

MINUTES

**FLORIDA BARBERS' BOARD
Department of Business and Professional Regulation
Florida Hotel and Conference Center
1500 Sand Lake Road
Orlando, Florida 32809**

Monday, May 19, 2008 - 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. Herman White, Chair.

Board Members Present

Herman White, Chair
Carl Troup, Vice Chair
Jeri Scott
Robert Collins
Edwin Stewart
Thomas Vaughn

Board Members Absent

Other Persons Present

Robyn Barineau, Executive Director, Department of Business and Professional Regulation
William Oglo, Assistant Attorney General, Department of Legal Affairs
Carrol Cherry, Assistant Attorney General, Department of Legal Affairs
Elizabeth Duffy, Assistant General Counsel, Office of the General Counsel, Department of Business and Professional Regulation
Dana Ewaldt, Government Analyst, Department of Business and Professional Regulation
Mary Deivler, Court Reporter

Interested Parties Present

Floyd Bostic, Respondent
Maura Scali-Sheahan, Florida Community College at Jacksonville

The meeting was opened with a roll call and a quorum was established. Chair White introduced and welcomed the new members, Mr. Edwin Stewart and Mr. Thomas Vaughn.

Approval of Minutes: Meeting of February 25, 2008

Ms. Jeri Scott moved to accept the minutes from the February 25, 2008, board meeting. Mr. Carl Troup, Vice Chair, seconded the motion. The motion passed unanimously.

Disciplinary Matters

Mr. William Oglo, Assistant Attorney General, inquired if all the board members had received their board meeting materials and if the members had reviewed all the materials. All members responded in the affirmative to these questions.

Informal Hearing

Jesse Lima; Riverview; 2007-030464

Regarding Case No. 2007-030464 against Jesse Lima of Riverview, Ms. Elizabeth Duffy, Assistant General Counsel, stated that the Respondent elected an informal hearing, however, the Respondent was not present for the meeting. Ms. Duffy presented the department's case in this matter and suggested assessing a fine of \$500.00 and costs of \$68.82. Ms. Duffy informed the board that the fine and costs were paid in full. Ms. Scott moved that the board find the Respondent was properly served with the Administrative Complaint, that there was competent and substantial evidence to support the allegations as set forth in the Administrative Complaint, that the Respondent committed the offenses as outlined in the Administrative Complaint, and impose a fine of \$500.00 and costs of \$68.82. Vice Chair Troup seconded the motion. The motion passed unanimously.

Floyd's Beauty and Barber Shop; Tallahassee; 2007-049464

Regarding Case No. 2007-049464 against Floyd's Beauty and Barber Shop of Tallahassee, Ms. Duffy noted that the matter was agendaed as a Motion for Waiver of Rights and Final Order, however, since the Respondent was present for the meeting, she requested to proceed as an Informal Hearing. Mr. Floyd Bostic was sworn in by the Court Reporter. Ms. Duffy presented the department's case in the matter and suggested assessing a fine of \$500.00 and costs of \$133. Ms. Duffy informed the board that the fine and costs were paid in full. Ms. Scott moved that the board find the Respondent was properly served with the Administrative Complaint, that there was competent and substantial evidence to support the allegations as set forth in the Administrative Complaint, that the Respondent committed the offenses as outlined in the Administrative Complaint, and impose a fine of \$500.00 and costs of \$133.00. Vice Chair Troup seconded the motion. The motion passed unanimously.

Motions for Waiver of Rights and Final Order

Clippers and Scissors Services; Miami; 2006-040437

Regarding Case No 2006-040437 against Clippers and Scissors Services of Miami, Ms. Duffy requested that this case be pulled from the agenda to be considered at a later date.

Eric V. Rogers; Brandon; 2007-030674

Regarding Case No. 2007-030674 against Eric V. Rogers of Brandon, Ms. Duffy presented the department's case in this matter and suggested assessing a fine of \$500.00 and costs of \$154.21. Ms. Scott moved that the board find the Respondent was properly served with the Administrative Complaint, the Respondent failed to respond within 21 days thereby waiving their right to elect a hearing in the 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 the board and impose a penalty on the Respondent of \$500.00 fine and \$154.21 costs. Vice Chair Troup seconded the motion and the motion passed unanimously.

