

EXECUTIVE SUMMARY

Board of Cosmetology

I. General Information

Meeting Type: Rules Workshop and General Business Meeting
Meeting Date: Sunday, October 7, 2012, through
Tuesday, October 9, 2012
Meeting Location: Residence Inn – Amelia Island
2301 Sadler Road
Fernandina Beach, Florida 32034

Attendees:

Myra Jowers, Chair
Ginny Fincel, Vice Chair
Laurel Ritenbaugh
Suzanne Wilhoite
Robyn Barineau, Executive Director, Department of Business and Professional Regulation (DBPR)
Rachel Clark, Assistant Attorney General, Office of the Attorney General (OAG)
Doug Dolan, Assistant Attorney General, OAG
Dustin Metz, Assistant General Counsel, Office of the General Counsel (OGC)
Kathleen Brown-Blake, Assistant General Counsel, OGC
Julie Rowland, Government Analyst, DBPR
Suzanne Lee, Bureau of Education and Testing, DBPR
Bonnie Poole, Florida Cosmetology Association
Beth Masters, Court Reporter
Lisa Beauchamp, Court Reporter
Other Interested Parties

II. Major Issues/Actions

- Chair Myra Jowers excused the absences of Ms. Monica Smith and Ms. Crystal Lackey from the meeting.
- The board considered 10 disciplinary cases.
- Mr. Dustin Metz, Assistant General Counsel, reported that as of September 18, 2012, there were 312 cosmetology cases in the legal section.
- The board approved 11 licensure applications and denied one licensure application.
- The board approved three initial HIV/AIDS course applications, approved one continuing education provider application, approved four continuing education course applications, denied four continuing education course applications, approved five body wrapping course applications, denied two body wrapping course applications, approved five hair braiding course applications, and approved five hair braiding course applications, denied one hair braiding course application, and approved three hair wrapping course applications.

- The board denied the petition for variance and waiver of rules 61G5-20.002(5) and 61G5-20.002(6), Florida Administrative Code, submitted by LAKA USA, LLC, because the request would impose a danger to the public.
- Regarding the email submitted by Mr. Joel Carney relating to hair removal for men, Ms. Rachel Clark, Assistant Attorney General, advised the board not to respond as he should seek legal counsel for assistance. Mr. Doug Dolan, Assistant Attorney General, will respond to Mr. Carney's email.
- The board reviewed the current list of criminal history offenses that if included on a licensure application, can be approved by the Department's Central Intake Unit. The board added additional offenses to the existing list.
- Ms. Robyn Barineau, Executive Director, reported that the board's operating account balance at the end of the fiscal year, June 30, 2012, was over \$1.829 million, and the unlicensed activity account balance for the same period was over \$1.564 million. She added that over \$466,000 was swept from the board's unlicensed activity account and transferred to General Revenue. She added that the Department projects that these two accounts will maintain a positive cash balance at least through June 30, 2016.
- Ms. Barineau asked the board if they would consider amending their display of documents rule to consider eliminating the requirement that the latest inspection sheet be posted in a conspicuous place in the salon to possibly allow for all inspection sheets to be posted on the Internet. The board agreed that the web address for posting should be added to the Consumer Protection Notice. They also agreed that the rule could possibly require licensees to download a copy of their inspection sheet from the Internet for posting in the salon. The board will further discuss this issue at a future meeting.
- The board conducted a rules workshop on the following rules and agreed to changes as noted:
 - 61G5-18.007, Florida Administrative Code – Endorsement of Cosmetologists. **(Proposed rule amendments included below.)**

The Department of Business and Professional shall issue a license to an applicant without examination who:

- (1) Makes application and pays to the Department the fee specified in Rule 61G5-24.002, F.A.C.;
- (2) Demonstrates that the applicant has completed a board approved HIV/AIDS course; and
- (3) Demonstrates that the applicant is currently licensed to practice cosmetology under the law of another state, having;
- ~~(4) Demonstrates that the applicant has completed at least 1200 cosmetology school or program hours substantially similar to, equivalent to, or greater than the qualifications required of applicants from this state; and passage of a written examination.~~
- ~~(5) Demonstrates that the applicant has passed a written licensure examination to obtain a license substantially similar to, equivalent to, or greater than the qualifications required of applicants from this state; and~~
- ~~(6) Demonstrates that the applicant has completed a board approved HIV/AIDS course.~~

- 61G5-20.0015, Florida Administrative Code – Performance of Cosmetology or Specialty Services Outside a Licensed Salon. **(Current rule language below.)**

(1) Cosmetology or specialty services may be performed by a licensed cosmetologist or specialist in a location other than a licensed salon, including a hospital, nursing home, residence, or similar facility, when a client for reasons of ill health is unable to go to a licensed salon. The following procedure shall be followed:

(a) Arrangements shall be made through a licensed salon.

(b) Information as to the name of the client and the address at which the services are to be performed shall be recorded in the appointment book.

(c) The appointment book shall remain at the salon and be made available upon request to any investigator or inspector of the Department.

(2) When cosmetology or specialty services are performed in a location other than a licensed salon, such services may lawfully be performed only upon clients, residents, or patients, who for reasons of ill health are unable to visit a licensed salon. Such services are not to be performed upon employees or persons who do not reside in the facility, or any other non-qualified persons.

(3) Cosmetology services may only be performed in a photography studio salon subject to the following requirements:

(a) Only hair-arranging services and the application of cosmetic products may be performed in a photography studio salon; and, may only be performed for the purpose of preparing a model or client of the photography studio for a photographic session. Shampooing the hair, hair cutting, hair coloring, permanent waving of the hair, hair relaxing, removing of hair, manicuring, pedicuring, and the performance of any other service defined as cosmetology may not be performed in a photography studio salon.

