

MINUTES
BOARD OF PRIVATE OCCUPATIONAL SCHOOLS
December 7, 2021 at 9:34 a.m.

Join Zoom Meeting

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Board Members Present:

Paul Garibay, Chair;	Ryan Minic, Vice Chair;
JoAnn Stevens, Secretary;	Chad J. Nash
Barbara Kearns;	Ellen Wamser; 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 Martha Torres-Recinos;
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:

Michelle Noyes, Phoenix Strategies, Inc.;
Nani Schwartz, Summit Barber Academy;
Bailey Ames, Lash and Company;
Wayne Zellner, IntelliTec College;
Kristy Estrada, IntelliTec College;
Keith Parish, Cook Street School of Culinary Arts;
Lindsey Reese, Cook Street School of Culinary Arts;
Stephanie Herman, Acuity Institute; and
David Reff, General Assembly

Call to Order:

The regularly scheduled meeting of the Private Occupational Schools Board was called to order by Mr. Paul Garibay, Chair, at 9:34 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 October 26, 2021 Minutes:

Following review and consideration of the October 26, 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 added to Other Business College of International Esthetics.

Director / Staff Report

COEO/Director Candler reported the following:

- Introduced the Division's new Program Specialist Martha Torres-Recinos. She previously worked as a state regulator at the Division of Real Estate.
- Compliance Investigator Bradlee Uyemura attended the Commercial Vehicle Safety Center's Webinar on Entry Level Driver Training Regulations and the Training Provider Registry on November 18, 2021. New Federal regulations for truck drivers will go into effect in February 2022.
- Reported on the Division's effort to maintain a strong partnership with DORA.
- Updated the Board on the Anti-Human Trafficking toolkit the Division was given a grant to create for all state regulators and will share at the Spring NASASPS conference.
- Deputy Director Kanaly reported at the SHEEO learning community webinar on how the Division used the grant allocated to develop the new IT system. This discussion opened a host of inquiries on the strategies and project as multiple states have commenced similar projects but abandoned them because the IT developer could not deliver the scope and detail required for the state regulators' processes.
- Deputy Director Kanaly updated the Board regarding the launch of the new IT system in January 2022. The schools were alerted that the Division will not be accepting any paper applications after December 1, 2021. However, renewals for the 2022 cycle will be paper applications and accepted as usual. Final testing by the Division and a few school test users will be completed over the next few weeks. Communication and training information will be sent out to schools regarding the new IT system.

New Business/Action Items:

A. Consideration of Approval of Provisional Certificate

1. Lash & Company Education – Fort Collins – AC

Program Specialist Cordova presented to the Board for review and consideration of a Provisional School Application to operate a second campus, one program, and seven stand-alone courses. 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, Board member Wamser motioned to approve the Provisional Certificate for the Fort Collins campus effective December 7, 2021 and ending June 30, 2023, and the Esthetics Program and seven stand-alone courses: Permanent Make-Up, Eyelash Extensions, Dermaplaning, Chemical Peels, Microneedling, Cosmetic Lasers, and Cosmetic Injectables effective December 7, 2021. The motion was seconded and carried.

2. Summit Barber Academy – Aurora – CH

Program Specialist Harding presented to the Board for review and consideration of a Provisional School Application to Operate and the Barbering Program. 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 December 7, 2021 and ending June 30, 2023, and the Barbering Program effective December 7, 2021. The motion was seconded and carried.

3. Glo Academy – Grand Junction - CH

Program Specialist Harding presented to the Board for review and consideration of a Provisional School Application, one program, and four stand-alone courses. 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, Board member Stevens motioned to approve the Provisional Certificate effective December 7, 2021 and ending June 30, 2023, and the Cosmetics Certification Program and four stand-alone courses: Shading, Winged Eyeliner and Lash Enhancement, Lip Blush, and Digital Microblading effective December 7, 2021. The motion was seconded and carried

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

1. Lash and Company – Thornton - AC

Program Specialist Cordova presented to the Board for review and consideration of one new program: Esthetics – 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 effective December 7, 2021. The motion was seconded and carried.

2. IntelliTec College – Grand Junction - AC

Program Specialist Cordova presented to the Board for review and consideration of one major program revision: Cosmetologist. 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 conditionally approve the major program revision with the requirement for the school to submit a revised approval form and enrollment agreement effective December 7, 2021. The motion was seconded and carried.

3. IntelliTec College – Pueblo - AC

Program Specialist Cordova presented to the Board for review and consideration of one major program revision: Cosmetologist. 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 conditionally approve the major program revision with the requirement for the school to submit a revised approval form and enrollment agreement effective December 7, 2021. The motion was seconded and carried.

At this time, Vice Chair Minic left the meeting.

4. Cook Street School of Culinary Arts – Denver - CH

Program Specialist Harding presented to the Board for review and consideration of one new program: Restaurant Management. 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 effective December 7, 2021. The motion was seconded and carried.

5. Acuity Institute – Denver - BE

Program Specialist Assistant Esquibel presented to the Board for review and consideration seven new stand-alone courses: Certificate in Leadership, PMP Exam Prep, Certificate in Operations and Supply Chain Management, Certificate in Management Skills, PM Skills Certification, Certificate in Creativity and Innovation, and Agile Project Management Certification. 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 seven new stand-alone courses effective December 7, 2021. The motion was seconded and carried.

