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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: 10:30 A.M.

Held at

PENNSYLVANIA DEPARTMENT OF STATE

2525 North 7th Street

CoPA HUB, Eaton Conference Room

Harrisburg, Pennsylvania 17110

as well as

VIA MICROSOFT TEAMS

Monday, February 12, 2024

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State Board of Cosmetology
February 12, 2024

BOARD MEMBERS:

Arion R. Claggett, Acting Commissioner, Bureau of
Professional and Occupational Affairs
Tammy Y. O'Neill, Chair, Professional Member
Nicole Weakland, Vice Chair, Professional Member
Elisa Brown, Secretary, Professional Member - Absent
Felicia L. Brown-Haywood, Professional Member
Jennifer A. D'Amato-Dow, Professional Member
Teresa Whisler, Professional Member
Heather Kelly, Esquire, Consumer Protection Member

BUREAU PERSONNEL:

Jared Hinsey, Esquire, Board Counsel
Thomas M. Davis, Esquire, Regulatory Counsel
William Newport, Esquire, Senior Board Prosecution
Liaison
J. Karl Geschwindt, Esquire, Senior Board Prosecutor
Adrienne McClendon, Esquire, Board Prosecution
Liaison
Julius Zeitlinger, Esquire, Board Prosecutor
Valerie Eaton, Board Administrator
Carlton Smith, Deputy Chief Counsel, Prosecution
Division
Deena Parmelee, Legal Office Administrator 1,
Department of State

ALSO PRESENT:

Aaron Shenck, Executive Director, Mid-Atlantic
Association of Career Schools,
Debbie Eckstine-Weidner, Cosmetology Instructor,
Cumberland Perry Vo-Tech
Ellie Heron
Christine Hench, Licensed Esthetician
Debbie
Dipa
Jomairy
Jessica Taimuty, Beauty by Taimuty Studios
Edward Taimuty
Brianna Bradshaw

State Board of Cosmetology
February 12, 2024

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ALSO PRESENT:

- Rachel Spyra, Director of Cosmetology at Penn Commercial Business and Technical School and Salon Owner of Killer Bee Hair Studio
- Jill Reed
- Stephanie Dunkerley
- Julie Meier
- Paula DeSabato, Bella Capelli Academy
- Amber Sadler
- Gina
- Troy Kerley, Troy Does Hair
- Beth Krause, Vice President, Student Services, Empire Education Group
- Henry
- Janette Zellers, Divisional Vice President, Empire Beauty Schools
- Victoria Lantz

1 ***

2 State Board of Cosmetology

3 February 12, 2024

4 ***

5 [Pursuant to Section 708(a)(5) of the Sunshine Act,
6 at 9:00 a.m. the Board entered into Executive Session
7 with Jared Hinsey, Esquire, Board Counsel, for the
8 purpose of conducting quasi-judicial deliberations on
9 a number of matters currently pending before the
10 Board and to receive the advice of counsel. The
11 Board returned to open session at 10:00 a.m.]

12 ***

13 The regularly scheduled meeting of the State
14 Board of Cosmetology was held on Monday, February 12,
15 2024. Tammy Y. O'Neill, Chair, Professional Member,
16 called the meeting to order at 10:30 a.m.

17 ***

18 Roll Call/Introduction of Attendees

19 [Valerie Eaton, Board Administrator, provided a roll
20 call of Board members and introduction of attendees.]

21 ***

22 [Jared Hinsey, Esquire, Board Counsel, noted the
23 meeting was being recorded, and those who continued
24 to participate were giving their consent to be
25 recorded.]

1 Mr. Hinsey also noted the Board entered into
2 Executive Session with Board Counsel to have
3 attorney-client consultations and for the purpose of
4 conducting quasi-judicial deliberations.]

5

6 Approval of Minutes of November 20, 2023

7 CHAIR O'NEILL:

8 First on our agenda is approval of
9 minutes from November 20, 2023.

10 Can I have a motion to approve?

11 ACTING COMMISSIONER CLAGGETT:

12 So moved.

13 CHAIR O'NEILL:

14 Second motion?

15 MS. D'AMATO-DOW:

16 Second.

17 MS. EATON:

18 Roll call.

19

20 Arion Claggett, aye; Tammy O'Neill,
21 aye; Nicole Weakland, aye; Felicia
22 Brown-Haywood, aye; Jennifer D'Amato-
23 Dow, aye; Teresa Whisler, aye; Heather
24 Kelly, aye.

25 [The motion carried unanimously.]