Unless otherwise stated, by appropriate motion the board found that the Respondent was properly served with the Administrative Complaint, the Respondent failed to respond within 21 days thereby waiving their right to elect a hearing in this matter, 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:

- Anthony J. Andrews, II; Panama City
Case No. 2007-028585
\$1,050.00 fine and \$45.00 costs
- Clifford E. Belle; Gainesville
Case No. 2007-025610
\$1,423.42 fine and \$45.00 costs
- Mary Quiles; Pensacola
Case No. 2007-047914
\$500.00 fine and \$52.14 costs
- Moise Leveille; Boynton Beach
Case No. 2007-029156
\$500.00 fine and \$100.00 costs

Settlement Stipulations

Unless otherwise stated, by appropriate motion the board found the Respondent to have committed the offenses as alleged in the Administrative Complaint and adopted the Stipulation of the parties as the board's final action regarding a penalty to be imposed on the Respondent as follows:

- Cortney Lowery; West Palm Beach
Case No. 2007-022867
\$1,000.00 fine and \$105.45 costs
- Pedro Abreu; Lake Worth
Case No. 2007-052995
\$1,000.00 fine and \$97.47 costs
- Richard Cole; St. Petersburg
Case No. 2007-028646
\$150.00 fine
- Tyrone Webb; Tampa
Case No. 2007-050974
\$2,050.00 fine

Prosecuting Attorney's Report

Status Report

Ms. Duffy reported that as of April 23, 2008, there were 61 barber cases in the legal section.

Applications

Out-of-Country Endorsement Applications

Initial Review

Milagros A. Tejas / Cuba

Milagros Tejas submitted a written request to have her endorsement application presented before the board for review since she is unable to satisfy the education evaluation requirement of Rule 61G3-16.005, Florida Administrative Code. Ms. Tejas was not present for the meeting. After review and discussion, Ms. Scott moved that the board deny the application since the documentation provided did not demonstrate completion of course work in the subject of hair structure and chemistry, there was no proof of a written and practical examination and there was no credential evaluation report from a member of the National Association of Credential Evaluation Services

(NACES) as required by Rule 61G3-16.005, Florida Administrative Code. Vice Chair Troup seconded the motion and the motion passed unanimously.

Wilson Ortiz / New York and Dominican Republic

Wilson Ortiz was not present for the meeting. After review, Ms. Scott moved that the board approve the application based on the documentation provided. Vice Chair Troup seconded the motion and the motion passed unanimously.

Luz A. Penagos / Colombia

Luz A. Penagos was not present for the meeting. After review, Ms. Scott moved that the board approve the application based on the documentation provided. Vice Chair Troup seconded the motion and the motion passed unanimously.

Informal Hearing Requests

Armand Satune / Haiti

Armand Satune's out-of-country endorsement application was denied at the February 25, 2008, board meeting since the documentation failed to demonstrate completion of course work covering the subject of hair structure and chemistry as required by Rule 61G3-16.005, Florida Administrative Code. Mr. Satune requested an informal hearing in the application denial matter. Mr. Satune was not present for the meeting. A review of the additional documentation submitted demonstrated completion of the required course work in hair structure and chemistry. Ms. Scott moved that the board approve Mr. Satune for licensure by endorsement. Vice Chair Troup seconded the motion. The motion passed unanimously.

Continuing Education Applications

COEcontinuingeducation.com – HIV/AIDS Infection Control

After review of the course materials, Ms. Scott moved that the board approve the course and provider application from COEcontinuingeducation.com. Vice Chair Troup seconded the motion. The motion passed unanimously.

Old Business

Barber Kiosk from Barberz Zone, Inc.

After the February 25, 2008, board meeting, the board agreed to further research the barbering kiosk concept proposed by Barber Zone, Inc., for discussion at this meeting. The board agreed that the proposed kiosk does not meet the current requirements of a barbershop in accordance with Rule 61G3-19.011, Florida Administrative Code. Several items of the kiosk not meeting the current barbershop requirements are that the public restrooms of the host business could be as much as

500 feet or more away from the kiosk, there are no permanent walls in the kiosk, and the proposed square footage is not sufficient. The board asked Ms. Robyn Barineau, Executive Director, to relay the board's concerns and decision to Mr. Rob Mims of Barber Zone, Inc.

Other Business

Executive Director's Report

Financial Report Period Ending March 31, 2008 – Operating Account

Financial Report Period Ending March 31, 2008 – Unlicensed Activity Account

Ms. Barineau informed the board that as of March 31, 2008, the operating account balance was \$1,211,031 and the unlicensed activity account balance was \$223,500.

Ms. Barineau reviewed the five-year projections for their operating and unlicensed activity accounts and the projection provided by the Budget Office indicates that the board will remain in a positive cash position at least through 2012.

Ms. Barineau reminded the board of the upcoming fee holiday and that all individual license renewal fees will be waived for the 2008 license renewal period with the exception of the \$5 unlicensed activity fee.

National Association of Barber Boards of America 82nd Annual Conference September 13th – 18th, 2008

Ms. Barineau noted that the information regarding the National Association of Barber Boards of America 82nd annual conference was included in the agenda for informational purposes only. Ms. Barineau stated that she has received approval for three individuals to attend the conference.

Barbers' Board Newsletter

The Barbers' Board Newsletter was included in the agenda for informational purposes only.

