

MINUTES

**FLORIDA BARBERS' BOARD
Department of Business and Professional Regulation
Radisson Hotel – Clearwater Central
20967 U.S. Highway 19 North
Clearwater, Florida 33765
Monday, November 17, 2003
9:00 a.m.**

The meeting of the Florida Barbers' Board was called to order at approximately 9:00 a.m. by Mr. Peter "Dave" Magda, Chair.

Board Members Present

Peter "Dave" Magda, Chair
Herman White, Vice Chair
Robert Collins
Jeri Scott
Darrell Wilson

Other Persons Present

Julie Malone, Executive Director, DBPR
Erica Glover, Assistant Attorney General, Department of Legal Affairs
Drew Winters, Assistant General Counsel, Office of the General Counsel, DBPR
Robyn Barineau, Government Analyst, DBPR

Interested Parties Present

Patricia Gough, Court Reporter
Jackie Lombardi, South Florida Barber Association and Florida Barber Academy
Georgia Osborne, Florida Academy of Hair Design
Lowell Osborne, Florida Academy of Hair Design
Suzy Hills, International School of Beauty
Eddie Stewart
Carol Collins
Joe McVoy, Respondent
Joseph La Torre, Respondent
Levi Highsmith, Respondent
Jose Crespo, Respondent

The meeting was opened with a roll call and a quorum was established.

Approval of Minutes: August 18, 2003

Mr. Darrell Wilson moved to accept the minutes from the August 18, 2003, board meeting, as presented. Ms. Jeri Scott seconded the motion and the motion passed unanimously.

Chair Magda asked Ms. Julie Malone, Executive Director, to determine if costs were assessed to the Florida Barbers' Board for appearance by the attendees at the August 18, 2003, board meeting from the department. Ms. Malone will report her findings to the board at the next board meeting.

Disciplinary Matters

Ms. Erica Glover, Assistant Attorney General, inquired if all the board members had received their board meeting materials, if the materials were legible, and if the members had reviewed all the materials. All members responded in the affirmative to these questions.

Informal Hearings

Janette R. Marinas; Fort Myers; Case No. 2003-065313

The Administrative Complaint charged the Respondent with a violation of section 476.194(1)(a), Florida Statutes, in that it is unlawful for any person to engage in the practice of barbering without an active license as a barber issued pursuant to the provisions of this act by the department. The department suggested assessing a fine of \$500 and costs of \$124.31. Vice Chair Herman White moved to assess a \$500 fine and costs of \$124.31. Mr. Wilson seconded the motion and the motion passed unanimously.

Paul Romano; Boca Raton; Case No. 2002-015413

The Administrative Complaint charged the Respondent with a violation of section 476.194(1)(a), Florida Statutes, in that it is unlawful for any person to engage in the practice of barbering without an active license as a barber issued pursuant to the provisions of this act by the department. The department suggested assessing a fine of \$500 and costs of \$104.19. Vice Chair Herman White moved to assess a \$500 fine and costs of \$104.19, allowing the Respondent to make payments of \$100 per month until this matter is paid in full. Mr. Wilson seconded the motion and the motion passed unanimously.

Joseph L. McVoy, Ft. Myers; Case No. 2003-002112

The Administrative Complaint charged the Respondent with a violation of section 476.194(1)(e)1, Florida Statutes, in that it is unlawful for any person to own, operate, maintain, open, establish, conduct, or have charge of, either alone or with another person or persons, a barbershop which is not licensed under the provisions of this

chapter. The department suggested assessing a fine of \$500 and costs of \$203.29. Mr. McVoy was present and offered mitigation in this case. He added that he has been a licensed barber for over 40 years and has not had any prior violations. Mr. McVoy indicated he closed his previous barbershop in November 2002 to move it to another location in January 2003. His thought was that he only needed to send his renewal fees and a change of address when his new location was to open. Based on Mr. McVoy's mitigation, Mr. Robert Collins moved to assess costs of \$203.29. Vice Chair White seconded the motion. Vice Chair White, Mr. Collins, Ms. Scott and Mr. Wilson voted in favor of the motion and Chair Magda voted against the motion. The motion passed with a majority vote.

Original Barber; Delray Beach; Case No. 2003-002264

The Administrative Complaint charged the Respondent with a violation of section 476.204(1)(b), Florida Statutes, in that it is unlawful for any person to operate any barbershop unless it has been duly licensed as provided in this chapter; and a violation of section 476.204(1)(i), Florida Statutes, in that it is unlawful or any person to violate or refuse to comply with any provision of this chapter or chapter 455 or a rule or final order of the board. The department suggested assessing a fine of \$550 and costs of \$116.19. Mr. Wilson moved to assess a fine of \$550 and costs of \$116.19. Mr. Collins seconded the motion and the motion passed unanimously.