(b) All hair-arranging services and applications of cosmetic products to be performed in the photography studio salon shall be performed by a licensed Florida cosmetologist or under the supervision of a licensed cosmetologist employed by the salon. "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 the photography studio salon at all times when hair-arranging services or applications of cosmetic products are being performed.

(c) When performing hair-arranging services, the photography studio salon shall use either disposable hair-arranging.

The board agreed to remove section (1)(a) as it repeats the statute. They also agreed that (1)(b) and (1)(c) will be moved under a new subsection (4) where special events will be defined as weddings, fashion shows, and other events as approved by the board. The board also agreed that there would be no negative impact on small business nor would there likely be any increase in regulatory costs in excess of \$200,000 in the aggregate within one year after implementation. The board will review the draft language at their January 2013 meeting.

- 61G5-20.002, Florida Administrative Code – Salon Requirements. **(Current rule language below.)**

(1) Prior to opening a salon, the owner shall:

(a) Submit an application on forms prescribed by the Department of Business and Professional Regulation; and

(b) Pay the required registration fee as outlined in the fee schedule in Rule 61G5-24.005, F.A.C.; and

(c) Meet the safety and sanitary requirements as listed below and these requirements shall continue in full force and effect for the life of the salon:

1. Ventilation and Cleanliness: Each salon shall be kept well ventilated. The walls, ceilings, furniture and equipment shall be kept clean and free from dust. Hair must not be allowed to accumulate on the floor of the salon. Hair must be deposited in a closed container. Each salon which provides services for the extending or sculpturing of nails shall provide such services in a separate area which is adequately ventilated for the safe dispersion of all fumes resulting from the services.

2. Toilet and Lavatory Facilities: Each salon shall provide – on the premises or in the same building as, and within 300 feet of, the salon – adequate toilet and lavatory facilities. To be adequate, such facilities shall have at least one toilet and one sink with running water. Such facilities shall be equipped with toilet tissue, soap dispenser with soap or other hand cleaning material, sanitary towels or other hand-drying device such as a wall-mounted electric blow dryer, and waste receptacle. Such facilities and all of the foregoing fixtures and components shall be kept clean, in good repair, well-lighted, and adequately ventilated to remove objectionable odors.

3. A salon, or specialty salon may be located at a place of residence. Salon facilities must be separated from the living quarters by a permanent wall construction. A separate entrance shall be provided to allow entry to the salon other than from the living quarters. Toilet and lavatory facilities shall comply with subparagraph (c)2. above and shall have an entrance from the salon other than the living quarters.

4. Animals: No animals or pets shall be allowed in a salon, with the exception of fish kept in closed aquariums, or trained animals to assist the hearing impaired, visually impaired, or the physically disabled.

5. Shampoo Bowls: Each salon shall have shampoo bowls equipped with hot and cold running water. The shampoo bowls shall be located in the area where cosmetology services are being performed. A specialty salon that exclusively provides specialty services, as defined in Section 477.013(6), F.S., need not have a shampoo bowl, but must have a sink or lavatory equipped with hot and cold running water on the premises of the salon.

(d) Comply with all local building and fire codes. These requirements shall continue in full force and effect for the life of the salon.

(2) Each salon shall comply with the following:

(a) Linens: Each salon shall keep clean linens in a closed, dustproof cabinet. All soiled linens must be kept in a closed receptacle. Soiled linens may be kept in open containers if entirely separated from the area in which cosmetology services are rendered to the public. A sanitary towel or neck

strip shall be placed around the patron's neck to avoid direct contact of the shampoo cape with a patron's skin.

(b) Containers: Salons must use containers for waving lotions and other preparations of such type as will prevent contamination of the unused portion. All creams shall be removed from containers by spatulas.

(c) Sterilization and Disinfection: The use of a brush, comb or other article on more than one patron without being disinfected is prohibited. Each salon is required to have sufficient combs, brushes, and implements to allow for adequate disinfecting practices. Combs or other instruments shall not be carried in pockets.

(d) Sanitizers: All salons shall be equipped with and utilize wet sanitizers with hospital level disinfectant or EPA approved disinfectant, sufficient to allow for disinfecting practices.

1. A wet sanitizer is any receptacle containing a disinfectant solution and large enough to allow for a complete immersion of the articles. A cover shall be provided.

2. Disinfecting methods which are effective and approved for salons: First, clean articles with soap and water, completely immerse in a chemical solution that is hospital level or EPA approved disinfectant as follows:

a. Combs and brushes, remove hair first and immerse in hospital level or EPA approved disinfectant;

b. Metallic instrument, immerse in hospital level for EPA approved disinfectant;

c. Instruments with cutting edge, wipe with a hospital level or EPA approved disinfectant; or

d. Implements may be immersed in a hospital level or EPA approved disinfectant solution.

3. For purposes of this rule, a "hospital level disinfectant or EPA approved disinfectant" shall mean the following:

a. For all combs, brushes, metallic instruments, instruments with a cutting edge, and implements that have not come into contact with blood or body fluids, a disinfectant that indicates on its label that it has been registered with the EPA as a hospital grade bacterial, virucidal and fungicidal disinfectant;

b. For all combs, brushes, metallic instruments with a cutting edge, and implements that have come into contact with blood or body fluids, a disinfectant that indicates on its label that it has been registered with the EPA as a tuberculocidal disinfectant, in accordance with 29 C.F.R. 1910.1030.

