

MINUTES

**FLORIDA BARBERS' BOARD
Department of Business and Professional Regulation
Florida Hotel and Conference Center
1500 Sand Lake Road
Orlando, Florida 32809
Monday, November 13, 2006
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
Jeri Scott
Roland Bordelon

Board Members Absent

Other Persons Present

Simone Marsteller, Secretary of the Department of Business and Professional Regulation (DBPR)
Robyn Barineau, Executive Director, DBPR
Joy Tootle, Assistant Attorney General, Department of Legal Affairs
Charles Tunnichiff, Assistant General Counsel, Office of the General Counsel, DBPR
Tiffany Harrington, Assistant General Counsel, Office of the General Counsel, DBPR
Lyra Erath, Psychometrician, Bureau of Education and Testing, DBPR
Dana Ewaldt, Government Analyst, DBPR
Dianna Garcia, Court Reporter

Interested Parties Present

Jimmy Walker, Respondent
David Blake, Respondent
Chand Harris, Respondent
Lucey Higginbotham, Respondent
Dorothy Higginbotham
Pierre Mar Verna, Respondent
Marangelly Mendez, Respondent
Dennis Abbate, Respondent
Leticia Milazzo, ASM Beauty World
Lynda Calcano, International Services
Frantz Sagaille, Endorsement Applicant
Robert Whyte, Endorsement Applicant
Juan Carlos Calderon, Endorsement Applicant
Francisco Ramos, Translator for Juan Calderon

The meeting was opened with a roll call and a quorum was established. Chair Dave Magda thanked the audience members for attending the meeting. Chair Magda welcomed Ms. Simone Marstiller, Secretary of the Department of Business and Professional Regulation, and thanked her for her interest in attending the Florida Barbers' Board Meeting.

Secretary Marstiller introduced herself and thanked the board for the opportunity to participate in the meeting. Secretary Marstiller informed the board that the department supports the board's efforts in protecting the public. Secretary Marstiller stated her focus and goal for the agency is to increase accountability to all professions and improve/redefine customer service. She welcomes the opportunity to work with the board and invited all board members to contact her with their comments, concerns and suggestions.

Approval of Minutes: August 13, 2006

Ms. Jeri Scott moved to accept the minutes from the August 13, 2006, board meeting. Mr. Herman White, Vice Chair, seconded the motion and the motion passed unanimously.

Approval of Minutes: August 14, 2006

Ms. Scott moved to accept the minutes from the August 14, 2006, board meeting. Vice Chair White seconded the motion and the motion passed unanimously.

Disciplinary Matters

Proposed Recommended Order

David Blake; Sanford; 2005-053910

Mr. David Blake was present for the meeting and was sworn in by the Court Reporter. Mr. Charles Tunncliff, Assistant General Counsel, informed the board that the Administrative Complaint charged the Respondent with a violation of Section 476.194(1)(a), F.S., and suggested assessing a fine of \$500 in line with the Proposed Recommended Order of the Administrative Law Judge. Mr. Blake stated that he had just moved to the area from Washington State, that he was seeking employment, and that he was not working as an employee of the barbershop. Mr. Blake admitted that he was performing a hair cut as part of an employment interview. Ms. Joy Tootle, Assistant Attorney General, reminded Mr. Blake and the board this was not an evidentiary hearing and that the matter was brought before them to either accept or reject the Proposed Recommended Order. Ms. Scott moved that the board accept the facts of finding and conclusions of law and impose the recommended fine of \$500 as stated in the recommended order. Mr. Roland Bordelon seconded the motion. The motion passed unanimously.

Motion for Rehearing

Hall of Fame Barbershop II, Inc.; Coral Springs; 2005-037018

The Administrative Complaint charged the Respondent with a violation of Section 476.194(1)(e)2, F.S., multiple violations of Section 476.204(1)(i), F. S., and a violation of Section 476.194(1)(b), F.S. The barbershop owners, Mr. Dennis Abbate and Ms. Marangelly