1 ***

2 Approval of Minutes of December 21, 2023

3 CHAIR O'NEILL:

4 Next is the draft minutes from our
5 December 21, 2023 meeting.

6 Can I have a motion to approve?

7 ACTING COMMISSIONER CLAGGETT:

8 So moved.

9 MS. D'AMATO-DOW:

10 Second.

11 MS. EATON:

12 Roll call.

13

14 Arion Claggett, aye; Tammy O'Neill,
15 aye; Nicole Weakland, aye; Felicia
16 Brown-Haywood, aye; Jennifer D'Amato-
17 Dow, aye; Teresa Whisler, aye; Heather
18 Kelly, aye.

19 [The motion carried unanimously.]

20

21 Report of Board Prosecution

22 [Julius Zeitlinger, Esquire, Board Prosecutor,
23 presented the Consent Agreements for Case No. 21-45-
24 015883 and Case No. 22-45-017636.]

25

1 [William A. Newport, Esquire, Senior Board
2 Prosecutor, presented the Consent Agreements for Case
3 No. 23-45-013529 and Case No. 23-45-013827.]

4 MR. HINSEY:

5 Based on the presentation of the
6 prosecution division, does any Board
7 member wish to reenter Executive
8 Session for deliberations on any of
9 these matters? Hearing none.

10 Based on Executive Session
11 deliberations, I believe the Board
12 Chair would entertain a motion to
13 approve the Consent Agreements in the
14 matters of agenda item 3, Case No. 21-
15 45-015883; agenda item 4, Case No. 22-
16 45-017636; agenda item 5, Case No. 23-
17 45-013529; and agenda item 6, Case No.
18 23-45-013827.

19 CHAIR O'NEILL:

20 Could I have a motion to approve the
21 Report of Prosecution?

22 ACTING COMMISSIONER CLAGGETT:

23 So moved.

24 MS. D'AMATO-DOW:

25 Second.

1 MS. EATON:

2 Roll call.

3

4 Arion Claggett, aye; Tammy O'Neill,
5 aye; Nicole Weakland, aye; Felicia
6 Brown-Haywood, aye; Jennifer D'Amato-
7 Dow, aye; Teresa Whisler, aye; Heather
8 Kelly, aye.

9 [The motion carried unanimously. The names of the
10 Respondents are at agenda item 3, Kathrin E. Brandon;
11 agenda item 4, Kyung Ok Leoncini; agenda item 5,
12 Motive Salon; and agenda item 6, Simply Polished by
13 Sami.]

14

15 Report of Board Counsel - Final Adjudication and
16 Order

17 MR. HINSEY:

18 Based on the Executive Session
19 deliberations, I believe the Board
20 Chair would entertain a motion
21 directing Board Counsel to issue the
22 Final Adjudication and Order in the
23 matter of agenda item 7, Lena Huynh,
24 Case No. 19-45-002724.

25 CHAIR O'NEILL:

1 Can I have a motion to approve the
2 Final Adjudication and Order?

3 ACTING COMMISSIONER CLAGGETT:

4 So moved.

5 MS. D'AMATO-DOW:

6 Second.

7 MS. EATON:

8 Roll call.

9
10 Arion Claggett, aye; Tammy O'Neill,
11 aye; Nicole Weakland, aye; Felicia
12 Brown-Haywood, aye; Jennifer D'Amato-
13 Dow, aye; Teresa Whisler, aye; Heather
14 Kelly, aye.

15 [The motion carried unanimously.]

16 ***

17 Report of Board Counsel - Proposed Adjudications and
18 Orders

19 MR. HINSEY:

20 Based on the Executive Session
21 deliberations, I believe the Board
22 Chair would entertain a motion to adopt
23 the Proposed Adjudication and Order in
24 the matters of agenda item 8, Heaven
25 Spa, Case No. 22-45-018335 and agenda

1 item 10, Susan Gartland, Case No. 21-
2 45-000778.

3 CHAIR O'NEILL:

4 Can I have a motion to adopt the
5 Adjudications and Orders?

6 ACTING COMMISSIONER CLAGGETT:

7 So moved.

8 MS. D'AMATO-DOW:

9 Second.

10 MS. EATON:

11 Roll call.

12

13 Arion Claggett, aye; Tammy O'Neill,
14 aye; Nicole Weakland, aye; Felicia
15 Brown-Haywood, aye; Jennifer D'Amato-
16 Dow, aye; Teresa Whisler, aye; Heather
17 Kelly, aye.

18 [The motion carried unanimously.]

19

20 MR. HINSEY:

21 Based on the Executive Session
22 deliberations, I believe the Board
23 Chair would entertain a motion to adopt
24 the Proposed Adjudication and
25 substitute the Board's Order in the

1 matter of agenda item 9, Kimberly
2 McMullen, Case No. 22-45-006654.

