

**BOARD OF PRIVATE OCCUPATIONAL SCHOOLS
BOARD MEETING
August 27, 2013, 9:30 A.M.**

The Private Occupational Schools Board convened at the Auraria Higher Education Campus, Tivoli Student Center, Room 320, 900 Auraria Parkway, Denver, CO 80204. Lisa Bennison Noll, Chair called the meeting to order at 9:35 A.M. and greeted guests. The Board members, Division staff and guests were introduced. Board roll call was taken. A quorum and a two-third majority of the Board members were present.

Board Members Present:

Lisa Bennison Noll, Chair	Winnifred Rovig	Joseph James Wolf
Arlene Rae Malay	Richard Semakula	Steven W. Steele

Tom Narvaez, Vice Chair, joined the meeting at 9:38 A.M.

Division Staff Present:

Lorna Candler, Director	Jim Parker, Interim Deputy Director
Renee Belisle, Program Specialist	Bernadette Esquibel, Program Specialist
Voni Oerman, Program Specialist	Karla Viteri, Program Specialist
Loretta Perez, Administrative Assistant	

Board Counsel Present:

Erica Weston, Assistant Attorney General, Office of the Colorado Attorney General

Guests Present:

Chuck Wirth, American Institute of Trucking- Henderson
Katherine Nyuyen, International Institute of Cosmetic – Denver
Carolina Nyuyen, International Institute of Cosmetic – Denver
Robert Nyuyen, International Institute of Cosmetic – Denver
Chris Gorrie, Ecotech Institute - Denver
Jack Clark, Ecotech Institute - Denver
Jennifer Smith, Dogs' Own Grooming School – Loveland
Bonnie Grebe, The Pilates Institute of Boulder – Lafayette
Bob Fulton, Denver Learning Institute - Denver
Robin Rossenfeld, Conflict Management Consultants, LLP – Castle Rock
Helen Grigg, Healing Spirits Training Program – Boulder
Pat Dorsey Healing Spirits Training Program – Boulder
Richard Rossiter, The Pilates Institute of Boulder – Lafayette
Larry Zavadil, Esq., Husch Blackwell (BCMT)

Approval of the July 23, 2013 Board Meeting Public Session Minutes:

The Board reviewed the July 23, 2013, meeting minutes. Mr. Steele moved for approval of the minutes with two corrections. The motion was seconded and passed.

Approval of the July 23, 2013 Board Meeting Executive Session Minutes:

The Board reviewed the July 23, 2013, meeting minutes. Mr. Wolf moved for approval of the Executive Session Minutes as read. The motion was seconded and passed.

Additions / Changes to the Agenda:

Director Lorna Candler reported no additions or corrections to the Agenda.

Staff / Director Report:

Director Candler recognized outgoing Board member and the Board's Chair, Ms. Lisa Bennison Noll and thanked her for her nine-plus years of dedicated service to the Citizens of Colorado. Ms. Bennison Noll and former Board member Buddy Douglass were honored for their commitment and service on the Board at a luncheon following the board meeting.

1. Healing Spirits Massage Training Program - Boulder

Program Specialist Belisle brought to the Board's attention for review and consideration two new stand-alone courses: (1) Zero Balancing I; and (2) Introduction to Zero Balancing (ZB), proposed by Healing Spirits Massage Training Program, Boulder. School representatives were present. Based upon the Board having determined that the above-referenced courses for Healing Spirits Massage Training Program, 550 Mohawk Drive, #65, Boulder, CO 80303 can be reasonably maintained in compliance with the minimum standards as prescribed by the Private Occupational Education Act of 1981, as amended, and with the Division's minimum requirements, Ms. Malay moved to approve the above-referenced courses effective August 27, 2013. The motion was seconded and unanimously passed.

