

MINUTES

**FLORIDA BARBERS' BOARD
Department of Business and Professional Regulation
AmeriSuites Orlando Convention Center
8741 International Drive
Orlando, Florida 32819
Monday, May 3, 2004
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
Char Feliciano
Jeri Scott

Other Persons Present

Julie Malone, Executive Director, DBPR
Diane Guillemette, Assistant Attorney General, Department of Legal Affairs
Drew Winters, Assistant General Counsel, Office of the General Counsel, DBPR
Susan Wilkinson, Assistant General Counsel, Office of the General Counsel, DBPR
Lyra Erath, Psychometrician, Bureau of Education and Testing, DBPR
Robyn Barineau, Government Analyst, DBPR

Interested Parties Present

Jessa Drummond, Court Reporter
Eddie Stewart
Carol Collins
Bruce Leger, L&B Barbershop
Jose Crespo, Respondent

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

Approval of Minutes: February 22, 2004

Ms. Jeri Scott moved to accept the minutes from the February 22, 2004, board meeting, as presented. Mr. Herman White, Vice Chair, seconded the motion and the motion passed unanimously.

Disciplinary Matters

Recommended Order

James F. Smith vs. DBPR, Bureau of Education and Testing;
DOAH Case No. 03-4856

Mr. Drew Winters, Assistant General Counsel, informed the board that Mr. Smith failed the restricted barber examination. Mr. Smith subsequently challenged several portions of the examination and the matter was forwarded to the Division of Administrative Hearings for hearing by an Administrative Law Judge. On April 16, 2004, the Administrative Law Judge issued a Recommended Order confirming Mr. Smith's examination score and dismissing his examination challenge. Mr. Winters added that the department suggested the board accept the findings of fact and conclusions of law and adopt the Recommended Order in toto. Vice Chair White moved to accept the findings of fact and conclusions of law and accept the Recommended Order in its entirety. Ms. Scott seconded the motion and the motion passed unanimously.

Informal Hearings

Frank Guidice; Lake Worth; Case No. 2002-015028

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; and a violation of section 476.204(1)(f), in that it is unlawful for any person to impersonate any other license holder of like or different name. The department suggested assessing a fine of \$1,000 and costs of \$124.30. Vice Chair White moved that the board find that the Respondent was properly served with the Administrative Complaint and elected not to dispute the alleged facts, that there is competent and substantial evidence in the investigative file to support the allegations, that the Respondent committed the offenses as outlined in the Administrative Complaint, and that the board impose a penalty of a \$1,000 fine and costs of \$124.30. Ms. Scott seconded the motion and the motion passed unanimously.

Jose Crespo; Largo; Case No. 2002-013940

Mr. Winters informed the board that pages 73 through 83 of the agenda should be considered with this case rather than with the case against John A. Henry, d/b/a J. Henry Barbershop. 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; and a violation of section 476.204(1)(f), in that it is unlawful for any person to impersonate any other license holder of like or different name. The department suggested assessing a fine of \$1,000 and costs of \$147.63. The Respondent requested a payment plan. Mr. Jose Crespo was present and admitted to not having a license and utilizing another licensee's license when confronted by the department's inspector. He added that he is currently in barbering school and has been enrolled since May 2003. Vice Chair White moved that the board find that the Respondent was properly served with the Administrative Complaint and elected not to dispute the alleged facts, that there is competent and substantial evidence in the investigative file to support the allegations, that the Respondent committed the offenses as outlined in the Administrative Complaint, and that the board impose a penalty of a \$500 fine and costs of \$147.43, allowing Mr. Crespo to pay this matter in full over six months as follows: first

payment of \$147.43 and five payments of \$100 each month thereafter. Ms. Julie Malone, Executive Director, approved the six-month payment plan. Ms. Char Feliciano seconded the motion. Vice Chair White, Mr. Robert Collins and Ms. Feliciano voted in favor of the motion. Chair Magda and Ms. Scott voted against the motion. The motion passed with a majority vote.

John A Henry, d/b/a J. Henry Barbershop; Orlando; Case No. 2003-061565

The Administrative Complaint charged the Respondent with a violation of section 476.204(1)(j), Florida Statutes, in that it is unlawful for any person to violate or refuse to comply with any provisions of this chapter or Chapter 455 or a rule or final order of the board. The department suggested assessing a fine of \$500 and costs of \$123.81. Vice Chair White moved that the board find that the Respondent was properly served with the Administrative Complaint and elected not to dispute the alleged facts, that there is competent and substantial evidence in the investigative file to support the allegations, that the Respondent committed the offenses as outlined in the Administrative Complaint, and that the board impose a penalty of a \$500 fine, costs of \$123.81, and require the Respondent to pay the outstanding citation of \$250 for case no. 2003-060693. Ms. Scott seconded the motion and the motion passed unanimously.