Joseph La Torre; Ormond Beach; Case No. 2003-043710

The Administrative Complaint charged the Respondent with a violation of section 476.204(1)(i), Florida Statutes, in that it is unlawful for any person to violate or refuse to comply with any provision of this chapter or chapter 455 or a rule or final order of the board, through a violation of section 455.227(2)(r), Florida Statutes, in that it is unlawful to interfere with an investigation or inspection authorized by statute, or with any disciplinary proceeding. The department suggested assessing a fine of \$500 and costs of \$129.22. Mr. La Torre was present and offered mitigation in this case. He indicated that he has been a licensed barber for over 23 years and due to the stress caused by this case, he closed his barbershop. He added that when the inspector entered his shop, she embarrassed him in front of a customer regarding his posted delinquent barber license. Her actions made him angry, and he then used inappropriate language with the inspector. He apologized for his language but stated that he has never had any problems with any of the department's inspectors. He submitted a letter from the customer relating to this incident. Ms. Scott moved to assess a fine of \$550 and costs of \$129.22. Vice Chair White seconded the motion and the motion passed unanimously.

Defaults

Unless otherwise stated, by appropriate motion the board found that the Respondent was properly served with the Administrative Complaint, the Respondent was in default, the board accepted the allegations as stated in the Administrative

Complaint and adopted them as the findings of fact and conclusions of law of the board, and imposed the penalties shown below:

- Ivan St. Charles; Fort Lauderdale
Case No. 2002-014069
\$500 fine and \$32.26 costs

- Audley Brown; Miami
Case No. 2002-014069
\$500 fine and \$53.94 costs

- Bad Boyz Barbershop; Jacksonville
Case No. 2002-009449
\$500 fine and \$144.08 costs

Regarding Case Numbers 2003-003007 and 2003-003014 against Levi Highsmith of West Palm Beach, these cases were originally scheduled as Motions for Default and Final Order. Mr. Highsmith was present and elected to have these matters heard as Informal Hearings as he did not dispute the allegations of fact contained in the Administrative Complaints. The Administrative Complaints charged the Respondent with a violation of section 476.194(1)(e)1, Florida Statutes, in that it is unlawful for any person to own, operate, maintain, open, establish, conduct, or have charge of, either alone or with another person or persons, a barbershop which is not licensed under the provisions of this chapter; and with a violation of section 476.194(1)(e)2, Florida Statutes, in that it is unlawful for any person to own, operate, maintain, open, establish, conduct, or have charge of, either alone or with another person or persons, a barbershop in which a person not licensed as a barber is permitted to perform services. The department suggested assessing a fine of \$1,000 and costs of \$159.59. Mr. Highsmith offered mitigation in this case. He indicated he has been a licensed barber for over 37 years, this being the first time he has ever owned a barbershop. He added he has complied with the law and has a barbershop license and the unlicensed barber is no longer working in the barbershop. Mr. Highsmith has no prior violations and did not intend to violate the law. Based on mitigation offered by Mr. Highsmith, Vice Chair White moved to assess a \$500 fine and costs of \$159.59. Mr. Wilson seconded the motion. Vice Chair White, Mr. Collins, Ms. Scott and Mr. Wilson voted in favor of the motion and Chair Magda voted against the motion. The motion passed with a majority vote.

Stipulation

Laveaux Ductan; Sunrise; Case No. 2002-008654

The Administrative Complaint charged the Respondent with a violation of section 476.194(1)(c), Florida Statutes, in that it is unlawful for any person to hire or employ any person to engage in the practice of barbering unless such person holds a valid license as a barber. The department suggested assessing a fine of \$500 and costs of \$33.05.

Mr. Wilson moved to assess a \$500 fine and costs of \$33.05. Vice Chair White seconded the motion and the motion passed unanimously.

Applications

North Florida Cosmetology Institute, Inc.

Course Application/Renewal
HIV/AIDS and STDs for Barbers – 2 Hours
Home Study/Video

Mr. Wilson moved to approve this course renewal. Mr. Collins seconded the motion and the motion passed unanimously.

International School of Beauty, Inc.