2. International Institute of Cosmetics - Denver

Program Specialist Viteri brought to the Board's attention for review and consideration one new program, Cosmetology, proposed by International Institute of Cosmetics. School representatives were present. The school satisfied the Board's inquiry. Based upon the Board having determined that the above-referenced program for International Institute of Cosmetics, 2370 W. Alameda Avenue, Unit 12, Denver, CO 80223, can be reasonably maintained in compliance with the minimum standards as prescribed by the Private Occupational Education Act of 1981, as amended, and with the Division's minimum requirements, Ms. Rovig moved to approve the above-referenced program effective August 27, 2013. The motion was seconded and unanimously passed.

3. Dogs' Own Grooming School - Loveland

Program Specialist Viteri brought to the Board's attention for review and consideration one new stand-alone course, Groomer Certification Completion, proposed by Dogs' Own Grooming School, Loveland. A school representative was present. The school satisfied the

Board's inquiry. Based upon the Board having determined that the above-referenced course for Dogs' Own Grooming School, 224 East 29th Street, Loveland, CO 80539 can be reasonably maintained in compliance with the minimum standards as prescribed by the Private Occupational Education Act of 1981, as amended, and with the Division's minimum requirements, Ms. Rovig moved to approve the course effective August 27, 2013. The motion was seconded and unanimously passed.

4. Ecotech Institute - Aurora

Program Specialist Esquibel brought to the Board's attention for review and consideration one new stand-alone course, Tower Technician I, proposed by Ecotech Institute, Loveland. School representatives were present. The school satisfied the Board's inquiry. Based upon the Board having determined that the above-referenced course for Ecotech Institute, 1400 South Abilene Street, Aurora, CO 80012 can be reasonably maintained in compliance with the minimum standards as prescribed by the Private Occupational Education Act of 1981, as amended, and with the Division's minimum requirements, Ms. Malay moved to approve the course effective August 27, 2013. The motion was seconded and unanimously passed.

5. Denver Learning Institute - Denver

Program Specialist Esquibel brought to the Board's attention for review and consideration nine new stand-alone courses: (1) HIPAA Privacy Rule Training for Health Care; (2) Medical Math; (3) Mobile Applications: Android; (4) Mobile Applications: HTMLS; (5) Mobile Applications: iOS6; (6) Overview of Electronic Records and Clinical; (7) Professionalism in Health Care; (8) Search Engine Optimization; and (9) Survey of Pharmacology, proposed by Denver Learning Institute, Denver. A school representative was present. Based upon the Board having determined that the above-referenced courses for Denver Learning Institute, 1515 Arapahoe Street, Tower 1, Suite 500, Denver, CO 80202 can be reasonably maintained in compliance with the minimum standards as prescribed by the Private Occupational Education Act of 1981, as amended, and with the Division's minimum requirements, Mr. Steele moved to approve the above-referenced courses effective August 27, 2013. The motion was seconded and unanimously passed

B. Consideration of Renewal of Certificate of Approval with Programs / Courses

1. The Pilates Institute of Boulder - Lafayette

Program Specialist Belisle brought to the Board's attention for consideration, The Pilates Institute of Boulder, Lafayette, a new school with one proposed program, and two new stand-alone courses. The program is: (1) Comprehensive Pilates Teacher Education Program. The courses are: (1) Intermediate Pilates Teacher Education Program Level (I-III); and (2) Advanced Pilates Teacher Education Program (Level IV-V). School representatives were present. The school satisfied the Board's inquiry. Upon determining that the school is in compliance with the required surety level in the amount of \$1,500; that the school submitted a certificate of deposit in the amount of \$5,000; and that the school

can be reasonably maintained in compliance with the minimum standards as prescribed by the Private Occupational Education Act of 1981, as amended, and in compliance with the Division's minimum requirements, Mr. Narvaez in a combined motion moved that a Standard Certificate of Approval be granted to The Pilates Institute of Boulder, 2770 Dagny Way, Suite 114, Lafayette, CO 80026 for the period beginning August 27, 2013, ending June 30, 2016, and that the program and stand-alone courses before the Board be approved. The combined motion was seconded and unanimously passed.

