

MINUTES

**FLORIDA BARBERS' BOARD
Department of Business and Professional Regulation
Renaissance Orlando Hotel – Airport
5445 Forbes Place
Orlando, Florida 32812**

**Monday, August 1, 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
Herman White, Vice Chair
Robert Collins
Char Feliciano
Jeri Scott

Other Persons Present

Robyn Barineau, Executive Director, Department of Business and Professional Regulation (DBPR)
Charles Tunnickliff, 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

Michael Woods, Court Reporter
Nancy Bradley, Commission for Independent Education (CIE)
Kasongo Butler, Commission for Independent Education (CIE)
Terrence Williams, Prime Time Barbershop
Alan Livingston, House Business Regulation Committee
Patty Galdamez, Bradenton Beauty & Barber Academy
Tuan Vu, Pro-Nails and Beauty School
Mau Nguyen, Pro-Nails and Beauty School
Jackie Lombardi, Florida Barber Academy
Doldie Laguerre, Doldie's International Hair Academy

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

thanked the audience members for attending the meeting.

Approval of Minutes: General Business Board Meeting of 02/21/2005

Ms. Jeri Scott moved to accept the minutes from the May 15, 2005, general business board meeting. Mr. Herman White, Vice-Chair, seconded the motion and the motion passed unanimously.

Disciplinary Matters

Motions for Waiver of Rights and Final Order

Michael Livingston; Miami Case No. 2003-080402

The Administrative Complaint charged the Respondent with a violation of section 476.194(1)(a),F.S., in that it is unlawful for any person to engage in the practice of barbering without an active license as a barber issued pursuant to the provisions of this act by the department. The department suggested assessing a fine of \$500 and costs of \$238.79. Vice Chair White 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 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 Rights and for Final Order of a \$500 fine and costs of \$238.79. Ms. Char Feliciano seconded the motion and the motion passed unanimously.

Nimshi Lorenzo Ivy; Coconut Creek; Case No. 2004-012983

The Administrative Complaint charged the Respondent with a violation of section 476.194(1)(a),F.S., in that it is unlawful for any person to engage in the practice of barbering without an active license as a barber issued by the Department 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 violation of Chapter 476 or any of the rules adopted by the board. The department suggested assessing a fine of \$1,000 and costs of \$104.03. Ms. Feliciano 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 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 Rights and for Final Order of a \$1,000 fine and costs of \$104.03. Ms. Scott seconded the motion and the motion passed unanimously.

Harold T. Lester; West Palm Beach; Case No. 2004-004625

The Administrative Complaint charged the Respondent with a violation of section 476.194(1)(a),F.S., in that it is unlawful for any person to engage in the practice of barbering without an active license as a barber issued by the Department and a violation of 476.194(1)(b), in that it is unlawful for any person to engage in willful or repeated violations of Chapter 476 or any rules adopted by the Board. The department suggested assessing a fine of \$1,000 and costs of \$97.61. Vice Chair White 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 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 Rights and for Final Order of a \$1,000 fine and costs of \$97.61. Ms. Scott seconded the motion and the motion passed unanimously.

After the motion passed, Chair Magda inquired about repeat offenders of unlicensed activity. The board has asked that local law enforcement join inspectors and investigators when inspecting or investigating repeat offenders since section 476.194, F.S. provides that any person willfully or repeatedly violating the laws and rules of the board are guilty of a second degree misdemeanor.

Kwik Kuts Barbershop; Sunrise; Case No. 2004-035114

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 \$262.51. Vice Chair White 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 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 Rights and for Final Order of a \$500 fine and costs of \$262.51. Ms. Feliciano seconded the motion and the motion passed unanimously.

Smith Amius; Lantana; Case No. 2004-001657

The Administrative Complaint charged the Respondent with a violation of section 476.194(1)(a), F.S., in that it is unlawful for any person engage in the practice of barbering without an active license as a barber issued pursuant to the provisions of this act by the department and a violation of 476.194(1)(b),F.S., in that it is unlawful for any person to engage in willful or repeated violation of Chapter 476 or any of the rules adopted by the Board. The department suggested assessing a fine of \$1,000 and costs of \$122.79. Vice Chair White 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 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 Rights and for Final Order of a \$1,000 fine and costs of \$122.79. Ms. Feliciano seconded the motion and the motion passed unanimously.

Get Down Barber Shop; Miami; Case No. 2005-007510

The Administrative Complaint charged the Respondent with three violations 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 not licensed as a barber is permitted to perform services. The department suggested assessing a fine of \$1,500 and costs of \$37.96. Vice Chair White 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 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 Rights and for Final Order of a \$1,500 fine and costs of \$37.96. Ms. Scott seconded the motion and the motion passed unanimously.

Daniels Barbershop; Sunrise; Case No. 2004-060627

Mr. Charles Tunnicliff asked that this case be pulled from the agenda to be considered at a later date.