4. All disinfectants shall be mixed and used according to the manufacturer's directions.

(e) After cleaning and disinfecting, articles shall be stored in a clean, closed cabinet or container until used. Undisinfected articles such as pens, pencils, money, paper, mail, etc., shall not be kept in the same container or cabinet. For the purpose of recharging, rechargeable clippers may be stored in an area other than in a closed cabinet or container, provided such area is clean and provided the cutting edges of such clippers have been disinfected.

(f) Ultra Violet Irradiation may be used to store articles and instruments after they have been cleansed and disinfected.

(g) Pedicure Equipment Sterilization and Disinfection:

The following cleaning and disinfection procedures must be used for any pedicure equipment that holds water, including sinks, bowls, basins, pipe-less

spas, and whirlpool spas:

1. After each client, all pedicure units must be cleaned with a low-foaming soap or detergent with water to remove all visible debris, then disinfected with an EPA registered hospital grade bactericidal, fungicidal, virucidal, and pseudomonacidal disinfectant used according to manufacturers instructions for at least ten (10) minutes. If the pipe-free foot spa has a foot plate, it should be removed and the area beneath it cleaned, rinsed, and wiped dry.
2. At the end of each day of use, the following procedures shall be used:
 - a. All filter screens in whirlpool pedicure spas or basins for all types of foot spas must be sanitized. All visible debris in the screen and the inlet must be removed and cleaned with a low-foaming soap or detergent and water. For pipe-free systems, the jet components or foot plate must be removed and cleaned and any debris removed. The screen, jet, or foot plate must be completely immersed in an EPA registered, hospital grade bactericidal, fungicidal, virucidal, and pseudomonacidal disinfectant that is used according to manufacturer's instructions. The screen, jet, or foot plate must be replaced after disinfection is completed and the system is flushed with warm water and low-foaming soap for 5 minutes, rinsed, and drained.
 - b. After the above procedures are completed, the basin should be filled with clean water and the correct amount of EPA registered disinfectant. The solution must be circulated through foot spa system for 10 minutes and the unit then turned off. The solution should remain in the basin for at least 6 to 10 hours. Before using the equipment again, the basin system must be drained and flushed with clean water.
3. Once each week, subsequent to completing the required end-of-day cleaning procedures, the basin must be filled with a solution of water containing one teaspoon of 5.25% bleach for each gallon of water. The solution must be circulated through the spa system for 5 to 10 minutes and then the solution must sit in the basin for at least 6 hours. Before use, the system must be drained and flushed.
4. A record or log book containing the dates and times of all pedicure cleaning and disinfection procedures must be documented and kept in the pedicure area by the salon and made available for review upon request by a consumer or a Department inspector.
- (3) No cosmetology or specialty salon shall be operated in the same licensed space allocation with any other business which adversely affects the sanitation of the salon, or in the same licensed space allocation with a school teaching cosmetology or a specialty licensed under Chapter 477, F.S., or in any other location, space, or environment which adversely affects the sanitation of the s salon. In order to control the required space and maintain proper sanitation, where a salon adjoins such other business or school, or such other location, space or environment, there must be permanent walls separating the salon from the other business, school, location, space, or environment and there must be separate and distinctly marked entrances for each.
- (4) Evidence that the full salon contains a minimum of 200 square feet of floor space. No more than two (2) cosmetologists or specialists may be employed in a salon which has only the minimum floor space.
- (5) A specialty salon offering only one of the regulated specialties shall evidence a minimum of 100 square feet used in the performance of the

specialty service and shall meet all the sanitation requirements stated in this section. No more than one specialist or cosmetologist may be employed in a specialty salon with only the minimum floor space. An additional 50 square feet will be required for each additional specialist or cosmetologist employed.

(6) For purposes of this rule, “permanent wall” means a vertical continuous structure of wood, plaster, masonry, or other similar building material, which is physically connected to a salon’s floor and ceiling, and which serves to delineate and protect the salon.

The board agreed to change the references in (1)(c)1. and (1)(c)2. from “closed container” and “waste receptacle” to “covered waste receptacle.” The board agreed that references to “sanitize” should be changed to “clean.” The board agreed to add (2)(d)2.e. to also include the requirement to clean and disinfect shampoo bowls, neck rests, facial beds in between patrons. Mr. Dolan was asked to research federal laws regarding allowance of service animals in public places for possible incorporation in the rule. A draft of this rule will be included on the January 2013 agenda.

- 61G5-30.001, Florida Administrative Code – Disciplinary Guidelines. **(Proposed rule amendments included below.)**

The Board shall act in accordance with the following guidelines when it finds the enumerated violations in disciplinary cases. The Board shall impose a penalty within the range of each applicable disciplinary violation set forth below unless the Board finds an aggravating or mitigating circumstance, in which case the Board may deviate from the guideline penalty.

(2) VIOLATION	PENALTY RANGE
(a) Unlicensed cosmetology or specialty practice. (477.0265(1)(a) or 477.029(1)(a), F.S.)	For an individual who was never licensed, a fine of \$500. For a licensee or registrant who fails to properly renew, a fine of \$50 for every month or partial month during which the individual was unlicensed or unregistered, up to a maximum of \$500.
(b) Unlicensed Salon and Delinquent Salon License. (477.0265(1)(b)1. or 477.029(1)(b), F.S.)	For a salon which has never been licensed, or for which the salon license has expired, a fine of \$500. For a salon license which has become delinquent, a fine of \$50 for every month or partial month of delinquency during which the salon has operated, up to a total of \$500.
(c) Permitting a person without a license or registration, unless exempt, to perform cosmetology services or any specialty in a salon. (477.0265(1)(b)2., F.S.)	For a violation involving a person who was never licensed or registered in Florida, a fine of \$250 to \$500. For a violation involving a person who failed to properly renew or whose exemption has terminated, a fine of \$50 for every month or partial month during which the violation took place, up to \$500.

