

# **MINUTES**

**FLORIDA BARBERS' BOARD  
Department of Business and Professional Regulation  
The Florida Mall Hotel  
1500 Sand Lake Road  
Orlando, Florida 32809  
Monday, August 2, 2004  
9:00 a.m.**

## **General Business Meeting**

The General Business 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  
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**

Letha Wheeler Court Reporter  
Andrew Myers, Commission for Independent Education  
Joe Barfield, Barber Examiner  
Scott Kinney, Barber Examiner  
Georgia Osborne, Florida Academy of Hair  
Jackie Lombardi, Florida Barber Academy  
Frank Capostagno, Academy of Professional Careers  
Luvenia McNair, Beanies Beauty and Barber Academy

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

## **Approval of Minutes: May 3, 2004**

Ms. Jeri Scott moved to accept the minutes from the May 3, 2004, board meeting, as presented. Mr. Herman White, Vice Chair, seconded the motion and the motion passed unanimously.

## **Disciplinary Matters**

Ms. Guillemette 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.

### **Motion for Waiver of Rights and Final Order**

#### **Playboyzz; West Palm Beach; Case No. 2003-080754**

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 assessing a fine of \$500 and costs of \$151.63. Vice Chair White moved that the board find the Respondent was properly served with the Administrative Complaint, that the Respondent failed to respond within 21 days, thereby waiving their right to elect a hearing in this matter, that the board accept the allegations as stated in the Administrative Complaint and adopt them as the findings of fact and conclusions of law of this board, and that the board impose the penalty as recommended in the Petitioner's Motion for Finding of Waiver of Respondent's Right and for Final Order of \$500 and costs of \$151.63. Ms. Char Feliciano seconded the motion and the motion passed unanimously.

#### **Joel Junco; Pembroke Pines; Case No. 2003-080421**

This case was pulled from the agenda as the department is currently negotiating a Settlement Stipulation in this matter. This case will be presented at a later board meeting.

#### **Melvin B. Dale, d/b/a Clean Cut Barbershop; North Lauderdale; Case No. 2003-076704**

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; and a violation of section 476.194(1)(b), Florida Statutes, in that it is unlawful for any person to engage in willful or repeated violations of this act or of any of the rules adopted by the board. The department suggested assessing a fine of \$1,000 and costs of \$118.51. Ms. Scott moved that the board find the Respondent was properly served with the Administrative Complaint, that the Respondent failed to respond within 21 days, thereby waiving their right to elect a hearing in this matter, that the board accept the allegations as stated in the Administrative Complaint and adopt them as the findings of fact and conclusions of law of this board, and that the board impose the penalty as recommended in the Petitioner's Motion for Finding of Waiver of Respondent's Right and for Final Order of \$1,000 and costs of \$118.51. Vice Chair White seconded the motion and the motion passed unanimously.

Cee & Cee Barbershop; West Palm Beach; Case No. 2003-080030

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; and multiple violations 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. The department suggested assessing a fine of \$1,500 and costs of \$192.15. Vice Chair White moved that the board find the Respondent was properly served with the Administrative Complaint, that the Respondent failed to respond within 21 days, thereby waiving their right to elect a hearing in this matter, that the board accept the allegations as stated in the Administrative Complaint and adopt them as the findings of fact and conclusions of law of this board, and that the board impose the penalty as recommended in the Petitioner's Motion for Finding of Waiver of Respondent's Right and for Final Order of \$1,500 and costs of \$192.15. Ms. Feliciano seconded the motion and the motion passed unanimously.

Jim & Joe's Barbershop; Hollywood; Case No. 2003-089069

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 \$187.36. Vice Chair White moved that the board find the Respondent was properly served with the Administrative Complaint, that the Respondent failed to respond within 21 days, thereby waiving their right to elect a hearing in this matter, that the board accept the allegations as stated in the Administrative Complaint and adopt them as the findings of fact and conclusions of law of this board, and that the board impose the penalty as recommended in the Petitioner's Motion for Finding of Waiver of Respondent's Right and for Final Order of \$500 and costs of \$187.36. Ms. Scott seconded the motion and the motion passed unanimously.

