

1 BEFORE THE ARKANSAS STATE BOARD OF COSMETOLOGY

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5 BOARD MEETING

6 APRIL 10, 2009

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9 BE IT REMEMBERED that on Monday, the 10th day of May

10 2009, before the Arkansas State Board of Cosmetology and its

11 department staff at 9:00 a.m. in the South Basement Conference

12 Room of the Main Street Mall, located at 101 East Capitol Avenue,

13 Little Rock, Pulaski County, Arkansas, business came on for

14 hearing as follows:

15

16

17 SUSAN B. WHITSON, CCR

18 Arkansas Supreme Court Certificate No. 158

19 9810 Woodland Drive

 Mabelvale, Arkansas 72103

20 (501) 455-1170
WhitsonCCR@aol.com

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SUSAN B. WHITSON, CCR, INC. (501) 455-1170

1 APPEARANCES:

2 Board Members:

3 SUSAN COLLINS-BURROUGH, President

CATHY CAVER

4 BARBARA WARD

ANN PHILYAW

5 SCOTTIE BURCHETT

ACIE FOREMAN

6 TRACY AKARD

NELLIE HOPPER

7 JOYCE SMITH

8 Staff Members Present:

9 SHEILA CAUDLE - Executive Director

MICHELLE RUDOLPH - Administrative Assistant

10

11 Board Inspectors Present:

12 ROSE HORNER

PAT BLAND JACKSON

13 LAVONNE LESTER

BRENDA MORGAN

14 VERA WOOD

15 ON BEHALF OF THE BOARD:

16 ERIKA GEE, ESQ.

Assistant Attorney General

17 323 Center Street, Suite 200

Little Rock, Arkansas 72201

18

19 ALSO PRESENT:

20 Rick Hogan, DHS

21 Renee Mallory, DHS

22 Eric Wuotila

23 Bob Philyaw

24 Michael Mitchell

25 Marsha Snedecor

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1 Georgia Evans

2 Katrina Phillips

3 Court Reporter:

4 Susan B. Whitson, CCR
Arkansas Supreme Court Certificate No. 158

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1 INDEX

2 AGENDA ITEM	PAGE
3 CAPTION	1
4 APPEARANCES	2
5 CALL TO ORDER - Roll Call	5
6 TREASURER'S REPORT	5
7 APPROVAL OF MINUTES	6
8 DIRECTOR UPDATE	
9 Sheila Caudle - New Employee	6
10 NIC Regional Update	6
11 DISCUSSION	
12 25 bona fide students	12
13 Natural Eyelash Extensions	26
14 REQUEST TO ADDRESS THE BOARD	
15 New School - Regency Beauty Institute	33
16 DISCUSSION OF SPECIAL MEETING	56
17 PUBLIC COMMENTS	58
18	
19 Reporter's certificate	69

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1 P R O C E E D I N G S

2 MS. COLLINS-BURROUGH: Call to order.

3 I would like to welcome all of you in the audience
4 and thank you for coming.

5 First item on the agenda is roll call.

6 Tracy is absent, Cathy is absent or late.

7 MS. CAUDLE: Or late.

8 They both called. There was bad traffic coming
9 out of Hot Springs and they are both going to be here.

10 MS. COLLINS-BURROUGH: Thank you.

11 Ms. Hopper?

12 MS. HOPPER: Oh, my turn.

13 Last meeting our total was 136.53, and somebody
14 told me to spend it so we're going to have pizza for
15 lunch, and you-all are invited. Larry's -- it's coming
16 from Larry's Pizza, and I spent \$109.33. And at
17 Walmart I got napkins and cups and plates for 7.93, and
18 then drinks for 8.28, bringing a total of 125.54. So
19 that leaves \$10.09 that we need to do something else

20 with, so...

21 MS. COLLINS-BURROUGH: Hmm.

22 MS. HOPPER: We'll figure it out.

23 MS. COLLINS-BURROUGH: We'll think about that.

24 MS. HOPPER: Yeah.

25 And that's it.

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1 MS. COLLINS-BURROUGH: Thank you.

2 Okay. Did everybody receive the minutes?

3 Have you had a chance to look over them from last
4 meeting?

5 Do they look to be in order?

6 MS. HOPPER: Yeah.

7 MS. BURCHETT: Motion to approve.

8 MS. COLLINS-BURROUGH: I've got a motion.

9 MS. HOPPER: Second.

10 MS. COLLINS-BURROUGH: And a second.

11 All in favor, raise your right hand.

12 (Hands raised.)

13 MS. COLLINS-BURROUGH: Thank you.

14 Director?

15 MS. CAUDLE: I would like to introduce a new
16 employee. Ms. Linda Fryer is our new front desk
17 employee. She is responsible for answering the phone,
18 meeting and greeting the public when they come in, and
19 enrolling students into school when their student

20 permits come in, and a variety of other tasks. And I

21 would just like everyone to make her feel welcome.

22 (Applause.)

23 Thank you.

24 Also we had the regional, NIC Regional Meeting a

25 couple of weekends ago in Branson. I made you guys

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1 copies of one of the presentations on rule making, it's
2 called Rule Making 101. It's a very informative
3 presentation, if anyone is in the rule making field.

4 You can read mine.

5 MS. GEE: Okay.

6 MS. CAUDLE: It just tells you some things to look
7 for, because always when you make new rules you forget
8 certain parts of it that may need to go along with it
9 or is not made clearly. This just gives you some
10 guidelines to go by to help you make sure that that
11 doesn't happen before it goes to the legislature and
12 becomes an actual rule. So I found it very, very
13 helpful reading through this presentation.

14 I would like for the board members that attended
15 to share any of their information that they had that
16 they may want to bring forward to us from the regional
17 meeting.

18 We had Scottie there, Susan was in attendance,
19 Barbara Ward, and Mr. Foreman. So any of you guys have

20 anything to contribute to --

21 MS. COLLINS-BURROUGH: I in particular liked the
22 subject matter information, the item writing guide from
23 SMT, which is Schroeder Measurement Technologies. I
24 had forgotten a lot of the stuff I did learn, you tend
25 to do that I guess as you age. But I found it very

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1 informative and I appreciated them coming and talking
2 to us.

3 Another thing that I found interesting was the
4 online board meetings. You have board meetings now and
5 some states have implemented that, and it's live,
6 streaming live on the Internet. And that's kind of
7 scary, but they are doing it and loving it.

8 Does anybody else have something?

9 MS. BURCHETT: Well I was going to say the same
10 thing about the -- the Schroeder Measurement, because
11 it's real interesting being in the classroom and
12 understanding exactly how they write the test
13 questions, how the test questions are developed. And
14 I've been a part of that on the state level, and it's
15 very similar but they break it down even further and
16 go -- go into so much more, of course.

17 MS. COLLINS-BURROUGH: The measurements, the
18 weight of the information that you're receiving and
19 giving.

20 MS. BURCHETT: Right.

21 And, you know, as I've looked at exams, end of

22 course exams that I'm giving right now, it's really

23 helped me see questions that won't work so --

24 MS. COLLINS-BURROUGH: Weren't clearly --

25 MS. BURCHETT: Right. Right.

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1 MS. COLLINS-BURROUGH: The psychometrics are so
2 important.

3 MS. BURCHETT: Right.

4 MS. CAUDLE: And we actually got to write some
5 questions to see if they would be accepted for the
6 examination and it was very, very difficult.

7 You can come up with a question and the answer,
8 but coming up with the wrong answer was the problem.

9 MS. COLLINS-BURROUGH: The information in between
10 was really interesting.

11 MS. WARD: That was one of the very interesting
12 things about it. And they brought up some other things
13 that are in the work -- or they tried to put in for,
14 like the massage, I thought that was kind of
15 interesting. Someone put in they wanted to use snakes
16 for massage therapy.

17 MS. COLLINS-BURROUGH: Oh, I almost run out of the
18 room.

19 MS. CAUDLE: Why not, with the fish pedicures.

20 MS. COLLINS-BURROUGH: No. That's different.

21 MS. WARD: Yeah.

22 But their -- some of the things they come up with

23 and in some states, we're fortunate, we're not faced

24 with some of them yet.

25 But it was quite informative as it was very

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1 interesting. We learned a lot.

2 And when we go back and evaluate how we test and
3 make our tests up for the school, learning how they do
4 their testing, we may -- we are going to go back over
5 our tests to see if we need to change some of it a
6 little bit, some of the questions, because we did learn
7 a lot on how they do it.

8 MS. COLLINS-BURROUGH: See, I had forgotten that.
9 And when I went through my instructor training, you are
10 taught the parts of questions --

11 MS. WARD: Yeah.

12 MS. COLLINS-BURROUGH: And I had forgotten. I had
13 forgotten.

14 Something else I thought was interesting, too, was
15 communication and how effective that -- it's so
16 important to communicate with each other, but to
17 licensees, to others, that was real good, too.

18 Sometimes we forget.

19 Mr. Foreman, did you have --

20 MR. FOREMAN: There are so many things that I --

21 from behind the chair, this is -- really just helped me

22 out a lot, I've learned quite a bit. And like they

23 say, I don't want to learn about that snake massage.