<p>(d) Permitting an employee to practice cosmetology or a specialty without being duly licensed, registered, or otherwise authorized. (477.0265(1)(d) or 477.029(1)(c), F.S.)</p>	<p>For employing a person who was never licensed or registered in Florida, or who is not exempt, a fine of \$250 to \$500. For employing a person who failed to properly renew or whose exemption has terminated, a fine of \$50 for every month or partial month during which the person was employed, up to \$500.</p>
<p>(e) Engage in willful or repeated violations of Chapter 477, F.S., or any rule adopted by the Board. (477.0265(1)(c), F.S.)</p>	<p>For a first offense, a fine of \$500. For a subsequent offense, a fine of \$500 and suspension or revocation of any license or registration issued pursuant to Chapter 477, F.S.</p>
<p>(f) Obtain or attempt to obtain a license or registration for money, other than the required fee, or any other thing of value or by fraudulent misrepresentations. (477.0265(1)(e), F.S.)</p>	<p>A fine of \$500 and denial or revocation of the license or registration.</p>
<p>(g) Using or attempting to use a suspended or revoked cosmetology license or specialty registration to practice cosmetology or a specialty. (477.0265(1)(f) or 477.029(1)(g), F.S.)</p>	<p>A fine of \$500 and suspension for one year of any license or registration issued pursuant to Chapter 477, F.S., <u>or denial or revocation of license or registration.</u></p>
<p>(h) Advertising or implying that skin care services or body wrapping are related to massage therapy, except as allowed by statute. (477.0265(1)(g), F.S.)</p>	<p>A fine of \$100 to \$200 for the first offense; a fine of \$500 for subsequent offenses.</p>
<p>(i) Use or possess a product containing a liquid nail monomer containing any trace of methyl methacrylate (MMA). (477.0265(1)(h), F.S.)</p>	<p>A fine of \$500 for the first offense; a fine of \$500 and/or suspension <u>with a reinspection of the premises prior to reinstatement of the license,</u> or revocation for a subsequent offense.</p>
<p>(j) License or registration obtained by fraud or false or forged evidence. (477.028(1)(a), 477.028(2)(a) or 477.029(e), F.S.)</p>	<p>A fine of \$500 and revocation of the salon license, cosmetology license, or specialty registration.</p>
<p>(k) Guilty of fraud, deceit, gross negligence, incompetency, or misconduct in practice or instruction of cosmetology or specialty, or in operation of the salon. (477.028(1)(b) or 477.028(2)(b),</p>	<p>A fine of \$200 to \$500 and suspension or revocation of the salon license, cosmetology license, or specialty registration.</p>

F.S.)	
(l) License or registration holder is guilty of aiding, assisting, procuring, or advising any unlicensed person to practice as a cosmetologist. (477.028(1)(c), F.S.)	A fine of \$250 for the first offense. A fine of \$500 and revocation or suspension of salon license, cosmetology license, or specialty registration for a subsequent offense.
(m) Present license of another as his or her own license. (477.029(1)(d), F.S.)	A fine of \$500 and a reprimand for the first offense. A fine of \$500 and refusal to certify for licensure for a subsequent offense.
(n) Impersonate any other licenseholder of like or different name. (477.029(1)(f), F.S.)	A fine of \$500 and a 6 month suspension of any other license or registration held pursuant to Chapter 477, F.S.
(o) Violate or refuse to comply with:	
1. Any provision of Chapter 455, F.S., or final order of the Board or the Department;	A fine of \$500 and suspension, revocation, or refusal to certify to the department for licensure.
2. Any provision of Chapter 477, F.S., or a rule of the Board or the Department except as otherwise provided;	A fine of \$100 to \$200 for the first violation. A fine of \$300 to \$500 for a subsequent violation. A fine of \$500 and suspension or revocation of license or registration for a refusal to comply.
3. Salon requirements subsections 61G5-20.002(2)-(6), F.A.C., relating to sanitation and safety; or	A fine of \$50 per violation for less than three violations. A fine of \$250 for three to four violations. A fine of \$500 for five or more violations, <u>and suspension of the license with a reinspection prior to reinstatement of the license.</u> A fine of \$250 for a salon operating without <u>sterilization equipment</u> <u>proper disinfection practices.</u>
4. Display of documents Rule 61G5-20.004, F.A.C., relating to display of licenses and inspection sheets. (477.029(1)(h)-(i), F.S.)	A fine of \$100 for each violation for the first offense. A fine of \$200 to \$300 for each subsequent offense.

(3) When the Board finds that any person licensed or registered under Chapter 477, F.S., has committed any of the acts set forth in Section 477.028, F.S., it is recommended that the Board issue a final order imposing a revocation of the license or registration involved in any such violation.

(4) Based upon consideration of the following factors, the Board may impose disciplinary action other than the penalties recommended above:

- (a) The danger to the public;
- (b) The length of time since date of violation;
- (c) The number of complaints filed against the licensee;
- (d) The length of time licensee or registrant has practiced;

