

MINUTES

FLORIDA BARBERS' BOARD Department of Business and Professional Regulation

Telephone Conference Call

**Monday, December 5, 2005
9:00 a.m.**

General Business Meeting

The General Business Meeting of the Florida Barbers' Board was called to order at approximately 9:09 a.m., by Mr. Peter "Dave" Magda, Chair.

Board Members Present

Peter "Dave" Magda, Chair
Jeri Scott
Robert Collins

Board Members Absent

Herman White, Vice Chair
Char Feliciano

Other Persons Present

Robyn Barineau, Executive Director, Department of Business and Professional Regulation (DBPR)
Charles Tunncliff, Office of the General Counsel, DBPR
Cameron Dougherty, Office of the General Counsel, DBPR
Daniel Biggins, Assistant Attorney General, Department of Legal Affairs
Dana Ewaldt, Government Analyst, DBPR

Interested Parties Present

Kathy Wilkinson, Court Reporter
Ray Convery, Court Reporter
Maura Scali-Sheahan, Florida Community College at Jacksonville (FCCJ)
David Lipscomb, Attorney for the following out-of-country endorsement applicants:
Raysa M. Maldonado, Arely Mezquita-Martinez, Luisa Ortiz DeLa Rosa, Wendy Venecia Pimentel, Javier Taboas and Carmen L. Vargas
Nirfa Diaz, Endorsement Applicant
Orlando Nicastro, Endorsement Applicant
Miriam Gamboa, Interpreter for Orlando Nicastro
Arceno Rodriguez, Endorsement Applicant
Roy Baroudy, Exam Translation Request

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

Approval of Minutes: Legislative Workshop of July 31, 2005

Ms. Jeri Scott moved to accept the minutes from the July 31, 2005, Barbers' Board legislative workshop. Mr. Robert Collins seconded the motion and the motion passed unanimously.

Approval of Minutes: General Business Board Meeting of August 1, 2005

Ms. Scott moved to accept the minutes from the August 1, 2005, Barbers' Board general business meeting. Mr. Collins seconded the motion and the motion passed unanimously.

Disciplinary Matters

Motions for Waiver of Rights and Final Order

All Star Barber Shop; Miramar; Case No. 2003-089124

Mr. Charles Tunncliff requested this disciplinary case be tabled until the February 2006 Barbers' Board Meeting.

La Mission Barber Shop; Orlando; Case No. 2004-025596

Mr. Charles Tunncliff requested this disciplinary case be tabled until the February 2006 Barbers' Board Meeting.

Antonio Hester; Miami; Case No. 2004-035050

Mr. Charles Tunncliff requested this disciplinary case be tabled until the February 2006 Barbers' Board Meeting.

Gerald Kancey; Miami; Case No. 2004-020115, 2004-020092 and 2004-020095

Mr. Charles Tunncliff requested this disciplinary case be tabled until the February 2006 Barbers' Board Meeting.

Settlement Stipulations

Abdurrafi Muhammad; Gainesville; Case No. 2004-010133

The Administrative Complaint charged the Respondent with a violation of section 476.194(1)(e)1, F.S., 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. The department suggested assessing a fine of \$500 and costs of \$127.22 for this case. Ms. Scott moved that the board deny the settlement stipulation based upon non-payment of prior cases. Mr. Collins seconded the motion and the motion passed unanimously.

Boulevard Barber Shop; Hollywood; Case No. 2005-010377

The Administrative Complaint charged the Respondent with multiple violations of section 476.204(1)(i), F.S., in that it is unlawful for any person to violate or refuse to comply with any provisions of Chapter 476 or a rule or final order of the Board. The department suggested assessing a fine of \$500 and costs of \$176.77 for this case. Ms. Scott 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. Collins seconded the motion and the motion passed unanimously.

Phat Fades Barbers; West Palm Beach; Case No. 2004-025159

The Administrative Complaint charged the Respondent with a violation of section 476.194(1)(e)2,

F.S., 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 is not licensed as a barber is permitted to perform services; multiple violations of section 476.204(1)(i), F.S., in that it is unlawful for any person to violate or refuse to comply with any provisions of Chapter 476 or a rule or final order of the Board and a violation of section 476.194(1)(b), F.S., in that it is unlawful for any person to engage in willful or repeated violations of Chapter 476 or any of the rules adopted by the Board. The department suggested assessing a fine of \$1,200 and costs of \$119.83. Ms. Scott 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. Collins seconded the motion and the motion passed unanimously.

Applications

Endorsement Applications

Andres Arboleda / Columbia

The results from the initial board member review of the application showed Mr. Andres Arboleda did not qualify for licensure by endorsement due to the fact that he does not possess a license for barbering from his country of origin, the [translated] school certification references cosmetology and the curriculum does not show the required number of shaving services. A second school certification was submitted. Upon a second review, a revised certification shows shave services as part of the curriculum. Chair Magda stated the discrepancy in the documentation is a main concern. After discussion, Ms. Scott made a motion to deny the endorsement application due to the fact that the applicant does not possess a barber license from another state or country and due to the conflicting curriculum information. Mr. Collins seconded the motion and the motion passed unanimously.