24 And we had an attorney, the attorney, I think,

25 from Missouri --

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1 MS. CAUDLE: Yes.

2 MR. FOREMAN: -- said that she had tried the fish
3 pedicure, and she wasn't willing to have it again. So
4 I hope Arkansas don't get that thing.

5 MS. COLLINS-BURROUGH: It was well attended. It
6 was folks there from Nevada to Washington, DC, from
7 Wyoming to Alabama, so it was well attended, and we got
8 to really network with several different states and
9 hear their problems and triumphs; and, of course, they
10 heard ours.

11 So, anyway, it was wonderful and I enjoyed it.

12 Anything else?

13 MS. CAUDLE: No.

14 MS. COLLINS-BURROUGH: Okay. Want to move into
15 hearings?

16 MS. GEE: Sure.

17 MS. COLLINS-BURROUGH: It's about 10 minutes
18 before time. What do you want to do?

19 MS. GEE: Nine o'clock, I thought.

20 MS. COLLINS-BURROUGH: The receipt says to

21 attend --

22 COURT REPORTER: I can't hear you-all up there.

23 MS. GEE: That's okay.

24 COURT REPORTER: Okay.

25 MS. COLLINS-BURROUGH: We're exchanging recipes.

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1 Okay. All right. Let's skip on down to
2 discussion about the 25 bona fide students.

3 MS. CAUDLE: I need clarification from the board
4 as to what is meant by 25 bona fide students attending
5 school. In the law book -- let me find my place.

6 MS. COLLINS-BURROUGH: It's 17-26-403.
7 It's in your law book, 17-26-403.

8 MS. CAUDLE: 403.
9 17-26-407.

10 MS. COLLINS-BURROUGH: 407, but there is some
11 information leading up to that.

12 MS. CAUDLE: Right.

13 MS. COLLINS-BURROUGH: That we will go back to
14 probably.

15 MS. CAUDLE: 17-26-407, section a is, "An
16 inspection of a school facility before any school
17 license as provided in this subchapter shall be finally
18 granted. A second inspection shall be made after the
19 equipment has been installed and before the school is

20 permitted to be in operation."

21 Section b says, "No applicant shall be granted a
22 license to operate a school unless the state Board of
23 Cosmetology finds that sufficient equipment has been
24 installed for the requirements of enrolling a minimum
25 of not fewer than 25 bona fide students, and that not

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1 fewer than 25 bona fide full-time student registration
2 requests have been received in the case of any new
3 school. The new school of cosmetology shall be
4 required to contain not less than 2,500 square feet of
5 floor space in the working area."

6 Now, what that is telling me is that if they
7 submit bona fide student applications, along with the
8 required documentation and paperwork for each student,
9 that qualifies as 25 bona fide students.

10 I need the board to tell me --

11 MS. COLLINS-BURROUGH: The definition of bona
12 fide?

13 MS. CAUDLE: -- the definition --

14 MS. BURCHETT: Well this says, after it says "not
15 fewer than 25 bona fide," it says, "full-time student
16 registration requests."

17 MS. CAUDLE: Uh-huh.

18 MS. COLLINS-BURROUGH: Says "requests."

19 MS. BURCHETT: So if you -- and then it says --

20 well I'm just, I'm going off of the paper that you gave

21 us.

22 MS. CAUDLE: Uh-huh.

23 MS. BURCHETT: It says, "25 student enrollment

24 forms with all supporting documentation."

25 MS. CAUDLE: Correct.

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1 MS. GEE: Y'all might remember when -- we talked
2 about this a little bit when you did your rule
3 revisions last year, and that's why that language in
4 Rule 6.2 was changed to say that, that student
5 enrollment forms and required supporting documentation
6 have been received, because it didn't -- it wasn't that
7 specific before. And we talked about what does it mean
8 to -- what is a student registration request. So
9 that's when that rule was changed to say that.

10 MS. WARD: I was under the understanding that that
11 meant in attendance, not just the applications.

12 Because you can go give somebody a pact of
13 cigarettes for filling out the application, and that
14 was the reason they wanted to make sure that you
15 actually have those students in attendance, not just
16 the applications and the request.

17 MS. GEE: Well, after this issue came up, that's
18 my understanding, that at least some people thought
19 that was the rule. The issue is that that's not what

20 the statute says and that's not what the rule says.

21 And it may be that that's what it should say, and y'all

22 should consider that for the future, but that's not

23 what it says right now, is my concern.

24 MS. WARD: Okay. That's the way it was explained

25 to me years ago. Because when we thought about opening

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1 another school, they said you had to have actual
2 students and then you -- you was observed to make sure
3 that they were actually in attendance, so...

4 MS. GEE: I understand. I mean and based on the
5 fact that there is a statement to that effect in the
6 application form, I think that at some point that
7 certainly was what people believed what the law was.
8 But apparently that was never actually made the law, as
9 far as I can determine. It was never put in the rule
10 or in the statute.

11 So when you're talking about applying that
12 retroactively, that becomes an issue, a legal issue.
13 Because you cannot take action on somebody's license
14 for a rule that's not in the rules. I know we've
15 probably talked about this before.

16 So there is --

17 MR. MITCHELL: Madam Chairman, will you take
18 comments from the audience or not?

19 MS. GEE: You're the chair.

20 MS. COLLINS-BURROUGH: What were you going --

21 MS. GEE: I was going to talk about this letter.

22 MS. EVANS: We sent in a request that we be

23 allowed to address the board on this issue.

24 MS. COLLINS-BURROUGH: Let's listen to the

25 attorney first.

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1 MS. GEE: These people who have asked to speak,
2 Mr. Mitchell and his client, are the people who have
3 submitted the complaint on this issue, and you've also
4 been provided with a letter that they sent to the board
5 on Friday.

6 And based on this letter and the conversation I
7 had with Mr. Mitchell Friday, they believe there is
8 some indication that some of the applications may have
9 been fraudulent, that the people did not -- were not
10 truly signing up as students and had no intention of
11 being students, or are maybe not existing people. I
12 don't know.

13 But that's the first time that that issue was
14 brought up, as far as I know. And if that's in fact
15 true, then that's a different situation.

16 If they are fraudulent applications, that's not a
17 25 bona fide student issue. That's a fraudulent
18 application issue.

19 MS. CAUDLE: Right.

20 MS. GEE: And, but we don't -- I mean we have not
21 had a chance to determine whether there is any merit to
22 that or not because we just found out about that on
23 Friday.

24 MS. COLLINS-BURROUGH: So they haven't even had
25 time to turn in an attendance, a monthly attendance,

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1 have they?

2 MS. CAUDLE: They have, but I don't think we can
3 talk about the school without the school being present.

4 MS. GEE: Well, that -- I mean, we don't -- we
5 definitely don't want to specifically address this
6 school. They haven't had notice of a hearing, they are
7 not here to defend themselves today.

8 If you-all decide that you think that there is
9 cause to proceed further with the school, then we'll
10 have to notice it and have a hearing to specifically
11 address it.

12 But, I mean, the issue at this point is how
13 you-all want to proceed with the 25 bona fide students
14 rule.

15 MS. COLLINS-BURROUGH: We want the definition of
16 the 25 bona fide students today?

17 MS. GEE: Yes, ma'am.

18 MS. COLLINS-BURROUGH: Before we can even move on?

19 MS. GEE: Well, we need to get some direction from

20 you-all. Because the board is the one that interprets
21 the rules and interprets the law that you enforce. So,
22 I mean, I have an opinion about it, Ms. Caudle has an
23 opinion about it, but we can't -- but we need an
24 opinion from y'all.

25 MS. BURCHETT: I think the way it's written is

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1 pretty clear.

2 I mean don't we have to follow what's written?

3 How can you interpret it any other way, when it says 25

4 student enrollment forms and all required supporting

5 documentation?

6 I'm not saying I'm -- I'm going either direction

7 as far as these schools are concerned. I'm just saying

8 that's why we tried to clarify the, you know, the

9 rules. And to me that -- that's pretty clear.

10 And I understand old language, but the old

11 language is now gone. And like you said, maybe it

12 needs to be revisited, but we have to follow what's

13 written and approved at this time.

14 MS. COLLINS-BURROUGH: Today.

15 So what's your thoughts? School people?

16 MS. WARD: Well, since it's written that way I

17 think we need to go with it that way as long as it's

18 modified and have it. But I think we need to make it

19 clear and change it to where it states that they have

20 to be enrolled since that has been left out, because
21 that was the way it has been for years. And I think if
22 we just overlooked it, we thought that that -- the way
23 it's written was covered it, but apparently it wasn't
24 clear enough to cover it. And understanding is not a
25 necessary -- a written rule, and now we -- that's one

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1 reason we revisited all the rules, so they could be
2 understood and interpreted only one way, but --

3 MS. BURCHETT: If we try to make this say
4 something that it doesn't say in black and white, then
5 we lose our credibility.

6 MS. WARD: Uh-huh.

7 So we've got to be more clear.

8 MS. BURCHETT: I mean right or wrong, that's the
9 way it's written.

10 MS. COLLINS-BURROUGH: So what do we need to do?
11 Do we need a motion?

12 MS. GEE: Please. Yes.

13 MS. COLLINS-BURROUGH: So we need to make a motion
14 to say --

15 MS. WARD: Can we motion on that until you check
16 out to find out if they are?

17 MS. GEE: Well, it wouldn't be addressing this
18 school specifically.

19 MS. CAUDLE: We're not addressing this school,

20 we're addressing this rule.

