

MINUTES
BOARD OF PRIVATE OCCUPATIONAL SCHOOLS
August 24, 2021 at 9:32 a.m.

Join Zoom Meeting

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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:

Annette Guana, IECRM;
Michael Mulholland, Accent Beauty Academy;
Crystal Moya, Lashed 5289;
Gregory Pierce, United Training Academy;
Jamie Fiely, United Training Academy;
Emily Downs, Diagnostic Medical Sonography Program at UCHealth;
Eric Schafer, Diagnostic Medical Sonography Program at UCHealth;
Elyssa Bart, Flatiron School;
Dana Frei, Flatiron School;
Giovani Difeterici, Flatiron School;
Amy Capwell, general public;
Casey Coomes, College of International Esthetics;

Call to Order:

The regularly scheduled meeting of the Private Occupational Schools Board was called to order by Mr. Paul Garibay, Chair, at 9:32 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 July 27, 2021 Minutes:

Following review and consideration of the July 27, 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:

COEO/Director Candler reported that there were no changes or additions to the agenda.

Director / Staff Report

COEO/Director Candler reported the following:

- Provided an update on the Division's software project which will improve access and streamline the application process for all schools.
- Reported on plans for the Division to return to the office and discussed the possibility of holding in-person Board meetings in the future. For now, Board meetings will continue to be held on Zoom.
- A new Board member was appointed by Governor Pollis and will be introduced at the September meeting.
- Discussed the issue of closed schools not fulfilling their obligation to deposit student records in a timely manner with the Division to ensure students have access to the records. Our mission is to hold schools to minimum standards to meet our second mission to protect students. Schools must collect and properly record student data. Schools face possible legal ramifications for not complying with these requirements.

New Business/Action Items:

A. Consideration of Approval of Provisional Certificate

1. Lashed 5280 – Brighton - CH

Program Specialist Harding presented to the Board for review and consideration of a Provisional Certificate. A school representative was present. A site visit was completed. 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 discussion of the proposed stand-alone courses, a motion was made by Secretary Stevens to approve the Provisional Certificate and the four stand-alone courses: Classic Eyelash Extensions, Hybrid Eyelash Extensions, Mega Volume Eyelash Extensions, and Volume Eyelash Extensions effective August 24, 2021 and ending June 30, 2023. The motion was seconded and carried.

A motion was made by Secretary Stevens to conditionally approve the stand-alone course: Classic and Volume On-line Course provided the school modifies the curriculum to a hybrid model with online theory and a practical on-site technical component. The motion was seconded and carried.

2. Diagnostic Medical Sonography Program at UCHHealth – Aurora – CH

Program Specialist Harding presented to the Board for review and consideration of a Provisional Certificate. A school representative was present. A site visit was completed. 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 Provisional Certificate effective August 24, 2021, and ending June 30, 2023. The motion was seconded and carried.

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

1. Accent Beauty Academy, LLC – Denver - JR

Program Specialist Rendon presented to the Board for review and consideration of four new stand-alone courses: Chemical Peel, Dermaplaning, Microdermabrasion, and Microneedling. 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 four new stand-alone courses effective August 24, 2021. The motion was seconded and carried.

2. Independent Electrical Contractors Rocky Mountain – Northglenn - JR

Program Specialist Rendon presented to the Board for review and consideration of a new program: Fast Track Apprenticeship. 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: Fast Track Apprenticeship effective August 24, 2021. The motion was seconded and carried.

3. Flatiron School – Denver - AC

Program Specialist Cordova presented to the Board for review and consideration of two new programs: Product Design Live and Product Design Flex. 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 two new programs: Product Design Live and Product Design Flex effective August 24, 2021. The motion was seconded and carried.

C. Notification of School Closure (no action required)

1. QS Academy – Castle Rock – CH

Program Specialist Harding reported that the school has not enrolled students since the date of closure on June 30, 2021, and all students have completed training.

Effective July 22, 2021, non-compliant student records have been submitted to the Division and there has been no response from the school to multiple attempts to contact them regarding the student records.

2. America's Academy of Coaching, Counseling and Hypnotherapy – Greenwood Village - CH

Program Specialist Harding reported that the school has not enrolled students since the date of closure on June 30, 2021, and all students have completed training.

Effective August 16, 2021, student and educational records have not been deposited at the Division as required by the Private Occupational School Act of 1981.

3. Myofascial Release Seminars – Malvern, PA - JR

Program Specialist Rendon reported that the school has not enrolled students since the date of closure on June 20, 2021, and all students have completed training.

Effective June 30, 2021, all available student and educational records are being maintained by Myofascial corporate office in Malvern, Pennsylvania.

4. The Vertical Workshop, Inc. – Colorado Springs - JR

Program Specialist Rendon reported that the school has not enrolled students since the date of closure on April 8, 2021, and all students have completed training.

Effective March 26, 2021, all available student and educational records are on deposit at the Division.

A motion was made by Board Member Wamser to table discussion of possible Board action regarding the failure to submit student records in a timely manner by QS Academy, America's Academy of Coaching, Counseling and Hypnotherapy, and College of International Esthetics to executive session. Motion was seconded and carried.