C. Consideration of Approval Change of Ownership and Stand-Alone Course Major Revision

1. Phoenix Strategies, Inc. – Englewood - CH

Program Specialist Harding presented to the Board for review and consideration an application for change of ownership and a major revision to one stand-alone course: Basic Meditation. 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 Monica Lichtenberger to Michelle Noyes effective December 7, 2021. The motion was seconded and carried. Board member Wamser motioned to approve the major revision to one stand-alone course. The motion was seconded and carried.

D. Notification of School Closure (No Action Required)

1. A Laser Academy – Littleton - JR

Deputy Director Kanaly reported that the school has not enrolled students since the date of closure on March 30, 2020, and all students have completed training.

Effective November 2, 2021, all available student and educational records are on deposit at the Division.

2. Aspen Massage Institute – Aspen - JR

Deputy Director Kanaly reported that the school has not enrolled students since the date of closure on July 21, 2021, and all students have completed training.

Effective November 15, 2021, all available student and educational records are on deposit at the Division.

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. The Board's Complaint was served on Hartford, and Hartford filed an Answer on September 16, 2021. A trial

date has been set in October 2022 and a request for early mediation to occur in January 2022.

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. On August 26, 2021, the ALJ entered default. Board Counsel is waiting for the OAC to issue an Initial Decision. Once issued, the Board can move forward with a final agency action

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 had 60 days to provide electronic copies of required records to the Division. The school provided some of the requested records, but not all. As directed at the September Board meeting, Board Counsel sent a 30-day warning letter to the school with a deadline of November 5, 2021, to provide all remaining records. The school did not provide any additional records and Board Counsel is drafting a civil complaint and contacting the D.A. to determine if they are willing to pursue a criminal complaint.

d. Careers World Wide

- i. At its October 26, 2021 meeting, the Division presented evidence to the Board that Careers World Wide failed to timely renew its certificate of approval, and thus its certificate expired as a matter of law on June 30, 2021. A Division investigation, however, revealed that Careers World Wide was still holding courses and enrolling public students. The Board voted to issue a Cease and Desist Order (C&D Order) to Careers World Wide. Board Counsel drafted the Order, and the Division sent it to Careers World Wide via email and U.S. Mail on November 3, 2021.

e. Springs Truck Driving School

- i. At its October 26, 2021 meeting, the Division presented evidence to the Board that Springs Truck Driving School failed to timely renew its certificate of approval, and thus its certificate expired as a matter of law on June 30, 2021. A Division investigation, however, revealed that Springs Truck Driving School was still holding courses and enrolling public students. The owner of Springs Truck Driving School appeared at the October 26, 2021 meeting, and did not dispute that it is still operating as a school. The Board voted to issue a Cease and Desist Order (C&D Order) to Springs Truck Driving School. Counsel drafted the C&D Order, and the Division sent it to Springs Truck Driving School via email and U.S. Mail on November 3, 2021.

f. Perfect Massage School

- i. At its October 26, 2021 meeting, the Board considered an application for a provisional certificate of approval by Perfect Massage School. Based on information presented by the Division, the Board voted to deny the application and issue a Notice of Noncompliance. Board Counsel prepared the Notice of

Noncompliance, and the Division sent it via mail and email to Perfect Massage on December 1, 2021. Perfect Massage will have 14 days to provide its response, if any.

A motion was made by Board member Kearns to table the discussion of Mr. K's Floral Design School to executive session. The motion was seconded and carried.

At this time, Vice Chair Minic rejoined the meeting.

2. College of International Esthetics

COEO/Director Candler updated the Board on the closure process and the actions taken by the Board and Division over the past two years for College of International Esthetics. Board member Kearns amended her previous motion to table Mr. K's to executive session to include CIE. The motion was seconded and carried.

3. Redlined Rules

COEO/Director Candler reported to the Board the Stakeholder meeting will be held on January 14, 2022. The Division will accept written and oral comments on the redlined rules and present a summary to the Board prior to the Rulemaking Hearing held on January 25, 2022.

At 11:30 a.m., Board member Kearns motioned to take a recess. The motion was seconded and carried.

The Board meeting was called back to order at 11:46 a.m. by Chair Garibay.

Following review and consideration of each of the previous matters discussed during the regular portion of the Board member Kearns 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: Mr. K's Floral Design School and College of International Esthetics 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 11:50 a.m.

After the review and consideration of the matters previously mentioned, Chair Garibay resumed regular session at 12:35 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:

Mr. K's Floral Design School

Chair Garibay updated the general public on the status of the Office of Administrative Court's Initial Decision. The Board will review the Initial Decision once received and will seek guidance from Conflicts Counsel to advise the Board and Division on the next steps of the legal process. Chair Garibay requested that in future cases, schools that do not submit required paperwork by the deadline to the Division, the Board should move to Summary Suspension immediately to protect students after seeking legal advice from Board Counsel.

College of International Esthetics

Following discussion in public session, Board member Kearns motioned to direct Board Counsel to issue a final warning letter CIE and its owner to turn over student records to the Division within 14 days. If the records are not received by the deadline, the Board directs Board Counsel to prepare a civil complaint and seek possible criminal action. The motion was seconded and carried.

Adjournment:

Vice Chair Minic motioned to adjourn the meeting at 12:52 p.m. The motion was seconded and carried.

The next regularly scheduled meeting of the Board is Tuesday, January 25, 2022, 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: highered.colorado.gov/dpos.