

# **EXECUTIVE SUMMARY**

## **Board of Cosmetology**

### **I. General Information**

Meeting Type: Rule Development Workshop and  
General Business Meeting  
Meeting Date: Sunday, January 25, 2009, and  
Monday, January 26, 2009  
Meeting Location: The Florida Hotel and Conference Center  
1500 Sand Lake Road  
Orlando, Florida 32809

**Attendees:**

Myra Jowers, Chair  
Donna Osborne, Vice Chair  
Ginny Fincel  
Rosabel Ramos  
Monica Smith  
Robyn Barineau, Executive Director, Department of Business and Professional  
Regulation (DBPR)  
Ann Cocheu, Assistant Attorney General, Office of the Attorney General  
Elizabeth Duffy, Assistant General Counsel, Office of the General Counsel, DBPR  
LeChea Parson, Assistant General Counsel, DBPR  
Dana Ewaldt, Government Analyst, Department of Business and Professional  
Regulation  
Dianna Garcia, Court Reporter  
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  
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  
Other Interested Parties

### **II. Major Issues/Actions**

- Since Mr. Candido Llano did not contact board staff regarding his absence from the meeting, Chair Myra Jowers noted his absence as unexcused.

- The board considered 45 disciplinary cases.
- Ms. LeChea Parson, Assistant General Counsel, provided the board with the Prosecuting Attorney's Report and reported that as of January 19, 2009, there were 317 cosmetology cases in the legal section.
- The board approved one hair braiding course application, one hair wrapping application, two body wrapping course applications, one initial HIV/AIDS course application, two continuing education provider applications, and denied six continuing education course applications.
- The board asked that Rule 61G5-32.001, Florida Administrative Code, Continuing Education, be included on the next agenda for discussion to consider requiring continuing education providers to include publication or access dates for references materials included with course applications.
- National Examination Discussion
  - Ms. Donna Osborne, Vice Chair, mentioned that she has researched utilization of a national examination for the last four or five years. She added that it would be beneficial for Florida licensees transferring to another state to have passed a national examination for ease with endorsement requirements. Ms. Robyn Barineau, Executive Director, reminded the board that Chapter 455, Florida Statutes, provides that a board can utilize a national examination with administration through the department so long as the national examination vendor provides the department with a copy of the examination(s) for certification. She also reminded the board that should they want a vendor other than the department to administer their examination, that must go through the bidding process.
  - Mr. Kirby Morris, Marketing Director of the National Interstate Council of State Boards of Cosmetology (NIC), introduced himself and thanked the board for the opportunity to discuss having the Florida Board of Cosmetology utilize the NIC national examination. Ms. Ginny Fincel asked Mr. Morris how a national examination could incorporate all states' requirements. Mr. Morris indicated that NIC's core examination meets all states' requirements, and Florida laws and rules could be added. Mr. Morris added that there would be no additional cost to develop and include a Florida laws and rules portion in their national examination. He mentioned that most states usually overlook incomparable educational hours for individuals endorsing a license from another state so long as they have passed a national examination. Mr. Morris informed the board that the NIC written examination is offered in 38 states, 21 states use the NIC written and practical examinations, and the NIC examinations are offered in English, Spanish, Korean and Vietnamese. Mr. Morris indicated that no examination forms are over three years old. He added that NIC works very closely with the cosmetology textbook developers. Mr. Morris informed the board that as a member of NIC, the Florida Board of Cosmetology owns the NIC examination.
  - Ms. Barineau asked how many questions are on the NIC written examination, and Ms. Dana Panco, NIC and Schroeder Measurement Technologies, indicated that there are 100 items on the examination questions with an additional 10 unscored pilot items, and the candidate is allowed 90 minutes to complete the exam. Mr. Morris gave a brief overview of NIC's history.
  - Ms. Suzanne Dailey, Psychological Services, Inc. (PSI), informed the board that PSI has a contractual agreement with NIC that they are the only vendors approved to administer the NIC examination. Ms. Barineau asked that NIC provide her with copies of their contracts for review by the Department's Office of

the General Counsel. Ms. LaFaye Austin, NIC President, thanked the board for the opportunity to address them.