21 MS. WARD: Okay.

22 MS. GEE: But the interpretation of the board is

23 that the rule looks -- requires only that there is 25

24 student applications at the time of licensure.

25 MS. WARD: Then I make a motion that we accept it

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1 the way it's written, but I also think we need to add
2 to it that it states that they have to be enrolled at
3 least two months, that we can monitor for two months.
4 I think that can be added to it. But that isn't now,
5 we have to accept it the way it is now, but I think we
6 need to address it and add that to it.

7 MS. COLLINS-BURROUGH: Okay. Is that okay?

8 MS. GEE: That's fine.

9 MS. BURCHETT: I think I second whatever that
10 motion actually is.

11 MS. COLLINS-BURROUGH: Okay. We have a first and
12 a second.

13 All in favor, raise your right hand.

14 (Hands raised.)

15 Motion carried.

16 So, restate that

17 MS. GEE: That the -- the current state of the law
18 requires 25 student applications to be received before
19 a license can be issued, and it does not require that

20 they be enrolled.

21 MS. COLLINS-BURROUGH: All right.

22 MS. GEE: But the board would like to look at

23 modifying that rule to change it so that there is

24 monitoring in the future.

25 MS. COLLINS-BURROUGH: Henceforth.

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1 MS. GEE: Henceforth.

2 MS. BURCHETT: And it looks like there are -- that
3 there -- I mean I -- I understand that -- the
4 situation, but it looks like they are pursuing to make
5 sure that it is, it was done right.

6 MS. GEE: Uh-huh.

7 MS. BURCHETT: But, you know, all -- we don't have
8 really anything to do with, you know, the license
9 actually going out of the office.

10 MS. CAUDLE: Right.

11 MS. BURCHETT: But I know Sheila is not going --
12 they are not going to do anything that's not -- that's
13 not the way it's written; but then if there are other
14 issues, then it looks like they are, they are dealing
15 with those, and I believe that's how it should be.

16 MS. GEE: Well, we definitely, the board staff
17 will need to investigate the applications --

18 MS. COLLINS-BURROUGH: Sure.

19 MS. GEE: -- to make sure that they were

20 legitimate. Absolutely.

21 I don't know if you want them to address the

22 board?

23 MS. COLLINS-BURROUGH: Okay. Do you have

24 something you would like to say, sir?

25 MR. MITCHELL: Yes, ma'am.

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1 Should I come up here?

2 MS. COLLINS-BURROUGH: Yes. Please.

3 MR. MITCHELL: Okay.

4 MS. COLLINS-BURROUGH: And if you would be so kind
5 as to introduce yourself.

6 MR. MITCHELL: Sure.

7 I'm Mike Mitchell. I'm a lawyer here in Little
8 Rock, and I represent the school that's been in
9 operation since the '80s in Mountain Home.

10 And the license --

11 MS. SNEDECOR: '73.

12 MR. MITCHELL: 1973. Excuse me.

13 The license that was issued, we believe, is an
14 invalid license based on, quite frankly, not bona
15 fide -- 25 bona fide applications.

16 Eyewitnesses have seen no more -- no more than
17 eight students go to this new school. We investigated
18 the -- the papers that were submitted to -- to -- with
19 this application. We don't think they are all valid,

20 we don't think they are bona fide, bona fide students.

21 MS. GEE: Mr. Mitchell, let me interrupt you just

22 a moment.

23 It's really not appropriate for the board to get

24 into the details of this issue with y'all at this time.

25 MR. MITCHELL: Okay.

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1 MS. GEE: Because we don't want to prejudice them
2 on the facts in this particular case --

3 MR. MITCHELL: I understand. Okay.

4 MS. GEE: -- if there is a hearing that comes
5 forward.

6 I mean, I don't want to stop you from speaking,
7 but please don't -- if you wouldn't get into the
8 details, I would appreciate it.

9 MR. MITCHELL: I was just responding to comments
10 that I heard that this is the first time this was
11 heard. This has been -- this has been before this
12 board over and over again --

13 (Ms. Akard joined the proceedings.)

14 MR. MITCHELL: -- that this wasn't valid, and they
15 weren't meeting the requirements of the statute. And
16 it's not a matter of reviewing a rule. This is a
17 statute, and you're exactly right. I mean, it's not --
18 we can't change that. The legislature set the rules,
19 and so -- and I think it's very clear what 25 bona fide

20 students mean.

21 And so I commend the board for adopting the
22 monitoring rule, because that just makes valid what --
23 what you-all are supposed to follow and -- and verifies
24 what somebody tells you to be sure that it's accurate.

25 Do you want to add anything?

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1 MS. SNEDECOR: Clearly on the applications they
2 have tentative start dates.

3 I cannot fill out one thing wrong on an
4 application when I send it in and it gets sent back to
5 me.

6 Tentative start dates are not on there, no high
7 school is listed on there, we have different signatures
8 and different dates.

9 I mean you can look at them yourself, that those
10 are not filled out properly.

11 Tentative dates, we don't put tentative dates when
12 we start a new school. We put a date of when you are
13 going to start your school.

14 If that's April the 6th, then you put April the
15 6th, not tentative. Tentative means it can be at any
16 time.

17 MS. GEE: Okay. Okay.

18 MS. SNEDECOR: No high school is on there, listed
19 on the application --

20 MS. GEE: I've got --

21 MS. SNEDECOR: -- but you can look at them

22 yourself.

23 MS. GEE: Okay.

24 MS. SNEDECOR: Okay.

25 MS. GEE: And the board will look at them --

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1 MS. SNEDECOR: Thank you.

2 MS. GEE: Now that we've got this information that
3 you believe that some of them are invalid, the board
4 will absolutely investigate that.

5 And I just want to clarify, the board has not
6 adopted a rule today that that can't be done. What
7 they have said is that they would like to pursue that,
8 and it will have to be followed through the
9 Administrative Procedure Act.

10 MR. MITCHELL: In fact that was the rule and
11 somehow it was taken off the website after this issue
12 arose.

13 MS. GEE: Well, it's --

14 MR. MITCHELL: And it's just, as I say, this lady
15 had trouble getting 25 and asked you-all to waive it
16 and you said we can't, and yet -- and then she comes up
17 with these 25-some-odd papers.

18 MS. SNEDECOR: She asked for leniency and they
19 said that's a rule they could not break.

20 MR. MITCHELL: Well that's a statute that the

21 legislature past.

22 MS. GEE: Well, I appreciate you-all --

23 MR. MITCHELL: We really appreciate you-all

24 looking into it.

25 Mountain Home is a small place and two schools, it

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1 just won't -- it just won't work in that little town.

2 MS. COLLINS-BURROUGH: Thank you. Thank you for
3 your time.

4 MR. MITCHELL: Thank you very much.

5 COURT REPORTER: Excuse me, can I get the name of
6 the lady in the black shirt, please.

7 MS. SNEDECOR: My name is Marsha Snedecor.

8 COURT REPORTER: Thank you.

9 And the other lady in the back who spoke with you?

10 MS. SNEDECOR: Georgia Evans.

11 COURT REPORTER: Thank you.

12 MR. MITCHELL: Thank you.

13 MS. EVANS: I'm Georgia Evans, I've been there 35
14 years, will be 36 in October.

15 (Ms. Caver joined the proceedings.)

16 MS. COLLINS-BURROUGH: Okay. All right. The next
17 item on the agenda is the hearings, and they have been
18 taken care of and so we'll just move on to Natural
19 Eyelash Extensions.

20 MS. CAUDLE: I have had --

21 MS. COLLINS-BURROUGH: Welcome, girls.

22 MS. CAUDLE: -- two people call me within the last

23 week on natural eyelash extensions. I need to know the

24 pleasure of the board if this falls under cosmetology,

25 aesthetics, or do we license it at all or do they get a

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1 certificate from the state of Texas and come do it in
2 the state of Arkansas? The natural eyelash extensions
3 that we talked about.

4 MS. GEE: I don't know what you're talking about.

5 MS. COLLINS-BURROUGH: Well, do we need --

6 MS. CAUDLE: The people I've talked to have been
7 to the state of Texas, got a certificate, have come
8 back to the state of Arkansas and want to do this in a
9 spa setting.

10 One is in Pine Bluff, I believe, and the other one
11 is in Springdale.

12 But at least these two people have called to see
13 if they can do it without a license in this state.

14 So, reading our definitions, under aesthetics, it
15 would not be covered under aesthetics.

16 But if you read the cosmetology, it's arranging,
17 dressing, curling, waving, machineless permanent
18 waving, permanent waving, cleansing, cutting,
19 shingling, bleaching, tinting, coloring, straightening,

20 dying, brushing, beautifying or otherwise treating by

21 any means the hair of a person or wigs or hair pieces.

22 Now, does natural eyelash extensions fit in that

23 category?

24 MS. WARD: Okay. Don't -- in beautifying you put

25 on false eyelashes, okay --

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1 MS. CAUDLE: Well, some people may call that
2 beautifying, so there you go with a definition.