3 CHAIR O'NEILL:

4 Can I have a motion to adopt the
5 Adjudication and substitute the Board's
6 Order?

7 ACTING COMMISSIONER CLAGGETT:

8 So moved.

9 MS. D'AMATO-DOW:

10 Second.

11 MS. EATON:

12 Roll call.

13

14 Arion Claggett, aye; Tammy O'Neill,
15 aye; Nicole Weakland, aye; Felicia
16 Brown-Haywood, aye; Jennifer D'Amato-
17 Dow, aye; Teresa Whisler, aye; Heather
18 Kelly, aye.

19 [The motion carried unanimously.]

20

21 Report of Board Counsel - Motions to Deem Facts

22 Admitted

23 MR. HINSEY:

24 Based on the Executive Session
25 deliberations, I believe the Board

1 Chair would entertain a motion to grant
2 the Motion to Deem Facts Admitted and
3 Enter Default and direct Board Counsel
4 to prepare an Adjudication and Order in
5 accordance with the discussions in
6 Executive Session in the matters of
7 agenda item 11, Shelby Hissem d/b/a
8 Hairway to Heaven, Case No. 23-45-
9 002039 and agenda item 13, Shakira
10 Staten, Case No. 21-45-004845.

11 CHAIR O'NEILL:

12 Can I have a motion to grant the
13 Motions Deemed Facts?

14 ACTING COMMISSIONER CLAGGETT:

15 So moved.

16 MS. D'AMATO-DOW:

17 Second.

18 MS. EATON:

19 Roll call.

20
21 Arion Claggett, aye; Tammy O'Neill,
22 aye; Nicole Weakland, aye; Felicia
23 Brown-Haywood, aye; Jennifer D'Amato-
24 Dow, aye; Teresa Whisler, aye; Heather
25 Kelly, aye.

1 [The motion carried unanimously.]

2 ***

3 MR. HINSEY:

4 Due to the Consent Agreement and Order
5 being approved at agenda item 4, the
6 Motion to Deem Facts Admitted at agenda
7 item 12, Kyung Leoncini, Case No. 22-
8 45-017636, is now moot.

9 [The motion carried unanimously.]

10 ***

11 Report of Board Counsel - Citation Appeals

12 MR. HINSEY:

13 Based on the Executive Session
14 deliberations, I believe the Board
15 Chair would entertain a motion to
16 dismiss the Citation Appeals at agenda
17 item 14, Sarah Cunningham, Case No. 23-
18 45-000289; agenda item 15, Hair It Iz,
19 Case No. 21-45-014529; and agenda item
20 16, Colette Lombardi, Case No. 22-45-
21 015867.

22 CHAIR O'NEILL:

23 Can I have a motion to dismiss the
24 Citation Appeals?

25 ACTING COMMISSIONER CLAGGETT:

1 So moved.

2 MS. D'AMATO-DOW:

3 Second.

4 MS. EATON:

5 Roll call.

6
7 Arion Claggett, aye; Tammy O'Neill,
8 aye; Nicole Weakland, aye; Felicia
9 Brown-Haywood, aye; Jennifer D'Amato-
10 Dow, aye; Teresa Whisler, aye; Heather
11 Kelly, aye.

12 [The motion carried unanimously.]

13 ***

14 Report of Board Counsel - Application Review

15 MR. HINSEY:

16 Based on the Executive Session
17 deliberations, I believe the Board
18 Chair would entertain a motion to
19 provisionally deny the Application for
20 Licensure as a Cosmetology at agenda
21 item 17, Enrique Rivera Sanchez, Case
22 No. 24-45-001860.

23 CHAIR O'NEILL:

24 Can I have a motion to provisionally
25 deny?

1 ACTING COMMISSIONER CLAGGETT:

2 So moved.

3 MS. D'AMATO-DOW:

4 Second.

5 MS. EATON:

6 Roll call.

7

8 Arion Claggett, aye; Tammy O'Neill,
9 aye; Nicole Weakland, aye; Felicia
10 Brown-Haywood, aye; Jennifer D'Amato-
11 Dow, aye; Teresa Whisler, aye; Heather
12 Kelly, aye.

13 [The motion carried unanimously.]

14

15 Report of Board Administrator - Election of Officers

16 MR. HINSEY:

17 Is there a nomination and a second for
18 the position of Board Chair?

19 MS. D'AMATO-DOW:

20 I would like to nominate Tammy O'Neill
21 for Board Chair.

22 MS. KELLY:

23 Second.

24 MR. HINSEY:

25 Board Chair O'Neill, if offered that

1 position, would you serve in that
2 capacity?