Informal Hearings

Davie Barber Shop; Davie; Case No. 2005-004258

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 Chapter 455 or a rule or final order of the Board. The department suggested assessing a fine of \$800 and costs of \$229.82. Vice Chair White 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 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 Rights and for Final Order of a \$800 fine and cost of \$229.82. Ms. Scott seconded the motion and the motion passed unanimously.

Settlement Stipulations

Prime Time Barbershop; Orlando; Case No. 2004-054064

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 Chapter 455 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 \$900 and costs of \$148.02 for this case. Mr. Terrence Williams was present and sworn in by the court reporter. Mr. Williams did not dispute the facts of the Administrative Complaint. Chair Magda inquired about the two other listed citations Case Numbers 2004-053987 and 2003-081037. Mr. Tunncliff informed the board that the previously issued citations are still outstanding and the fines have not been paid. Mr. Williams gave testimony that he no longer owns or is working at Prime Time Barbershop. Chair Magda requested that the unpaid citations be included in the total amount due. The unpaid outstanding amount due from the previous citations is \$550. The department suggested assessing a total fine amount of \$1,450 and cost of \$148.02. The department suggested allowing a payment plan for Mr. Williams with the first payment of \$348.02 being due within 30 days of the final order and payments of \$250 thereafter until the matter is 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 and accept the payment plan as suggested by the department. Ms. Scott seconded the motion and the motion passed unanimously.

Proposed Recommended Order

Francisco Portes; Orlando; Case No. 2004-008316, 2004-008318 and 2004-008306

Regarding Case Numbers 2004-008316, 2004-008318 and 2004-008306 against Francisco Portes of Orlando, Mr. Tunncliff presented the department's case in this matter and suggested assessing a \$1,500 fine. Mr. Tunncliff suggested that the board accept the ruling of the Administrative Law Judge as stated in the Proposed Recommended Order. Vice Chair White moved to adopt the recommended order in Toto. Ms. Scott seconded the motion and the motion passed unanimously.

Applications

Endorsement Applications

Jaki Cohen / Canada

Mr. Cohen requested that his application for endorsement be brought before the full board for review / approval. The results from the initial board member review of the application showed Mr. Cohen did not qualify for endorsement due to the fact that the school certification did not show proof of shaving services or examination information. A second school certification was submitted. Upon a second review, a revised certification showed a difference in curriculum subject matter. The revised certification reflected an increase in school hours and it included shaving services. After discussion, Vice Chair White 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. Ms. Feliciano seconded the motion and the motion passed unanimously.

Ester Khanimova / Canada

Ms. Khanimova requested that her application for endorsement be brought before the full board for review / approval. The results from the initial board member review of the application showed that Ms. Khanimova did not qualify for endorsement. Ms. Khanimova was unable to provide verification of barbering curriculum and the school verification of educational curriculum is based on cosmetology, not barbering. A license certification was submitted from New York indicating that Ms. Khanimova is a licensed cosmetologist. After further discussion, Vice Chair White made a motion to deny the endorsement application due to the fact that the endorsement requirements have not been met. Ms. Feliciano seconded the motion and the motion passed unanimously.

Ms. Scott inquired about countries that do not issue licenses to barbers. Mr. Biggins said that in those instances a certificate or diploma can be used as demonstration of a license. The certificate or diploma documentation would uphold the integrity of the statute.

Continuing Education Provider and Course Applications

Fire Rescue Instructional Service – HIV / AIDS Communicable Diseases

After review of the course application and course content, it was noted that the course completion certificate was missing required information. The course completion certificate did not include the course number. Vice Chair White made a motion to approve the course application with the contingency that the course completion certificate be corrected and sent to the Executive Director, within 30 days. Ms. Scott seconded the [contingency] motion and the motion passed unanimously.

Prosecuting Attorney's Report

Status Report

Mr. Tunncliff reported that as of June 1, 2005, there were 64 barber cases in the legal section.

Per the board's request, Mr. Tunncliff addressed the Trevineo King case as it did not include any unlicensed barbers at the time of the inspection. After research, it was determined that there was an error in the inspection report; however, the investigation report did reflect an unlicensed person working in the barbershop.

Mr. Tunncliff introduced Ms. Cameron Dougherty as the new Prosecuting Attorney. Mr. Tunncliff informed the board that Ms. Dougherty will be handling the barbering cases in the future. Mr. Tunncliff added that he intends to continue to assist with the barbering cases for approximately two more board meetings.

Committee Reports

Legislative Committee / Ms. Jeri Scott, Chair

Ms. Scott had nothing to report in addition to the already discussed 2006 legislation initiatives.

Examination Committee / Ms. Char Feliciano, Chair

Ms. Feliciano asked the department begin providing, to the new examiners, a map for each examination site.

Budget Committee / Mr. Robert Collins, Chair

Mr. Collins readdressed concerns with the approximate \$84,000 increase in the continuing education and testing expense through March 31, 2005, as compared to the same period in 2004.