3 MS. WARD: And but they do the individual
4 eyelashes to each individual one, that would be
5 extending them, making them fuller. It doesn't say if
6 it's synthetic or natural. So I would think it would
7 be under the cosmetology.

8 MS. AKARD: Are we looking under the laws?
9 So which page are you --

10 MS. CAUDLE: We're looking under the laws.

11 MS. GEE: It's Page 4.

12 MS. CAUDLE: And it would be under the
13 definitions, it's 17-26-102, number 7. If you turn the
14 page, it will be number 1, arranging, dressing. The
15 art of cosmetology includes any and all combinations of
16 the following practices. It's 7(b). And then number 1
17 is under that.

18 Number 3 is beautifying the body by using cosmetic
19 preparations, antiseptics, tonics, lotions, or creams.

20 So I just took these ladies' phone numbers and
21 told them I would get back with them after this board
22 meeting, so --

23 MS. BURCHETT: Are they asking to be able to do
24 this without a cosmetology or aesthetics license?

25 MS. CAUDLE: Yes.

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1 All they have, it's a certificate from the state
2 of Texas where they have went and took a class to do
3 eyelash -- natural eyelash extensions.

4 MS. AKARD: Okay. Well, let me tell you, we -- I
5 don't want to exclude the aestheticians, because we
6 teach this in school to the aestheticians.

7 MS. CAUDLE: Yes, you do.

8 The only thing is, the language under aesthetics
9 does not fit.

10 MS. COLLINS-BURROUGH: What number is that?

11 MS. CAUDLE: It's number one, 17-26-102.

12 MS. BURCHETT: Well, obviously the practice of
13 beautifying --

14 MS. CAUDLE: Uh-huh.

15 MS. BURCHETT: -- and normally they do apply false
16 eyelashes --

17 MS. CAUDLE: But with cosmetic preparations,
18 antiseptics, tonics, lotions and creams.

19 Erika and I discussed this on Friday, I guess, and

20 cosmetology was about the only place we could make it

21 fit.

22 MS. WARD: I think that's where it goes, is under

23 cosmetology.

24 MS. CAUDLE: Of course, an aesthetician --

25 MS. CAVER: I think an aesthetician --

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1 MS. CAUDLE: -- can do that type of work, but it's
2 not specific.

3 MS. CAVER: Can I --

4 MS. COLLINS-BURROUGH: Yeah. Cathy?

5 MS. CAVER: I would like to say, I have an
6 aesthetician that's employed with me and she went to
7 Texas and got it. So I think aestheticians need to be
8 able to do it, too. I mean --

9 MS. COLLINS-BURROUGH: Tell us the process.

10 MS. CAVER: We -- well, I mean, I've seen -- I've
11 had it done, but it's --

12 MS. CAUDLE: But you employed a licensed
13 aesthetician?

14 MS. CAVER: Yes.

15 MS. CAUDLE: But she went and got this extra
16 training?

17 MS. CAVER: Yes.

18 I think they need a license, whether it be
19 aesthetician or cosmetologist. I don't think we need

20 to exclude aesthetician because we're allowed to tint

21 the lashes --

22 MS. CAUDLE: Right.

23 MS. CAVER: -- you know, all this other stuff,

24 so -- and she's been trained, she's licensed. But it's

25 a two and a half hour --

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1 MS. CAUDLE: But she already has an Arkansas
2 aesthetician license, is what I'm getting at?

3 MS. CAVER: Yes. Yes.

4 MS. CAUDLE: Would you allow her to come into your
5 salon, is what these people are asking, without an
6 aesthetician license or cosmetology license in the
7 state of Arkansas and do these natural eyelash
8 extensions?

9 MS. CAVER: I wouldn't.

10 MS. COLLINS-BURROUGH: Absolutely not.

11 MS. AKARD: No.

12 MS. CAUDLE: That's -- that's the question that
13 I'm asking.

14 MS. GEE: Question No. 1, is it covered under
15 y'all's law.

16 MS. CAUDLE: Is it covered under the law or
17 statute.

18 MS. GEE: Number two, who could do it.

19 MS. CAUDLE: Right.

20 MS. WARD: They are just furthering their
21 education in eyelash extensions, as far as I'm
22 concerned. You know, as far as the way I read it, it
23 should be under cosmetology or aesthetician. Because
24 just doing that alone, huh-uh.

25 MS. COLLINS-BURROUGH: It's like rating, I have a

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1 terrible time with that. This is similar to that, I
2 think.

3 MS. AKARD: Well, even with aestheticians,
4 external manipulation?

5 MS. CAUDLE: Manipulation. Yeah.

6 MS. AKARD: I know that's until we can get back to
7 the legislature and get the correct wording. But
8 again, it is taught in the textbook, we do teach it in
9 the school. It should not be excluded from the
10 aesthetician.

11 MS. HOPPER: I agree.

12 MS. AKARD: But that --

13 MS. GEE: Does everybody agree that it's practice
14 of cosmetology or aesthetics?

15 BOARD MEMBERS: Yes. Yes.

16 MS. AKARD: Yes. You do need to be licensed. Not
17 just a certificate.

18 MS. COLLINS-BURROUGH: Do we need a motion?

19 MS. AKARD: You do need a license, not just a

20 certificate.

21 MS. GEE: Well, the Texas certificate is not -- is

22 really irrelevant as far as license goes.

23 MS. COLLINS-BURROUGH: Yeah. You can get those

24 anywhere.

25 So we need a motion that it falls under the

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1 cosmetology or aesthetics scope of practice. I need a
2 motion.

3 MS. AKARD: I make a motion that an aesthetician
4 or a cosmetologist is the one to apply false eyelashes,
5 eyelashes extensions, whatever, that you must be
6 licensed.

7 MS. CAUDLE: Natural eyelashes.

8 MS. AKARD: Natural eyelashes.

9 MS. WARD: I second.

10 MS. COLLINS-BURROUGH: Okay. We have a first and
11 a second.

12 Any more discussion?

13 All right, all in favor, raise your right hand.

14 (Hands raised.)

15 Motion carried.

16 Thank you

17 MS. CAUDLE: Okay. Next on the agenda is a
18 request to address the board. We have a gentleman here
19 that is requesting to open a new school in the Little

20 Rock area, Eric, and I'm sorry?

21 MR. WUOTILA: Wuotila.

22 MS. CAUDLE: Okay. And I have sent an inspector

23 out to inspect the facility, Ms. Morgan went out week

24 before last. The building has 6,000 square feet, there

25 is nothing in it at this point in time. Regency Beauty

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1 Institute is the name of it. I have his application on
2 file. I have his certified financial statement, he
3 even done a surety bond, and the zoning certificate,
4 authorized designee certificates.

5 I don't think you missed a beat. Thank you.

6 MR. WUOTILA: Good. Thank you.

7 Yeah. I think the only thing I have left is the
8 appendix for the staffing forms.

9 MS. CAUDLE: Yes.

10 MR. WUOTILA: And the appendix to the bona fide
11 student forms.

12 MS. CAUDLE: The name of the school will be
13 Regency Corporation.

14 If anyone would like to ask Mr. Wuotila questions,
15 or if you would like to present anything.

16 MS. AKARD: Okay. What -- what is it that we have
17 or that we don't have?

18 MS. CAUDLE: We have everything except for the 25
19 students, and which he doesn't start gathering those

20 until the board approves or disapproves his application

21 for -- to open a school.

22 MS. AKARD: Well, but what about the instructors'

23 form?

24 MR. WUOTILA: Yeah. I need that as well.

25 MS. CAUDLE: Yeah.

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1 MR. WUOTILA: And the reason -- can I say

2 something quickly?

3 MS. CAUDLE: Yes. Absolutely.

4 MR. WUOTILA: We are not planning to open until

5 February of 2010, February 1st.

6 The reason I sent all of this in so early was

7 because one of the first things as I was reading

8 through your regulations I saw was the 25 bona fide

9 students. And we're in several states where they do

10 require us to have -- 20 is the most in any other state

11 we've come to. So when I saw 25, I thought I want to

12 get this in right away so we can start advertising it

13 and get those 25 students right way. So that's why

14 this is so early.

15 As we get closer to next February, we'll have the

16 staffing forms for our students -- for the educators.

17 MS. AKARD: Well, then that doesn't meet the

18 qualification if we don't have the staffing form.

19 MS. CAUDLE: It -- the staffing forms is an office

20 procedure.

21 MS. AKARD: What do we mean by that?

22 MS. CAUDLE: That means he has -- he has
23 the -- first of all, he has to be approved by you as a
24 board to open this school, based on his information
25 that's presented here. Then it's up to the staff to

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1 get all of the required forms and documentation.

2 MR. WUOTILA: And, typically, I mean as in any
3 profession, I guess, if you're going to start a new
4 job, typically our educators come to us, you know, six,
5 maybe eight weeks at the most --

6 MS. CAUDLE: Right.

7 MR. WUOTILA: And if we were to wait to get all of
8 those forms in, that would give us a very short period
9 of time to get those 25 enrollments.

