

# **MINUTES**

**BOARD OF COSMETOLOGY**  
**Department of Business and Professional Regulation**  
**Florida Hotel and Conference Center**  
**1500 Sand Lake Road**  
**Orlando, Florida 32809**

**Sunday, January 25, 2009 – 10:00 a.m.**

## **General Business Meeting**

The Board of Cosmetology meeting was called to order at approximately 10:00 a.m., by Ms. Myra Jowers, Chair.

### **Board Members Present**

Myra Jowers, Chair  
Donna Osborne, Vice Chair  
Monica Smith  
Ginny Fincel  
Rosabel Ramos

### **Board Members Absent**

Candido Llano

### **Other Persons Present**

Robyn Barineau, Executive Director, Department of Business and Professional Regulation (DBPR)  
Ann Cocheu, Assistant Attorney General, Attorney General's Office  
Alex Bosque, Bureau of Education and Testing, DBPR  
LeChea Parson, Assistant General Counsel, Office of the General Counsel, DBPR  
Dana Ewaldt, Government Analyst, DBPR

### **Interested Parties Present**

Ken Zraggen, Pearson Vue  
JoAnne Wingate, Pearson Vue  
Bonnie Poole, Florida Cosmetology Association  
Chuck Chapman, Florida Cosmetology Association  
LaFaye Austin, President, National Interstate Council of State Boards of Cosmetology (NIC)  
Kirby Morris, Marketing Director, NIC  
Dana Panco, NIC and Schroeder Measurement Technologies  
Rachel Tan, NIC and Schroeder Measurement Technologies  
Larry Walthers, NIC  
Suzanne Dailey, Psychological Services, Inc.  
Laurel Ritenbaugh, Plant City High School

John Conley, The Hairwraps Company  
Janice DiFurio, Vector Institute  
Sherry O'Hair Bennett, American Health and Aesthetics Institute  
Maggie Marquez, Central Florida College

The meeting was opened with a roll call and a quorum was established. Chair Jowers noted Mr. Candido Llano's absence from the meeting as unexcused since prior notification was not provided to board staff.

### **Approval of Minutes: October 12, 2008 and October 13, 2008**

Ms. Donna Osborne, Vice Chair, moved to approve the minutes from the October 12, 2008, rule development workshop and from the October 13, 2008, board meeting. Ms. Ginny Fincel seconded the motion. The motion passed unanimously.

### **Applications**

#### **Applications for Hair Braiding Courses**

- Innovative Hair Design  
After review and discussion of the course application, Vice Chair Osborne moved to approve the application with the contingency of updating the course outline by changing the reference of sterilization to sanitation since the practice of sterilization is performed in the medical environment. The corrected course material should be provided to the Executive Director within 30 days of the notice. Ms. Fincel seconded the motion. The motion passed unanimously.

#### **Applications for Hair Wrapping Courses**

- Oasis Hair Braiding Certification  
After review and discussion of the course application, Ms. Fincel moved to approve the application with the contingency of removing the references to ultra-violet rays as a method of sterilization. The corrected course material should be provided to the Executive Director within 30 days of the notice. Vice Chair Osborne seconded the motion. The motion passed unanimously.

#### **Applications for Body Wrapping Courses**

- International Academy  
After review and discussion of the course application, Vice Chair Osborne moved that the board approve the application. Ms. Fincel seconded the motion. The motion passed unanimously.
- Winter Park Tech  
After review and discussion of the course application, Ms. Fincel moved

that the board approve the application. Vice Chair Osborne seconded the motion. The motion passed unanimously.

### **Applications for Initial HIV/AIDS Courses**

- All Star Professional Training, Inc.  
After review and discussion of the course application, Vice Chair Osborne moved that the board approve the application. Ms. Fincel seconded the motion. The motion passed unanimously.

### **Continuing Education Provider and Course Applications**

- Sai Ayurvedic College & Ayurvedic Wellness Center  
Provider Application  
Course Application  
Pancha Karma Therapy & Ayurvedic Esthetic Care – 120 Hours Live Study Group  
After review and discussion of the provider application, Vice Chair Osborne moved to approve the application. Ms. Monica Smith seconded the motion and the motion passed unanimously.