Mendez, were present for the meeting and were sworn in by the Court Reporter. Mr. Tunncliff reminded the board that this case was brought before them as a Motion for Waiver of Rights and Final Order at their August 14, 2006, board meeting. The matter was being brought before them again as a Motion for Rehearing since Mr. Abbate claimed the notice of meeting was not received. Mr. Tunncliff presented the department's case and suggested assessing a fine of \$1,500 and costs of \$63.15. Mr. Abbate addressed the board offering his impression of their professionalism and level of education and that he did not view them as tradesmen. It is Mr. Abbate's opinion that kids graduating from barbering school are not receiving quality education and therefore are being left out and uninformed of the Florida barbering laws and rules and he supports the need for an apprenticeship program. Mr. Abbate stated that he was not disputing the facts and will pay all fines and costs in full. Chair Magda recognized Mr. Abbate's concerns and reminded him that it was the board's responsibility to protect the health, safety and welfare of the public and offered the suggestion that Mr. Abbate utilize available opportunities as an attempt to become more involved. Vice Chair White moved that the board find 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 on the Respondent of a \$1,500 fine and costs of \$63.15. Ms. Scott seconded the motion and the motion passed unanimously.

Informal Hearing

Archer Holdings; Miami; 2006-018262

The Administrative Complaint charged the Respondent with a violation of Section 476.194(1)(e)1, F.S. The Respondent was not present for the meeting. Mr. Tunncliff presented the department's case and suggested assessing a fine of \$500 and costs of \$64.83. Vice Chair White moved that the board find 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 on the Respondent of a \$500 and costs of \$64.83. Mr. Bordelon seconded the motion. The motion passed unanimously.

Mr. Jay's; Orlando; 2006-001983

The Administrative Complaint charged the Respondent with multiple violations of Section 476.194(1)(e)2, F.S., and a violation of Section 476.204(1)(i), F.S. Mr. Jimmy Walker was present for the meeting and was sworn in by the Court Reporter. Mr. Tunncliff presented the department's case and suggested assessing a fine of \$500 and costs of \$48.70. Mr. Walker addressed the board requesting a reconsideration of the fine amount as he is a new business owner. Mr. Walker admitted that he allowed two unlicensed individuals to perform barbering services in his barbershop as it was his intention to present them with an employment opportunity and that he misunderstood the supervised practice exception rule. Mr. Walker also presented the board with pictures and receipts as an attempt to provide verification of the corrective actions taken in regard to the inspection report violations. After discussion, Ms. Scott moved that the board find 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 on the Respondent of a \$500 fine and costs of \$48.70. Vice Chair White seconded the motion. Chair Magda opposed the motion. By majority vote, the motion passed assessing the Respondent with a \$500 fine and costs of \$48.70.

Satey's Barbershop; Titusville; 2005-058145

The Administrative Complaint charged the Respondent with a violation of Section 476.204(1)(i), F.S., and a violation of Section 476.194(1)(b), F.S. Ms. Lucy Higginbotham and Ms. Dorothy Higginbotham were present for the meeting and both were sworn in by the Court Reporter. Mr. Tunncliff presented the department's case and suggested assessing a fine of \$500 and costs of \$153.05. Staying in line with the previously granted Petition for Variance and Waiver of Rule 61G3-19.011(17), F.A.C., Mr. Bordelon moved that the board issue a motion of reprimand and impose a penalty on the Respondent of \$153.05 costs. Ms. Scott seconded the motion. The motion passed unanimously.

Motions for Waiver of Rights and Final Order

Chand Harris; Ocala; 2005-059694

The Administrative Complaint charged the Respondent with a violation of Section 476.194(1)(e)2, F.S., and a violation of Section 476.194(1)(e)1, F.S. Mr. Chand Harris was present for the meeting and was sworn in by the Court Reporter. Mr. Tunncliff presented the department's case and suggested assessing a fine of \$1,000 and costs of \$270.38. Mr. Harris stated that he disputes the facts of the case. Mr. Tunncliff noted that this was not an evidentiary hearing and if the facts are to be contested or disputed the matter would require a hearing before the Division of Administrative Hearings (DOAH). Mr. Tunncliff withdrew the case from this meeting's agenda and informed the board that he will proceed with the proper DOAH filings.

Clifford Edward Belle, Jr.; Gainesville; 2006-008392

The Administrative Complaint charged the Respondent with a violation of Section 455.227(1)(q), F.S. Mr. Clifford Belle, Jr., was not present for the meeting. Mr. Tunncliff presented the department's case and suggested assessing a fine of \$500 and costs of \$173.42. Mr. Bordelon moved 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 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 \$500 fine and costs of \$173.42. Vice Chair White seconded the motion and the motion passed unanimously.