10 MS. AKARD: Okay. Well, looking on Page 15 --

11 MS. CAUDLE: Of what?

12 MS. AKARD: Of our rules and regs.

13 MS. COLLINS-BURROUGH: Where is that?

14 MS. CAUDLE: Yeah.

15 MS. AKARD: It just gives the list --

16 MS. CAUDLE: Uh-huh.

17 MS. AKARD: -- of everything that needs to be
18 available and then it -- it appears to me and then you
19 get approval, not as you get little bits and pieces.

20 Now I could be not correct.

21 MS. CAUDLE: And it does say personal survey form
22 from instructors.

23 MS. AKARD: And it does say all of the student
24 forms. And I think we need to really --

25 MS. CAUDLE: The 25 student enrollment forms, yes.

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1 MS. AKARD: It's a package deal. It's not just
2 part of, it's just not parts, it's the --

3 MS. CAUDLE: Okay. The authorized designee form.

4 MR. WUOTILA: Can I interject real quick?

5 MS. COLLINS-BURROUGH: Yes.

6 MR. WUOTILA: All I'm asking for at this time is
7 to be allowed to start advertising to get our 25
8 students.

9 You don't have to approve the application at this
10 time, I'll get that to you as soon as we get started
11 advertising and we can get students enrolled. And that
12 might be in November or December, and then at that time
13 I can get you the staffing forms as well.

14 My -- my intent is, like I said, to just start
15 advertising, because if I have to wait to even start
16 advertising until I get our staff hired, that leaves me
17 a month to get 25 students, which is going to be
18 difficult.

19 MS. COLLINS-BURROUGH: What programs do you intend

20 to --

21 MR. WUOTILA: Just cosmo.

22 MS. COLLINS-BURROUGH: And how big is your
23 facility?

24 MR. WUOTILA: Over -- almost 7,000 square feet.

25 MS. CAUDLE: Yeah. Over 6,000 square feet.

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1 MS. MORGAN: It's 6,500.

2 MS. BURCHETT: Where is it?

3 What's your location?

4 MR. WUOTILA: Shackleford Road.

5 I haven't been there yet. I plan on going there

6 after I'm done here.

7 MS. COLLINS-BURROUGH: You've been there, Brenda?

8 MS. MORGAN: Yes. I've been there.

9 MS. COLLINS-BURROUGH: Tell us a little bit about

10 what you saw.

11 MS. MORGAN: I met with the property owners and

12 viewed the building. Right now it's a 30,000 square

13 foot building but their section is 6,000. There is

14 nothing in there, it's plain concrete floor, windows,

15 doors.

16 But it's at the Shackleford Crossing out by where

17 Penneys and Babies R Us, it's out that way in that

18 shopping center. But it's a very, very nice building.

19 They have a floor plan there that is supposed to

20 be in working there for them there. Excellent

21 location.

22 MS. AKARD: My -- my concern is that we are -- my

23 concern is running into a similar issue with the -- the

24 25 bona fide students, which again going so far in

25 advance is getting people filled out now and yet they

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1 are not really going to be attending coming February
2 because of various situations. That is a concern for
3 me, because a lot of things can happen with students
4 between now and then, getting forms submitted now and
5 that people really not attending come February.

6 And that's not what -- what this -- what this law
7 and this rule and reg is about. And that's exactly
8 what we have ran into before. That's not what this is
9 about.

10 MS. CAUDLE: So should he be allowed to advertise
11 to get his 25 students and then come back to the board?

12 MR. WUOTILA: If you would like, I would be happy
13 with allowing us to advertise, maybe contact students,
14 talk with them, and say, you know what, we can't do
15 anything until, you know, we can't have you sign our
16 contract. And we don't even take money from our first
17 month's worth of students, we don't request -- require
18 them to put any money down.

19 You know we would be happy just being able to talk

20 to the students and say, you know what, come August,

21 you know, at that point you could enroll.

22 MS. AKARD: Well, but you said that you're not

23 going to start until February.

24 MR. WUOTILA: Right. I'm just throwing August out

25 there as an arbitrary date. If you think this is too

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1 early --

2 MS. AKARD: Why don't you take money from your
3 students?

4 MR. WUOTILA: As an incentive.

5 I mean, we don't have an enrollment fee for
6 our first round of classes. We don't have students
7 come, you know, you need to pay \$500, sign a piece of
8 paper.

9 We have tuition. We don't have an enrollment fee.

10 MS. AKARD: So that students aren't putting up any
11 money to start school?

12 MR. WUOTILA: Correct. Not for our first class.

13 MS. AKARD: But the second class there will be?

14 THE WITNESS: Yes. We have a hundred dollar
15 enrollment fee.

16 MS. AKARD: But not for the first one?

17 MR. WUOTILA: Right.

18 As of right now, I don't know, some of our schools
19 if we're having difficulty getting students in that

20 particular school, we might extend that.

21 MS. AKARD: Is that because it's a new school?

22 MR. WUOTILA: Yeah. And especially being this is

23 our first school in Arkansas, we're not as --

24 MS. AKARD: Are you saying that if you charged

25 money, that you might not could get those 25 students?

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1 MR. WUOTILA: Yeah. That sometimes happens.

2 MS. CAVER: What other states -- I mean how many
3 other schools do you have in what other states?

4 MR. WUOTILA: This will be our 63th.

5 MS. CAVER: Wow.

6 MR. WUOTILA: And our 17th state.

7 MS. AKARD: See, that is a concern for me. That
8 is a concern for me.

9 MR. WUOTILA: What's that?

10 MS. AKARD: That's a very -- that is a concern for
11 me.

12 MR. WUOTILA: What is?

13 MS. AKARD: Just what you said, that if we -- that
14 if you charge, that the students might not would come.
15 If they had to pay they might not would come.

16 MR. WUOTILA: Okay. I don't see that as a
17 concern, but --

18 MS. AKARD: You won't charge to open up but after
19 that then we will.

20 To me, is that really a true student? We'll be

21 free so we can get -- we can get 25 people.

22 MR. WUOTILA: Well, it's just -- it's not free.

23 They still have their tuition they have to pay.

24 It's -- in our other schools, we have a hundred

25 dollars -- or actually it's a 75-dollar enrollment fee.

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1 So when a student enrolls they put down \$75.

2 MS. AKARD: But what I'm saying is you would have
3 a serious student of these 25 people if they had to put
4 some money down. It's a commitment.

5 MS. WARD: Okay. I think what she's trying to get
6 across is, oh, I can go over here and sign up, that
7 doesn't mean I'm really going to go because it isn't
8 going to cost me anything to sign up so I can just go
9 fill out the paperwork.

10 MR. WUOTILA: I got you.

11 MS. WARD: And, okay. That's where the concern
12 comes in, because you will get people who will come
13 down and sign up, it's not going to cost them anything,
14 and they may not -- really may go or not.

15 MR. WUOTILA: So the idea is -- right.

16 MS. WARD: So you're getting the paperwork --

17 MR. WUOTILA: So we don't want just anyone coming
18 in and signing the paper --

19 MS. WARD: Right.

20 MR. WUOTILA: -- and saying I'll sign up, I don't

21 have to put any money down.

22 MS. WARD: Right.

23 MS. AKARD: No. I'm saying I want you to have 25

24 people that are going to be there in February to open

25 that school.

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1 MS. WARD: Right. That are really serious.

2 And if you -- if they don't have to put something
3 down, then they are going to think, oh, I can go sign
4 up --

5 MR. WUOTILA: Right.

6 MS. WARD: -- oh well, I might go or I might not,
7 not really think about it, but be serious about it.

8 MR. WUOTILA: Okay.

9 MS. WARD: We want to make sure they are serious
10 and they are going to attend. Because what if you sign
11 up 25 and only 10 of them show up?

12 MR. WUOTILA: Sure.

13 MS. WARD: Because the other one -- that's where
14 our concern is.

15 Right, Tracy?

16 MS. AKARD: That's exactly where our concern is.

17 MS. GEE: Well, if you're not going to open until
18 February, I think you said --

19 MR. WUOTILA: Uh-huh.

20 MS. GEE: If you-all would like to revamp the 25

21 students rule, which it sounds like maybe you do.

22 MS. COLLINS-BURROUGH: We have to.

23 MS. AKARD: We have to.

24 MS. WARD: We need to get that done.

25 MS. GEE: You can get that done in plenty of time

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1 that it would apply to that school.

2 MR. WUOTILA: And like I say, all I'm asking today
3 is to be able to start advertising and start contacting
4 students.

5 MS. WARD: Is there any rule that says they can't
6 advertise until they get a license?

7 MS. CAUDLE: No. There is not a rule --

8 MS. WARD: So --

9 MS. CAUDLE: -- but then you have school owners
10 and the general public calling saying there is an
11 advertisement for a new school opening up, do you know
12 anything about it or has it been approved by the board.

13 MS. WARD: Right.

14 MR. WUOTILA: And so you will know, our
15 advertising, the only advertising we do is online
16 advertising. And everything on there, if the students
17 click on that link it says, you know, coming
18 February 2010, there is no implication that we're
19 licensed, that we're taking enrollments, anything like

20 that.

21 MS. AKARD: But the thing about it is also too, it
22 says right here that you have one, two, three, four,
23 five, six, seven, eight, nine, 10, 11. It doesn't say
24 that you have part of them, it says that you have all
25 of them.

