

MINUTES
COLORADO BOARD OF PRIVATE OCCUPATIONAL SCHOOLS
January 23, 2024 at 11:00 a.m.

Join Zoom Meeting
<https://highered-colorado-gov.zoom.us/j/84913044325?pwd=WWVhQ0hXS3BaWkVVRTlxc3h1eE5OQT09>
Meeting ID: 849 1304 4325

Board Members Present:

JoAnn Stevens, Chair;
Barbara Kearns, Vice Chair
Ellen Wamser, Secretary;
Scott Cardona;
Chris Smith; and
Jessica Wagner

Board Members Absent:

Chad J. Nash

Division Staff Present:

Chief Occupational Education Officer/Director Lorna Candler;
Deputy Director & Compliance Officer Mary Kanaly;
Compliance Investigator Lisa Combs;
Program Specialist Rachel Acosta;
Program Specialist Martha Torres-Recinos;
Program Specialist Austin Bentz;
Program Specialist Kerrie Solis;
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:

Andrew Beardall, RapidAscent;
Michael Beaty, IBMC Colleges;
Kate Bradford, The Hair & Skin Refinery;
Kandi Carbajal, The Hair & Skin Refinery;
Gurvirender Tejay, Cyber Qubits;
Brian Schwartz, Summit Barber Academy;
Tom Bezek, IBMC College; and
Tammy Kirby, National School of Dental Assisting

Call to Order:

The regularly scheduled meeting of the Private Occupational Schools Board was called to order by

JoAnn Stevens, Chair, at 11:00 a.m. The Board members, Division staff, and guests were introduced. Board roll call was taken. A quorum was present.

Consideration of Approval of Minutes:

Following review and consideration of the December 5, 2023 regular and executive session minutes, Vice Chair Kearns motioned to approve the minutes as written. The motion was seconded and carried.

Additions / Changes to the Agenda:

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

Director / Staff Report

- COEO/Director Candler reported that the 2024 legislative session is underway with our new Executive Deputy Director Tricia Johnson reviewing Title 23 and creating a chart of statutory obligations for the Department.
- COEO/Director Candler reported that renewal applications are due February 15, 2024, for in-state schools with a certificate of approval that expires on June 30, 2024.
- Deputy Director Kanaly reported that the rulemaking hearing was held just prior to this regular session of the Board meeting.
- Deputy Director Kanaly reported that the Division is currently reviewing previously exempted schools to determine eligibility for WIOA funding.

New Business/Action Items:

A. Consideration of Approval of Provisional Certificate

1. RapidAscent – Colorado Springs – KS

Program Specialist Solis presented to the Board for review and consideration of a Provisional School Application to Operate including one program: Cybersecurity Engineer. A school representative was present. A site visit 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 Kearns motioned to approve the Provisional Certificate effective January 23, 2024 and ending June 30, 2025. The motion was seconded and carried.

2. Northwest Phlebotomy – Lakewood – MR

Deputy Director Kanaly reported that the school representative is absent and requested the application be considered at the next Board meeting. Secretary Wamser motioned to table Northwest Phlebotomy to the February 27, 2024 Board meeting. The motion was seconded and carried.

B. Consideration of Approval of Change of Ownership

1. National School of Dental Assisting – Broomfield – AB

Program Specialist Bentz presented to the Board for review and consideration of approval of change of ownership application. A school representative was present.

Following review and consideration, Secretary Wamser motioned to approve the Change of Ownership effective January 23, 2024 and ending June 30, 2025. The motion was seconded and carried.

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

1. Cyber Qubits, LLC – Greenwood Village – AB

Program Specialist Bentz presented to the Board for review and consideration of one new stand-alone course: Cybersecurity Business Analysis. 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 Kearns motioned to approve the new stand-alone course previously mentioned effective January 23, 2024. The motion was seconded and carried.

2. Skin Addict School of Aesthetics – Grand Junction – AB

Program Specialist Bentz presented to the Board for review and consideration of one new stand-alone course: Microblading, Permanent Makeup. 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, Secretary Wamser motioned to approve the new stand-alone course previously mentioned effective January 23, 2024. The motion was seconded and carried.

3. The Hair & Skin Refinery – Loveland – KS

Program Specialist Solis presented to the Board for review and consideration of one new stand-alone course: Lash Extensions. 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 Smith motioned to approve the new stand-alone course previously mentioned effective January 23, 2024. The motion was seconded and carried.

D. School Closure Report (No Action Required)

1. Commercial Vehicle Training Center

Effective July 17, 2023, all available student and educational records were submitted electronically to the Division.

2. Palmer School of Floral Design

Effective December 1, 2023, all available student and educational records were submitted electronically to the Division.

3. Reign Beauty Academy

This school did not enroll any students since it began operating at this location.

4. Careers World Wide

Effective December 18, 2023, all available student and educational records were submitted electronically to the Division.

5. Randy Lopez CDL Testing & Training

Effective January 17, 2024, all available student and educational records were submitted electronically to the Division.

Other Business:

A. IBMC Surety

At this time, Vice Chair Kearns recused herself.

Deputy Director Kanaly summarized the series of events leading to the expiration of the school's bond. A replacement bond was not submitted for approval to maintain surety coverage. Schools are notified 60 days prior to the bond's expiration date. The Division has determined that the school violated Statutory requirements regarding surety and asks the Board how it would like to proceed. Secretary Wamser motioned to move the discussion regarding IBMC surety to executive session. The motion was seconded and carried.

At this time, Vice Chair Kearns rejoined the meeting.

B. Institute for the Psychology of Eating

Deputy Director Kanaly informed the Board of a request to reduce the original bond amount from \$325,000 to \$150,000. The Division has reviewed the surety calculation to justify the bond reduction.