- Mr. Alex Bosque, Bureau of Education and Testing (BET), distributed documentation to the board informing them of all the services offered by the Bureau of Education and Testing. He added that BET develops and administers the Board of Cosmetology written examination at a reasonable cost and in a safe, reliable manner. Mr. Bosque mentioned that the department's vendor, Pearson Vue, administers the examination at a cost of \$9 per hour, and the department has a tremendous working relationship with Pearson Vue. Candidate pass/fail notices include their picture, whether or not they passed/failed the examination, a strength and weakness report, and candidates can take the Florida cosmetology examination in other states. He informed the board that scores are posted to a candidate's record the day following their examination. Mr. Bosque mentioned that last year, BET offered some seminars for cosmetology schools to provide the schools with information about the various units within the agency. He added that BET, at the board's request, could offer a Florida laws and rules examination. Mr. Bosque informed the board that BET would like to maintain their working relationship with the board but that BET would assist with whatever direction they elected.
- Chair Jowers advised the board that they could not make a decision on whether or not to proceed with utilizing a national examination until the department reviewed the NIC contracts. Mr. Morris informed the board that the NIC written examination cost is \$50 per candidate and the NIC practical examination cost is \$50 per candidate. Ms. Barineau reminded the board that their fees are currently at the maximum statutory fee cap and given their projected deficit posture, should they consider moving forward with utilization of a national examination, the \$50 written examination fee would only leave \$30 to include the \$5 unlicensed activity fee, and their application and licensure fees, a reduction of at least \$23 per application.
- Ms. Dailey informed the board that PSI currently has six exam sites and can add others at colleges and universities in Florida. Mr. Bosque informed the board that Pearson Vue currently operates 22 exam sites in Florida. He also introduced Mr. Ken Zraggen and Ms. JoAnne Wingate from Pearson Vue.
- Ms. Barineau mentioned the recent press and inquiries the board office has received regarding fish pedicures and reminded the board that they agreed to research this matter and discuss this topic at the meeting. The board previously asked Ms. Cocheu to contact the General Counsel of the Fish and Wildlife Conservation Commission, the Department of Environmental Protection, and the Department of Health about fish pedicures, and to determine if they have any comments on the issue, but she was unable to do so prior to the meeting. After discussion, the board agreed that this practice should not be allowed in salons as there is no allowance for animals in a salon nor are the fish kept in a closed aquarium, and 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. Parson indicated that violations of Rules 61G5-20.002(1)(c)4. and 61G5-20.002(2)(g), Florida Administrative Code, could be cited as violations.

- The board agreed on the following rule language, approved the Statement of Estimated Regulatory Costs (SERC) for these rules, and asked Ms. Ann Cocheu, Assistant Attorney General, to move forward with publication:
  - Rule 61G5-18.0055 – Supervised Cosmetology Practice Exception
    - 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.
      - (b) ~~In the event that the applicant fails to obtain a passing score on either the written or clinical examination on the first attempt, the applicant shall not be eligible to practice cosmetology under this rule until the applicant:~~
        1. ~~Applies to the Department for authorization to retake the failed portion(s) of the examination; and~~
        2. ~~Presents the salon owner a copy of both the reexamination application and the examination scheduling authorization letter from the testing vendor.~~
        3. ~~Upon completion of these conditions, the applicant is eligible to practice cosmetology in a licensed cosmetology salon subject to the provisions of paragraph (c) referenced below, provided that the applicant posts the examination results for both examinations at their work station with a recent photograph affixed thereto, which practice may extend for a period of no more than 60 days from the date of the reexamination application. The applicant must discontinue practicing when 180 days have passed from the date the original examinations were taken if reexamination has not yet been completed. Under no circumstances shall the applicant be eligible to practice prior to having applied for reexamination and having obtained the examination scheduling authorization letter from the testing vendor.~~
      - (c) ~~All cosmetology services performed by the applicant under this exception shall be performed under the supervision of a licensed cosmetologist. “Under the supervision of a licensed cosmetologist” shall mean that an individual who then holds a current, active Florida license as a cosmetologist shall be physically present at all times when the applicant is performing cosmetology services.~~
    - (2) ~~In the event an applicant, who previously failed either or both of the examinations on the first attempt, fails to obtain a passing score on either or both of the second licensure examination(s), the applicant is no longer eligible to practice cosmetology under this exception and must immediately discontinue practicing cosmetology until the applicant has been issued a license to practice by the Department. An applicant who fails any part of the examination may not practice as a cosmetologist and may immediately apply for reexamination.~~

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

(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                 | 10             |
| (g) Manual Extractions  | 5                  | 1.25           |

- Ms. Cocheu informed the board that they currently did not have statutory authority to require flea market cosmetology salons to be preinspected prior to licensure. Ms. Barineau will inform the department and determine if the department will seek legislation to preinspect flea market salons.
- 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 the board headed in a deficit beginning in the fiscal year ending June 30, 2009. She indicated that she would keep the board informed and that an assessment on each initial license and renewed license may need to be considered in the future.

- Ms. Duffy mentioned that the United States Environmental Protection Agency and the Florida Department of Environmental Protection have useful information on their Web sites related to the disposal of hazardous materials such as methyl methacrylate (MMA). Ms. Barineau will include an article on this information in the next newsletter.
- Ms. Barineau informed the board of the following meeting dates and locations:
  - Monday, April 27, 2009 – Jacksonville
  - Monday, July 20, 2009 – Orlando
  - October 12, 2009 - Tampa
- Ms. Barineau, Ms. Parson and Ms. Cocheu provided board member training.

### **III. Legislation/Rule Promulgation**

- Ms. Cocheu will notice Rules 61G5-18.0055, Florida Administrative Code, Supervised Cosmetology Practice Exception, and 61G5-22.006, Florida Administrative Code – Facials (Including Skin Care and Hair).

### **IV. Action Required**

- Ms. Cocheu will prepare final orders from this meeting for filing with the Agency Clerk's Office.
- The board will discuss Rule 61G5-32.001, Florida Administrative Code, Continuing Education, at their April meeting.
- NIC will forward copies of their contracts to Ms. Barineau so that she can ask the department's Office of General Counsel to review and provide their comments on utilization of the NIC examination.
- Ms. Barineau will determine if the department will seek legislation to preinspect flea market cosmetology salons.
- Ms. Barineau will include information in the next newsletter related to the disposal of hazardous materials.

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Robyn Barineau  
Executive Director  
January 28, 2009