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1 MR. WUOTILA: Would you agree, though, that if we
2 waited to get all of those items, including the -- well
3 how do we get our 25 students if we're not allowed to
4 start advertising?

5 MS. AKARD: Well, you said you're going to do
6 it -- well, even your instructors, you don't have your
7 instructors.

8 MR. WUOTILA: If I waited until December or
9 January, that leaves me a month to get 25 students, not
10 being able to advertise. I don't know --

11 MS. CAUDLE: Because of the next board, the board
12 meeting will not -- September -- I don't know over at
13 the health department, I don't know when the health
14 department's first board meeting is of the year.

15 MS. CAVER: And I would like to say something in
16 his defense. I mean it sounds like, I mean he has
17 other schools. Obviously he knows what he is doing. I
18 mean I don't see why we're giving him such a hard time.

19 MS. COLLINS-BURROUGH: Well, until those students

20 become licensed by this state, they are considered a
21 consumer. And I think somebody needs to be a champion
22 for the students, because that's part of the problem.
23 Not only as licensees but as humans as well.

24 MS. WARD: And I think what you're wanting is the
25 okay to go ahead and proceed on getting your facility

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1 ready for this, for the school?

2 MS. AKARD: Well, and it's also about following
3 the law of what it says here, and it says that he has
4 all of these things in order before we approve it.

5 And -- and we don't and he doesn't.

6 MS. PHILYAW: Excuse me.

7 Can I say something?

8 MS. COLLINS-BURROUGH: Yes.

9 MS. PHILYAW: As a board member, I agree with
10 Cathy. What is the harm?

11 He knows what he is doing, he's a businessman.

12 Now, what is the harm of allowing him to advertise?

13 I want you to, Tracy, I want you to ask -- to
14 answer that. Why?

15 MS. AKARD: I'm not arguing the advertising. I'm
16 not arguing the --

17 MS. PHILYAW: Well that's what he's asking for.

18 MS. AKARD: No. What he's -- what we're talking
19 about is an approval. And I -- is about an approval.

20 MS. PHILYAW: I thought it was approval to

21 advertise.

22 MR. WUOTILA: I can wait for the approval. All

23 I'm asking is to be able to advertise, start contacting

24 students, and start collecting my 25 so I can come back

25 in December or January or whenever your board meeting

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1 is around that, and say, okay, now I have my 25, now I
2 have my instructors, now can I get approved.

3 MS. WARD: And you have your facility all ready
4 and everything?

5 MR. WUOTILA: Right.

6 MS. WARD: And then we at that time --

7 MS. BURCHETT: I don't think we have a statute or
8 a rule that says someone can't advertise, but -- but,
9 you know, we can't approve it. But we don't -- it
10 doesn't have to be approved, I wouldn't think. I mean
11 that's his money that he's going to use to advertise,
12 and then if he doesn't come up with the students and
13 doesn't come up with everything else, then it wouldn't
14 be approved.

15 MS. COLLINS-BURROUGH: That's his loss.

16 MS. BURCHETT: Right.

17 MS. COLLINS-BURROUGH: Uh-huh.

18 So do we need a motion?

19 MS. CAUDLE: Uh-huh. I want a motion.

20 MS. COLLINS-BURROUGH: Motion to -- concerning

21 advertising?

22 MS. WARD: But I don't think --

23 MS. AKARD: But, Scottie, I don't think it's for

24 us to approve whether he can advertise or not.

25 MS. HOPPER: I don't either. I mean if there is

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1 nothing in the law --

2 MS. AKARD: I mean, until these qualifications are
3 met, then we're not approving -- we're not approving an
4 application for a school.

5 MS. WARD: Okay. I don't think we have the
6 jurisdiction to say either you can or cannot. I don't
7 think we can make a motion on that because we don't
8 have that authority to say, yes, you can advertise or
9 you cannot advertise.

10 But when he gets everything done he comes back,
11 then we can see if he's got everything -- all of his
12 ducks in a row, then we can either approve it or, you
13 know, not allow it. But until then, I don't think we
14 have anything to say about it, in my --

15 Am I wrong? That's the way I understand it.

16 MS. COLLINS-BURROUGH: Is that a motion?

17 MR. WUOTILA: Not that I --

18 MS. WARD: I guess it's a motion if we have to
19 make a motion, but that's -- you know.

20 MS. BURCHETT: I mean, Erika, what do you think?

21 Are we talking law or rules?

22 MS. WARD: Can we make a motion on that? Because

23 I don't think we can make a motion on something we

24 don't have jurisdiction over.

25 MS. GEE: Sure, you can make a motion.

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1 I mean if y'all are saying that you don't think
2 there is any reason why he couldn't advertise, and he
3 is asking for you to say it's okay for him to
4 advertise, then sounds like you are saying the same
5 thing.

6 MR. WUOTILA: Okay. So can I just throw out a
7 scenario? If we start advertising next week and I have
8 a student call and say, yes, I absolutely want to be in
9 your first February class, can I have them sign one of
10 our agreements and then, you know, come February -- or
11 just have her be part of my 25 enrollments that I turn
12 in to you?

13 MS. CAUDLE: Yes.

14 Come February you will have to have the student
15 training permit request filled out.

16 MR. WUOTILA: Okay. Sure.

17 MS. CAUDLE: With all of the accompanying
18 documentation that goes with that request.

19 MR. WUOTILA: Okay. Right.

20 MS. CAUDLE: And I have to have all of that before

21 me.

22 MR. WUOTILA: Okay. And we have our own --

23 MS. BURCHETT: But that has to happen before the

24 school would be approved, so it has to be before

25 February.

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1 MS. CAUDLE: Right.

2 MS. WARD: But I've got something I think you need
3 to do is, you can get your list of people who want to
4 start.

5 MR. WUOTILA: Uh-huh.

6 MS. WARD: And have them maybe sign some kind of
7 agreement. But I don't think the permit request, we
8 could get that next week and wait until January to send
9 it in, because that's too much time lapsed.

10 MR. WUOTILA: Uh-huh. Sure.

11 MS. WARD: If you have them say, okay, I want to
12 start, I want to be a part of it, then they have to
13 come in maybe January and fill that form out so she's
14 got it, or December so it's current, then you know who
15 is going to start and who isn't.

16 MS. BURCHETT: Well, he has to start gathering
17 them as soon as he can.

18 MS. WARD: Yeah. He can collect the names and get
19 all the information --

20 MS. BURCHETT: Because --

21 MS. WARD: -- but you can't enroll somebody --

22 MR. WUOTILA: Sure.

23 MS. BURCHETT: He's not enrolling them because

24 he's not turning them into the office.

25 MS. WARD: But --

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1 MS. BURCHETT: He is just gathering his paperwork.

2 MS. WARD: But what I'm saying is, I can have
3 somebody come in and fill out all the papers, give me
4 my 20-dollar money order for the permit now and say
5 they are going to start in January, February, and they
6 might change their mind by then. So get the
7 information, call them and remind them, okay, you need
8 to come in and sign this, fill this out so you can
9 start.

10 MR. WUOTILA: Okay.

11 MS. WARD: And have it so they are still
12 interested so you need to get more than 25 if possible.
13 Some of them probably won't do it.

14 MR. WUOTILA: Sure. That's fair enough.

15 And then my next question is, and I'm going back
16 to the 25 bona fide students, do they all have to start
17 on that first class or can I have 12 start on the first
18 class, 13 in the second class?

19 MS. AKARD: Absolutely they have to start in

20 that first class.

21 MS. WARD: First class. Supposed to.

22 MS. AKARD: Absolutely.

23 MR. WUOTILA: Okay. Okay. I just wanted

24 clarification.

25 MS. WARD: Uh-huh.

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1 MS. BURCHETT: When you gather your paperwork, is
2 your contract a part of that that they sign for their
3 tuition?

4 MR. WUOTILA: Yeah.

5 MS. BURCHETT: Okay.

6 MR. WUOTILA: And -- that's fine. I just --
7 reading your regulations, it doesn't seem like the
8 25 -- it just says that we have to have 25 applications
9 in, it doesn't say for the first class.

10 MS. BURCHETT: Well they would have to be enrolled
11 and they have to have -- they have to receive hours
12 for -- for two months. If they don't receive hours for
13 two months, then they will be dropped.

14 MR. WUOTILA: Okay.

15 MS. AKARD: Well, a student -- a student is
16 enrolled and engaged in learning.

17 MS. WARD: That means they are in attendance.

18 MS. COLLINS-BURROUGH: They are accruing hours.

19 MS. AKARD: That they are not just sitting. They

20 are not just a piece of paper.

21 MR. WUOTILA: Okay.

22 MS. AKARD: So that means they are not just in a
23 holding pattern.

24 MR. WUOTILA: Okay.

25 MS. AKARD: And I -- I assure you, we are going to

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1 be revisiting that 25 bona fide, because --

2 MR. WUOTILA: Okay. Because that's an awful lot.

3 MS. AKARD: No, it's not. Not for opening a new
4 school, it is not enough.

5 MR. WUOTILA: This will be our 17th state, and
6 that's by far more than anyone else has required us to
7 have.

8 MR. FOREMAN: Where are you, Illinois?

9 MR. WUOTILA: Yeah. Minnesota, Illinois,
10 Wisconsin, all the way through the midwest.

11 MR. FOREMAN: Chicago?

12 MR. WUOTILA: Yeah.

13 But that's fine.

14 MS. AKARD: Well, we may be looking at the
15 definition of a bona fide. Because just having
16 paperwork on a student is not showing that that's a
17 student.