- (e) The actual damage, physical or otherwise, caused by the violation;
 - (f) The deterrent effect of the penalty imposed;
 - (g) The effect of the penalty upon the licensee's or registrant's livelihood;
 - (h) Any efforts for rehabilitation;
 - (i) The actual knowledge of the licensee or registrant pertaining to the violation;
 - (j) Attempts by licensee or registrant to correct or stop violations or refusal by licensee or registrant to correct or stop violations;
 - (k) Related violations against a licensee or registrant in another state including findings of guilt or innocence, penalties imposed and penalties served;
 - (l) Actual negligence of the licensee or registrant pertaining to any violations;
 - (m) Penalties imposed for related offenses under subsection (1) above;
 - (n) Any other mitigating or aggravating circumstances.
- (5) Penalties imposed by the Board pursuant to Rule 61G5-30.001, F.A.C., may be imposed in combination or individually but may not exceed the limitations enumerated below:
- (a) Issuance of a reprimand or censure.
 - (b) Imposition of an administrative fine not to exceed \$500 for each count or separate offense.
 - (c) Placement on probation for a period of time and subject to such reasonable conditions as the Board may specify.
 - (d) Revocation or suspension of any license or registration issued pursuant to Chapter 477, F.S.
 - (e) Refusal to certify to the Department an applicant for licensure or registration.
- (6) The provisions of subsections (1) through (5) above shall not be construed so as to prohibit civil action or criminal prosecution as provided for in Section 477.0265(2) or Section 477.031, F.S., and the provisions of subsections (1) through (5) above shall not be construed so as to limit the ability of the Board to enter into binding stipulations with accused parties as per Section 120.57(3), F.S.
- (7) In every case the Board imposes a monetary fine, it shall also suspend the Respondent's license(s). However, to enable the Respondent to pay the fine, the suspension shall be stayed for the time period specified in the Board's final order in accordance with Rule 61G5-17.016, F.A.C. If the fine is paid within that time period, the suspension shall not take effect; if the fine is not paid within that time period, then the stay shall expire and the suspension shall take effect. Thereafter, upon payment of the fine, the suspension shall be lifted.

- 61G5-31.004, Florida Administrative Code – Hair Braiding, Hair Wrapping, and Body Wrapping Course Requirements. **(Current rule language below.)**

- (1) All hair braiding courses taught for purposes of qualifying an individual for initial registration as a hair braider shall be a two-day, 16-hour course; and, shall be approved by the Board prior to the course being taught for registration qualification purposes. To be considered for approval by the Board, the course shall consist of the following:
 - (a) 5 hours of instruction regarding HIV/AIDS and other communicable diseases. At the conclusion of this instruction a student shall be able to understand:
 1. The causes of HIV/AIDS, hepatitis, tuberculosis, and other communicable diseases and how these diseases are spread;

2. The dangers associated with these diseases; and
 3. How to avoid contamination from the diseases in the practice of hair braiding.
- (b) 5 hours of instruction regarding sanitation and sterilization. At the conclusion of this instruction a student shall be able to understand:
1. Universal sanitation and sterilization precautions;
 2. How to distinguish between disinfectants and antiseptics; and
 3. How to sanitize hands and disinfect tools used in the practice of hair braiding.
- (c) 4 hours of instruction regarding disorders and diseases of the scalp. At the conclusion of this instruction a student shall be able to understand:
1. Disorders and diseases of the scalp and how to distinguish between them; and
 2. When hair braiding services can be performed on a client with disorders or diseases of the scalp.
- (d) 2 hours of instruction regarding the laws and rules of the Board which affect and govern the practice of hair braiding. At the conclusion of this instruction a student shall be able to understand:
1. The laws and rules of the Board that protect the health, safety, and welfare of the consumer;
 2. The laws and rules of the Board that determine where and when an individual may legally practice hair braiding;
 3. The function of the Board of Cosmetology, how its members are appointed, and their duties;
 4. The laws and rules of the Board which specify prohibited conduct, and the penalties for failure to follow the laws and rules; and
 5. The dates, fees, and requirements for renewal of a hair braiding registration.
- (2) All hair wrapping courses taught for purposes of qualifying an individual for initial registration as a hair wrapper shall be a one-day, 6-hour course; and, shall be approved by the Board prior to the course being taught for registration qualification purposes. To be considered for approval by the Board, the course shall consist of the following:
- (a) Two (2) hours of instruction regarding HIV/AIDS and other communicable diseases. At the conclusion of this instruction, a student shall be able to understand:
1. The causes of HIV/AIDS, hepatitis, tuberculosis, and other communicable diseases and how these diseases are spread;
 2. The dangers associated with these diseases; and
 3. How to avoid contamination from the diseases in the practice of hair wrapping.
- (b) Two (2) hours of instruction regarding sanitation and sterilization. At the conclusion of this instruction, a student shall be able to understand:
1. Universal sanitation and sterilization precautions;
 2. How to distinguish between disinfectants and antiseptics; and
 3. How to sanitize hands and disinfect tools used in the practice of hair wrapping.
- (c) One (1) hour of instruction regarding disorders and diseases of the scalp. At the conclusion of this instruction, a student shall be able to understand:
1. disorders and diseases of the scalp and how to distinguish between them; and
 2. when hair wrapping services can be performed on a patron with disorders or diseases of the scalp.
- (d) One (1) hour of instruction regarding the laws and rules of the Board which affect and govern the practice of hair wrapping. At the conclusion of this instruction, a student shall be able to understand:

1. The laws and rules of the Board that protect the health, safety, and welfare of the consumer;
 2. The laws and rules of the Board that determine where and when an individual may legally practice hair wrapping;
 3. The function of the Board of Cosmetology, how its members are appointed, and their duties;
 4. The laws and rules of the Board which specify prohibited conduct, and the penalties for failure to follow the laws and rules;
 5. The dates, fees, and requirements for renewal of a hair wrapping registration.
- (3) All body wrapping courses taught for purposes of qualifying an individual for initial registration as a body wrapper shall be a two-day, 12-hour course; and, shall be approved by the Board prior to the course being taught for registration qualification purposes. To be considered for approval by the Board, the course shall consist of the following:
- (a) Three (3) hours of instruction regarding HIV/AIDS and other communicable diseases. At the conclusion of this instruction, a student shall be able to understand:
 1. The causes of HIV/AIDS, hepatitis, tuberculosis, and other communicable diseases and how these diseases are spread;
 2. The dangers associated with these diseases; and,
 3. How to avoid contamination from the diseases in the practice of body wrapping.
 - (b) Four (4) hours of instruction regarding sanitation and sterilization. At the conclusion of this instruction, a student shall be able to understand:
 1. Universal sanitation and sterilization precautions;
 2. How to distinguish between disinfectants and antiseptics; and,
 3. How to sanitize hands and disinfect tools used in the practice of body wrapping.
 - (c) Four (4) hour of instruction regarding disorders and diseases of the skin. At the conclusion of this instruction, a student shall be able to understand:
 1. Disorders and diseases of the skin and how to distinguish between them; and,
 2. When skin wrapping services can be performed on a patron with disorders or diseases of the skin.
 - (d) One (1) hour of instruction regarding laws and rules of the Board which affecting and govern the practice of body wrapping. At the conclusion of this instruction, a student shall be able to understand:
 1. The laws and rules of the Board that protect the health, safety, and welfare of the consumer;
 2. The laws and rules of the Board that determine where and when an individual may legally practice body wrapping;
 3. The function of the Board of Cosmetology, how its members are appointed, and their duties;
 4. The laws and rules of the Board which specify prohibited conduct, and the penalties for failure to follow the laws and rules;
 5. The dates, fees, and requirements for renewal of a body wrapping registration.
- (4) All proposed hair braiding, hair wrapping, or body wrapping courses must be submitted for presentation to the Board no later than 30 days prior to the next

regularly scheduled meeting of the Board at which the proposed course is to be considered for approval. No hair braiding, hair wrapping, or body wrapping course may be taught for credit towards the initial hair braiding, hair wrapping, or body wrapping registration requirements until it has been reviewed and approved by the Board.

(5) All providers of hair braiding, hair wrapping, and body wrapping courses shall provide to all individuals who successfully complete the course a certificate of completion which shall indicate the title of the course completed, the provider's name, the student name, the date of the course, and the total number of hours successfully completed.

The board agreed that there should no longer be a requirement for the hair braiding, hair wrapping and body wrapping courses be offered only in-person. The board agreed to strike all references to the total number of days for a course offering. The board also agreed that source publication dates should be included in the course materials and that a complete copy of the course as will be provided to the licensee should be required for submission with the course application. A draft of this rule will be included on the January 2013 agenda.

- Rule 61G5-32.001, Florida Administrative Code – Continuing Education.
(Current rule language below.)

(1) Prior to the expiration of each biennial licensure period, and as a condition for renewal of their cosmetology license or specialty registration, all licensed cosmetologists and registered specialists shall complete a minimum of sixteen (16) hours of continuing education which shall include, at a minimum, all of the following subjects as they relate to the practice of cosmetology:

(a) A minimum of two (2) hours of instruction regarding HIV/AIDS and other communicable diseases which shall consist of:

1. Education on the modes of transmission, infection control procedures, clinical management, and prevention of HIV and AIDS; and
2. Discussion of attitudes towards HIV and AIDS as well as appropriate behavior in dealing with persons who may have the virus or syndrome.

(b) A minimum of three (3) hours of instruction regarding sanitation and sterilization which shall consist of instruction regarding:

1. Universal sanitation and sterilization precautions;
2. How to distinguish between disinfectants and antiseptics; and
3. How to sanitize hands and disinfect tools used in the practice of cosmetology.

(c) A minimum of one (1) hour of instruction regarding Occupational Safety and Health Administration regulations.

(d) A minimum of one (1) hour of instruction regarding issues of workers' compensation as they pertain to Florida law.

(e) A minimum of two (2) hours of instruction regarding state and federal laws and rules as they pertain to cosmetologists, cosmetology, salons, specialists, specialty salons, and booth renters; specifically including but not limited to Chapter 477, F.S., and the Rules of the Board. At a minimum this instruction shall include the following:

1. The laws and rules of the Board that protect the health, safety, and welfare of the consumer;

2. The laws and rules of the Board that determine where and when individuals may legally practice cosmetology and specialties;
 3. The functions of the Board of Cosmetology, how its members are appointed, and their duties;
 4. The laws and rules of the Board which specify prohibited conduct, and the penalties for failure to follow the laws and rules;
 5. Salon requirements and inspections; and
 6. The dates, fees, and requirements for renewal of cosmetology licenses, salon licenses, and specialty registrations.
- (f) A minimum of two (2) hours of instruction regarding chemical makeup as it pertains to hair, skin, and nails.
- (g) A minimum of one (1) hour of instruction regarding environmental issues.
- (h) A minimum of four (4) hours of continuing education to be composed of additional instruction in any of the subjects set forth above or such other subject or subjects as the licensee may choose provided that the subject or subjects chosen relate to the practice of cosmetology and serve to ensure the protection of the public; and, provided that the course in which such subjects are taught has been approved by the Board prior to its being taught for continuing education purposes, and provided the licensee or registrant has not previously taken the course during the current licensure period.
- (2) Home study courses, video courses, and courses which are given at cosmetology conferences may be counted toward the required hours of continuing education provided that, prior to their being taught, they have been approved by the Board as including instruction in subjects as set forth by this rule and as complying with all other requirements as set forth in this rule.
- (3) All continuing education home study courses shall include a written post-course examination which must be graded by the course provider. Post-course examinations may be open-book examinations. In order to receive continuing education credit for the course, licensees or registrants must achieve a 75% passing score on all post-course examinations.
- (4) All licensees and registrants who successfully complete a continuing education course shall be provided with a certificate of completion by the provider of the continuing education course which shall indicate the provider's name and provider number, the course title and course number, the licensee's or registrant's name and license or registration number, the date the course was completed, and the total number of hours successfully completed in each subject covered by the continuing education course. All licensees and registrants shall retain the certificate of completion for all continuing education courses successfully completed by the licensee or registrant for a period of not less than three (3) years following the first license or registration renewal following the completion of the course.
- (5) Licensees holding two or more licenses subject to the HIV/AIDS education course requirement shall present all license numbers to the provider of such course.
- (6) PROVIDER APPROVAL AND REQUIREMENTS.
- (a) All providers of continuing education courses must be approved by the Board prior to offering continuing education courses. All individuals or organizations seeking to be approved as a continuing education provider shall submit to the Department, or if the Department shall contract with a private entity to administer the continuing education program then to such private entity, no later than 60 days prior to the next scheduled Board meeting at which the application is to be