After review and discussion of the course application, Ms. Smith moved that the board deny the application since the course content appears to be of a medical nature and outside the scope of Florida Board of Cosmetology licensees. Vice Chair Osborne seconded the motion. The motion passed unanimously.

- ADU School of Cosmetology  
Course Application  
16-Hour Continuing Education Course – 16 Hours Live Study Group  
After review and discussion of the course application, Vice Chair Osborne moved that the board deny the application based on the incorrect references to alcohol as a disinfecting agent and the Florida laws and rules section not reflecting the most current information. Ms. Fincel seconded the motion. The motion passed unanimously.
- Caridad X. Zamora  
Course Application  
Complete Continuing Education for Cosmetology – 16 Hours Home Study  
After review and discussion of the course application, Vice Chair Osborne moved that the board deny the application based on the incorrect references to alcohol and formalin as disinfecting agents and the Florida laws and rules section does not reflect the most current information. Ms. Smith seconded the motion. The motion passed unanimously.

- ASM Beauty World Academy, Inc.  
Course Application  
16 Hour Continuing Education – 16 Hours Internet  
 After review and discussion of the course application, Ms. Fincel moved that the board deny the application based on the Florida laws and rules section not reflecting the most current information and the resource references are outdated. Vice Chair Osborne seconded the motion. The motion passed unanimously.
- All Star Professional Training, Inc.  
Course Application  
16 Hour Continuing Education – 16 Hours Internet  
 After review and discussion of the course application, Vice Chair Osborne moved that the board deny the application based on incorrect references to alcohol as an EPA approved disinfecting agent, references to massage practices and uses of lancets. Ms. Fincel seconded the motion. The motion passed unanimously.
- American Health & Aesthetics Institute  
Provider Application  
Course Application  
Permanent Make-up Theory & Practical Application – 16 Hours Live Group Study  
 After review and discussion of the provider application, Vice Chair Osborne moved to approve the application. Ms. Fincel seconded the motion and the motion passed unanimously.

After review and discussion of the course application, Ms. Fincel moved that the board deny the application since the application of permanent make-up or tattooing is outside the scope of Florida Board of Cosmetology licensees. Ms. Smith seconded the motion. The motion passed unanimously.

## **Committee Reports**

### **Continuing Education Committee – Ginny Fincel, Chair**

Ms. Fincel had no additional report at this time.

### **Rule Committee Report – Donna Osborne, Chair**

Vice Chair Osborne had no additional report at this time.

### **Legislative Committee – Donna Osborne, Chair**

Vice Chair Osborne had had no additional report at the time.

## **Old Business**

### Garra Rufa, Pedicure Fish, In Cosmetology Salons in Florida

At the October 13, 2008, cosmetology board meeting it was agreed that this matter would be further researched and discussed at this meeting. At the October 13, 2008, board meeting the board asked Ms. Ann Cocheu, Assistant Attorney General, to contact the Generals Counsel of the Fish and Wildlife Conservation Commission, the Department of Environmental Protection and the Department of Health about fish pedicures to determine if they have any comments or concerns on the issue, however, Ms. Cocheu was unable to contact the other state agencies. After discussion, the board agreed that this practice should not be allowed in salons as there is no allowance in the cosmetology laws or rules for animals in a salon, nor are the fish kept in a closed aquarium. Also, there does not appear to be any way to properly sanitize or disinfect the unit holding the fish or the fish in between patrons.

Ms. LeChea Parson, Assistant General Counsel, indicated that the violations of Rules 61G5-20.002(1)(c)4 and 61G5-20.002(2)(g), Florida Administrative Code, could be the cited violations.

## **New Business**

### Discussion of National Cosmetology Examination

Vice Chair Osborne stated that for the last several years she had researched utilization of a national examination and the benefits of having passed a national examination for Florida licenses transferring to another state through endorsement or reciprocity requirements.

Ms. Robyn Barineau, Executive Director, reminded the board that Chapter 455, Florida Statutes, states that a board can utilize a national examination, with administration through the department, so long as the national examination vendor provides a copy of the examination(s) for certification. Ms. Barineau also stated that utilizing a vendor to administer the examination must go through the contract bidding process.