18 MR. WUOTILA: Okay.

19 MS. COLLINS-BURROUGH: We don't want the 25 hobos

20 from underneath the Main Street bridge.

21 MR. WUOTILA: I got you. I understand.

22 MS. AKARD: And 25 has been around for -- since
23 the beginning of time.

24 MR. WUOTILA: Okay. That's fine. I just wanted
25 clarification to make sure that that's exactly what you

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1 wanted.

2 MS. WARD: I think that should state in attendance
3 instead of bona fide.

4 MR. FOREMAN: Most of the states don't require 25
5 students?

6 MS. COLLINS-BURROUGH: He is saying 20.

7 MR. WUOTILA: Most of them don't have a
8 requirement. They basically say, you know what, if you
9 can't get enough students to pay your educators and run
10 your business, then that's your problem and you will go
11 out of business.

12 MS. COLLINS-BURROUGH: That's the way most states
13 are.

14 MS. WARD: Well that's not really fair to the
15 students, because if they start and they go out of
16 business, then the students go out.

17 MR. WUOTILA: And a lot of those have teach out
18 agreements. You know they have to work with other
19 schools if that should be the case. But we're nowhere

20 near that problem, so...

21 MS. BURCHETT: So if he advertises and you get a

22 call in the office --

23 MS. CAUDLE: I can say that he is working on

24 opening a new school. It is not yet approved by the

25 board.

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1 MS. AKARD: That's fair.

2 MS. BURCHETT: Sounds simple.

3 MS. AKARD: That's fair.

4 MS. CAUDLE: Yeah.

5 MR. WUOTILA: Okay. Thank you.

6 COURT REPORTER: Would you spell your last name,
7 please?

8 MR. WUOTILA: Yes. W-u-o-t-i-l-a.

9 MS. BURCHETT: I think it needs to be 25 bona fide
10 students, and what Tracy just said, in our definition
11 of a student.

12 MS. WARD: I think it should say bona fide
13 enrolled, in attendance.

14 MS. BURCHETT: Well, I'm just talking about the
15 definition of students.

16 MS. WARD: Yeah. But it should say in attendance.

17 MS. COLLINS-BURROUGH: Where is that?

18 MS. BURCHETT: In the law in the definitions.

19 MS. COLLINS-BURROUGH: Page --

20 MS. BURCHETT: Well, there's not a page number,

21 but it's definition number seven.

22 MS. COLLINS-BURROUGH: Well, but there is not a

23 seven.

24 MS. BURCHETT: First page. Very first page.

25 MS. COLLINS-BURROUGH: Oh.

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1 MS. BURCHETT: 17-26-102, No. 7.

2 MS. COLLINS-BURROUGH: Thank you.

3 MS. BURCHETT: To me that clarifies a student.

4 Get rid of the word bona fide. Student. This is how

5 we define a student, don't have to argue over it.

6 MS. COLLINS-BURROUGH: Yeah.

7 Okay. Let's take a 15 minute break.

8 (WHEREUPON, a break was held from 9:59 a.m. to

9 10:25 a.m.)

10 MS. COLLINS-BURROUGH: We will reconvene at this

11 time.

12 MS. CAUDLE: Okay. Next on the agenda I need to

13 ask the board for a special meeting to bring a case

14 before the board that has been postponed twice. It's

15 in a school. And I would like to get this done before

16 the actual move to the health department.

17 The person that was to be here for the hearing had

18 a prior appointment and couldn't be here for today's

19 meeting. She's also told me that she would be

20 available June the 1st, the 8th, or the 15th,
21 which are all on Mondays, to attend a special meeting.

22 So I need the board to agree on a date to come
23 back in for a special meeting.

24 MS. COLLINS-BURROUGH: One, eight, or 15?

25 MS. CAUDLE: 1st, 8th, or 15th.

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1 MS. WARD: 15th.

2 MS. AKARD: I'll go for the 15th.

3 MS. CAUDLE: I've got two for the 15.

4 MS. HOPPER: I'm okay.

5 MS. CAVER: Fifteen is fine. I'll be out of state
6 the 1st.

7 MS. PHILYAW: I won't be. Bob and I won't, I
8 can't be here but that's okay.

9 MS. COLLINS-BURROUGH: As long as we have a
10 quorum.

11 MS. BURCHETT: 15th is okay with me.

12 MS. COLLINS-BURROUGH: Okay. So, we've got 15.

13 MS. CAUDLE: Okay. So 15th at nine o'clock,
14 unless we figure something out.

15 MS. HOPPER: What case?

16 MS. CAUDLE: It's a school.

17 MS. GEE: Sorry.

18 I was working on something.

19 MS. COLLINS-BURROUGH: Well they started growling

20 at me.

21 MS. CAUDLE: Okay. The special meeting is set for

22 the 15th.

23 MS. COLLINS-BURROUGH: At 9 a.m.?

24 MS. CAUDLE: At 9 a.m.

25 MS. COLLINS-BURROUGH: That's a Monday.

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1 MS. CAUDLE: And I will send everyone an agenda.

2 MS. HOPPER: Mail mine.

3 MS. CAUDLE: Mail yours?

4 MS. HOPPER: I never get it.

5 MS. COLLINS-BURROUGH: We have a couple of
6 officials from the health department here.

7 Do you-all have anything you want to say or
8 introduce yourselves?

9 MS. MALLORY: Okay. I'm Renee Mallory.

10 I will be -- I'm the Branch Chief in Health
11 Systems Licensing and Regulation, which cosmetology
12 will be in my branch.

13 I also have, at the health department I have
14 Emergency Medical Services and Trauma, I have Health
15 Facility Services, which regulates health care
16 facilities, and I have radiation control, which
17 regulates radioactive waste and people that have X-ray
18 equipment within their facilities or clinics or
19 whatever.

20 So cosmetology is going to be a lot different for

21 me. I'm looking forward to it.

22 Do you want to introduce yourself?

23 MR. HOGAN: Sure.

24 My name is Rick Hogan. I tried to meet most of

25 you.

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1 I come from the Attorney General's Office there
2 years ago. I was there for 15 years. I was assistant
3 deputy attorney general. And I've been with the health
4 department and served as their counsel now for 11
5 years.

6 And part of my responsibilities at the Attorney
7 General's Office was to represent boards and
8 commissions, which I did for about 10 years, so I have
9 a great deal of experience in the Administrative
10 Procedures Act and Freedom of Information Act, and have
11 taken several cases to the Arkansas Supreme Court. So
12 I've got a -- you can look my name up if you like to
13 see what those decisions are.

14 And I'm looking forward to working with you and
15 hope we can have a good line of communication.

16 Thank you.

17 MS. COLLINS-BURROUGH: Thank you.

18 MS. MALLORY: The advisory committee, I think
19 everybody knows in the last session, to replace the

20 board will be a technical advisory committee made up of
21 seven members. We did take the recommendations to the
22 board of health, because our board for the health
23 department is the State Board of Health, and they meet
24 quarterly. And at their regular meeting in April, we
25 took the recommendations for the seven committee

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1 technical advisory committee members to the board and
2 they were approved.

3 The letters for approval as of Friday were on
4 Dr. Halverson's desk for review and to sign. So
5 hopefully those will go out, I'm hoping by Wednesday of
6 this week I get them back to be able to put them in the
7 mail. So -- so then the members -- most of the members
8 already know who they are because we've called them and
9 talked to them. So, but the official, they should be
10 getting the official letters pretty soon.

11 Rick was saying that you-all were asking where --
12 when we would have the first meeting.

13 We're hoping to -- you know, we really -- the --
14 the effective date for us to get -- for us to get
15 cosmetology is 30 days -- I mean 90 days after signing
16 of the legislature, which is August --

17 MR. HOGAN: They have actually said July 31st .

18 MS. MALLORY: Oh, it is?

19 So July 31st we officially get the board in

20 cosmetology.

21 We're hoping, you know, to have a first meeting of
22 the technical advisory committee sometime in July.

23 Now, we can't make any decisions at that time but we
24 can just get the advisory committee members together
25 and say, you know, here we are, the health department,

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1 you know, this is what we -- we have in mind for the
2 board or for the technical advisory committee, this is
3 how you will function and that kind of thing, and
4 just -- just talk about some stuff.

5 MS. CAUDLE: So are we going to keep that
6 July 20th date, as Donnie had suggested for an
7 orientation type meeting?

8 MS. MALLORY: If Donnie had suggested that, then
9 we will probably -- I didn't know when in July. I had
10 forgotten, so we'll look at July 20th.

11 MS. CAUDLE: Okay.

12 MS. MALLORY: And I -- we have talked about moving
13 cosmetology to the health department, the actual health
14 department building down on Markham.

