-10132, Northeast Salons, Inc.,
10 t/d/b/a Malcom's Haircutters.]

11 ***

12 CHAIR O'NEILL:

13 Next, we are going to move on to get a
14 motion to enter final Adjudication and
15 Order for Rosemarie Wenzelberger t/d/b/a
16 Rosemarie Betz Beauty Shop, Case No. 17-
17 45-014330.

18 MS. BROWN-HAYWOOD:

19 Motion.

20 MS. BRUNO:

21 Second.

22 CHAIR O'NEILL:

23 Thank you.

24 [The motion carried unanimously.]

25 ***

1 MS. WALTER:

2 Number 15 on the agenda is the same file
3 number as one of the consent agreements,
4 so that matter is moved.

5 ***

6 CHAIR O'NEILL:

7 Is there a motion in the following
8 cases: Cassidy L. Bowman, Case No. 19-
9 45-003737; Lorenzo J. Broggi, Case No.
10 16-45-09262; Khanal d/b/a Classic
11 Eyebrow, Case No. 18-45-012301; Mahendra
12 Patel t/d/b/a New York Thread, Case No.
13 18-45-00141; Richard J. Piper, Case No.
14 17-45-04663; James W. Sanders, Case No.
15 18-45-007128; Asha Singh t/d/b/a Master
16 Brows, Case No. 18-45-012135; Elizabeth
17 M. Smeltz, Case No. 17-45-06770; and
18 Ella Stylez, Case No. 16-45-01769 that
19 the Board grant the Motion to Enter
20 Default and Deem Facts Admitted and that
21 Board counsel be directed to prepare an
22 Adjudication and Order in accordance
23 with our discussion in Executive
24 Session?

25 Could I get a motion?

1 MS. NEATOCK:

2 I make a motion.

3 MS. FOLK:

4 I second.

5 CHAIR O'NEILL:

6 Thank you.

7 [The motion carried unanimously.]

8 ***

9 CHAIR O'NEILL:

10 Next, we need a motion that the Board
11 adopt, in part, the Hearing Examiner's
12 proposed Adjudication and Order in the
13 case of Hillary K. Dawson, Case No. 16-
14 45-01158; Nina L. Donofrio, Case No. 18-
15 45-008710; Tara Dunning a/k/a Tara Marie
16 Dunning, Case No. 17-45-05110; Robin L.
17 Inslee, Case No. 17-45-02885; New Glamor
18 Nails Salon, Case No. 17-45-03009; and
19 Maimouna Thiam t/d/b/a Rama Hair
20 Braiding Salon, Case No. 17-45-012478.

21 We need a motion to direct Board
22 counsel to prepare the Board's final
23 adjudications consistent with the
24 Board's deliberations.

25 Could I get a motion?

1 MS. BROWN-HAYWOOD:

2 Motion.

3 MS. FOLK:

4 Second.

5 CHAIR O'NEILL:

6 Thank you.

7 [The motion carried unanimously.]

8 ***

9 CHAIR O'NEILL:

10 Could I get a motion to table Rebecca
11 Nulton, Case No. 18-45-006584 until our
12 next meeting?

13 MS. FERRON:

14 Motion.

15 MS. BRUNO:

16 Second.

17 CHAIR O'NEILL:

18 Thank you.

19 [The motion carried unanimously.]

20 ***

21 CHAIR O'NEILL:

22 Could I get a Motion for Noelle Chew to
23 be able to Sit for the Cosmetology Board
24 State Exam and grant the license
25 unrestricted?

1 MS. FERRON:

2 Motion.

3 MS. NEATOCK:

4 Second.

5 CHAIR O'NEILL:

6 Thank you.

7 [The motion carried unanimously.]

8 ***

9 CHAIR O'NEILL:

10 I believe the Board would entertain a
11 Motion to Grant the License by
12 Endorsement to Leigha Goodman, the
13 motion to grant a provisional license
14 with the provision that the applicant
15 complete 1,250 hours during the 12-month
16 provisional license period.

17 Is there a motion?

18 MS. NEATOCK:

19 I make a motion.

20 MS. BROWN-HAYWOOD:

21 Second.

22 CHAIR O'NEILL:

23 Thank you.

24 [The motion carried unanimously.]

25 ***

1 CHAIR O'NEILL:

2 Motion to adjourn.

3 MS. FERRON:

4 Motion.

5 MS. BRUNO:

6 Second.

7 CHAIR O'NEILL:

8 Thank you.

9 [The motion carried unanimously.]

10 ***

11 [There being no further business, the State Board of
12 Cosmetology Meeting adjourned at 12:21 p.m.]

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CERTIFICATE

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



Derek Richmond,
Minute Clerk
Sargent's Court Reporting
Service, Inc.

STATE BOARD OF COSMETOLOGY
REFERENCE INDEX

November 4, 2019

TIME	AGENDA
9:03	Official Call to Order
9:04	Introduction of Audience/Board Members
9:05	Pledge of Allegiance
9:09	Approval of Minutes
9:16	Report of Acting Commissioner
9:20	Old/New Board Business
9:25	Miscellaneous
9:26	Report of Board Counsel
9:46	Appointment - Cynthia K. Montgomery, Esquire, Deputy Chief Counsel, Regulatory Process Presentation
10:17	Executive Session
12:09	Return to Open Session
12:13	Motions
12:21	Adjournment