Nirfa C. Diaz / Dominican Republic

Ms. Nirfa Diaz was present for the conference call. The results from the initial board member review of the application showed that Ms. Diaz did not qualify for endorsement. Ms. Diaz does not hold an active barbers' license from her country of origin, the diploma provided indicates certification as a "Beauty Specialist", the translated document does not provide a breakdown of barbering services for haircut and shaving, and the curriculum does not show enough hours for chemical services. After further discussion, Ms. Scott made a motion to deny the endorsement application due to the fact that the endorsement requirements have not been met. Mr. Collins seconded the motion and the motion passed unanimously.

Raysa Maldonado / Dominican Republic

Ms. Raysa Maldonado was represented by Mr. David Lipscomb, Esquire. The results from the initial board member review of the application showed that Ms. Maldonado did not qualify for licensure by endorsement. Ms. Maldonado does not hold an active barbers' license, the translated diploma and transcript provided indicate the education certification as a "Beauty Specialist", and the translated transcript does not provide the required amount of services / hours in chemical services or in shaving services. After further discussion, Ms. Scott made a motion to deny the endorsement application due to the fact that the requirements for endorsement have not been met. Mr. Collins seconded the motion and the motion passed unanimously.

Arely Mezquite-Martinez / Dominican Republic

Ms. Arely Mezquite-Martinez was present for the conference call and was represented by Mr. Lipscomb. The results from the initial board member review of the application showed that Ms. Mezquite-Martinez did not qualify for licensure by endorsement since Ms. Mezquite-Martinez does not hold a barbers'

license in her country of origin, the translated course curriculum does not show enough hours in chemical services, and the translated curriculum references cosmetology education. Mr. Lipscomb stated that Ms. Mezquite-Martinez was not provided notification of the chemical services deficiency. After discussion with his client, Mr. Lipscomb agreed to waive the application processing time pursuant to Chapter 120, F.S., and have the endorsement application reconsidered at the February 2006 board meeting.

Orlando Nicastro / Venezuela

Mr. Orlando Nicastro was present for the conference call with Ms. Miriam Gamboa as his translator. The results from the initial board member review of the application showed that Mr. Nicastro did not qualify for licensure by endorsement due to his not having a valid barbers' license, no shaving services were shown in the translated curriculum, and not enough chemical services or hours. Upon a second review of the application, the newly submitted curriculum breakdown reflected the shaving service hours. Ms. Scott made a motion to deny the endorsement application based on the fact that the applicant does not hold a valid barbers' license and on the discrepancy of information of the course curriculum. Mr. Collins seconded the motion and the motion passed unanimously.

Luisa Ortiz DeLa Rosa / Dominican Republic

Ms. Luisa Ortiz DeLa Rosa was present for the conference call and was represented by Mr. Lipscomb. The results from the initial board member review of the application showed that Ms. DeLa Rosa was not eligible for licensure by endorsement since there is no valid barbers' license and the translated transcript indicates education received in the cosmetology field. After further discussion, Ms. Scott made a motion to deny the application based on not holding a valid barbers' license from her country of origin, and the translated transcript does not provide the required amount of chemical services or shaving services. Mr. Collins seconded the motion and the motion passed unanimously.

Wendy Venecia Pimentel / Dominican Republic

Ms. Wendy Venecia Pimentel was present for the conference call and was being represented by Mr. Lipscomb. The results from the initial board member review of the application showed that Ms. Pimentel was not eligible for licensure by endorsement since there was not a valid barbers' license from the country of origin, and the curriculum hours did not provide a breakdown of barbering shaving services or of chemical services. Ms. Pimentel stated that she has taken over 350 hours of chemical services and has experience in the various barber style cuts. After further discussion, Ms. Scott moved to deny the endorsement application since there is no valid barbers' license, not enough hours for chemical services or shaving services, and there is no curriculum showing a breakdown of barber style haircuts. Chair Magda seconded the motion. Mr. Collins opposed the motion.

Arceno Rodriguez / New York

Mr. Arceno Rodriguez was present for the conference call. The results from the initial board member review of the application found Mr. Rodriguez was not eligible for licensure by endorsement based on the fact that the New York license certification did not indicate the method of licensure, and the certification did not verify the examination history requirement. Mr. Rodriguez admitted that he did not receive the New York barbers' license through a written examination. After discussion, Mr. Scott moved to deny the endorsement application since there was no written examination history. Mr. Collins seconded the motion and the motion passed unanimously.

Giovanni Roustan / Mexico

Mr. Roustan was not present for the conference call. The initial board member review showed that Mr. Roustan was not eligible for licensure by endorsement since the curriculum and exam information submitted appeared to be cosmetology related. Ms. Scott made a motion to deny the endorsement application based upon the fact that there was no practical barber examination history, the submitted curriculum is cosmetology related and does not provide the required chemical or shaving services. Mr.