Provider Application
Course Application
HIV/AIDS Awareness – “The Era of Aids” – 4 Hours
Live Group Study and Home Study/Video

Mr. Wilson moved to approve the provider application of International School of Beauty, Inc. Vice Chair White seconded the motion and the motion passed unanimously. Mr. Wilson moved to approve this course application. Ms. Scott seconded the motion and the motion passed unanimously.

Department Attorney Report

Mr. Drew Winters, Assistant General Counsel, distributed a prosecuting attorney’s report and indicated there are currently 67 barber cases in the legal section.

Committee Reports

Legislative Committee/Mr. Darrell Wilson, Chair

Mr. Wilson gave an overview of research he conducted by polling several state barbers’ boards regarding reciprocity, barber instructors, barber schools, and apprenticeship programs. He added that he received responses from Texas, Arizona and Minnesota. Mr. Wilson recommended that Florida move forward with seeking legislation to allow reciprocity with other states. He also feels strongly that barber schools should be answerable to the Florida Barbers’ Board instead of the Department of Education and the Commission for Independent Education. Finally, he suggested that a possible apprenticeship program could include requiring a student to attend a barber school for 200-300 hours before starting as an apprentice under a licensed barber who has held an active license for a minimum of three years. The licensed barber could operate a satellite school in their barbershop. Vice Chair White interjected the he learned at the recent National Association of Barber Boards of America meeting that Arizona is exclusively going to an apprenticeship program but that Arizona is a much smaller state than Florida. Mr. Jackie Lombardi, South Florida Barber Association

and Florida Barber Academy, agreed that barber schools should fall under the jurisdiction of the Florida Barbers' Board to have more control over the schools. Chair Magda and Ms. Malone indicated that the board has recently been working with the Department of Education and the Commission of Independent Education to open the lines of communication between the board and the schools. Mr. Lombardi also agreed that Florida should allow for reciprocity with other states. He explained his concerns with an apprenticeship program including illegal payments by apprentices to barbers for application certifications without actual apprenticeship or training.

Examination Committee/Ms. Jeri Scott, Chair

Ms. Scott mentioned the letter received from the Joint Administrative Procedures Committee (JAPC) regarding the amendments to rules 61G3-16.001, F.A.C. – Barber license; 61G3-16.0010, F.A.C. – Examination for Barber Licensure; 61G3-16.006, F.A.C. – Restricted Barber License; and 61G3-16.007, F.A.C. – Examination for Restricted Licensure. Ms. Scott prepared adjustments to the rules and one version was included in the supplemental information and another version was distributed by Ms. Scott at the board meeting. After discussion by the board and with Ms. Glover's assistance, Mr. Wilson moved to approve the changes to rules 61G3-16.001, F.A.C., and 61G3-16.006, F.A.C., as provided in the supplemental information. Vice Chair White seconded the motion and the motion passed unanimously. Ms. Glover will take care of the technical changes to rules 61G3-16.006, F.A.C., and 61G3-16.007, F.A.C., as listed in the JAPC letter.

Budget Committee/Mr. Robert Collins, Chair

Mr. Collins indicated that Ms. Malone will discuss the board's financial statements in her report.

Newsletter Committee/VACANT, Chair

There was no newsletter report.

Continuing Education Committee/Mr. Herman White, Chair

Vice Chair White had no report.

New Business

Mr. Wilson suggested the shaving portion of the examination be optional and should an examination candidate elect to perform the shaving service, they possibly be given the opportunity of extra credit points for the shave service. Ms. Scott reminded Mr. Wilson that the shave service is being deleted from the practical examination pursuant to the recently filed examination rules and that the shave service information will be included on the written examination.

Ms. Malone informed the board that the department will pursue limited legislation during the 2004 legislative session. She added that the board's proposal to increase the statutory fee cap from \$100 to \$200 in section 476.192(1)(a), Florida Statutes, will not, therefore, be carried by the department in the 2004 legislative session. She stated that the board can seek separate sponsorship for this legislative initiative. She reminded the board that they have recently increased the barbershop renewal and the barbershop delinquent renewal fees to increase revenue. Ms. Malone mentioned that the cost to applicants to take the computer-based examination has recently decreased from \$13 per hour to \$9 per hour. She added that the board can increase the application fees to offset the decrease in the computer-based testing fee and this will not increase the overall cost to the applicant. She suggested the following changes: Increase the barber examination and reexamination application fee for the written portion of the examination from \$55.50 to \$61.50 and decrease the examination fee to be paid to the professional testing service from \$19.50 to \$13.50; increase the restricted barber examination and reexamination application fee for the written portion of the examination from \$68.50 to \$70.50 and decrease the examination fee to be paid to the professional testing service from \$6.50 to \$4.50. Based on this information, Mr. Wilson moved to amend rules 61G3-20.002(2)(a)2 and 61G3-20.003(1)(b)2, F.A.C., as stated by Ms. Malone. Vice Chair White seconded the motion and the motion passed unanimously. Ms. Glover will file the appropriate paperwork to effectuate these changes.