Mr. Kirby Morris, Marketing Director of the National Interstate Council of State Boards of Cosmetology (NIC), thanked the board for the opportunity to discuss the NIC national examination and gave a brief overview of NIC's history. Mr. Morris informed the board that the NIC written examination is offered in 38 states, 21 states offer the NIC written and practical examinations and the NIC examinations are offered in English, Spanish, Korean and Vietnamese. Mr. Morris stated that no examination form is over three years old and that NIC works very closely with the cosmetology textbook developers. Mr. Morris added that as a member of NIC, the Florida Board of Cosmetology owns the content of the NIC examination. Mr. Morris noted that the NIC written and practical examinations are \$50 per examination per candidate.

Ms. Fincel asked how a national examination could incorporate all states' requirements. Mr. Morris indicated that NIC's core examination meets the requirements of most states and that Florida laws and rules could be added. There would be no additional cost to develop and include a Florida laws and rules portion in the written examination. Mr. Morris added that when comparing education hours for individuals endorsing a license from another state, most states usually overlook the incomparable hours when the applicant has passed a national examination.

Ms. Barineau asked how many questions are on the NIC written examination. Ms. Dana Panco, NIC and Schroeder Measurement Technologies, indicated that there are 100 questions on the examination with an additional ten un-scored pilot questions and that the candidate is allowed 90 minutes to complete the examination. Ms. Suzanne Dailey, Psychological Services, Inc. (PSI) informed the board that the NIC examination is administered as a computer based test or through the pencil-and-paper option. Ms. Dailey informed the board that PSI has a contractual agreement with NIC that they are the only vendor approved to administer the examination. Ms. Dailey noted that currently there are six company-owned examination sites located throughout Florida, plus several third party locations, such as colleges and technical schools. Ms. Barineau asked that NIC provide her with copies of their contracts for review by the department's Office of the General Counsel.

Mr. Alex Bosque, Bureau of Education and Testing (BET), distributed documentation to the board outlining all the services offered by the Bureau of Education and Testing. Mr. Bosque introduced Mr. Ken Zraggen and Ms. JoAnn Wingate from Pearson Vue. Mr. Bosque stated that BET develops and administers the cosmetology written examinations and services provided by the department's vendor, Pearson Vue, included candidate pass/fail notices with their picture, a strength and weakness report, the candidate's scores are posted to their record the day following their examination, and Pearson Vue operates 22 examination sites in Florida or the candidate can take the Florida cosmetology examination in other states. Mr. Bosque mentioned that Pearson Vue administers the examination at a cost of \$9 per hour. Mr. Bosque noted that last year, BET offered seminars for cosmetology schools to provide the schools with information about the various units within the agency.

Ms. Barineau reminded the board that their fees are currently at the maximum statutory fee cap and given the projected deficit posture of their operating account, should they consider utilizing a national examination, the \$50 written examination fee would only leave \$30 to cover the \$5 unlicensed activity fee, and the licensure and application fees resulting in a reduction of at least \$23 per application.

Ms. Cocheu noted that the board's current endorsement statute and rule is not merely about the examination but also encompasses the education training hours and that those coming from states with a lesser education hour requirement would not automatically meet the endorsement requirements based on the passage of a national examination.

Chair Jowers advised the board that until the department has reviewed the NIC contracts they could not make a decision on whether or not to proceed with utilizing a

national examination.

Mr. Bosque stated that BET would like to maintain their working relationship with the board but that BET would assist with whatever direction they elected.

### Flea Market Cosmetology Salons

This item was added to the agenda in order to seek clarification if a salon or barbershop located in flea markets are required to be inspected prior to licensure. Ms. Cocheu informed the board that they currently did not have statutory authority to require pre-licensure inspections of flea market salons.

## **Other Business**

### Executive Director's Report

#### Financial Report, September 30, 2008, Operating Account

#### Financial Report, September 30, 2008, Unlicensed Activity Account

Ms. Barineau informed the board that as of September 30, 2008, the balances in their Operating and Unlicensed Activity Accounts were \$415,421 and \$1,161,064 respectively. Ms. Barineau advised the board that the current five-year projections show a deficit posture beginning in the fiscal year ending June 30, 2009 and that an assessment on each initial license and renewed license may need to be considered in the future.