Motion for Waiver of Rights and Final Order

Cheri Lynn Richardson; Delray Beach; Case No. 2003-074970

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 \$400 and costs of \$92.03. Vice Chair Herman White moved that the board find that the Respondent was properly served with the Administrative Complaint, the Respondent was in default, the board accept the allegations as stated in the Administrative Complaint and adopt them as the findings of fact and conclusions of law of the board, and impose a penalty of a \$400 fine and costs of \$92.03. Ms. Scott seconded the motion and the motion passed unanimously.

Settlement Stipulation

Brown's Barber Shop; Monticello; Case No. 2003-062783

The Administrative Complaint charged the Respondent 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 a penalty of voluntary relinquishment of the barbershop license. Vice Chair White moved that the board adopt the stipulation of the parties as the board's final action in this matter and incorporate it and all of its terms into a final order. 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 56 barber cases in the legal section. He added that

Ms. Susan Wilkinson, Assistant General Counsel, would be prosecuting future barber cases and that he will assist her in the transition.

Applications

Indian River Community College

Provider Application

Course Application

Aids and Barbering – 2-4 Hours

Live Group Study

Vice Chair White moved to approve the provider application. Mr. Collins seconded the motion and the motion passed unanimously.

Vice Chair White moved to approve the course application. Ms. Scott seconded the motion and the motion passed unanimously.

Committee Reports

Legislative Committee/Ms. Jeri Scott, Chair

Ms. Scott distributed materials relating to barber schools and barbering instructors. She added that in 1983, the board did not have control over barber schools. Ms. Scott suggested the board creating an apprenticeship program whereby students would be allowed to obtain a restricted barber license after they attend school, serve an apprenticeship, and pass the restricted barber examination. The board discussed their dislike with the failed legislative proposal sponsored by Rep. Harper relating to apprenticeship programs. Vice Chair White suggested students attend school in the morning and serve an apprenticeship after school, in the afternoon and/or evenings. He added that it is imperative that the program be regulated with student accountability on a daily basis. Ms. Scott also indicated that the barbers sponsoring the apprentices should be regulated and that there should be a ratio of one sponsor for one student apprentice. Ms. Malone added that input will be necessary from the Commission for Independent Education on this proposal and that board costs would increase to create an apprenticeship program. Ms. Lyra Erath, Pyschometrician from the Bureau of Education of Testing, introduced herself and suggested the student teacher model used by the Department of Education be reviewed for possible assistance with creating an apprenticeship program. Vice Chair White also suggested looking at the public school's DCT program model for potential information in creating an apprenticeship program. Mr. Eddie Stewart mentioned the need for students to have the ability to work to support themselves while attending school and apprenticeships might help students earn a living while receiving training. Ms. Scott suggested creating a sponsor license and an apprentice license which would generate licensing fees to support this initiative. Ms. Diane Guillemette, Assistant Attorney General, solicited assistance from all the members in creating this language.

Examination Committee/Ms. Char Feliciano, Chair

Ms. Feliciano had no report.

Budget Committee/Mr. Robert Collins, Chair

Mr. Collins gave a brief comparison of the revenue and expenses for the quarterly financial statement ending December 31, 2003, compared to the quarter ending December 31, 2002. Chair Magda expressed his displeasure with not having the quarterly financial statement ending March 31, 2004. He asked Ms. Malone to provide him with names, addresses and telephone numbers of individuals he may contact regarding the overdue quarterly financial statements. Ms. Malone mentioned the letter contained in the agenda addressed to Chair Magda from Deputy Secretary Julie Baker regarding the cash sweep of the Professional Regulation Trust Fund. She informed the board that their operating account was not swept but that \$72,893 was swept from the board's unlicensed activity fund. Ms. Malone reported that the Legislature will not sweep any cash from the Professional Regulation Trust Fund for the 2004-2005 fiscal year.

Newsletter Committee/VACANT, Chair

Ms. Malone reported to the board that she is currently working on the board newsletter. She distributed a copy of the draft newsletter to the board for review. She hopes to provide the newsletter to all barbershops in the near future, and the newsletter will also be posted on the board's web page. The board asked Ms. Malone to include information in the newsletter asking barbershops to post the newsletter in their barbershops.

Continuing Education Committee/Mr. Herman White, Chair

Vice Chair White had no report.

Old Business

Barbering Definitions

Chair Magda asked that the members be prepared to discuss in detail any possible changes to the barbering definitions at the next board meeting.

Reciprocity

The board will forego this initiative at this time but will discuss this matter at the November 2004 board meeting.

Standardization

The board asked that they be utilized for the hands-on portion of Standardization. Ms. Erath will utilize the board members for the haircut portion of Standardization. Ms. Erath stressed the importance of Standardization with the newly effective examination rules. She mentioned that the grading process will change and that it is important for the examiners to understand the new rules. Ms. Erath indicated that the haircut and sanitation portions of the practical examination will be critical and these two examination portions will be assessed higher point values.

The board agreed to conduct Standardization on Sunday, August 1, 2004, at 9 a.m., in Orlando; a Legislative Workshop on Sunday, August 1, 2004, at 2 p.m., in Orlando; and the next board meeting on Monday, August 2, 2004, at 9 a.m., in Orlando.

New Business

There was no new business for discussion by the board.