C. Consideration of Approval of Provisional Certificate of Approval

1. Conflict Management Consultants, LLP – Castle Rock

Program Specialist Belisle brought to the Board's attention for consideration, Conflict Management Consultants, LLP – Castle Rock, a new school with one proposed program, and five new stand-alone courses. The program is: (1) Introduction to Mediation. The courses are: (1) Domestic Mediation; (2) Ethics for Mediators 1; (3) Ethics for Mediators 2; (4) Ethics for Mediators 3; and (5) Advance Communications Skills. A school representative was present. The school satisfied the Board's inquiry. Upon determining that the school is in compliance with the required surety level in the amount of \$12,000; that the school submitted a bond in the amount of \$12,000; and that the school can be reasonably maintained in compliance with the minimum standards as prescribed by the Private Occupational Education Act of 1981, as amended, and in compliance with the Division's minimum requirements, Mr. Semakula in a combined motion moved that a Provisional Certificate of Approval be granted to Conflict Management Consultants, LLP, 5239 Gould Circle, Castle Rock, CO 80109 for the period beginning August 27, 2013, ending June 30, 2015, and that the program and stand-alone courses before the Board be approved. The combined motion was seconded and unanimously passed.

D. Consideration of Change of Ownership

1. American Institute of Trucking - Henderson

Program Specialist Viteri brought to the Board's attention for consideration application for a change of ownership for American Institute of Trucking, Henderson. A school representative was present. The school satisfied the Board's inquiry. Upon determining that the school is in compliance with the required minimum surety level in the amount of \$51,214; that the school submitted a bond in the amount of \$52,000; and that American Institute of Trucking, 9239 Brighton Road, Unit #201, Henderson, CO 80640 can be reasonably maintained in compliance with the minimum standards as prescribed by the Private Occupational Education Act of 1981, as amended, and in compliance with the Division's minimum requirements, Ms. Malay moved that the change of ownership be granted for the period beginning August 27, 2013 and ending June 30, 2016. The motion was seconded and unanimously passed.

E. Matters of Noncompliance

1. Boulder College of Massage Therapy (BCMT) - Boulder

Director Candler provided the Board with an overview and chronology of events concerning BCMT and updated the members on the most recent change of events and pending matters.

Director Candler recapped that on July 3, 2013, the Board issued BCMT the first Notice of Noncompliance based on information previously reviewed in June 2013 regarding actions taken by the Accrediting Commission of Career Schools and Colleges (ACCSC) and the U.S. Department of Education (USDOE), as well as information pertaining to school's compliance with its real estate bond, that questioned BCMT's ability to continue to meet its financial obligations to operate and fulfill its commitment to the students. The School timely responded and provided requested financial documents and other records. BCMT reported that a donation of approximately \$1.3 million had been received by The New Dominion, LLC.

Director Candler explained that The New Dominion, LLC, which had previously pledged \$1.3 million to BCMT, withdrew its financial support, however, the irrevocable letter of credit in the amount of \$653,525.00 required and posted with the USDOE remains in place, despite requests to have it returned to New Dominion. It is unclear whether New Dominion will take action to recoup funds used to post the letter of credit. The USDOE had previously notified BCMT that because it failed to meet financial responsibility standards applicable to institutions participating in the Title IV, HEA program, it was required to submit an irrevocable letter of credit.

Director Candler further summarized that on July 23, 2013, the Board issued BCMT a second Notice of Noncompliance based on representations made on the school's website in contravention of an ACCSC directive. BCMT denied misrepresentation and explained that an oversight had occurred due to a reduction in staff that maintained the website. BCMT corrected its website but the Division noted that the website also continued to advertise that the fall quarter will "start October 10th for all new applicants and returning students," and continued to include an "Apply Now" link to application instructions that do not exclude new students. After the ACCSC Commission meeting in August, ACCSC issued a letter stating that BCMT would be subject to a continued probation order which also prohibits BCMT from enrolling new students as initially posted on May 15, 2013.

BCMT states that 50 of its 65 current students would graduate at the end of the current quarter, thus satisfying its obligation to provide instructional services for the full program duration for those students. Per the ACCSC directive, BCMT is not currently accepting applications for any new students, nor does BCMT intend to offer its 15 non-graduating students the option to continue. Rather, those 15 non-graduating students would need to prepare to transfer to another school, or avail themselves of a teach-out or refund upon closure. Therefore, BCMT will have failed to fulfill its commitment to provide those 15 students instructional services for the full duration of their programs. It does appear that the surety bond is sufficient to provide those 15 non-graduating students with a teach-out or refund.