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 re-filed the Complaint in Arapahoe County.

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. Motion is currently pending, and trial has been set for February 9-10, 2022.

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. United Training Academy

- i. The Board considered a change of ownership application from United Training Academy at its July 27, 2021 meeting. The Board asked for additional information from United Training Academy and for legal review by Board Counsel, to clarify the franchise agreement, purchase agreements, and settlement between the prior franchisee and franchisor. Board Counsel provided a separate attorney-client privileged memorandum for the Board's review on August 23, 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.

2. United Training Academy

Following discussion with the school's owner and legal counsel regarding the curriculum, lease agreement, and the asset purchase agreement a motion was made by Vice Chair Minic to move this issue to executive session. The motion was seconded and carried.

3. KMG Academy Update

Deputy Director Kanaly reported that KMG Academy provided confirmation to the Division that their PPP loan was completely forgiven and are scheduled to begin updating the Division on enrollment and tuition, as requested by the Board at the June Board meeting.

3. National Beauty College

Deputy Director Kanaly reported on the renewal status of National Beauty College. The school owner submitted the required safety inspection and a written statement confirming the source of tuition funds for enrolled students is not Title IV funding.

Following review and consideration of the renewal, Vice Chair Minic motioned to approve the Standard Certificate of Approval for the period beginning August 24, 2021 and ending June 30, 2024. The motion was seconded and carried.

4. Rock Creek Laser and Esthetics

Deputy Director Kanaly provided an update on the transfer of student records required to be deposited with the Division by September 1, 2021. To date, no records have been deposited with the Division.

5. Colorado Student Load Equity Act – SB21-057

Deputy Director Kanaly provided information on a Senate bill that went into effect this past legislative session and could impact some of the schools the Board oversees. The bill requires any school involved in private lending to register with the Attorney General's office. The purpose of registering is to help the AG monitor private lending and ensure schools are compliant with Consumer Protection Act. The AG asked the Division to send out an email to all DPOS schools to make them aware of the new requirement.

6. COVID – 19 Waivers

Board Counsel provided the current Draft policy language for the Board to review. A motion was made by Board Member Stevens to move the discussion of COVID-19 waivers to executive session. 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, Vice Chair Minic motioned to convene in executive session at 12:20 p.m. with the Board's Counsel to seek legal advice pursuant to C.R.S. §24-6-402(3)(a)(II), on the following matters: QS Academy, America's Academy of Coaching, Counseling and Hypnotherapy, College of International Esthetics, United Training Academy, and COVID-19 waivers 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 11:58 p.m.

COEO/Director Candler left the executive session meeting at 1:00 p.m.

After the review and consideration of the matters previously mentioned, Chair Garibay resumed regular session at 1:16 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

Following further discussion of the change of ownership application in public session, a motion was made by Vice Chair Minic to table consideration of the application to the September 28, 2021 Board meeting and requested additional documents to be submitted to Board Counsel and the Division including a detailed organization chart, list of current curriculum and software license agreements offered by United Training Academy and New Horizons, and updated financials by September 14, 2021. The motion was seconded and carried.

QS Academy

Following discussion in public session, a motion was made by Board Member Kearns to provide the 60 days for school to deposit legible student records including all transcripts and certificates of completion in accordance with the Statute to the Division. If requirement is not met by September 1, 2021, Board requests Counsel to issue notice to the school to comply and submit student records by September 30, 2021, or Division and Board Counsel will pursue further civil and/or criminal actions. The motion was seconded and carried.

America's Academy of Coaching, Counseling and Hypnotherapy

Following discussion in public session, a motion was made by Board Member Kearns to provide the 60 days for school to deposit legible student records including all transcripts and certificates of completion in accordance with the Statute to the Division. If requirement is not met by September 1, 2021, Board requests Counsel to issue notice to the school to comply and submit student records by September 30, 2021, or Division and Board Counsel will pursue further civil and/or criminal actions. The motion was seconded and carried.

College of International Esthetics

Following discussion in public session regarding the deadlines the School was given to submit student records including transcripts and certificates of completion for the years of 2019 and 2020, a motion was made by Board Member Kearns to move forward with previous guidelines set by the Board of September 1, 2021, to deposit records for the last two years of operation and October 1, 2021, for the remainder of student records. The motion was seconded and carried.

Chair Garibay reinforced the importance of student records deposited with the Division and the increasing challenges created when schools close for students who need those records to continue their education or apply for licenses. The Board will follow a much tighter timeline with respect to records and follow the guidelines of Statute much more closely as these requirements are all provided to schools as part of their operations and are in place to protect students and their education.

COVID-19 Temporary Waivers

Following additional discussion in public session, a motion was made by Board Member Kearns to approve the COVID – 19 Temporary Waiver Policy with the addition of the initial notice to include the method of delivery. The motion was seconded and carried.

Adjournment:

Board Member Kearns motioned to adjourn the meeting at 2:27 p.m. The motion was seconded and carried.

The next regularly scheduled meeting of the Board is Tuesday, September 28, 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: higherred.colorado.gov/dpos.