Marlene Theodore; West Palm Beach; Case No. 2003-052604

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; and section 476.194(1)(b), Florida Statutes, in that it is unlawful for any person to engage in willful or repeated violations of this act or of any of the rules adopted by the board. The department suggested assessing a fine of \$1,000 and costs of \$196.16. Ms. Scott moved that the board find the Respondent was properly served with the Administrative Complaint, that the Respondent failed to respond within 21 days, thereby waiving their right to elect a hearing in this matter, that the board accept the allegations as stated in the Administrative Complaint and adopt them as the findings of fact and conclusions of law of this board, and that the board impose the penalty as recommended in the Petitioner's Motion for Finding of Waiver of Respondent's Right and for Final Order of \$1,000 and costs of \$196.16. Vice Chair White seconded the motion and the motion passed unanimously.

Chair Magda asked Ms. Susan Wilkinson, Assistant General Counsel, if she will indicate on future board agenda memorandums whether or not prior cases have been paid. Ms. Wilkinson agreed to comply with Chair Magda's request.

### **Applications**

There were no applications for consideration by the board.

### **Department Attorney Report**

Ms. Wilkinson reported that as of July 30, 2004, there are currently 48 barber cases in the legal section. Chair Magda asked that a Department Attorney Report be included in future board meeting agendas. Ms. Wilkinson agreed to comply with Chair Magda's request..

### **Committee Reports**

#### **Legislative Committee/Ms. Jeri Scott, Chair**

Ms. Scott deferred to Old Business for legislative discussions based on the board's Legislative Workshop conducted on August 1, 2004.

#### **Examination Committee/Ms. Char Feliciano, Chair**

Ms. Feliciano had no report.

#### **Budget Committee/Mr. Robert Collins, Chair**

Mr. Robert Collins referred board members to page 241 of the agenda which was a letter to the board from then Director of the Division of Professions and Regulation Mark Whitten. Mr. Collins reminded board members that a deadline to ask for additional funding for anticipated needs is August 6, 2004. Ms. Julie Malone, Executive Director, explained that this letter was an informal approach to determine the financial priorities of the boards for fiscal year 2004-2005. She added that any questions about board financial needs should be directed to Acting Deputy Secretary Mark Whitten. The board asked Ms. Malone to relay to the department the potential for additional inspectors, investigators and board staff should the proposed apprenticeship program legislation become law.

Ms. Malone informed the board that the department provided the Board of Cosmetology with a five-year revenue projection at their last board meeting. The board asked that they be provided with a similar document at their next board meeting.

#### **Newsletter Committee/VACANT, Chair**

Ms. Malone referred board members to page 259 of the agenda which is the recently published board newsletter. She added that the newsletter was mailed to all barbershops and was also posted on the board's webpage.

#### **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 November 2004 board meeting.

### **Reciprocity**

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

### **Barbering Schools**

Ms. Guillemette reminded the board of Ms. Nancy Bradley's statement from the August 1, 2004, Legislative Workshop that the Commission for Independent Education unanimously voted at their July 19, 2004, meeting to keep non-public schools under their purview. Ms. Guillemette reminded the board that Ms. Bradley indicated the Commission would willingly entertain any concerns from the board regarding schools.