Other Business

Executive Director Report

Ms. Malone provided a copy of her letter to Mr. Kenneth Kirkpatrick of the National Association of Barber Boards of America (NABBA) dated March 17, 2004, correcting the minutes of the NABBA Annual Conference Meeting.

Ms. Malone referred the board to information distributed regarding Mr. Guido Verdone's request to have the barber written examination translated into Italian. After review, Chair Magda moved to deny Mr. Verdone's request as it is not in the public's best interest to translate the barber written examination into Italian based on the percentage of individuals in Florida that speak English. Ms. Scott seconded the motion and the motion passed unanimously.

Ms. Malone informed the board that she received materials relating to the September 2004 NABBA Conference in Reno, Nevada. She added that hotel reservations must be made by August 16. Chair Magda moved to send one board member to the conference if funds are per the board's budget. Ms. Feliciano seconded the motion and the motion passed unanimously. The board agreed that Chair Magda should be the board's representative at the conference.

Board Attorney Report

Ms. Guillemette informed the board that Rule 61G3-20.002(2), F.A.C., was reopened for rule development. Ms. Malone interjected that with the recent examination rule changes, the cost to the candidate for the restricted barber written examination will remain the same but the amount to the department and to the vendor need to be adjusted. She added that the amount to the department should be adjusted to \$61.50 and the amount to the testing vendor should be \$13.50, which are the amounts the full barber candidates currently pay. Ms. Scott moved to adjust the restricted barber written examination fee to the department from \$70.50 to \$61.50 and the amount to the testing vendor from \$4.50 to \$13.50. Ms. Feliciano seconded the motion and the motion passed unanimously.

Ms. Guillemette advised the board that the rules report, the letter to Ms. Suzanne Printy and the Notices of Change were included in the agenda for informational purposes.

Ms. Guillemette gave a brief presentation on the Domestic Violence Initiative sponsored by the Attorney General's Office. Ms. Guillemette stated that a good place to target domestic violence situations is cosmetology salons and barbershops. The Attorney General's Office is currently training individuals in various counties to speak to salon and shop employees about recognizing domestic violence situations. She added that there is no encouragement to become counselors in these type matters but to provide abused individuals with tools for obtaining assistance. Ms. Guillemette mentioned the possibility of creating continuing education credit for individuals who take the domestic violence training.

Regulation

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

Bureau of Education and Testing

The Bureau of Education and Testing had no additional report. The board asked Ms. Malone to send Ms. Sherri Farner a thank you letter for her assistance and support in working with the board.

Board Member Reports/Comments

The board members had no additional reports or comments.

Chairperson Report/Comments

Chair Magda had no additional report or comments.

Public Comments

There were no public comments.

Elections

Ms. Scott and Mr. Collins nominated Vice Chair White as Chair of the Florida Barbers Board. Vice Chair White thanked Ms. Scott and Mr. Collins but declined the nomination. Vice Chair White moved to reelect Chair Magda as Chair of the Florida Barbers' Board. Ms. Scott seconded the motion and the motion passed unanimously.

Ms. Scott moved to reelect Vice Chair White as Vice Chair of the Florida Barbers' Board. Chair Magda seconded the motion and the motion passed unanimously.

Old Business (continued)

Apprenticeship (continued)

Vice Chair White suggested a student receive the first 250 hours of his training in school learning the basic fundamentals of barbering including skills, sanitation, etc. He suggested for the required hours from 250 to 500, the student attend school for three hours each day and then receive hands-on training for the remainder of the day or evening by an approved sponsor in an approved barbershop, and receive compensation for their services. For the required hours from 500 to 1,200, the student should attend school for one hour each day and then receive hands-on training for the remainder of the day or evening by an approved sponsor in an approved barbershop, and receive compensation for their services. Ms. Guillemette will research other states apprenticeship models, possibly increasing hours to 1,500 or 1,800, and provide board members with her research for their review and comment. Ms. Malone will provide Ms. Guillemette with former board member Mr. Daryl Wilson's research on apprenticeships in other states. Ms. Guillemette stressed to the board the importance of their comments as quickly as possible so that some language can be drafted and ready for the August Legislative Workshop.

Barbering Schools

Ms. Guillemette will research former laws and rules and the Commission for Independent Education's laws and rules to determine how the barbering schools can be brought back under the purview of the Florida Barbers' Board. She will provide this information to the board members for review and comment and asked the board to return their comments as soon as possible so that some language can be drafted and ready for the August Legislative Workshop.

The board agreed that their prioritized legislative initiatives for the 2005 legislative session are: Barbering schools; apprenticeships; and barbering instructors.

Ms. Erath asked the board about other examination sites and how she should proceed. After some discussion, the board asked Ms. Erath to contact Mr. Frank Capostagno regarding the possibility of using his school as an Orlando examination site. The board also asked Ms. Erath to contact Mr. Jackie Lombardi about using his school in the South Florida area as an examination site and provide the board with costs associated to administer an examination in South Florida.

There being no further business, the meeting was adjourned at approximately 2:10 p.m.

JM/rb