Ms. Candler updated the Board on the most recent development as BCMT indicated that Naropa University had expressed their interest in acquiring the school and/or assuming the BCMT massage therapy program. However, at this time there have been no confirmation from representatives at Naropa that such efforts to continue BCMT programs are imminent or probable.

Director Candler also advised the Board on the latest information with respect to the school's building lease and real estate bond. Based on recent conversations with the bond holder, BCMT continues to be in arrears with its financial responsibility. At this time it's unclear whether the bond holder will commence with foreclosure proceedings at some point or whether other legal options will be implemented.

Following the report and update by Director Candler, the Board indicated it would like to consult with its legal counsel before proceeding, for the purpose of learning what legal options may be available to it under the circumstances reported, Mr. Narvaez motioned to convene into Executive Session pursuant to §24-6-402(3)(a)(II), C.R.S., to confer with legal counsel on pending or imminent court action. Ms. Malay seconded, and the motion to convene into Executive Session was unanimously passed.

The regular public board meeting recorder was turned off, and the Board of Private Occupational Schools convened into Executive Session at 10:18 A.M. for the purposes described above as requiring confidentiality. No member of the general public was present. The Executive Session recorder was turned on.

Executive Session concluded and the public session of the Board meeting reconvened at 10:31 A.M. The Executive Session recorder was turned off. The tape was removed and marked "August 27, 2013 Executive Session". The public session recorder was turned on and the general public was welcomed back.

Assistant Attorney General Weston affirmed for the public record that the Executive Session was for the sole purpose of providing legal advice to the Board and to otherwise engage in what in good faith is believed to be attorney-client privileged and/ or other matters required to be kept confidential.

Lisa Bennison Noll, Chair, discussed the legal options that the board may want to consider, as follows: (1) Direct the Board's legal counsel to pursue a Stipulation Agreement; (2) Seek revocation of BCMT's certificate of approval to operate, directing the Board's legal counsel to file Notice of Charges with the Office of Administrative Courts, and to take all other appropriate administrative action to affect this Board decision, in accordance with the State Administrative Procedures Act, including, but not limited to article 4 of title 24, C.R.S.; (3) Table the matter pending further clarification and review of current and accurate School financial information and data; or and (4) Summarily suspend BCMT from operation. Mr. Narvaez believes the best option would be a stipulation agreement, but would like to propose a couple questions to Mr. Zavadil, the attorney appearing on behalf of BCMT. Since Mr. Zavadil informed the Board that he did not have the authority to make any decisions for BCMT, he agreed to arrange a teleconference with the attorney of record, Mr. Joseph

Cornelison, to confer with the Board before conclusion of its current meeting. A motion was made by Mr. Narvaez to table this matter for further discussion upon Mr. Cornelison contacting the Board to participate in the meeting via teleconference. Motion was second and passed.

F. Notification of School Closings

Bull Locks Barber Academy, Littleton

Director Candler provided a brief overview of the closure and explained the School failed to provide sufficient and proper notice to the Division of its intent to close and cease operations. Although all school and student records had been recently deposited with the Division, there was one student who had neither completed the training nor been provided an opportunity to elect a train out at another approved school or receive a refund of prepaid unearned monies. The Division determined the student is due a refund thus it made repeated attempts by both telephone and email to remind the School's owner and representative of their obligation to refund the student, but to no avail. Mr. Narvaez, motioned to direct the Division to issue a notice of noncompliance if the school failed to address the refund owed within 10 days. The motion was seconded and passed.

G. Proposed Rulemaking – Adjustment to Fees

The Board requested to proceed (out of order) with the agenda while arrangements were made to reach counsel for BCMT. Therefore, it elected to review and discuss proposed rulemaking concerning adjustment to fees. Director Candler presented the Board with a Memo for consideration to adjust its fees for the following reasons: an identified decrease in the revenue earned due to a decline in the number of schools renewing; a reduction of new schools applying for certification; lower enrollment rates in currently operating schools; and, simultaneously, the Division has incurred addition expenses due to an increase in general operation costs and personnel services.