3 CHAIR O'NEILL:

4 Yes, I would.

5 MR. HINSEY:

6 I believe the Board Chair would
7 entertain a motion to elect Tammy
8 O'Neill as the Board Chair of the State
9 Board of Cosmetology.

10 CHAIR O'NEILL:

11 May I have a motion to approve the
12 Board Chair?

13 ACTING COMMISSIONER CLAGGETT:

14 So moved.

15 MS. D'AMATO-DOW:

16 Second.

17 MS. EATON:

18 Roll call.

19
20 Arion Claggett, aye; Tammy O'Neill,
21 aye; Nicole Weakland, aye; Felicia
22 Brown-Haywood, aye; Jennifer D'Amato-
23 Dow, aye; Teresa Whisler, aye; Heather
24 Kelly, aye.

25 [The motion carried unanimously.]

1 ***

2 MR. HINSEY:

3 Is there a nomination and a second for
4 the position of Board Vice Chair?

5 MS. KELLY:

6 I nominate Jennifer D'Amato-Dow for
7 Vice Chair.

8 ACTING COMMISSIONER CLAGGETT:

9 Second.

10 MR. HINSEY:

11 Board member D'Amato-Dow, if offered
12 that position, would you serve in that
13 capacity?

14 MS. D'AMATO-DOW:

15 Yes, I would.

16 MR. HINSEY:

17 I believe the Board Chair would
18 entertain a motion to elect Jennifer
19 D'Amato-Dow as the Board Vice Chair of
20 the State Board of Cosmetology.

21 CHAIR O'NEILL:

22 May I have a motion to elect Vice Chair
23 Jennifer D'Amato-Dow?

24 ACTING COMMISSIONER CLAGGETT:

25 So moved.

1 MS. D'AMATO-DOW:

2 Second.

3 MS. EATON:

4 Roll call.

5

6 Arion Claggett, aye; Tammy O'Neill,
7 aye; Nicole Weakland, aye; Felicia
8 Brown-Haywood, aye; Jennifer D'Amato-
9 Dow, aye; Teresa Whisler, aye; Heather
10 Kelly, aye.

11 [The motion carried unanimously.]

12

13 MR. HINSEY:

14 Is there a nomination and a second for
15 the position of Board Secretary?

16 CHAIR O'NEILL:

17 I would like to nominate Nicole
18 Weakland.

19 ACTING COMMISSIONER CLAGGETT:

20 Second.

21 MR. HINSEY:

22 Board member Weakland, if offered that
23 position, would you serve in that
24 capacity?

25 MS. WEAKLAND:

1 I will.

2 MR. HINSEY:

3 I believe the Board Chair would
4 entertain a motion to elect Nicole
5 Weakland as the Board Secretary of the
6 State Board of Cosmetology.

7 CHAIR O'NEILL:

8 May I have a motion to approve
9 Secretary of the Board, Nicole
10 Weakland?

11 ACTING COMMISSIONER CLAGGETT:

12 So moved.

13 MS. D'AMATO-DOW:

14 Second.

15 MS. EATON:

16 Roll call.

17
18 Arion Claggett, aye; Tammy O'Neill,
19 aye; Nicole Weakland, aye; Felicia
20 Brown-Haywood, aye; Jennifer D'Amato-
21 Dow, aye; Teresa Whisler, aye; Heather
22 Kelly, aye.

23 [The motion carried unanimously.]

24 ***

25 Applications - Act 41/Endorsement Applications

1 MR. HINSEY:

2 Based on Executive Session
3 deliberations, I believe the Board
4 Chair would entertain a motion to
5 provisionally deny the Application for
6 Licensure as a Cosmetologist at agenda
7 item 19, Martha Liliana Mosquera;
8 agenda item 21, Jonathan Souza da
9 Silva; agenda item 22, Tiffany Kidwell;
10 agenda item 23, Olha Dziuban; and
11 agenda item 26, Azhar Altehimer.

12 CHAIR O'NEILL:

13 Can I have a motion to provisionally
14 deny the Endorsement Applications?

15 ACTING COMMISSIONER CLAGGETT:

16 So moved.

17 MS. D'AMATO-DOW:

18 Second.

19 MS. EATON:

20 Roll call.

21

22 Arion Claggett, aye; Tammy O'Neill,
23 aye; Nicole Weakland, aye; Felicia
24 Brown-Haywood, aye; Jennifer D'Amato-
25 Dow, aye; Teresa Whisler, aye; Heather

1 Kelly, aye.

2 [The motion carried unanimously.]

3 ***

4 MR. HINSEY:

5 Based on Executive Session
6 deliberations, I believe the Board
7 Chair would entertain a motion to
8 approve the Application and grant a
9 provisional license to practice as a
10 cosmetologist at agenda item 20, Angela
11 Vidana and agenda item 25, Haylee
12 Johnson.