Francois Etienne; Lake Worth; 2005-051476

The Administrative Complaint charged the Respondent with a violation of Section 476.194(1)(a), F.S., multiple violations of Section 476.204(1)(i), F.S., and a violation of Section 476.194(1)(b), F.S. Mr. Francois Etienne was not present for the meeting. Mr. Tunncliff presented the department's case and suggested assessing a fine of \$1,800 and costs of \$128.06. Mr. Bordelon moved 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 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 \$1,000 fine and costs of \$128.06. Ms. Scott seconded the motion and the motion passed unanimously.

Jason Comrie; Miami; 2005-059035

The Administrative Complaint charged the Respondent with a violation of Section 476.194(1)(a), F.S. Mr. Jason Comrie was not present for the meeting. Mr. Tunncliff presented the department's case and suggested assessing a fine of \$500 and costs of \$112.06. Vice Chair White moved 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 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 \$500 fine and costs of \$112.06. Mr. Bordelon seconded the motion and the motion passed unanimously.

Perfection Plus Barbershop; Orlando; 2005-004403 and 2006-002328

The Administrative Complaint charged the Respondent with a violation of Section 476.194(1)(e)2, F.S., a violation of Section 476.204(1)(i), F.S. and a violation of Section 476.194(1)(b), F.S. Mr. Pierre Mar Verna was present for the meeting and was sworn in by the Court Reporter. Mr. Tunncliff informed the board that the case was agended as a Motion for Waiver of Rights; however, Mr. Tunncliff requested the Board proceed with an informal hearing since the Respondent, Mr. Verna, was present for the meeting. Mr. Tunncliff presented the department's case and suggested assessing a fine of \$950 and costs of \$275.43. After conferring with Mr. Tunncliff, Mr. Verna has requested a settlement stipulation in this matter. Mr. Tunncliff will present a signed stipulation at the next board meeting. No motion was necessary at this time.

Upper Kuts; Tallahassee; 2006-006989

The Administrative Complaint charged the Respondent with multiple violations of Section 476.194(1)(e)2, F.S., and a violation of Section 476.204(1)(i), F.S. The Respondent was not present for the meeting. Mr. Tunncliff presented the department's case and suggested assessing a fine of \$1,250 and costs of \$116.82. Vice Chair White moved 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 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 \$1,250 and costs of \$116.82. Mr. Bordelon seconded the motion and the motion passed unanimously.

Settlement Stipulations

Best Cut Barbershop; Orlando; 2005-037016

The Administrative Complaint charged the Respondent with multiple violations of Section 476.194(1)(e)2, F.S., multiple violations of Section 476.204(1)(i), F.S., and a violation of Section 476.194(1)(b), F.S. The Respondent was not present for the meeting. The department suggested assessing a fine of \$1,850 and costs of \$122.19 with a six-month payment plan incorporated in the stipulation agreement. Mr. Bordelon moved that the board adopt the Stipulation of the parties as the board's final action in this matter and incorporate it and all its terms into a final order. Vice Chair White seconded the motion and the motion passed unanimously.

Southland Barbershop; Ft. Lauderdale; 2005-024353

The Administrative Complaint charged the Respondent with a violation of Section

476.204(1)(i), F.S. The Respondent was not present for the meeting. The department suggested assessing a fine of \$250 and costs of \$35.37. Mr. Bordelon moved that the board adopt the Stipulation of the parties as the board's final action in this matter and incorporate it and all its terms into a final order. Vice Chair White seconded the motion and the motion passed unanimously.

Z Top Cut Barbershop; Miami; 2006-017297

The Administrative Complaint charged the Respondent with a violation of Section 476.194(1)(e)2, F.S., and a violation of Section 476.194(1)(b), F.S. The Respondent was not present for the meeting. The department suggested assessing a fine of \$1,000 and costs of \$68.20. Mr. Tunncliff informed the board that the fine and costs are paid in full. Mr. Bordelon moved that the board adopt the Stipulation of the parties as the board's final action in this matter and incorporate it and all its terms into a final order. Ms. Scott seconded the motion and the motion passed unanimously.

Ziad Dib; Miami; 2006-017307

The Administrative Complaint charged the Respondent with a violation of Section 476.194(1)(a), F.S. The department suggested assessing a fine of \$500 and costs of \$58.09. Mr. Tunncliff informed the board that the fine and costs are paid in full. 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 its terms into a final order. Mr. Bordelon seconded the motion and the motion passed unanimously.