C. Conditional Board Approvals

Deputy Director Kanaly provided an update on schools conditionally approved during the last renewal cycle. The Pilates Center was required All schools are compliant with submitting quarterly financial statements. There are questions regarding the submittal of these statements on a quarterly basis. Secretary Wamser clarified that she intended for the requirement of the conditional approval for schools to submit year-to-date quarterly financial statements and she would prefer to review the statements each quarter for all of these schools. Deputy Director Kanaly suggested adding an end date for submittal of financial statements. Secretary Wamser motioned to move the discussion of this matter to executive session. The motion was seconded and carried.

D. Board Delegation of Authority Re: Certain Final Board Orders

Board Counsel Powell presented a proposed draft of a Delegation of Authority for the Board to issue authorization to the Director or Deputy Director of the Division to sign a Final Board Order with certain limitations. Board member Wagner motioned to approve the Delegation of Authority regarding certain final Board orders and direct Chair Stevens to sign the delegation. This motion was seconded and carried.

E. Legal Update

The Board's Counsel, Senior Assistant Attorney General Natalie Powell, updated the Board on the following items:

1. National Beauty College (no action required)

At its February 2023 meeting, the Division presented the Board with information that it received a complaint that National Beauty College was offering unauthorized internships. After completing an unannounced visit to the school to further investigate, the Division found evidence that National Beauty College was failing to meet numerous other statutory minimum standards. In particular, evidence suggested the school did not appear to be maintaining adequate student records and was completing attendance and transcripts before students actually attended courses or completed their coursework.

The Board voted to issue a notice of noncompliance to the School. Counsel and the Division sent the Notice of Noncompliance on March 8, 2023, and the School responded on March 23, 2023.

At its March 28, 2023 meeting, the Board voted to pursue a notice of charges to revoke the School's certificate of approval due to its belief the School was operating in violation of the Board's act. Then, upon receipt of inspection information from another state agency, the Board voted at an interim meeting on April 10, 2023, to summarily suspend the School's certificate to operate.

Counsel filed a Notice of Charges with the Office of Administrative Courts on April 28, 2023. The School did not respond to the Notice of Charges and did not attend the conference to set a hearing date. A hearing has been set for April 29-30, 2024. Counsel's office filed a motion for default. After serving the motion, the School responded by email that it is permanently closed.

Although a default judgment will likely be entered, Counsel has prepared a potential stipulated agreement to propose to the School to settle the case. At its September 2023 meeting, the Board approved the proposed stipulated agreement and affidavit. Board Counsel has emailed and mailed it to Mr. Do (in Florida). He has indicated a willingness to sign it, but has not been responsive to recent communications. Therefore, the Board will need to proceed with default proceedings to reach a final Board order.

2. Peak Pilates (no action required)

In February 2021, the Division received a complaint that Peak Pilates, which provides Pilates instructor training, was operating a private occupational school in Colorado that was not approved by the Board. In May 2021, the Division informed Peak Pilates that it needed to complete an exemption application or apply for a Certificate of Approval. In February 2022, the Division denied Peak Pilates' exemption from approval. In August 2023, the Division received

another complaint that Peak Pilates was operating a private occupational school in Colorado that was not approved by the Board. On August 25, 2023, Peak Pilates was sent another reminder memo stating that they were not exempt from DPOS oversight and had to apply to become an approved school in order to offer and hold classes in Colorado. Peak Pilates had advertised an Instructor Certification class in Colorado for August 26 – 27, 2023; however, the training advertisement was taken down from its website prior to August 25, 2023.

Peak Pilates presented to the Board at its December 2023 meeting, asking to be granted an exemption. The Board agreed with the Division’s analysis and determined that Peak Pilates does not meet an exemption in the Board’s Act. The Board voted to issue a Cease and Desist Order to Peak Pilates. On December 13, 2023, a Cease and Desist Order was sent to Peak Pilates. Peak Pilates has since indicated that it will apply for a Certificate of Approval.

Following review and consideration of the previous matters discussed during the regular portion of the meeting, Secretary Wamser 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: IBMC, Conditional Board Approvals, and communication issues with IBMC 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 at 12:32 p.m.

The Board of Private Occupational Schools convened in executive session with its attorney of record, the Division Director, and Division staff at 12:32 p.m. Vice Chair Kearns recused herself and left the executive session at 12:53 p.m.

Summary of Return to Regular Session:

After the review and consideration of the matter previously mentioned, Chair Stevens resumed regular session at 1:40 p.m. The executive session recorder was turned off. The public session recorder was turned on and the general public was welcomed back. Vice Chair Kearns rejoined the regular session.

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:

Conditional Board Approvals

Following discussion regarding establishing an end date and provide clarity for schools with Conditional Board approvals, Secretary Wamser motioned to amend the previous motion by limiting the approvals based on returning to financial stability in a 12-month period. If financial stability is not achieved by the end of the review period, the Board will re-evaluate to determine if further action is warranted. The motion was seconded and carried.

At this time, Vice Chair Kearns recused herself.

IBMC Surety

Following discussion regarding the timeliness of submittals by IBMC to maintain compliance, Secretary Wamser motioned to direct Board Counsel to issue a Notice of Noncompliance to IBMC as it pertains to the surety lapse at the three locations. The motion was seconded and carried.

Communication Issues with IBMC

Following discussion regarding communication issues with IBMC, Board member Smith motioned to direct Board Counsel to execute Option 2 as discussed in executive session. The motion was seconded and carried.

Adjournment:

Secretary Wamser motioned to adjourn the meeting at 1:58 p.m. The motion was seconded and carried.

The next regularly scheduled meeting of the Board is Tuesday, February 27, 2024, 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.