13 CHAIR O'NEILL:

14 Can I have a motion to provisionally
15 approve the Endorsement Applications?

16 ACTING COMMISSIONER CLAGGETT:

17 So moved.

18 MS. D'AMATO-DOW:

19 Second.

20 MS. EATON:

21 Roll call.

22
23 Arion Claggett, aye; Tammy O'Neill,
24 aye; Nicole Weakland, aye; Felicia
25 Brown-Haywood, aye; Jennifer D'Amato-

1 Dow, aye; Teresa Whisler, aye; Heather
2 Kelly, aye.

3 [The motion carried unanimously.]

4 ***

5 MR. HINSEY:

6 Based on Executive Session
7 deliberations, I believe the Board
8 Chair would entertain a motion to
9 approve the Application and grant a
10 provisional license to practice as a
11 natural hair braider at agenda item 24,
12 Valentina Muaeva.

13 CHAIR O'NEILL:

14 Can I have a motion to grant a
15 provisional license as a hair braider?

16 ACTING COMMISSIONER CLAGGETT:

17 So moved.

18 MS. D'AMATO-DOW:

19 Second.

20 MS. EATON:

21 Roll call.

22
23 Arion Claggett, aye; Tammy O'Neill,
24 aye; Nicole Weakland, aye; Felicia
25 Brown-Haywood, aye; Jennifer D'Amato-

1 Dow, aye; Teresa Whisler, aye; Heather
2 Kelly, aye.

3 [The motion carried unanimously.]

4 ***

5 MR. HINSEY:

6 Based on Executive Session
7 deliberations, I believe the Board
8 Chair would entertain a motion to
9 approve the Application for endorsement
10 licensure to practice as a
11 cosmetologist at agenda item 27, Elena
12 Vdovenko.

13 CHAIR O'NEILL:

14 Can I have a motion to approve the
15 endorsement application?

16 ACTING COMMISSIONER CLAGGETT:

17 So moved.

18 MS. D'AMATO-DOW:

19 Second.

20 MS. EATON:

21 Roll call.

22
23 Arion Claggett, aye; Tammy O'Neill,
24 aye; Nicole Weakland, aye; Felicia
25 Brown-Haywood, aye; Jennifer D'Amato-

1 Dow, aye; Teresa Whisler, aye; Heather
2 Kelly, aye.

3 [The motion carried unanimously.]

4 ***

5 Applications - Variance Request

6 MR. HINSEY:

7 Based on Executive Session
8 deliberations, I believe the Board
9 Chair would entertain a motion to
10 provisionally deny the Variance
11 Requests at agenda item 28, Killer Bee
12 Hair Studio and agenda item 29, Beards
13 & Shears by Colby.

14 CHAIR O'NEILL:

15 Can I have a motion to provisionally
16 deny the Variance Requests?

17 ACTING COMMISSIONER CLAGGETT:

18 So moved.

19 MS. D'AMATO-DOW:

20 Second.

21 MS. EATON:

22 Roll call.

23
24 Arion Claggett, aye; Tammy O'Neill,
25 aye; Nicole Weakland, aye; Felicia

1 He reported the average age of a case for the Board
2 is 251 days, noting an improvement from 2022 at 340
3 days.

4 Mr. Smith addressed closed discipline cases,
5 noting 606 citations, which is up from 2022 at 465;
6 80 fines; 57 reprimands; and 65 suspensions in 2023.
7 He reported 305 prosecution not warranted cases and
8 626 warning letters. He noted that prosecution looks
9 at the seriousness of the allegations, licensee
10 discipline history, and strength of the evidence when
11 issuing a warning letter.

12 Mr. Smith addressed prosecution not warranted,
13 noting prosecution considers the seriousness of the
14 allegations and disciplinary history but also
15 considers an expert's opinion in terms of the
16 standard of care and their confidence that there was
17 a violation.]

18 ***

19 Report of Board Chairperson - No Report

20 ***

21 Report of Acting Commissioner - No Report

22 [Arion R. Claggett, Acting Commissioner, Bureau of
23 Professional and Occupational Affairs, informed
24 everyone that the Medicaid Unwinding Process
25 presentation from the Department of Human Services

1 was tabled.]

2

3 Report of Regulatory Counsel

4 [Thomas M. Davis, Esquire, Regulatory Counsel,

5 introduced himself and informed Board members that he

6 has recently transitioned over to a regulatory role

7 from Board Counsel for other boards to hopefully move

8 regulations along a little quicker. He provided a

9 Status of Regulations Report and noted the Board has

10 three active regulations.