Prosecuting Attorney's Report

Status Report

Mr. Tunncliff reported that as of November 7, 2006, there were 56 barber cases in the legal section.

Mr. Tunncliff informed the board that Ms. Tiffany Harrington, Assistant General Counsel, has been hired as the new attorney to handle barbering disciplinary cases in the future. He added that he intends to continue to assist with the barbering disciplinary cases during the next year. Mr. Tunncliff stated that he intends to move forward with investigating unpaid citations. Chair Magda expressed his appreciation and thanks to Mr. Tunncliff for the hard work and dedication he has extended to the barbers' board.

Applications

Out-of-Country Endorsement Applications

Ziad M. Dib / Cuba

Mr. Ziad Dib's out-of-country endorsement application was denied at the August 14, 2006, board meeting since the documentation failed to demonstrate shampoo services in the curriculum breakdown as required by Rule 61G3-16.005, F.A.C. Mr. Dib requested an informal hearing of the application denial. Mr. Dib was not present for the meeting. After review and discussion of the application and additional supporting documentation, Vice Chair White moved to approve the application as the additional documentation demonstrated the required services. Mr. Bordelon seconded the motion and the motion passed unanimously approving Mr. Dib for

licensure by endorsement.

Althea Arnett / Jamaica

Ms. Althea Arnett's out-of-country endorsement application was denied at the August 14, 2006, board meeting since the documentation failed to demonstrate the required shaving services, hair cutting services, and shampooing services as required by Rule 61G3-16.005, F.A.C. Ms. Arnett requested an informal hearing of the application denial. Ms. Arnett was not present for the meeting. After review and discussion of the application and the additional supporting documentation, Vice Chair White moved that the board approve the application. Mr. Bordelon seconded the motion. Ms. Scott opposed the motion. By majority vote, the motion passed approving Ms. Arnett for licensure by endorsement.

Juan Carlos Calderon / Honduras

Mr. Juan Calderon's out-of-country application was denied at the August 14, 2006, board meeting since the documentation failed to demonstrate the required shaving services, safety, sanitation and sterilization and shampooing services or evidence that Mr. Calderon had taken and passed a written and practical examination as required by Rule 61G3-16.005, F.A.C. Mr. Calderon was present along with Mr. Francisco Ramos translating. Mr. Calderon and Mr. Ramos were sworn in by the Court Reporter. After review and discussion of the application and additional documentation, Vice Chair White moved that the board approve the application as the documentation demonstrated the required services and examination information. Mr. Bordelon seconded the motion and the motion passed unanimously approving Mr. Calderon for licensure by endorsement.

Victor Luis Arroyo / Dominican Republic

Mr. Victor Arroyo was not present for the meeting but was represented by Ms. Lynda Calcano with International Services. Ms. Calcano was sworn in by the Court Reporter. After review of the application documents, Vice Chair White moved that the board approve the application. Mr. Bordelon seconded the motion. The motion passed unanimously approving Mr. Arroyo for licensure by endorsement.

Louis J. Chervil / Haiti

Mr. Louis Chervil was not present for the meeting. After review of the application documents, Mr. Bordelon moved that the board approve the application. Vice Chair White seconded the motion. The motion passed unanimously approving Mr. Chervil for licensure by endorsement.

Gioacchino Drago / Italy & Venezuela

Mr. Gioacchino Drago was not present for the meeting but was represented by Ms. Leticia Milazzo with ASM Beauty World. After review and discussion of the application documents, Ms. Scott moved to deny the application based on there being no demonstration of a written and practical examination as required by Rule 61G3-16.005, F.A.C. Mr. Bordelon seconded the motion. The motion passed unanimously.

Madochee Joseph / Jamaica

Ms. Madochee Joseph was not present for the meeting. After review and discussion of application documents, Vice Chair White moved to approve the application. Mr. Bordelon seconded the motion and the motion passed unanimously approving Ms. Joseph for licensure

by endorsement.

Souse Lysius / Haiti

Mr. Souse Lysius was not present for the meeting. After review and discussion of application documents, Vice Chair White moved to approve the application. Mr. Bordelon seconded the motion and the motion passed unanimously approving Mr. Lysius for licensure by endorsement.