considered for approval. A complete application for continuing education provider status shall consist of the following items and information:

1. A completed application on Form # DBPR COSMO 10, Application for Continuing Education Provider Approval, which is hereby incorporated by reference, effective May 29, 2012, copies of which may be obtained from the Board office, or if the Department shall contract with a private entity to administer the continuing education program then from such private entity;

2. A fee of \$250; and

3. A sample copy of the certificate of completion which the provider shall supply to all licensees or registrants who successfully complete courses given by the provider. The certificate of completion shall indicate on its face areas for the inclusion of the information as required by paragraph (6)(d) of this rule.

(b) Upon approval by the Board of the individual or organization as a continuing education provider, a continuing education provider number will be assigned to the provider; and, shall be included in all future correspondence or submissions by the provider to the Board, the Department, or any private entity contracted with by the Department to administer the continuing education program.

(c) Once the Department shall contract with a private entity to administer the continuing education program, then for each continuing education course taught, all continuing education providers shall submit to such private entity, a list of all attendees successfully completing the continuing education course within 21 days of the completion of the course. The list shall include the provider's name and provider number, the course title and course number, the licensee's or registrant's name and license or registration number, the date the course was completed, and the total number of hours successfully completed in each subject covered during the continuing education course. For home study courses offered by a continuing education provider, the provider shall supply the name and license or registration number for each individual successfully completing the course within 21 days following the determination by the provider that the individual has successfully completed the home study course together with the provider's name and provider number, the home study course title and course number, and the date the course was completed. All lists and information shall be provided to the private entity in such form as determined by private entity.

(d) All continuing education providers shall provide a certificate of completion to all licensees and registrants who successfully complete a continuing education course which shall indicate on the certificate's face the provider's name and provider number, the course title and course number, the licensee's or registrant's name and license or registration number, the date the course was completed, and the total number of hours successfully completed in each subject covered by the continuing education course.

(e) Continuing education providers shall electronically provide to the Department the list of attendees at each of its offered courses within 30 business days of the completion of the course. However, the continuing education provider shall electronically report to the Department completion of a licensee's course within 10 business days beginning on the 30th day before the renewal deadline or prior to the renewal date, whichever occurs sooner. For home study courses, the provider shall electronically supply the list of those individuals successfully completing the course by the 5th of the month following the calendar month in which the provider received documentation and was able to determine the successful completion of the course by the individual. This list shall include the provider's name and provider number, the name and license or registration

number of the attendee, the date the course was completed, and the course number. All documents from the provider shall be submitted electronically to the Department and must be in a form as agreed to by the Department with the provider. Failure to comply with the time and form requirements will result in disciplinary action taken against the provider and the course approval. Each continuing education provider shall maintain records of attendance or completion for all continuing education courses offered or taught by the provider for a period of not less than four years following the offering of each course or the receipt of documentation of completion of a home study course. Upon request, these records shall be made available for inspection by the Department or its agent, or the private entity contracted with by the Department to administer the continuing education program at such reasonable time and location as determined by the Department or its agent, or the private entity. The list of attendees submitted electronically to the Department shall not include the names of applicants taking the course for initial licensure pursuant to Rule 61G5-18.011, F.A.C.

(f) If the Department contracts with a private entity to administer the continuing education program, all continuing education providers shall submit all required forms and information, and shall pay all required fees directly to the private entity.

(g) Approval as a continuing education provider shall be valid through May 31, 2003 for any providers approved prior to March 1, 2003. Thereafter, approval as a continuing education provider shall be valid through May 31 of odd numbered years for all providers. After the expiration of a continuing education provider's approval, the provider shall not offer or teach any continuing education courses for credit toward the required hours of continuing education until the provider has renewed its approval as a continuing education provider.

(h) Any substantive changes regarding the information contained in the provider's application for approval, or previously submitted by the provider to the Department or to a private entity contracted with by the Department to administer the continuing education program, shall be filed with the Department, or if the Department shall contract with a private entity to administer the continuing education program then with such private entity, within 30 days of the change occurring.

(i) At any time, the Board shall recommend to the Department to revoke its approval of a continuing education provider if it finds that such approval is sought or was received by fraud or misrepresentation by the provider, the provider has failed to adhere to the standards and other requirements as set forth in this rule or Rule 61-6.015, F.A.C., or that the provider has engaged in fraudulent behavior relating to the provision of continuing education. Before requesting that the Department revoke a provider's continuing education approval, the Board shall give the provider notice and an opportunity to be heard. If the approval of a provider is revoked, the continuing education provider shall thereafter be barred from presenting any continuing education courses to licensees or registrants for credit unless the provider demonstrates to the Board that the provider has been sufficiently rehabilitated to be trusted to provide such courses to licensees or registrants in the future. Revocation of a continuing education provider's approval shall also operate as a revocation of all previously approved continuing education courses for all future offerings by the provider.

