

MINUTES
BOARD OF PRIVATE OCCUPATIONAL SCHOOLS
July 27, 2021 9:33 a.m.

Join Zoom Meeting

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Meeting ID: 994 7730 0607

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Board Members Present:

Paul Garibay, Chair;	Ryan Minic, Vice Chair;
JoAnn Stevens, Secretary;	Ellen Wamser;
Barbara Kearns; and	Jessica Houtz

Division Staff Present:

Chief Occupational Education Officer/Director Lorna Candler;
Deputy Director & Compliance Officer Mary Kanaly;
Compliance Investigator Bradlee Uyemura;
Program Specialist Rachel Acosta;
Program Specialist April Cordova;
Program Specialist Carrie Harding;
Program Specialist Jonathan Rendon;
Program Specialist Assistant Bernadette Esquibel; and
Division Specialist Kristi Connors

Board Counsel Present:

Natalie Powell, Senior Assistant Attorney General, Office of the Colorado Attorney General

Guests Present:

Sara Brenny, Life Time Academy;
Alexis Amburgey, United Training Academy;
Greg Kimble, KMG Academy;
Amy Capwell, general public;
Michael Mulholland, Accent Beauty Academy;
Tom Anderson, 360Training;
John Whiteman, Colorado School of Clinical Herbalism;
Charles Wooster, Swift Academy;
Al Hanley, CDL School;
Cindy Lloyd, Well Animal Institute;
Hannah McLean Carnes, New Horizons;
Danielle Johnston, Dental Assistant Academy and Arch Dental Assistant Academy;
Jamie Fiely, United Training Academy;
Juan Garcia, CDL School; and

Joe Deering, New Horizons Computer Learning Centers

Call to Order:

The regularly scheduled meeting of the Private Occupational Schools Board was called to order by Mr. Paul Garibay, Chair, at 9:33 a.m. The Board members, Division staff and guests were introduced. Board roll call was taken. A quorum was present.

Consideration of Approval of the June 22, 2021 Minutes:

Following review and consideration of the June 22, 2021 regular and executive session meeting minutes, Board member Kearns made a motion to approve the minutes as written. The motion was seconded and carried.

Additions / Changes to the Agenda:

Deputy Director Kanaly reported the following additions/changes to the agenda:

- New Business Item A (3) Van Education Center – Boulder – Division will present to the Board for consideration the out-of-state provisional application in conjunction with their Change of Ownership application;
- New Business Item D (2) Galvanize Inc. – Denver Platte – Consideration of application for approval of a new program will be removed from the agenda; and
- Other Business - Add Item 7 – Discussion regarding exemptions.

Director / Staff Report

COEO/Director Candler reported the following:

- Reported on proposed language regarding the possibility of mandating vaccines at schools. This decision will be left to the schools as they are privately owned businesses.
- Reported the status of resuming in-person Board meetings will be further discussed at the September Board meeting.
- Provided an update on the Division's software project which has required a large amount of time and effort from the full team. The Division is projecting to be ready sometime this Fall for launch. Deputy Director Kanaly reminded schools to submit their contact information in order to create user ids for each school.
- Provided further information regarding an increase in a specific type of exemption requests the Division has been receiving.

New Business/Action Items:

A. Consideration of Approval of Change of Owner

1. United Training Academy – Aurora and Colorado Springs – AC

Program Specialist Cordova presented to the Board for review and consideration of approval of change of owner. A school representative was present. COEO/Director Candler and Deputy Director Kanaly presented the Division's concerns regarding the business relationship between United Training Academy and the previous ownership group. The Board asked for more information to clarify the previous franchise agreement, the former holding company ownership structure, current lease agreements, mediation agreement, and the asset purchase agreement.

Following discussion with the school's owner, Board member Wamser motioned to table discussion of United Training Academy - Aurora and United Training Academy - Colorado Springs to executive session. The motion was seconded and carried.

2. United Training Academy – Colorado Springs – AC

This application was discussed in conjunction with the first location above.

3. Van Education Center – Boulder – CH

Program Specialist Harding presented to the Board for review and consideration an application for change of ownership and provisional application for an out of state school. A school representative was present. The Board determined that the school has adequate surety coverage and can maintain compliance with the minimum standards as prescribed by the Private Occupational Education Act of 1981, as amended.

Following review and consideration, Vice Chair Minic motioned to approve the change of ownership from Van Education, LLC to 360Training.com, Inc. dba Van Education Center effective July 27, 2021. The motion was seconded and carried.