Collins seconded the motion and the motion passed.

Javier Taboas / Colombia

Mr. Javier Taboas was not present for the conference call but was represented by Mr. Lipscomb. The initial board member review of the application showed that Mr. Taboas was not eligible for licensure by endorsement based on the fact that Mr. Taboas did not hold a valid barbers' license from his country of origin, the submitted translated curriculum did not provide a breakdown showing the required shaving and chemical services, and the curriculum did not show the various types of barber style haircuts. After further discussion, Ms. Scott moved to deny the endorsement application based upon there being no valid barbers' license, and the curriculum is not comparable in the required areas of shaving and chemical services. Mr. Collins seconded the motion and the motion passed unanimously. Mr. Lipscomb stated his disagreement with the basis for denial.

Carmen L. Vargas / Dominican Republic

Ms. Carmen Vargas was represented by Mr. Lipscomb. The initial board member review of the endorsement application showed that Ms. Vargas was not eligible for licensure by endorsement since the breakdown of curriculum hours did not support the required number of hours for the barber style haircuts and shaving services. Supplemental information was provided to the board office regarding the application deficiency requesting a breakdown of the 1,000 school hours indicated on the school certification. Ms. Robyn Barineau, Executive Director, read the supplemental information into the record. The supplemental information provided documentation / certification which supported the required number of hours of shave services and mustache, beard and hairline trimming and cutting. After further discussion, Mr. Collins moved to approve the endorsement application. Ms. Scott seconded the motion. Chair Magda opposed the motion.

Continuing Education Provider and Course Applications

ASM Beauty World Academy, Inc. – HIV / AIDS Education Course

After review of the course application, and course materials, Ms. Scott made a motion to approve the continuing education course application as presented. Mr. Collins seconded the motion and the motion passed unanimously.

Prosecuting Attorney's Report

Status Report

Mr. Tunncliff reported that as of October 11, 2005, there were 60 barber cases in the legal section.

Mr. Tunncliff brought to the Board's attention Rule 61G3-19.011 F.A.C., Barbershop Requirements. The rule requires each barbershop to have one shampoo sink for every two barber chairs. Mr. Tunncliff's office is experiencing an increase of inspections with citations of older barbershops not in compliance with this rule. Many new barbershops are applying for licensure as cosmetology salons in order to avoid the sink / chair ratio requirement. Mr. Tunncliff has suggested that the board consider adopting the cosmetology rule language. Chair Dave Magda has asked the board members to consider this idea for further discussion at the February 2006 board meeting. Mr. Daniel Biggins, Assistant Attorney General, will prepare a rule development notice.

Committee Reports

Legislative Committee / Ms. Jeri Scott, Chair

There was no new report at this time.

Examination Committee / Ms. Char Feliciano, Chair

There was no new report at this time.

Budget Committee / Mr. Robert Collins, Chair

There was no new report at this time.

Newsletter Committee / VACANT, Chair

There was no new report.

Continuing Education Committee / Mr. Herman White, Chair

There was no new report at this time.

Old Business

Barbering Definitions

Chair Magda requested that all board members be ready to discuss barbering definitions at the February 2006 board meeting. He reminded all board members to send any proposed barbering definitions to the board office for inclusion in the next board meeting agenda.

New Business

Barber Internship Rules

This item was tabled for further discussion at the February 2006 board meeting.

Barber Examination Translation Request; Lebanese – Roy Baroudy

Mr. Roy Baroudy was present for the conference call. Mr. Baroudy has submitted a request for examination translation into his native language of Lebanese. Mr. Baroudy has passed the restricted practical examination but is requesting translation of the written examination or is requesting to be given extra time to complete the examination due to a language barrier. Ms. Barineau pointed out to Mr. Baroudy that all costs associated with the translation request would be borne by him. Ms. Barineau noted that costs associated with examination translation could possibly be several thousand dollars. After discussion, Ms. Scott moved to deny the translation request due to the low population percentage of Lebanese speaking individuals in the State of Florida. Mr. Collins seconded the motion and the motion passed.

Other Business

Executive Director's Report

Ms. Barineau informed the board that the Complaints and Investigative Statistics Report and the Financial Report were provided for informational purposes.

Board Attorney Report

Rule 61G3-20.002, F.A.C., Application Fee for Licensure Through Examination or

Endorsement and Reexamination Fees

This item was tabled for further discussion at the February 2006 board meeting.

Rule 61G3-21.009, F.A.C., Citations

This item was tabled for further discussion at the February 2006 board meeting.

Public Comments

Ms. Barineau reported that correspondence from Ms. Maura Scali-Sheahan and from Mr. Stan Barnett was included in the agenda for informational purposes only.

Adjournment

Dates / Locations of Future Board Meetings

The board agreed to conduct a general business meeting on Sunday, February 19, 2006, and on Monday, February 20, 2006, in Orlando, Florida.

There being no further business, the meeting was adjourned at approximately 1:45 p.m.

RB/de