### **Barbering Instructors**

Ms. Guillemette reminded the board that the Commission for Independent Education currently does not license any other instructors at non-public schools. She added that the Commission's administrative rules require instructors to hold a professional license in the area they are teaching (if required by the state) and a minimum of three years practical experience in their field. Ms. Guillemette mentioned that schools individually certify their own instructors. She reminded the board that Ms. Bradley indicated the Commission would willingly entertain any concerns from the board regarding instructors. Ms. Scott reminded the board that the reason this issue was brought before them was because there had been in the past many cosmetologists teaching barbering courses and that may have attributed to the large barber applicant failure rate. Mr. Andrew Myers of the Commission for Independent Education informed the board that a background check is conducted on all instructors and that the Commission recently amended their rules to require eight hours of continuing education for all instructors per year. Mr. Myers added that the field investigators generally conduct annual inspections on schools and their instructors; if there are no problems at an annual inspection, the next inspection may not take place for two years. Vice Chair White asked that the Commission work with the board on instructor concerns and added that he believes that instructors should remain under the purview of the Commission for Independent Education. Chair Magda reiterated the need for a more open line of communication between the board and the schools and reminded the board of the Commission's past-unfulfilled promises. Ms. Scott informed the board that when instructors were licensed by the department in the past, the barber applicant exam pass ratio was much higher than the current pass ratio. Mr. Jackie Lombardi, Florida Barber Academy, informed the board that he never receives the pass/fail ratio on his students and this would be helpful to all schools. He added that the Commission for Independent Education has increased their inspections and that his school has been inspected two times this year. Mr. Lombardi mentioned that the Commission's inspectors have reviewed his faculty records and personally checked his faculty's credentials. Chair Magda asked Mr. Myers if school inspection records are public record and if so, if the board can be provided with a copy of the inspection of all the barber schools. Mr. Myers will make this request of Mr. Sam Ferguson, Executive Director of the Commission for Independent Education, and Ms.

Guillemette will also check with the Commission's Assistant Attorney General regarding this request.

### **Apprenticeship**

Ms. Guillemette advised the board that the legislation originally drafted and filed by Representative Harper during the 2004 legislative session could be used as a guide for apprenticeship legislation supported by the board. She suggested keeping the language as general as possible to allow for detail to be incorporated by the board's administrative rules. Ms. Guillemette also suggested defining apprentice, apprentice sponsor and apprenticeship program in the legislation. She added that fees associated with registering the apprentice and the apprentice sponsor can be addressed by rule but that a statutory fee cap will need to be established in the legislation. She suggested \$100 as the statutory fee cap since full barbers and restricted barbers have statutory fee caps for licensure of \$100. Mr. Lombardi interjected his belief that the department will be overwhelmed by barber apprentice applicants should this legislation become law. Vice Chair White recommended that there be a specific number of hours an apprentice must attend school and a specific number of hours the apprentice must work in a barbershop. He added that records accounting for apprentice time served in the barbershop with an apprentice sponsor should be signed by the sponsors and the schools and that the schools should be responsible for maintaining all records. The board agreed that an apprentice should complete a minimum of 2,000 hours and complete all requirements of the apprenticeship program. Mr. Frank Capostagno, Academy of Professional Careers, informed the board that some sort of mechanism will need to be in place to eliminate students calling in sick for school only then to appear at the barbershop to work. Chair Magda added that schools would keep control of these types of situations and the situation would be addressed by the board's administrative rules. Mr. Capostagno stated that he would like to see the breakdown of responsibilities and accountability. Mr. Lombardi informed the board that an apprenticeship program would help schools with current attendance problems. He added that federal funding would be based on attendance. The board agreed that an apprentice registration would be valid for 24 months unless the registrant presents the board with good cause why they should be granted a 12-month extension. Ms. Malone reminded the board that a separate sponsor would be necessary to move this legislation as it is her understanding that the department will only pursue legislative initiatives during the 2005 legislative session that effect the entire department. Ms. Scott moved to submit the apprenticeship legislation package with suggested changes. Ms. Feliciano seconded the motion and the motion passed unanimously. Ms. Guillemette will provide Ms. Malone with a copy of the finalized apprenticeship legislation by August 5, 2004. Mr. Capostagno asked about a legislative liaison and Ms. Malone reported that Ms. Candace Jones is the department's Legislative Affairs Director. Ms. Malone will have a copy of the drafted legislation provided to the Commission for Independent Education and the Department of Education for their review.

### **New Business**

#### **Application Review Committee**

Ms. Malone advised the board that this topic was placed on the agenda because of a concern with out of country endorsement applications. Ms. Malone stated that all barber out of country endorsement applications were currently being brought to the board office for a credentials review before the Central Intake Unit proceeded. Ms. Malone spoke to Chair Magda about this concern and they agreed that an Applications Review Committee could be formed to review these applications and determine whether or not they meet the minimum requirements

for endorsement. Chair Magda moved to appoint Ms. Scott as Chair of the Applications Review Committee. Vice Chair White seconded the motion and the motion passed unanimously.