Following review and consideration, Vice Chair Minic motioned to approve the provisional out of state school for the period beginning July 27, 2021 and ending June 30th, 2022. The motion was seconded and carried.

4. Colorado School of Clinical Herbalism – Lafayette – RA

Program Specialist Acosta presented to the Board for review and consideration an application for change of ownership. A school representative was present. The Board determined that the school has adequate surety coverage and can maintain compliance with the minimum standards as prescribed by the Private Occupational Education Act of 1981, as amended.

Following review and consideration, Board member Wamser motioned to approve the change of ownership from Colorado School of Clinical Herbalism, Inc. to Wild Woman Management, Inc. dba Colorado School of Clinical Herbalism effective July 27, 2021. The motion was seconded and carried.

B. Consideration of Approval of Change of Ownership and New Program

1. United States Truck Driving School – Fountain – CH

Program Specialist Harding presented to the Board for review and consideration an application for change of ownership and one new program: Master Tractor-Trailer Driver Program. A school

representative was present. The Board determined that the school has adequate surety coverage and can maintain compliance with the minimum standards as prescribed by the Private Occupational Education Act of 1981, as amended.

Following review and consideration, Vice Chair Minic motioned to approve the change of ownership from United States Truck Driving School, Inc. to The CDL Schools, LLC, as well as to approve the new Master Tractor-Trailer Driver Program, effective July 27, 2021. The motion was seconded and carried.

2. United States Truck Driving School – Wheat Ridge – CH

Program Specialist Harding presented to the Board for review and consideration an application for change of ownership and one new program: Master Tractor-Trailer Driver Program. A school representative was present. The Board determined that the school has adequate surety coverage and can maintain compliance with the minimum standards as prescribed by the Private Occupational Education Act of 1981, as amended.

Following review and consideration, Vice Chair Minic motioned to approve the change of ownership from United States Truck Driving School, Inc. to The CDL Schools, LLC, as well as to approve the new Master Tractor-Trailer Driver Program, effective July 27, 2021. The motion was seconded and carried.

C. Consideration of Out-of-State Provisional School Application

1. New Horizons Computer Learning Centers – Jacksonville – JR

Program Specialist Rendon presented to the Board for review and consideration of an Out-of-State Provisional School Application. A school representative was present. The Board determined that the school has adequate surety coverage and can maintain compliance with the minimum standards as prescribed by the Private Occupational Education Act of 1981, as amended.

Following review and consideration, Board Member Stevens motioned to approve the provisional out-of-state school for the period beginning July 27, 2021 and ending June 30th, 2022. The motion was seconded and carried.

2. Swift Driving Academy – West Valley City – JR

Program Specialist Rendon presented to the Board for review and consideration of an Out-of-State Provisional School Application. A school representative was present. The Board determined that the school has adequate surety coverage and can maintain compliance with the minimum standards as prescribed by the Private Occupational Education Act of 1981, as amended.

Following review and consideration, Board Member Wamser motioned to approve the provisional out-of-state school for the period beginning July 27, 2021 and ending June 30th, 2022. The motion was seconded and carried.

3. Life Time Academy - Chanhassen – JR

Program Specialist Rendon presented to the Board for review and consideration of an Out-of-State Provisional School Application. A school representative was present. The Board determined that the school has adequate surety coverage and can maintain compliance with the minimum standards as prescribed by the Private Occupational Education Act of 1981, as amended.

Following review and consideration, Board Member Kearns motioned to approve the provisional out-of-state school for the period beginning July 27, 2021 and ending June 30th, 2022. The motion was seconded and carried.

At 11:50 a.m. Board member Stevens motioned for a recess. The motion was seconded and carried.

At 12:00 p.m. Chair Garibay called the meeting back to order.

D. Consideration of New Program(s)/Stand-Alone Course(s) or Major Revisions

1. Well Animal Institute dba K-9 Smiles – Broomfield - CH

Program Specialist Harding presented to the Board for review and consideration of a major revision to the method of delivery of one previously approved program: Anesthesia – Free Canine Dental Practitioner. A school representative was present. The Board determined that the school has adequate surety coverage and can maintain compliance with the minimum standards as prescribed by the Private Occupational Education Act of 1981, as amended.

Following review and consideration of the major revision, Board member Wamser motioned to approve the major revision to the Anesthesia – Free Canine Dental Practitioner program effective July 27, 2021. The motion was seconded and carried.

2. Colorado Dental Assisting Academy – Boulder - AC

Program Specialist Cordova presented to the Board for review and consideration of a new program: Dental Assistant Hybrid. A school representative was present. The Board determined that the school has adequate surety coverage and can maintain compliance with the minimum standards as prescribed by the Private Occupational Education Act of 1981, as amended.