Jean Claude Ouazanan / France

Mr. Jean Claude Ouazanan was not present for the meeting but was represented by Ms. Leticia Milazzo. After review and discussion of the application documents, Vice Chair White moved to deny the application based on no translated curriculum breakdown being provided and due to there being no demonstration of a written and practical examination as required by Rule 61G3-16.005, F.A.C. Ms. Scott seconded the motion and the motion passed unanimously.

Medo Purisic / New Jersey & Russia

Mr. Medo Purisic was not present for the meeting. After review and discussion of application documents, Vice Chair White moved to approve the application. Ms. Scott seconded the motion and the motion passed unanimously approving Mr. Purisic for licensure by endorsement.

Christopher A. Raymore / Jamaica

Mr. Christopher A. Raymore was not present for the meeting. After review and discussion of the application documents, Vice Chair White moved to deny the application based on no coloring and bleaching services being demonstrated in the curriculum breakdown as required by Rule 61G3-16.005, F.A.C. Mr. Bordelon seconded the motion. The motion passed unanimously.

Marlene Reyes / Colombia

Ms. Marlene Reyes was not present for the meeting but was represented by Ms. Leticia Milazzo. After review and discussion of the application documents, Vice Chair White moved to approve the application. Ms. Scott seconded the motion and the motion passed unanimously approving Ms. Reyes for licensure by endorsement.

Margory Robledo / Colombia

Ms. Margory Robledo was not present for the meeting but was represented by Ms. Leticia Milazzo. After review and discussion of the application documents, Vice Chair White moved to approve the application. Ms. Scott seconded the motion and the motion passed unanimously approving Ms. Robledo for licensure by endorsement.

Frantz Sagaille / Haiti

Mr. Frantz Sagaille was present for the meeting and was sworn in by the Court Reporter. After review and discussion of the application documents, Vice Chair White moved to approve the application. Mr. Robert Collins seconded the motion. Mr. Bordelon and Ms. Scott opposed the motion. By majority vote, the motion passed approving Mr. Sagaille for licensure by endorsement.

Myrlande Simon / Haiti

Ms. Myrlande Simon was not present for the meeting. After review and discussion of the application documents, Vice Chair White moved to approve the application. Mr. Bordelon seconded the motion. Ms. Scott opposed the motion. By majority vote, Ms. Simon was approved for licensure by endorsement.

David Thermeus / Haiti

Mr. David Thermeus was not present for the meeting. After review and discussion of the application documents, Vice Chair White moved to approve the application. Mr. Bordelon seconded the motion. Ms. Scott opposed the motion. By majority vote, Mr. Thermeus was approved for licensure by endorsement.

Damian B. Trigiani / Argentina

Mr. Damian Trigiani was not present for the meeting but was represented by Ms. Leticia Milazzo. After review and discussion of the application documents, Vice Chair White moved to deny the application based on no demonstration provided in the curriculum breakdown of the required shaving services, safety, sanitation and sterilization nor did documentation provide evidence of a written and practical examination as required by Rule 61G3-16.005, F.A.C. Mr. Bordelon seconded the motion and the motion passed unanimously.

Martin Luther Walsh / Haiti

Mr. Martin Luther Walsh was not present for the meeting. After review and discussion of the application documents, Vice Chair White moved to approve the application. Mr. Collins seconded the motion and the motion passed unanimously approving Mr. Walsh for licensure by endorsement.

Robert Wayne Whyte / Jamaica

Mr. Robert Whyte was present for the meeting and sworn in by the Court Reporter. After review and discussion of the application documents, Vice Chair White moved to approve the application. Mr. Bordelon seconded the motion. Ms. Scott opposed the motion. By majority vote, Mr. Whyte was approved for licensure by endorsement.

Daniel Alvarez / Venezuela

Mr. Daniel Alvarez was not present for the meeting. After review and discussion of the application documents, Mr. Bordelon moved to approve the application. Ms. Scott seconded the motion and the motion passed unanimously approving Mr. Alvarez for licensure by endorsement.

Carlos A. Calderon / Peru

Mr. Carlos A. Calderon was not present for the meeting. After review and discussion of the application documents, Vice Chair White moved that the board deny the application based on no evidence or demonstration in the application documentation of Mr. Calderon having taken a written and practical examination as required by Rule 61G3-16.005, F.A.C. Mr. Bordelon seconded the motion and the motion passed unanimously.