11 Mr. Davis stated 16A-4518 regarding massage

12 therapy in cosmetology or esthetician salons is the

13 most important because it was published as proposed

14 in the *Pennsylvania Bulletin* on December 16, 2023.

15 He stated the close of public comment was January 16,

16 and the Independent Regulatory Review Commission

17 (IRRC) will probably be providing comments in the

18 next few days.

19 Mr. Davis explained that 16A-4518 is a jointly

20 promulgated regulation with the State Board of

21 Massage Therapy. He mentioned being familiar with

22 the regulation in his old capacity as Board Counsel.

23 He noted there was a statute a while ago allowing

24 massage therapists to practice in cosmetology and

25 esthetician salons, which is happening right now.

1 Mr. Davis noted that the same statute also
2 directed boards to get together and promulgate some
3 regulations to work out the minutiae. He mentioned
4 that boards are exercising some discretion with the
5 minimum room size, noting the Board's minimum room
6 size is 60 square feet per licensee, but there was a
7 question as to whether or not there would be salons
8 out there who would try to get a massage therapist to
9 work in a 60-square foot room calling them a
10 "licensee" under their current regulations.

11 Mr. Davis stated both their version of the
12 massage therapy in cosmetology salons reg, as well as
13 the massage therapist version, set a minimum room
14 size at 120 square feet. He addressed a comment on
15 the proposed regulation from Robert Jantsch, where
16 the requirement of 120 square feet is onerous and not
17 a true requirement for the safe and effective
18 application of massage therapy and believed it should
19 be more free-flowing by suggesting and not requiring
20 120 square feet.

21 Mr. Davis addressed another comment from Brenda
22 Maruhnich who believed a 10' x 10' or 10' x 11' room
23 would be large enough. He mentioned putting out an
24 exposure draft a few years ago to interested parties
25 and stakeholders and received comments suggesting a

1 minimum room size of 90 square feet, noting it is
2 working well from a business perspective.

3 Mr. Davis noted researching this matter, and 120
4 square feet seems to be the suggested size, noting
5 suggested is what they would strive for and minimum
6 is what the Board requires. He mentioned that they
7 have to decide on minimum square feet when writing
8 the regulation and not suggested square feet.

9 Chair O'Neill commented that massage therapists
10 do not have much equipment and agreed with 90 square
11 feet as a minimum and Ms. Brown-Haywood concurred.

12 Mr. Davis discussed the regulation process,
13 noting the regulation is currently in the middle of
14 that process. He explained that they have a period
15 of two years in order to finalize the regulation
16 between published as proposed and final. He noted
17 that he is still waiting on comments from IRRC but
18 believed their comments would be the same as the
19 other two commenters so far.

20 Mr. Davis informed Board members that he would
21 continue to research the 90 square feet and and start
22 drafting the final reg with the 90 square-foot
23 requirement in mind. He mentioned that he will be
24 presenting the same information to the Board of
25 Massage Therapy tomorrow and move it from 120 square

1 feet to 90 square feet if they agree. He mentioned
2 that the Board will have the opportunity to review
3 and vote on it when the final regulation is drafted.]

4

5 Discussion Items - Sunshine Act and Recusal
6 Guidelines

7 [Jared Hinsey, Esquire, Board Counsel, discussed
8 legal guidance concerning the Sunshine Act and
9 Recusal Guidelines to Board members during Executive
10 Session and provided materials for the Board's
11 review.]

12

13 Discussion Items - Policy Statement for Scope of
14 Practice

15 [Jared Hinsey, Esquire, Board Counsel, informed Board
16 members that he receives many questions regarding
17 what is and is not the practice of cosmetology. He
18 noted wanting to explore the idea of creating a
19 policy statement to be posted on the Board's website
20 concerning policy. He explained that policy
21 statements are not binding on the regulated community
22 but can be used as guidance for the regulated
23 community. He further explained that licensees would
24 not be able to be charged as a result of violating
25 policy because those kinds of binding practices must

1 come from the act or the regulations.

2 Mr. Hinsey stated a policy statement would affirm
3 what is stated in the act and the regulations as what
4 is the practice of cosmetology and its limited
5 licenses. He noted that definitions of cosmetology,
6 estheticians, nail technology, and natural hair
7 braiding can all be found within the act.

8 Mr. Hinsey mentioned the he would also like to
9 include what is not the practice of cosmetology and
10 some of the things they have received questions
11 about, including microdermabrasion, dermaplaning,
12 chemical peels, electrolysis, laser therapies,
13 permanent makeup, and tattooing.

14 He asked whether the Board would like to explore
15 the idea of having to draft a policy statement to be
16 issued and what other practices they would like to
17 include in the list of things that are not the
18 practice of cosmetology.