Following review and consideration, Board member Wamser motioned to approve the new program: Dental Assistant Hybrid program effective July 27, 2021. The motion was seconded and carried.

3. Colorado Dental Assisting Academy – Greely - AC

Program Specialist Cordova presented to the Board for review and consideration of a new program: Dental Assistant Hybrid. A school representative was present. The Board determined that the school has adequate surety coverage and can maintain compliance with the minimum standards as prescribed by the Private Occupational Education Act of 1981, as amended.

Following review and consideration, Board member Kearns motioned to approve the new program: Dental Assistant Hybrid program effective July 27, 2021. The motion was seconded and carried.

4. Colorado Dental Assisting Academy – Greenwood Village - AC

Program Specialist Cordova presented to the Board for review and consideration of a new program: Dental Assistant Hybrid. A school representative was present. The Board determined that the school has adequate surety coverage and can maintain compliance with the minimum standards as prescribed by the Private Occupational Education Act of 1981, as amended.

Following review and consideration, Board member Kearns motioned to approve the new program: Dental Assistant Hybrid program effective July 27, 2021. The motion was seconded and carried.

5. Arch Dental Assistant Academy - Westminster - AC

Program Specialist Cordova presented to the Board for review and consideration a major revision to the method of delivery of one previously approved program: Dental Assistant. A school representative was present. The Board determined that the school has adequate surety coverage and can maintain compliance with the minimum standards as prescribed by the Private Occupational Education Act of 1981, as amended.

Following review and consideration of the major revision, Board member Wamser motioned to approve the major revision to Dental Assistant program effective July 27, 2021. The motion was seconded and carried.

E. Notification of School Closure (no action required)

1. Universal Technical Institute - Arizona – Avondale – CH

Program Specialist Harding reported that the school has approval as an institutional participant in SARA (State Authorization Reciprocity Agreements) and will no longer be regulated by DPOS.

Effective 06/01/2021, all available student and educational records are being maintained by Universal Technical Institute on the school's national digital platform.

2. Universal Technical Institute of Texas, Inc. – Houston – CH

Program Specialist Harding reported that the school has approval as an institutional participant in SARA (State Authorization Reciprocity Agreements) and will no longer be regulated by DPOS.

Effective 06/01/2021, all available student and educational records are being maintained by Universal Technical Institute on the school's national digital platform.

3. Universal Technical Institute, Motorcycle Mechanics Institute- Phoenix – CH

Program Specialist Harding reported that the school has approval as an institutional participant in SARA (State Authorization Reciprocity Agreements) and will no longer be regulated by DPOS.

Effective 06/01/2021, all available student and educational records are being maintained by Universal Technical Institute on the school's national digital platform.

4. NASCAR Technical Institute (UTI) - Mooresville - CH

Program Specialist Harding reported that the school has approval as an institutional participant in SARA (State Authorization Reciprocity Agreements) and will no longer be regulated by DPOS.

Effective 06/01/2021, all available student and educational records are being maintained by Universal Technical Institute on the school's national digital platform.

Other Business:

1. Legal Update

The Board's Counsel, Natalie Powell, updated the Board on the following items:

- a. CDL College
 - i. On May 10, 2021, Board Counsel remitted a pre-litigation conferral and demand for compliance to The Hartford. They maintain their denial. On May 24, Board Counsel filed the Complaint in Denver District Court. After reviewing the in-state agent structure elected by the surety, Board Counsel is considering re-filing in a different jurisdiction to mitigate against any challenge about jurisdiction.
- b. Mr. K's Floral Design School of Denver
 - i. Board Counsel filed Notice of Charges with the Office of Administrative Courts on May 19, 2021. Mr. K's owner did not file an Answer to the Notice of Charges, as required, within 30 days. On July 22, 2021, Board Counsel filed a Motion for Default, requesting that default be entered.
- c. Rock Creek Laser & Esthetics
 - i. On June 30, 2021, the school owner signed the Affidavit of Voluntary Surrender of its Certificate of Approval. The school has 60 days to provide electronic copies of required records to the Division. The Division has also placed a hold on the school's bond if the school does not refund three student complaints.
- d. KMG Academy
 - i. At its June Board meeting, in reviewing KMG Academy's renewal application materials, the Board learned that KMG Academy did not have a bond surety in place from August 2020 until June 2021. Although KMG has subsequently cured the violation by obtaining a new surety bond, the Board directed counsel and the Division to issue a Notice of Bond Lapse to inform KMG that it may have been in violation of statutory requirements during the period of lapse. The Division issued the notice on July 21, 2021.
- e. Board Counsel is working with the Division on revisions to the proposed language for DPOS policy regarding schools' ability to temporarily cease Board-approved in-person learning in response to a COVID-19 occurrence. This issue will be discussed further in executive session.