#### National-Interstate Council of State Board of Cosmetology, Inc. (NIC) Newsletter Volume 64, No 4

Ms. Barineau noted that the newsletter was included in the agenda for informational purposes

#### Complaints and Investigative Statistics Report July – December 2008

Ms. Barineau noted that the newsletter was included in the agenda for informational purposes

#### DBPR Board of Cosmetology Newsletter January 2009

Ms. Barineau noted that the newsletter was included in the agenda for informational purposes.

### Board Member Training

Ms. Barineau, Ms. Parson and Ms. Cocheu provided board member training.

### **Board Member Comments**

There were no further comments.

### **Chairperson Comments**

Chair Jowers had no further comments.

### **Public Comments**

There were no further comments at this time.

### **Dates and Locations for Future Meetings**

Monday, April 27, 2009 – Jacksonville

Monday, July 20, 2009 – Orlando

Monday, October 12, 2009 – Tampa



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## **Rule Development Workshop**

### **Rule Promulgation**

#### Rule 61G5-18.0055, Florida Administrative Code – Supervised Practice Exception

Ms. Cocheu provided the following proposed language:

1) Following the completion of the first licensing examination by a graduate of licensed cosmetology school or cosmetology program offered in a public school system, which school or program is certified by the Department of Education, an applicant for licensure as a cosmetologist by examination is eligible to practice temporarily in a current, actively licensed cosmetology salon under the following conditions:

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

An applicant who fails any part of the examination may not practice as a cosmetologist and may immediately apply for reexamination.

Vice Chair Osborne moved that the board approve the proposed language as presented by Ms. Cocheu and that she move forward with publication. Ms. Fincel seconded the motion and the motion passed unanimously.

Vice Chair Osborne moved that the board accept the Statement of Estimated Regulatory Costs (SERC) as presented. Ms. Smith seconded the motion. The motion passed unanimously.

#### Chapter 61G5-22, Florida Administrative Code – School Curriculum Performance Based Learning – Minimal Competency And Service

Ms. Cocheu provided the following proposed language:

61G5-22.006, Florida Administrative Code – Facials (Including Skin Care and Hair Removal).

(1) through (4) No change.

(5) Definition of Services: Services shall be a facial; a client consultation/skin analysis; exfoliation, either manual, mechanical or chemical; cleansing; toning; manipulation; and packs, masks, or other treatments as needed.

(6) At a minimum, the curriculum of schools and programs specified in Section 477.0201, F.S., shall include the following hours of instruction in the indicated theory items:

TOPIC	HOURS
(a) Florida laws and rules	5
(b) HIV and AIDS	4
(c) Sanitation	10
(d) Ethics	2
(e) Basics of Electricity	8
(f) Facial Techniques and Contraindications	66
(g) Product Chemistry	8
(h) Hair Removal	2.5
(i) Makeup	2
(j) Skin Theory and Diseases and Disorders of the Skin	85

(7) The curriculum shall also include the performance of the following specified services as indicated as well as the estimated total number of hours needed to complete the required number of services.

TYPE OF SERVICE	NUMBER OF SERVICES	HOURS REQUIRED
(a) Facials, manual and mechanical including masks, packs or treatments – must be performed on a variety of skin types including normal, oily, dry, combination, problem and mature	40	40
(b) Set up, use and maintenance of Electrical devices	5	1.25
(c) Hair removal, including tweezing, waxing, threading and sugaring	20	5
(d) Makeup application for both day time and nighttime looks	10	5
(e) Lash and brow tinting	10	5
(f) Eyelash application, including strip lashes, individual lashes, and semi-permanent lashes	10	5
(g) Manual Extractions	5	1.25

(8) Subsections (6) and (7) shall be effective January 2, 2010.

Vice Chair Osborne moved that the board approve the proposed language as presented by Ms. Cocheu and that Ms. Cocheu move forward with noticing the rule for development. Ms. Fincel seconded the motion and the motion passed unanimously.

Vice Chair Osborne moved that the board accept the Statement of Estimated Regulatory Costs (SERC) as presented. Ms. Fincel seconded the motion. The motion passed unanimously.

### **Adjournment**

There being no further business, the meeting was adjourned at 1:00 p.m.