Adriane Cassia De Souza Cirqueira / Brazil

Ms. Adriane Cassia De Souza Cirqueira was not present for the meeting but was represented by Ms. Lynda Calcano. After review and discussion of the application documents, Vice Chair White moved to approve the application. Mr. Bordelon seconded the motion. The motion passed unanimously approving Ms. De Souza Cirqueira for licensure by endorsement.

Edith Colombat / France

Ms. Edith Colombat was not present for the meeting but was represented by Ms. Leticia Milazzo. After review and discussion of the application documents, Vice Chair White moved to approve the application. Mr. Bordelon seconded the motion. The motion passed unanimously approving Ms. Colombat for licensure by endorsement.

Solanlly Marisol Garcia / Dominican Republic

Ms. Solanlly Marisol Garcia was not present for the meeting. After review and discussion of the application documents, Vice Chair White moved to approve the application. Mr. Collins seconded the motion. The motion passed unanimously approving Ms. Garcia for licensure by endorsement.

Goncalves Wederson / Brazil

Mr. Goncalves Wederson was not present for the meeting but was represented by Ms. Leticia Milazzo. After review and discussion of the application documents, Vice Chair White moved to approve the application. Mr. Bordelon seconded the motion. Ms. Scott opposed the motion. By majority vote, Mr. Wederson was approved for licensure by endorsement.

Rachel Lauda / Dominican Republic

Ms. Rachel Lauda was not present for the meeting. After review and discussion of the application, Vice Chair White moved to deny the application based on no demonstration in the curriculum breakdown providing evidence of the required shaving services and based on no evidence of a written and practical examination as required by Rule 61G3-16.005, F.A.C. Mr. Bordelon seconded the motion and the motion passed unanimously.

Franklin Antonio Lopez / Mexico

Mr. Franklin Lopez was not present for the meeting. After review and discussion of the application documents, Vice Chair White moved to deny the application based on no demonstration in the curriculum breakdown providing evidence of the required shaving services and based on there being no documentation providing evidence of a written and practical examination as required by Rule 61G3-16.005, F.A.C. Mr. Bordelon seconded the motion and the motion passed unanimously.

Rafael Medina / Dominican Republic

Mr. Rafael Medina was not present for the meeting. After review and discussion of the application documents, Vice Chair White moved to deny the application based on no demonstration in the curriculum breakdown of the required chemical services, shampooing services and safety, sanitation and sterilization as required by Rule 61G3-16.005, F.A.C. Mr. Bordelon seconded the motion and the motion passed unanimously.

Arizon Medrano / Dominican Republic

Mr. Arizon Medrano was not present for the meeting. After review and discussion of the application documents, Vice Chair White moved to deny the application based on no demonstration in the curriculum breakdown of the required shaving services, and safety, sanitation and sterilization as required by Rule 61G3-16.005, F.A.C. Mr. Bordelon seconded the motion and the motion passed unanimously.

Ian Sean Spike / Jamaica

Mr. Ian Sean Spike was not present for the meeting. After review and discussion of the application documents, Vice Chair White moved to deny the application based on no demonstration in the curriculum breakdown of the required chemical services, and hair structure as required by Rule 61G3-16.005, F.A.C. Mr. Bordelon seconded the motion and the motion passed unanimously.

Joseph Fritz / Haiti

The out-of-country endorsement application for Mr. Joseph Fritz was denied at the May 15, 2006, board meeting since the documentation failed to demonstrate the required subject areas of safety, sanitation and sterilization as required by Rule 61G3-16.005, F.A.C. Mr. Fritz requested an informal hearing of the application denial. Mr. Fritz was not present for the meeting. After review and discussion of the application and additional supporting documentation, Vice Chair White moved to approve the application as the documentation demonstrated the required subject matter. Mr. Collins seconded the motion and the motion passed unanimously approving Mr. Fritz for licensure by endorsement.

Continuing Education Applications

Indian River Community College – AIDS and Barbering

Mr. Bordelon made a motion to approve the *AIDS and Barbering* course renewal application for Indian River Community College. Ms. Scott seconded the motion and the motion passed unanimously.

Exotica Academy, Inc. – HIV/AIDS

Mr. Bordelon made a motion to approve the *HIV/AIDS* course renewal application for Exotica Academy, Inc. Ms. Scott seconded the motion and the motion passed unanimously.