- f. The Division has been receiving recent inquiries regarding whether it has jurisdiction over programs that offer education for students who have obtained a bachelor's degree but are seeking a post-baccalaureate certificate in the medical laboratory field. Board Counsel provided legal analysis to the Division and will be able to answer any questions on that legal analysis during executive session.

2. KMG Academy

Program Specialist Harding reported that KMG Academy submitted the financial information to the Division on July 13, 2021, as requested by the Board at the June Board meeting.

Following review and discussion, Board member Wamser motioned to conditionally approve the renewal Certificate of Approval with the requirement of monthly reporting until the school can show full forgiveness of the PPP loan or until performance is satisfactory. The motion was seconded and carried.

3. National Beauty College

Deputy Kanaly reported on the renewal status of National Beauty College. The school owner submitted additional information to the Division on July 19, 2021, which was past the deadline set by the Board at the June Board meeting of July 13, 2021. The submitted documentation was missing the required safety inspection and did not include the source of tuition funds for enrolled students.

Following review and consideration, Board member Wamser motioned to move National Beauty College's renewal to executive session. The motion was seconded and carried.

4. College of International Esthetics, Inc.

Deputy Director Kanaly provided an update on the status of the Division obtaining the student records. The school is in the process of scanning the student transcripts and records of completion. The school closed in May 2020 and has not deposited any student records to date with the Division.

Following review and consideration, Board member Kearns motioned to require College of International Esthetics to provide the Division student certificates, transcripts, and financial information from the past two years by September 1, 2021, and all other student certificates and transcripts by October 1, 2021. The motion was seconded and carried.

Following review and consideration of each of the previous matters discussed during the regular portion of the Board meeting, Board member Stevens motioned to convene in executive session with the Board's Counsel to seek legal advice pursuant to C.R.S. §24-6-402(3)(a)(II), on the following matters: United Training Academy – Aurora and Colorado Springs locations, National Beauty College, COVID-19 waivers, and post-baccalaureate certificate programs in consideration of relevant parts of the Private Occupational School Act, C.R.S. §23-64-101 et seq. and the Rules and Regulations, 8 CCR 1504-1. The motion was seconded and carried. The public session recorder was turned off.

The Board of Private Occupational Schools convened in executive session with its attorney of record, the Division Director, and Division staff at 12:50 p.m.

COEO/Director Candler left the executive session meeting at 1:07 p.m.

After the review and consideration of the matters previously mentioned, Chair Garibay resumed regular session at 1:41 p.m. The executive session recorder was turned off. The public session recorder was turned on and the general public was welcomed back.

Senior Assistant Attorney General Natalie Powell, affirmed for the record that this executive session was for the sole purpose of providing legal advice to the Board and to otherwise engage in good faith in what is believed to be attorney-client privileged discussions.

Following executive session, the Board resumed its agenda as follows:

United Training Academy – Aurora and Colorado Springs Locations

Following discussion of the change of ownership in public session, Board member Kearns motioned to defer the consideration of the applications to the August 24, 2021 Board meeting to provide sufficient time for Board Counsel and the Division to review documents and asks the school not to enroll students until after the August meeting. The motion was seconded and carried.

National Beauty College

Following discussion of the renewal in public session, Board member Stevens motioned to extend the Certificate of Approval until August 24, 2021, with the condition that the school submit the current safety inspection and certify in writing all students' financial aid status regarding Title IV funding to the Division. The motion was seconded and carried.

Exemptions

Following discussion in public session, Board Counsel recommended the Board continue to follow the current statute and pursue possible language for statute clarification.

COVID-19 Temporary Waivers

Following discussion in public session, the Board asked Board Counsel to work with Division to craft language for the Board to issue a policy to allow schools to adjust rapidly on a temporary basis due to COVID-19 quarantine.

Adjournment:

Vice Chair Minic motioned to adjourn the meeting at 2:51 p.m. The motion was seconded and carried.

The next regularly scheduled meeting of the Board is Tuesday, August 24, 2021, at 9:30 a.m. and will be held via the web conference application, Zoom; meeting details will be posted on the Division's website: higher.colorado.gov/dpos.