15 We have to renovate some space down there, so
16 we're really not sure what that effective date will be.
17 But, you know, it is important to us to get cosmetology
18 in with the health department and get them within our
19 system, you know, our finance, our human resources,

20 that kind of thing, and it's just better for them to be

21 there with us, to become a part.

22 We will have to keep space here for the testing.

23 We sure don't have space that we can do that down on

24 Markham. So we will keep space here for probably a

25 long while, it looks like, for that purpose.

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1 So probably for the July meeting we will meet
2 here, since we will still have the space.

3 It -- meetings will be open to the public just
4 like they are now.

5 I've asked Sheila -- if people are interested,
6 I've asked her to keep a list of interested parties so
7 that we send -- when we send notice to members and to
8 the press, then we can also send it to anybody else
9 that wants to be on a list serve to get notice of the
10 meetings, to receive notice.

11 Any questions?

12 Any other questions I can answer?

13 I'm sure there is a lot but --

14 MS. COLLINS-BURROUGH: What was that?

15 MS. CAUDLE: She said put me on that list, I said
16 write it down.

17 MS. COLLINS-BURROUGH: Oh, I don't get --

18 MS. CAUDLE: That was professional talk.

19 MS. COLLINS-BURROUGH: I don't get sign language.

20 Okay. So we have a meeting for June 15th for

21 the special, and then we have one the 20th of July.

22 MS. CAUDLE: Right.

23 MS. COLLINS-BURROUGH: Is that in conjunction with

24 the regular schedule?

25 MS. CAUDLE: What Donnie has told me, this is not

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1 put down on the books yet, I don't think, but he said
2 that as far as the July meeting, we would keep the
3 July the 20th meeting as a type of orientation for
4 the committee members to the health department, and
5 there would be no business conducted at that meeting.

6 MS. COLLINS-BURROUGH: Oh, okay. All righty,
7 then.

8 MS. WARD: Is that meeting still going to be open?

9 MS. MALLORY: Yes.

10 MS. WARD: For everybody?

11 MS. MALLORY: Yes.

12 MS. CAUDLE: Any time there is a meeting it has to
13 be open.

14 MS. MALLORY: Yeah. We don't close our meetings.

15 MS. GEE: Did you just say there won't be a board
16 meeting in July?

17 MS. CAUDLE: There will be a meeting but it will
18 be orientation.

19 MS. GEE: Not of this board?

20 MS. CAUDLE: No.

21 MS. COLLINS-BURROUGH: No. Just the new

22 committee.

23 MS. GEE: Just making sure.

24 MS. CAUDLE: No. The new committee.

25 MS. GEE: Okay.

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1 MS. COLLINS-BURROUGH: The little black boxes in
2 front of you is from me.

3 MS. CAUDLE: They are bombs.

4 MS. COLLINS-BURROUGH: No, they are not.

5 They are from me to you in appreciation of your
6 service to this industry and this board.

7 BOARD MEMBERS: Thank you.

8 MS. COLLINS-BURROUGH: Okay. Do you have any
9 comments from the public?

10 Yes?

11 MS. PHILLIPS: Well, first off, I've been
12 listening to the meetings and it was very interesting
13 to be at my first --

14 MS. COLLINS-BURROUGH: State your name, please.

15 MS. PHILLIPS: Katrina Phillips.

16 -- to be at my first board meeting.

17 And I was just listening to some of the things

18 that was going on with the Mountain Home school.

19 Mountain Home, the lady that came in with the lawyer.

20 How many people on the board actually own a school

21 or a barber -- I mean a cosmetology school or an

22 aesthetician?

23 You are?

24 And who else?

25 MS. AKARD: (Nodding head up and down.)

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1 MS. WARD: (Indicating.)

2 MS. PHILLIPS: Okay. Well, there needs to be a
3 little leeway, I think, in people being able to
4 advertise and get their students, because like you're
5 saying, you're getting these buildings, you're putting
6 in all this equipment. But 25 students aren't going to
7 come overnight or in two months, so they --

8 MS. COLLINS-BURROUGH: Excuse me.

9 Do you have a comment?

10 That's --

11 MS. PHILLIPS: Okay.

12 MS. COLLINS-BURROUGH: That's --

13 MS. PHILLIPS: Okay. Yeah.

14 Well, the first comment that I made, I talked to
15 Ms. Caudle on the phone. That's why I'm here. I
16 called. And I'm a concerned citizen. I was making a
17 comment about some massage -- not massage therapists,
18 but manicurists, because I have two ingrown toenails.
19 And I was asking the procedure of the inspectors. But

20 the conversation that we had was so rough that I felt
21 like I needed to meet her in person, because she's in a
22 public position and I don't feel that she's being a
23 good steward over her position. And the way that she
24 talked to me, and I've talked to other people, it was
25 just horrible.

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1 And I just wanted the board to know that when
2 people call down here for general conversations, I was
3 just asking some different things about the procedures
4 on how people were being regulated. I know when I go
5 certain places I'm not seeing Barbicide, people are
6 using sharp tools, and I asked what was the procedure.
7 She cut me up so horribly.

8 MS. COLLINS-BURROUGH: Excuse me.

9 Are you licensed by this board?

10 MS. PHILLIPS: No. I'm a citizen. No, ma'am.

11 MS. COLLINS-BURROUGH: You're a consumer?

12 MS. PHILLIPS: Yes, ma'am. I'm a concerned
13 citizen.

14 MS. COLLINS-BURROUGH: Have you taken the steps to
15 file an official complaint?

16 MS. PHILLIPS: I felt like I wouldn't be listened
17 to, so I just came down here because I didn't think
18 that my complaint would really be heard.

19 MS. COLLINS-BURROUGH: No. You need to take the

20 official steps and file an official complaint if you

21 have one.

22 MS. PHILLIPS: Okay. I will do that.

23 But they asked if I had any comments and I'm

24 making general comments.

25 MS. COLLINS-BURROUGH: No, you need to put that in

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1 official writing and make the complaint to the office.

2 MS. PHILLIPS: Okay. So I've been heard.

3 MS. COLLINS-BURROUGH: Thank you.

4 MS. PHILLIPS: But she was very rude.

5 MS. COLLINS-BURROUGH: Thank you for your time.

6 MS. PHILLIPS: Okay. And I will be at most of the
7 meetings to see what's going on.

8 MS. COLLINS-BURROUGH: Thank you.

9 MS. BURCHETT: Any more public comments?

10 MS. COLLINS-BURROUGH: Is there any more public
11 comments?

12 Okay. So we don't have any discussion.

13 MS. BURCHETT: Is it time to eat?

14 MS. COLLINS-BURROUGH: No.

15 MS. BURCHETT: Man, I'm hungry.

16 MS. COLLINS-BURROUGH: Did you bring your
17 knitting? You can knit.

18 MS. HOPPER: No. I can't knit.

19 MS. COLLINS-BURROUGH: Okay. Then we adjourn?

20 What?

21 MS. CAUDLE: Yes. You can adjourn.

22 MS. COLLINS-BURROUGH: Okay.

23 MS. CAUDLE: And we will be here at 12.

24 MS. COLLINS-BURROUGH: Dinner will be here at 12.

25 MS. CAUDLE: Lunch.

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1 MS. COLLINS-BURROUGH: So do we have a motion to
2 adjourn?

3 MS. BURCHETT: Move to adjourn.

4 MS. CAUDLE: Nellie is ready, so you better make a
5 motion to adjourn.

6 MS. HOPPER: I make a motion to adjourn.

7 MS. COLLINS-BURROUGH: Motion and second.

8 All those in favor raise your right hand.

9 (Hands raised.)

10 All right.

11 (WHEREUPON, at 10:38 a.m., the above-entitled
12 proceedings were concluded.)

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1 CERTIFICATE

2

3 STATE OF ARKANSAS)

4 COUNTY OF PULASKI)

5

6 I, SUSAN B. WHITSON, Certified Court Reporter and
7 notary public in and for Pulaski County, State of Arkansas, do
8 hereby certify that the meeting before the Arkansas State Board
9 of Cosmetology, held May 18, 2009, was taken by me in Stenotype
10 and was reduced to computer-generated typewritten form by me or
11 under my direction and supervision; and that the same is a true
12 and correct reflection of the proceedings that occurred, to the
13 best of my knowledge and ability.

14 I FURTHER CERTIFY that I am neither counsel for,
15 related to, nor employed by any of the parties to the action in
16 which these proceedings were taken; and, further that I am not a
17 relative or employee of any attorney or counsel employed by the
18 parties hereto, nor financially interested, or otherwise, in the
19 outcome of this action; and that I have no contract with the

20 parties, attorneys, or persons with an interest in the action
21 that affects or has a substantial tendency to affect
22 impartiality, that requires me to relinquish control of an
23 original transcript or copies of the transcript before it is
24 certified and delivered to the custodial attorney, or that
25 requires me to provide any service not made available to all

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1 parties to the action.

2 SIGNED AND SWORN this _____ day of

3 _____.

4

5 _____

6 SUSAN B. WHITSON, CCR, #158

7 NOTARY PUBLIC IN AND FOR

8 PULASKI COUNTY, ARKANSAS

9

10 My Commission Expires: June 4, 2012.

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