Chair Magda asked that the following items be placed on the next board meeting agenda for discussion: reciprocity, barbershop inspections by county health departments, and barber schools.

Ms. Malone mentioned an email she received from Mr. David McQuat of the Department of Education. He indicated he recently inspected Techni-Pro in Boynton Beach, and this school currently offers eight different programs. He added that there are only 2 barber students currently enrolled in this school's barbering program.

Old Business

Chair Magda asked that barber apprentices; barbering instructors and barbering schools/chapter 1005, Florida Statutes; and barbering definitions be placed on the next board meeting agenda for discussion.

Chair Magda indicated the consistent need to increase the barber licensee base. He added that barbering needs to be promoted in schools. He also suggested that schools attend Florida Barbers' Board meetings to obtain their assistance in garnering support for the barbering profession.

Other Business

Executive Director Report

Ms. Malone mentioned the board's year end financial statement included in the agenda. She added that the Legislature swept the Professional Regulation Trust Fund (PRTF) during the last fiscal year and the portion paid by the Florida Barbers' Board was \$15,000. Ms. Malone informed the board that the Legislature has again swept the PRTF this fiscal year and she is uncertain what the Florida Barbers' Board portion will be. Ms. Scott inquired about the quarterly financial statement for the first quarter of the current fiscal year and when it will be provided to the board. She added that these reports are statutorily required to be provided to the board. Chair Magda expressed his displeasure with excuses given by the department for not providing this information to the board. Ms. Malone stated that she will provide the board with the financial report as soon as she receives it. Ms. Malone will include in the next board meeting agenda information supplied by Mr. Ken Oliver to the board at their August 2003 board meeting. Ms. Malone mentioned the financial statement definitions contained in the agenda. Chair Magda asked Ms. Malone to inquire as to how long the board will be charged with the reengineering project costs and report her findings to the board at the next meeting.

Ms. Malone informed the board that a copy of section 455.339, Florida Statutes, was included in the board meeting agenda to remind board members to properly dispose of board meeting materials.

Ms. Malone advised the board that computer-based testing resumed October 14, 2003.

Ms. Malone mentioned the dialogue she has been having with the Commission for Independent Education regarding barbering school visits. She added that if board members are interested in participating in a school visit, they should let her know and she will contact the Commission about scheduling an on-site visit.

Ms. Malone mentioned the letters to Ms. Maya Thomas and Mr. Charbel Antonios included in the agenda for informational purposes.

Ms. Malone reminded the board members that should they have any questions with any of the board meeting agenda materials, they should contact her prior to the board meeting so that their questions can adequately be addressed.

Board Attorney Report

Ms. Glover mentioned the rules report she distributed at the board meeting and indicated it was for informational purposes. She added that the board's changes to increase the fees in rules 61G3-20.010, F.A.C. and 61G3-20.0105, F.A.C., have been filed. She informed the board that she will make the changes approved by the board at this meeting to rules 61G3-16.001, F.A.C., and 61G3-16.006, F.A.C., and she will take

care of the technical changes to rules 61G3-16.006, F.A.C., and 61G3-16.007, F.A.C.

Division of Regulation

Ms. Malone referred the board members to the complaints and investigations report included in the supplemental information and indicated this report was for informational purposes.

Bureau of Education and Testing

Ms. Malone referred to the report included in the agenda relating to practical examinations administered this fiscal year. Chair Magda mentioned the increase in the pass rate. Ms. Scott asked Ms. Malone to have the Bureau of Education and Testing detail the report to include first time examination candidates and reexamination candidates and include this information in the next board meeting agenda.

Board Member Report/ Comments

Vice Chair White mentioned his recent trip to the National Association of Barber Boards of America meeting in Las Vegas, Nevada. He added that it was a very informative conference. He encouraged others to attend the meeting next year in Reno, Nevada.

Chairperson Report/Comments

Chair Magda had no additional comments.

Dates/Locations of Future Board Meetings

The board agreed to conduct the next board meeting in Miami on Sunday, February 22, 2004, at 9 a.m.

There being no further business, the meeting was adjourned at approximately 1:50 p.m.

JM/rb