Board Attorney's Report

Mr. Oglo gave a brief overview of the Sunshine Law and reminded the board members that board materials and board business matters can only be discussed between members at a publicly noticed meeting. Mr. Oglo mentioned that the board members could freely call board staff and the board attorney to ask questions at any time.

Mr. Oglo informed the board that he has accepted another position within state

government and that this was his last meeting. Mr. Oglo thanked the board for the opportunity to work with them. Mr. Oglo introduced Ms. Carrol Cherry who will replace him as board counsel.

Mr. Oglo informed the board that the amendment to Rule 61G3-16.009(1), Florida Administrative Code, Display of License, requiring licensees to laminate a picture on their license for posting at their workstations became effective March 6, 2008.

Mr. Oglo presented the board with a draft to Rule 61G3-16.010, Florida Administrative Code, which more narrowly defined the supervised practice exception since currently there are not specific time parameters set forth in the rule as to how long a student can work after the completion of an examination. The draft amended language is as follows:

(1) Following the completion of both the written and practical portions of the first licensing examination by an applicant for licensure as a barber by examination who has completed the barber training required by Chapter 476, F.S. and Rule 61G3-16.001, F.A.C, the applicant is eligible to practice as a barber and perform barbering services temporarily in a current, actively licensed barbershop under the following conditions:

(a) In the event an applicant obtains passing scores on the first attempt of both the written and practical portions of the examination, the applicant shall be eligible, prior to having the application acted on by the Board, to practice in a licensed barbershop, provided that the applicant post the examination results for both portions of the examination at the work station with a recent photograph affixed thereto.

(b) In the event that the applicant fails to obtain a passing score on either or both of the written or practical portion of the examination on the first attempt, the applicant shall not be eligible to practice under this rule until the applicant:

1. Applies to the Department for authorization to retake the failed portion(s) of the examination; and

2. Presents the holder of the license for the barbershop a copy of both the reexamination application and the examination scheduling authorization letter from the department or the testing vendor.

3. Upon completion of these conditions, the applicant is eligible to practice in a licensed barbershop subject to the provisions of paragraph (c) referenced below, provided that the applicant posts the examination results for both portions of the examination at the work station with a recent photograph affixed thereto. The applicant must discontinue practicing when 180 days have passed from the date the written or practical portion of the first examination was taken, whichever portion was taken earlier, if reexamination has not yet been completed. Under no circumstances shall the applicant be eligible to practice prior to having applied for reexamination and having obtained the examination scheduling authorization letter from the department or testing vendor.

(c) All barbering services performed by the applicant under this exception shall be performed under the supervision of a licensed barber. "Under the supervision of a licensed barber" shall mean that an individual who then holds a current, active Florida license as a barber shall be physically present at all times when the applicant is performing barbering services.

(2) In the event an applicant, who previously failed either or both portions of the examination on the first attempt, fails to obtain a passing score on either or both portions of the second licensure examination, the applicant is no longer eligible to practice as a barber under this exception and must immediately discontinue practicing barbering services until the applicant has been issued a license to practice by the Department.

Ms. Scott moved that the board approve the changes as presented by Board Counsel. Vice Chair Troup seconded the motion. The motion passed unanimously. Ms. Cherry will move forward with the development of the rule.

Regulation Report

Complaints and Investigative Statistics Report July 2007 – March 2008

Ms. Barineau noted that the Complaints and Investigative Statistics Report for July 2007 through March 2008 was included in the agenda for informational purposes.

Bureau of Education and Testing

The barbers' and restricted barbers' written and practical examination statistics were included in the addendum for information purposes.

Board Member Comments

Vice Chair Troup indicated that he is working with the Governor's Office to have September 2008 declared Florida Barber month.

Chairperson Comments

Chair White thanked Mr. Oglo for his assistance and wished him well. Chair White welcomed Ms. Cherry.

Public Comments

Maura Scali-Sheahan, Florida Community College at Jacksonville, presented the board with a proposed supplemental program that would be geared toward individuals who hold a restricted barber's license and who are interested in upgrading to a full barbers' license. The supplemental program would provide licensed restricted barber training hours specifically in chemical services. It was determined that when a licensed restricted barber is applying by examination for the full barber's license, they will be required to retake the practical examination. Ms. Barineau noted that the implementation of the proposed supplemental program will not require any changes or amendments to the board rules.

Dates and Locations of Future Meetings

The board will conduct future meetings as follows:

- Monday, August 18, 2008, 9:00 a.m. in Ft. Lauderdale
- Monday, November 3, 2008, 9:00 a.m. in Orlando

The board agreed to conduct practical examination standardization on Sunday, November 2, 2008, in Orlando in conjunction with the November board meeting.

Adjournment

There being no further business, the meeting was adjourned at 11:15 a.m.