

# STATE OF NORTH CAROLINA

## INVESTIGATIVE REPORT

NORTH CAROLINA STATE BOARD OF COSMETIC ART EXAMINERS

RALEIGH, NORTH CAROLINA

MAY 2011

OFFICE OF THE STATE AUDITOR

BETH A. WOOD, CPA

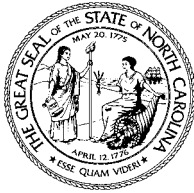
STATE AUDITOR

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**Beth A. Wood, CPA**  
State Auditor

STATE OF NORTH CAROLINA

# Office of the State Auditor

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## AUDITOR'S TRANSMITTAL

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The Honorable Beverly Perdue, Governor  
Brigadier General Steve Hargis, Chairman,  
North Carolina State Board of Cosmetic Art Examiners  
Members of the North Carolina General Assembly

Ladies and Gentlemen:

Pursuant to North Carolina General Statute §147-64.6(c)(16), we have completed our investigation of allegations concerning the operations of the North Carolina State Board of Cosmetic Art Examiners. The results of our investigation, along with a recommendation for corrective action, are contained in this report.

Copies of this report have been provided to the Governor, the Attorney General and other appropriate officials in accordance with G.S. §147-64.6 (c) (12).

Respectfully submitted,

A handwritten signature in cursive script that reads "Beth A. Wood".

Beth A. Wood, CPA  
State Auditor

May 26, 2011

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## INTRODUCTION

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The Office of the State Auditor received several allegations through the *State Auditor's Hotline* concerning the operations of the North Carolina State Board of Cosmetic Art Examiners (Board). The allegations included an assertion that the Board did not adequately prepare and maintain minutes of closed session meetings in violation of State regulations.

To conduct our investigation of these allegations, we performed the following procedures:

- Review of applicable North Carolina General Statutes and Board guidelines
- Examination of relevant documents and records of the Board
- Interviews with Board members, the Executive Director, and other Board staff

This report presents the results of our investigation. The investigation was conducted pursuant to North Carolina General Statute § 147-64.6 (c) (16).

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## **ORGANIZATION OVERVIEW**

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The North Carolina State Board of Cosmetic Art Examiners (Board) was created through legislation in 1933 to establish and maintain sanitary and professional standards for the cosmetic art industry. The Board's mission is to develop, monitor, and enforce the standards used in the industry for the safety and protection of the public. Today, the Board licenses over 80,000 individuals and businesses in the various branches of the cosmetic art industry (cosmetology, manicuring, esthetics, and public and private cosmetic art schools and programs).

The Board is composed of six members appointed by the Governor and General Assembly. The Governor appoints four members of the Board: two cosmetologists, a cosmetology teacher, and a member of the public who is not licensed under North Carolina General Statute §88B. Two more cosmetologists are appointed by the General Assembly, one recommended by the Speaker of the House of Representatives and one recommended by the President Pro Tempore. Board members who are cosmetologists serve staggered terms of three years. No member shall serve more than two consecutive terms, except that each member shall serve until a successor is appointed and qualified. All other Board members serve three-year terms that are not staggered.

The Board employs 28 full-time staff. The staff supports Board operations including review of applications, administering of examinations, licensing of qualified applicants, and regulation of the professional practices of the licensees throughout the State. The Board receives and investigates consumer complaints of improper activity and conducts inspections of all salons. Complaints/inspections requiring disciplinary action are scheduled for a hearing before the Board.

Board meetings are usually held at the Board's offices in Raleigh. The meetings are open to the public although the Board may need to conduct some business in closed session in compliance with North Carolina General Statute § 143-318.11.

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## **FINDINGS AND RECOMMENDATIONS**

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### **1. THE BOARD VIOLATED STATE LAW THROUGH ITS FAILURE TO MAINTAIN MINUTES OF CLOSED SESSIONS.**

The North Carolina State Board of Cosmetic Arts Examiners did not adequately prepare and maintain meeting minutes of closed sessions in violation of North Carolina General Statute § 143-318.10(e). This violation of State law results in a lack of transparency and accountability.

North Carolina General Statute § 143-318.10(e) requires that “every public body shall keep full and accurate minutes of all official meetings including any closed sessions held pursuant to G.S. 143-318.11.” The law also requires that, “When a body meets in closed session, it shall keep a general account of the closed session so that a person not in attendance would have a reasonable understanding of what transpired.”

Our review of the Board minutes from January 2008 through September 2010 revealed that the Board did not routinely keep “full and accurate minutes” of closed sessions. No minutes were prepared for 14 (74%) of the 19 closed sessions conducted during this period. The Board’s prior Chairman said that the Board failed to maintain minutes of closed sessions due to lack of knowledge of the requirement until their attorney informed the Board in mid-2009. The current Chairman, a Board member since 2008, said that he was unaware that the Board failed to prepare and maintain minutes of closed sessions until he was informed of the requirements by the Board’s attorney after he became Chairman in July 2010. The current Executive Director said that she was aware of the requirement and would ensure that the Board followed the law.

On April 16, 2009, the Governor of North Carolina issued an “Open Meetings Letter” to all State boards and commissions stressing her desire for a government that is transparent and accountable to the citizens of North Carolina. The letter stated, “I expect every state board and commission to set the same standard of openness and transparency and to fully comply with North Carolina’s Open Meetings Act.” An attachment from the Attorney General included a “question and answer” format providing some details of the “Open Meetings Act” including a statement that minutes of closed sessions shall be kept.

### **RECOMMENDATION**

The State Board of Cosmetic Art Examiners should ensure that full and accurate minutes of closed sessions of Board meetings are adequately prepared and maintained in compliance with North Carolina General Statute § 143-318.10(e) and 143-318.11.

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# RESPONSE FROM THE NORTH CAROLINA STATE BOARD OF COSMETIC ART EXAMINERS

## North Carolina State Board of Cosmetic Art Examiners



May 12, 2011

Beth A. Wood, CPA  
State Auditor  
Office of the State Auditor  
2 South Salisbury Street  
20601 Mail Service Center  
Raleigh NC 27699-0601

Dear Ms. Wood:

Thank you for the opportunity to respond to your recent letter and the investigative report related to your office's investigation of the North Carolina State Board of Cosmetic Art Examiners (the "Board"). We have reviewed the findings and recommendations contained in the report, and respectfully submit this response.

As an initial matter, please know that it has been and continues to be the intention of the Board to fully comply with all applicable requirements of state law, including the requirements related to minutes of closed sessions. The Board acknowledges findings identified in the report related to its preparation and/or maintenance of minutes of certain closed sessions held during the time period cited in the report. The Board has reviewed its current practices relating to minutes of closed sessions, and believes that those practices are in compliance with the law and that any deficiencies identified in the report have been dealt with appropriately. Specifically, in keeping with the requirements of N.C. Gen. Stat. §143-318.10(e), the Board currently prepares (and since July 2010 has prepared) minutes of all closed sessions held pursuant to N.C. Gen. Stat. § 143-318.11, and maintains those minutes in the Board's office in a book designated for minutes of closed sessions.

Again, we appreciate the opportunity to respond to the report and the thorough and professional manner in which this investigation was conducted. Please contact me at your convenience should you require additional information or have any questions.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "R. Steve Hargis", is written over the typed name.

R. Steve Hargis  
Chairman  
North Carolina State Board of  
Cosmetic Art Examiners

RSH/le

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## ORDERING INFORMATION

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Copies of this report may be obtained by contacting the:

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