19 Chair O'Neill stated the Board would like Mr.
20 Hinsey to draft something along those lines for
21 clarification.

22 Board members requested teeth whitening,
23 injections, piercings, tattoos, and permanent makeup
24 also be added to the list.

25 Mr. Hinsey offered to provide a draft for the

1 Board to review and discuss at the next meeting.]

2

3 Public Comment

4 [Aaron Shenck, Executive Director, Mid-Atlantic
5 Association of Career Schools, addressed a new policy
6 of the Board concerning a temporary license, where a
7 student is now allowed to essentially get their
8 temporary practice license any time after 900 hours.
9 He referred to a law that was passed about 10 years
10 ago, Act 136 of 2014, noting it to be the reason for
11 the policy change.

12 Mr. Hinsey explained that it is not a policy
13 change, noting the act was amended in 2014, where
14 students for limited license or students for
15 cosmetology licensure can apply to take an early exam
16 after they have accumulated a certain number of hours
17 of education. He noted the temporary permit part of
18 the statute states that the Board can grant a license
19 to those who are eligible for early testing. He
20 explained that the Board has been issuing those
21 licenses when someone applies for early testing, and
22 they have requested a temporary permit.

23 Mr. Hinsey mentioned that some schools have been
24 directing their students to not apply for the
25 temporary permit or ask for one because they did not

1 think it applied. He also mentioned there may have
2 been some confusion in previous years as to who was
3 eligible and who is not.

4 Mr. Hinsey stated the Board is complying with
5 state law as written and has attempted to comply with
6 that state law since 2014. He again explained that
7 it was not a new policy, but the Board is adhering to
8 current law.

9 Mr. Shenck mentioned being heavily involved with
10 enacting that new law, noting the intent was for
11 students to be eligible to test early so that schools
12 could remediate them if there were issues with
13 testing and so schools could make sure they did not
14 click the hours and leave the school without taking
15 the test.

16 Mr. Shenck commented that the temporary practice
17 license was never a concept discussed when that new
18 law was passed in 2014, and to their knowledge, the
19 temporary license was never issued for 10 years after
20 the enactment of that law. He noted being surprised
21 that something has changed after 10 years.

22 Mr. Hinsey could not speak as to what was being
23 issued, because he was not there when the law was
24 passed. He commented that as it pertains to the
25 intent of the law, whatever the intent may have been,

1 it was fine. He mentioned that the law states what
2 the law states, and the Board cannot overlook what
3 the law states just because the intent of passing it
4 was something otherwise.

5 Mr. Hinsey noted his appreciation for the concern
6 and the intent at the time, but the Board must follow
7 the black and white letter of the law, noting the
8 early hours for testing and the temporary permit
9 section when read together is the result and has been
10 the advice of counsel.

11 Mr. Shenck commented that the actual language in
12 Act 136 is not essentially what triggered the change
13 but is when when it is cross referenced to § 12.1 and
14 someone is looking at those two sections together.

15 Mr. Hinsey stated the early hours make those
16 students eligible for early testing and the written
17 exam and § 12.1 states that a license may be issued to
18 those who are eligible, which now includes those
19 early test takers, not just graduates who would be
20 eligible for testing due to the virtue of their
21 graduation.

22 Mr. Shenck asked whether a student who receives a
23 temporary license but fails the test are still going
24 to be allowed to have that temporary license or have
25 to go back to the start.

1 Mr. Hinsey explained that the temporary license
2 is good for nine months, and they have nine months to
3 graduate their classes and successfully pass the
4 exam. He noted that if they cannot successfully pass
5 the exam, and nine months expires, a temporary permit
6 cannot be extended, cannot be reactivated, and cannot
7 be renewed.

8 Mr. Hinsey further explained that someone would
9 not be able to open their own salon or start
10 practicing independently during those nine months
11 because they have to practice under the supervision
12 of a licensee.

13 Mr. Shenck requested information concerning
14 prohibitions on payment. He stated students cannot
15 be paid through clinical work and are now working
16 outside the school in a salon. He asked how that
17 overlaps with provisions in the statute around
18 prohibition of student payment.

19 Mr. Hinsey explained that temporary authority to
20 practice would give them a full temporary authority
21 to practice. He noted it would be outside the school
22 and the school would still be constrained by the
23 parameters of practicing on the public.

24 Brianna Bradshaw, licensed esthetician, asked
25 whether licensed estheticians are allowed to wax

1 legs.