Elite CME, Inc. – HIV/AIDS & Other Communicable Diseases for Barbers

Mr. Bordelon made a motion to approve the *HIV/AIDS & Other Communicable Diseases for Barbers* course application for Elite CME, Inc. Ms. Scott seconded the motion and the motion passed unanimously.

Old Business

Barbering Definitions

The board agreed to discuss proposed barbering definitions at the next board meeting. Ms. Joy Tootle, Assistant Attorney General, will review the board's statutes to determine if there are key words or phrases that should be clearly defined in their rules. Ms. Tootle will check with the former Assistant Attorney General who previously mentioned the need for definitions. Ms. Tootle will report her findings at the next board meeting.

New Business

Petition for Variance and Waiver

Variance and Waiver of Rule 61G3-19.011(17), Florida Administrative Code (F.A.C.)
Submitted by Lucey S. Higginbotham, d/b/a Satey's Barbershop

Ms. Lucey Higginbotham and Ms. Dorothy Higginbotham were present for the meeting and sworn in by the Court Reporter. Mr. Tunncliff introduced the Petition for Variance and Waiver from Rule 61G3-19.011(17), F.A.C., submitted from Ms. Higginbotham, d/b/a Satey's Barbershop where Ms. Higginbotham was cited and fined for continually having her dog in the barbershop. Ms. Tootle reminded the board that Chapter 120, F.S., states that a variance and waiver shall be granted when the person subject to the rule demonstrates:

1. That the purpose of the underlying statute will be or had been achieved by other means and
2. When application of the rule would create a substantial hardship or would violate the principles of fairness. "Substantial hardship" means a demonstrated economic, technological, legal or other type of hardship to the person and "principals of fairness" are violated when the literal application of the rule affects a particular person in a manner significantly different from the way it affects other similarly situated persons subject to the rule.

Ms. Higginbotham thanked the board for allowing her the opportunity to bring this matter before them. Ms. Higginbotham stated that she has always kept a dog tied at the back door or in the barbershop for protection and the dog's presence had not presented violations during past inspections of the barbershop. Ms. Higginbotham said to her it was like taking a child to work and that her customers enjoy having the dog on the premises. The board expressed concern that if the petition was granted, it would invite all barbershops to violate the rule by having animals or pets with the exception of closed aquariums or trained service animals in a barbershop. After discussion, Ms. Scott moved that the board deny the Petition for Variance and Waiver as no substantial hardship or undue fairness was demonstrated as defined in Chapter 120, F.S. Mr. Bordelon seconded the motion and the motion passed unanimously. Ms. Tootle reminded the board that by granting the Petition for Variance and Waiver it would not open the rule to all barbershops and that the variance would only belong to Ms. Higginbotham's barbershop. Ms. Tootle suggested the board reconsider granting the petition setting parameters which would be specific to Ms. Higginbotham's situation. Ms. Scott moved that the board reconsider the previous denial motion. Vice Chair White seconded the reconsideration. The motion to reconsider passed unanimously. After further discussion, Ms. Scott moved that the board grant the Petition for Variance and Waiver from Rule 61G3-19.011(17), F.A.C., with the following conditions: Ms. Higginbotham must post a sign at the front of her barbershop informing patrons that they are not allowed to bring pets in the barbershop and Ms. Higginbotham may keep her dog in the back room of her barbershop where no barbering services are conducted, behind a closed door. Vice Chair White seconded the motion. Mr. Collins opposed the motion. The motion passed by majority vote.

Other Business

Executive Director's Report

Financial Report, June 30, 2006, Operating Account

Ms. Barineau reviewed the board's financial report for the period ending June 30, 2006. The board's operating account balance was \$1.3 million. Ms. Barineau anticipates providing the report for the period ending September 30, 2006, and possibly the report for the period ending December 31, 2006, at the February 2007 board meeting.

Financial Report, June 30, 2006, Unlicensed Activity Account

Ms. Barineau noted that the unlicensed activity account balance was over \$140,000 for the period ending June 30, 2006.

Complaints and Investigative Statistics Report July 2006 - September 2006

Ms. Barineau noted that the Complaints and Investigative Statistics Report for July 2006 through September 2006 was included in the agenda for informational purposes.

DBPR Barbers' Board Newsletter

Ms. Barineau noted that the DBPR Barbers' Board Newsletter was included in the agenda for informational purposes.

Continuing Education Compliance

Ms. Barineau reported that as of October 26, 2006, 87 percent of barber licensees complied with their continuing education requirements for the renewal period ending July 31, 2006.