Newsletter Committee / VACANT, Chair

There was no report.

Continuing Education Committee / Mr. Herman White, Chair

Vice Chair White had nothing to report at this time.

Old Business

Barbering Definitions

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

New Business

2006 Legislative Initiatives

Section 476.034 Definitions.--

Vice Chair White moved to approve the section with the noted changes in subsection (7). Ms. Feliciano seconded the motion and the motion passed unanimously.

Section 476.114 Examination ; Prerequisites.--

Ms. Scott made a motion to approve this section with the paragraph number 2c being stricken as stated by board counsel. Vice Chair White seconded the motion and the motion passed unanimously.

Section 476.144 Licensure. --

Vice Chair White moved to approve this section as drafted. Ms. Scott seconded the motion and the motion passed unanimously.

Section 476.150 Barber intern requirements. --

Vice Chair White moved to approve the changes as noted by board counsel; the word "internship"

will be added to the heading title replacing the word "intern" and the paragraphs are to be renumbered. Ms. Feliciano seconded the motion and the motion passed unanimously.

Section 476.188 Barber Services to be Performed in Registered Barbershop; exception. --

As stated by board counsel, the phrase "or supervised barber intern" will be stricken from paragraph number 2. Vice Chair White moved to approve as stated by board counsel. Ms. Scott seconded the motion and the motion passed unanimously.

Section 476.192 Fees; disposition. --

As stated by board counsel, in subsection (1)(e) the word "initial" will be stricken and the fee amount will be changed to \$300. Vice Chair White moved to approve the section as stated by board counsel. Ms. Feliciano seconded the motion and the motion passed unanimously.

Section 476.194 Prohibited acts. --

Vice Chair White moved to approve this section as drafted. Ms. Scott seconded the motion and the motion passed unanimously.

Other Business

Executive Director's Report

Ms. Barineau reminded the board about the 100% continuing education monitoring initiative and the repercussions associated with non-compliance including possible non-renewal of the license.

Ms. Barineau gave an overview of the Financial Report and the Unlicensed Activity Report for the period ending March 31, 2005.

The board agreed to send Chair Magda and Ms. Scott to the NABBA annual meeting in Myrtle Beach, South Carolina.

Ms. Barineau informed the board that she will be compiling another board newsletter within the next few months and asked the members for article ideas. She reminded the board that they previously voted to publish the newsletter on the board website only. Ms. Barineau will include in the next board newsletter information relating to local law enforcement joining inspectors and investigators when inspecting or investigating repeat offenders since section 476.194, F.S., provides that any person willfully or repeatedly violating the laws and rules of the board are guilty of a second degree misdemeanor.

Board Attorney Report

Rule 61G3-16.007, F.A.C., Examination for Restricted Licensure

Mr. Biggins informed the board that the changes to rule 61G3-16.007, Florida Administrative Code, are effective August 1, 2005.

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

Mr. Biggins reported that the changes to rule 61G3-21.009. Florida Administrative Code should be effective in the near future.

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

The board agreed to amend rule 61G3-20.002, F.A.C., to decrease the amount paid to the testing vendor from \$13.50 to \$4.50 and increase the amount paid to the department from \$61.50 to \$70.50.

Sunshine Law / Ethics Information

Mr. Biggins provided to the board a brief presentation with handout materials on the Florida Sunshine Law and the role of a board member.

Bureau of Education and Testing

Examiner Standardization / Annual Requirement

The board agreed to postpone scheduling a date for Standardization until they receive their year end financial statements. In addition, they agreed that Standardization should be held in a central location and the sufficient time allotted for Standardization should be four hours allowing most examiners to travel to and from the Standardization in one day.

Practical Exam Candidates Location Report

Ms. Barineau reported, on behalf of Ms. Erath, about the report showing where practical candidates reside. Ms. Erath is currently working with Technology on data extraction for creating this report. This information should be available at the next board meeting. Ms. Scott is also requesting information on the pass / fail rate of practical examinations. Again, the board has agreed that out of a matter of fairness to all barber and restricted barber practical examination candidates, a South Florida practical examination site should be secured.

Chairperson Report / Comments

Chair Magda received a response from the National Association of Barber Boards of America (NABBA) regarding costs associated with hosting a national meeting. The response suggested conference attendance as a method of information gathering. Chair Magda will continue to pursue the inquiry.

Public Comments

Ms. Barineau reported that the email from Ms. Suzy Smith was included in the agenda for informational purposes only.

Mr. Jackie Lombardi, Florida Barber Academy, informed the board that over 100 of his previous students were financially harshipped with having to travel to Central Florida or Tallahassee in order to take a practical examination and these students ultimately never completed the licensure process.

Adjournment

Dates / Locations of Future Board Meetings

The board agreed to conduct a general business meeting on Monday, November 7, 2005, in Fort Lauderdale, Florida.

There being no further business, the meeting was adjourned at approximately 3:15 p.m.

RB/de