2 Mr. Hinsey informed Ms. Bradshaw that he is
3 unable to provide legal guidance and cannot give a
4 definitive answer.

5 Edward Taimuty noted being the landlord to Killer
6 Bee Hair Studio, Beards & Shears by Colby, and Troy
7 Does Hair and asked why the variances were denied
8 earlier. He requested more information as to why
9 their licenses were pulled after being issued and
10 inspected and what they need to so the businesses can
11 operate.

12 Mr. Hinsey explained that the licensees have been
13 provided that information. He further explained that
14 the licenses with the provisional denials will be
15 provided a letter explaining why the provisional
16 denials occurred and what they can do in the future.

17 Mr. Hinsey believed everyone received contact
18 information, and he cannot discuss the matters with
19 Mr. Taimuty because he is not the attorney for the
20 licensees.

21 Mr. Taimuty mentioned having Kenneth McGregor
22 from the State Board of Cosmetology do a pre-
23 inspection and being issued licensees and then denied
24 and retracted six months later. He stated his
25 tenants have tried tirelessly to reach out for

1 answers and have not received a clear direction.

2 Mr. Hinsey explained that the State Board of
3 Cosmetology does not do pre-inspections, and he is
4 not aware of who would be at his property. He again
5 noted the State Board of Cosmetology is not
6 authorized to do pre-inspections and would be akin to
7 an advisory opinion, which they are not able to give.

8 Mr. Hinsey believed letters were sent to the
9 licensees about what the issues were and what they
10 can do to come into compliance with the law. He
11 suggested speaking with the licensees directly for
12 the information they were provided if he wanted to
13 assist them.

14 Mr. Taimuty referred to Pa. Code § 7.71 and noted
15 they fully meet that requirement from a construction
16 standpoint defined by the Occupational Safety and
17 Health Administration (OSHA) OSHA and the Cornell
18 University of Law.

19 Mr. Hinsey informed everyone that § 7.71 is
20 called the physical requirements of a salon. He
21 again stated the tenants will receive a letter about
22 the provisional denial and the steps that they can
23 take to move forward.

24 Mr. Hinsey commented that the licensee is
25 afforded due process any time any board in the

1 Commonwealth of Pennsylvania acts against a licensee.
2 He noted that the Board meeting is not the time nor
3 place to litigate matters before the Board. He stated
4 the licensees will be receiving instructions of how
5 they can further litigate or how they can further
6 come into compliance with the law.

7 Christine Hench, licensed esthetician, asked
8 whether she is allowed to do paraffin dips.

9 Mr. Hinsey could not provide an advisory opinion
10 as to whether it is or is not included in the
11 profession of estheticians.

12 Ms. Hench requested paraffin dips be added to the
13 other services that were in question concerning
14 cosmetologists.

15 Mr. Hinsey offered add that to the list of things
16 to discuss at the next meeting.

17 Ellie Heron asked why she was not permitted to
18 wax on the bikini line as a licensed esthetician.

19 Mr. Hinsey stated he would research the matter
20 and asked her to email the resource account for the
21 State Board of Cosmetology.

22 Rachel Spyra, Owner of Killer Bee Hair Studio,
23 stated it was difficult to get any answers and wanted
24 to know what she needed to do to get her business
25 back.

1 Mr. Hinsey informed Ms. Spyra that she would be
2 receiving the provisional denial letter containing
3 the information needed and to reach out to him if she
4 had any questions.]

5 ***

6 Adjournment

7 CHAIR O'NEILL:

8 We are going to adjourn our meeting
9 today. Thank you all for attending.
10 The next meeting will be April 22.

11 Motion to adjourn.

12 ACTING COMMISSIONER CLAGGETT:

13 So moved.

14 MS. D'AMATO-DOW:

15 Second.

16 ***

17 [There being no further business, the State Board of
18 Cosmetology Meeting adjourned at 11:43 a.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.



Victoria Lantz,

Minute Clerk

Sargent's Court Reporting
Service, Inc.

STATE BOARD OF COSMETOLOGY
REFERENCE INDEX

February 12, 2024

	TIME	AGENDA
1		
2		
3		
4		
5		
6		
7		
8		
9	9:00	Executive Session
10	10:00	Return to Open Session
11		
12	10:30	Official Call to Order
13		
14	10:30	Roll Call
15		
16	10:31	Introduction of Attendees
17		
18	10:33	Approval of Minutes
19		
20	10:35	Report of Board Prosecution
21		
22	10:42	Report of Board Counsel
23		
24	10:48	Report of Board Administrator
25		
26	10:52	Applications
27		
28	11:00	Appointment - Carlton Smith, Deputy
29		Chief Counsel, Annual Prosecution
30		Division Report
31		
32	11:08	Report of Regulatory Counsel
33		
34	11:18	Discussion Items
35		
36	11:23	Public Comment
37		
38	11:43	Adjournment
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