## **Other Business**

### **Executive Director Report**

Ms. Malone informed the board that since Chair Magda was not going to be able to attend the National Association of Barber Boards of America (NABBA) Annual Conference in September 2004, they will need to vote again on sending another delegate. Ms. Scott moved to send Vice Chair White to the NABBA Annual Conference as the board's representative. Ms. Feliciano seconded the motion and the motion passed unanimously. Ms. Malone will contact Mr. Kirkpatrick of NABBA and let him know Vice Chair White will be attending the conference and will speak on behalf of the Florida Barbers' Board. Vice Chair White will inquire of the costs associated with conducting the NABBA Annual Conference in the future and what costs the hosting state would be responsible for paying. He will report on his attendance at the annual conference and his research on hosting a future annual conference to the board at the November 2004 board meeting. Ms. Guillemette suggested Vice Chair White offer the VISITFLORIDA.com website to NABBA as a planning tool.

Ms. Malone advised the board that the financial statements included in the agenda were for the period ending March 31, 2004. She will include the year ending June 30, 2004, financial statements in the November board meeting agenda. She will also provide the board with a five-year revenue projection at the November board meeting.

Ms. Malone mentioned that the letter sent to Ms. Cheryl Farner and a copy of the recent board newsletter were included in the agenda for informational purposes.

### **Board Attorney Report**

Ms. Guillemette informed the board that the rules report included in the agenda was for informational purposes.

Ms. Guillemette will open all necessary rules for discussion at the November board meeting which may need amending should the apprenticeship legislation become law in the future.

Ms. Guillemette advised the board that the letter to Mr. Guido Verdone included in the agenda was for informational purposes.

### **Regulation**

Ms. Malone informed the board that the Complaints and Investigative Statistics Report for the period July 1, 2003, through May 31, 2004, was included in the agenda for informational purposes.

## **New Business (continued)**

### **Standardization**

Ms. Guillemette instructed the board that Ms. Lyra Erath, Psychometrician, Bureau of Education and Testing, had asked for clarification of rules 61G3-16.0010(5) and 61G3-16.007(4), Florida Administrative Code. Specifically, "...possible points assigned to that **area.**" Ms. Erath has asked that the board define "area". After some discussion, the board agreed that "area" in these rules means "criteria". Ms. Guillemette will send Ms. Erath a letter outlining the board's position and will open these two rules for discussion at the next board meeting.

Ms. Erath asked about the two contracted examiners that did not appear at the Standardization on August 1, 2004, and how the board wanted to address their absence. The board agreed that Ms. Erath should contact these two examiners asking them to submit a letter as to why they were not present and this information will be discussed and considered at the November 2004 board meeting. If necessary, Ms. Scott offered her time to administer standardization to the two absent examiners.

Ms. Erath mentioned that two Central Florida schools have contacted her about utilizing their sites for practical examinations at no cost to the board. She asked that the board tour these schools, if possible. The schools are the Paul Mitchell School and Orange County Westside Technical. Mr. Capostagno offered his school for administration of practical examinations at no cost to the board.

The board asked Ms. Erath to begin soliciting South Florida examiners. Chair Magda and Ms. Feliciano will look for free exam sites/schools in the South Florida area. Mr. Lombardi offered his school for administration of practical examinations at no cost to the board.

Ms. Erath informed the board that the practical and written examinations incorporating the new barber rules will be launched on August 16, 2004.

Ms. Erath distributed exam content information and asked all board members review the old content information and redefine where they feel the old areas fit under the new content areas. She solicited the board for the information as they are the subject matter experts in their field. She asked the board to provide her or board staff with their comments.

## **Other Business (continued)**

### **Bureau of Education and Testing**

There were no additional comments from the Bureau of Education and Testing.

### **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 additional public comments.

**Dates/Locations of Future Board Meetings**

The board agreed to conduct its next meeting on Monday, November 15, 2004, at 9:00 a.m., in Orlando, Florida.

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

JM/rb