Unlicensed Activity Suggestions

Ms. Barineau reminded the board to provide her with suspected unlicensed activity areas for possible stings or sweeps by the Division of Regulation.

Board Membership

Ms. Barineau advised the board that the department is currently attempting to address the board member vacancy situation. The department is seeking assistance from all boards to assist with locating qualified applicants to fill vacancies on all boards. All interested applicants should contact the department or the Governor's Appointments Office for a Gubernatorial Appointments Questionnaire for completion and filing with the Governor's Appointments Office.

Board Attorney Report

Rule 61G3-16.0092(6), F.A.C., - Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome (HIV/AIDS) Education Provider Requirements

Ms. Joy Tootle, Assistant Attorney General, advised the board that the amendment to Rule 61G3-16.0092, Florida Administrative Code, was effective November 1, 2006. This amendment changes the number of days a continuing education provider has to transmit course completion information to the department from 5 days to 30 or the end of the renewal cycle, whichever happens sooner.

Credentialing Agency for Out-of-Country Endorsement Applicants

Ms. Tootle indicated that she had completed a preliminary research on other states' and other Florida professions' requirements for out-of-country endorsement procedures. She mentioned that there are several Florida regulated professions that utilize credentialing and evaluation companies to certify information and documentation received from other countries. Ms. Tootle added that she had contacted J. Silney & Associates and that they are willing to make a presentation to the board on the service they offer. Ms. Tootle informed the board that the process would require the applicant to contact the evaluation service prior to submitting their application to the department for review. The evaluation service would verify the documentation for authenticity and completeness and then provide a detailed report of their findings. Any credential deficiencies would be documented and sent to the potential applicant for their resolution. The cost for this service is approximately \$250 which would be borne by the applicant. Ms. Tootle will further research the board's statutory authority to require such credentialing information, associated fees and other areas of concern. Ms. Tootle will report her findings at the next board meeting in February 2007.

Bureau of Education and Testing

Examiner Standardization

Ms. Lyra Erath, Psychometrician, Bureau of Education and Testing, reported that Standardization of practical examiners was conducted on Sunday, November 12, 2006, at Paul Mitchell The School in Casselberry. Ms. Erath noted that all practical examiners were present for Standardization with the exception of Mr. Scott Kinney who was absent because of an injury to his foot. Chair Magda excused Mr. Kinney's absence. Ms. Scott agreed to assist with standardizing Mr. Kinney in Tallahassee. Ms. Erath stated that all of the examiners were extremely helpful and all agreed that the Standardization was a success. Ms. Erath mentioned the written examination will soon undergo a content review since the new barbering textbook has been circulated and the exam needs to be updated with the new textbook material.

Ms. Erath solicited the board's assistance with locating additional practical examiners in the Central and South Florida areas. She currently has three potential South Florida practical examiners who will need to be trained before they can be utilized for an examination. Ms. Erath added that at the very earliest, the South Florida examination site would be ready to staff and host a practical examination in six months. Chair Magda requested that the board be provided with a copy of the practical examiner and lead practical examiner manuals before they are circulated.

Chairperson Report / Comments

Chair Madga indicated that some of the topics discussed at the National Association of Barber Boards of America (NABBA) annual conference included barber poles only being displayed in barbershops, discipline of licensees who are convicted sexual predators and recognition of National Barbers Week. He would like to discuss these topics in greater detail at the February 2007 board meeting.

Chair Madga reminded the board that the 2007 NABBA annual conference will be conducted in Orlando during the third week of September, and he has requested that additional funds be incorporated into the board's 2007 travel plan to allow all board members and staff to attend the 2007 conference.

Board Member Reports / Comments

As an attempt to eliminate the time involved which could affect an out-of-country endorsement applicant, Vice Chair White moved to give Ms. Scott authority to review and approve additional supporting documentation after an Intent to Deny has been issued instead of bringing the application before the board for a second review. Mr. Bordelon seconded the motion and the motion passed unanimously.

Public Comments

Ms. Lynda Calcano with International Services thanked the board for their efforts regarding out-of-country endorsement application process and stated that open and clear communication was the key.

Adjournment

The board agreed the next board meeting on Sunday, February 4, 2007, and Monday, February 5, 2007, in Orlando, Florida. There being no further business, the meeting was adjourned at 5:00 p.m.