After consideration and further discussion of the Division Director's Memo and oral summary regarding adjustment of fees and recommendation to modify and revised fees, Mr. Narvaez motioned that the Board accept the proposed fee schedule as presented and instructed the Division to submit and file with the Office of the Secretary of State a Notice of Public Rulemaking Hearing regarding the proposed fee changes. The motion was seconded and passed.

Boulder College of Massage Therapy (BCMT) – Boulder (continued)

Motion was made by Mr. Steele to return to matters concerning BCMT that had been tabled earlier. The motion second and passed.

Lisa Bennison Noll, Chair, greeted Mr. Cornelison, attorney for BCMT, via telephone, Ms. Bennison Noll presented to Mr. Cornelison the legal options before the Board for consideration regarding BCMT: (1) Direct the Board's legal counsel to pursue a Stipulation

Agreement; (2) Seek revocation of BCMT's certificate of approval to operate, directing the Board's legal counsel to file Notice of Charges with the Office of Administrative Courts, and to take all other appropriate administrative action to affect this Board decision, in accordance with the State Administrative Procedures Act, including, but not limited to article 4 of title 24, C.R.S.; (3) Table the matter pending further clarification and review of current and accurate School financial information and data; or (4) Summarily suspend BCMT from operation. In contemplating a proposed stipulation, the Board posed further questions to determine whether a stipulation would serve the students best interests and fulfill the Boards obligations and duties. Mr. Cornelison agreed to contact his client, BCMT, to discuss the proposal. He agreed to get back to Ms. Erica Weston, Assistant Attorney General, Office of the Colorado Attorney General.

After due deliberation and discussion, the Board determined upon reasonable belief and by a majority vote, that Boulder College of Massage Therapy has violated or is violating one or more of the criteria established pursuant to Article 59, Title 12 C.R.S. (the "Act") and the Rules and Regulations Concerning the Private Occupational Education Act. Mr. Narvaez motioned to refer the matter to its legal counsel to pursue a Stipulated Agreement with BCMT regarding the issues discussed. Motion seconded and passed.

G. Proposed Rulemaking -

The Board move forward on item "G" "1" Proposed Rulemaking concerning the Rules and Regulations of the Private Occupational Education Act of 1981, as amended. Director Candler presented an overview of the proposed changes for the purpose of considering revision to the Rules and Regulations concerning the Private Occupational Education Act of 1981, as amended and specifically two (2) proposed new rules: Section I, Definitions, define "Apprenticeship"; and Section III, Minimum Standards, paragraph I, ensure valid high school diploma or GED upon admission to a program; and for clarification and improvement of language, definitions, correction of technical errors and omissions, and to reflect further development of Board policies regarding the conduct of its work and the implementation of the Private Occupational Education Act.

After consideration and discussion to amend and revise the Rules and Regulations, motion made by Mr. Steele that the Board proceed with the proposed rulemaking as presented by the Director and as set forth in the amended Rules and Regulations of the Private Occupational Education Act of 1981, contained in the Board materials. The Board agreed to adopt the Rules as amended as set forth and recommended the Division submit and file with the Office of the Secretary of State a Notice of Public Rulemaking Hearing regarding proposed the amendment to the Rules and Regulations of the Private Occupational Education Act of 1981. Motion was seconded and passed.

Adjournment:

There being no other business, Ms. Rovig motioned to adjourn the Board meeting. The motion was seconded and duly passed. The Board of Private Occupational Schools' Meeting of August 27, 2013, adjourned at 11:24 A.M.

The next regularly scheduled meeting of the Board is Tuesday, September 24, 2013, at 9:30 A.M. and will be held at:

Auraria Higher Education Campus
Tivoli Student Center, Room 320
900 Auraria Parkway, Denver, CO 80204
Telephone (303) 866-2723