(j) For purposes of Section 455.2178, F.S., Chapter 477, F.S., and the rules adopted by the Board, the term "continuing education provider" shall mean any individual, organization, or other entity who offers or teaches: (1) courses for purposes of fulfilling the requirements of license renewal which has been

submitted to and approved by the board for such purposes; or (2) an HIV/AIDS education course for purposes of fulfilling the requirements of initial licensure or license renewal which has been submitted to and approved by the Board for such purposes, or which has been approved for these purposes by rule of the Board. All continuing education providers shall comply with all provisions and requirements of this rule, and Section 455.2178 F.S., for the purpose of monitoring continuing education compliance. Failure to comply with such provisions and requirements by any continuing education provider shall be grounds for the suspension or revocation of the continuing education course approval.

(7) COURSE APPROVAL AND REQUIREMENTS.

(a) Except as noted below, all proposed continuing education courses, including those courses which are to be taught at cosmetology conferences, home study, and video courses, must be approved by the Board prior to their being offered or taught for continuing education credit; and, may only be offered or taught by the continuing education provider submitting the course for approval.

(b) All continuing education courses shall comply with the requirements as set forth in this rule, including but not limited to those regarding the required subjects and topics to be included in the proposed course.

(c) Continuing education providers seeking approval of a continuing education course shall submit a complete application for continuing education course approval to the Department, or if the Department shall contract with a private entity to administer the continuing education program then to such private entity, no later than 60 days prior to the next scheduled Board meeting at which the course is to be considered for approval. A complete application for continuing education course approval shall consist of the following:

1. A completed application on Form # DBPR COSMO 9, Application for Continuing Education Course Approval or Renewal, which is hereby incorporated by reference, effective May 29, 2012, copies of which may be obtained from the Board office, or if the Department shall contract with a private entity to administer the continuing education program then from such private entity;
2. If the Department shall contract with a private entity to administer the continuing education program, a fee in the amount of \$100;
3. A course outline which includes the subjects, topics, and subtopics to be presented in the course and a narrative summary of all areas to be covered in each subject, topic and subtopic, and a list of all reference and source materials including the publication date for each;
4. If the proposed continuing education course consist of a home study course, a copy of the written post-course examination which will be used to test licensees and registrants comprehension and understanding of the subjects, topics, and subtopics presented in the course;
5. Evidence of the method to be used by the attendees of the course for evaluation of the learning experience and instructional methods used in the course; and
6. Instructor resumes, if applicable, listing the instructor's educational qualifications or evidence of appropriate skills or knowledge in the subject matter of the course. Instructors must possess sufficient skills and knowledge in the subject areas being taught.

(d) Upon approval by the Board of a continuing education course, a continuing education course number will be assigned to the course; and, shall be included in

all future correspondence or submissions by the continuing education provider to the Board, the Department, or any private entity contracted with by the Department to administer the continuing education program.

1. The continuing education course number and continuing education provider number shall be included in all advertisements, promotions, or other announcements concerning an approved course.

2. No course shall be advertised as an approved course until the course has been approved by the Board and received a course number.

3. A course shall not be offered or credit given for hours other than what was approved by the Board.

4. A course shall not be offered other than in the manner the Board initially approved the course material.

(e) All continuing education home study courses shall include a written post-course examination which must be graded by the course provider. Post-course examinations may be open-book examinations. In order to receive continuing education credit for the course, licensees or registrants must achieve a 75% passing score on all post-course examinations,

(f) All continuing education courses shall include a method to be used by the attendees of the course for evaluation of the learning experience and instructional methods used in the course.

(g) Upon the successful completion of a continuing education course all licensees and registrants shall receive a certificate of completion for the course which shall indicate on its face all information as required by paragraph (6)(d) of this rule. One hour of credit will be awarded for each 50 minute classroom hour or for each 50 minutes of home study material.

(h) Approval of a continuing education course shall be valid for a period of two years from the date of approval by the Board. After the expiration of a continuing education course approval, the course may not be offered or taught for credit toward the required hours of continuing education; and, must be again approved by the Board prior to its being offered or taught for continuing education credit. Applications for approval of a continuing education course shall be submitted to the Department, or if the Department shall contract with a private entity to administer the continuing education program then to such private entity; and, shall contain all of the items and information required for initial approval as a continuing education course as set forth in paragraph (7)(c) of this rule.

(i) Any substantive changes regarding the information contained in the provider's application for course approval, or previously submitted by the provider to the Department or to a private entity contracted with by the Department to administer the continuing education program, shall require that the course be resubmitted for approval in accordance with this rule.

(j) At any time, the Board shall request the Department revoke the provider's approval if it finds that such approval is sought or was received by fraud or misrepresentation by the provider, that the course which is being provided fails to cover the information required by statute or this rule or Rule 61-6.015, F.A.C., or otherwise fails to meet the requirements specified in this rule, that the course significantly varies from the course proposal that was approved by the Board, or that the course provider has engaged in fraudulent behavior related to the provision of the course. Before the Board recommends that the Department revoke a continuing education provider, the Board shall give the course provider notice and an opportunity to be heard. If the Board denies or the Department revokes the approval of a continuing education provider because of the course

provider's fraud or misrepresentation, then the continuing education provider shall thereafter be barred from presenting any continuing education courses to licensees or registrants for credit unless the provider demonstrates to the Board that the provider has been sufficiently rehabilitated to be trusted to provide such courses to licensees or registrants in the future.

(k) A course which constitutes a sales presentation or promotion will not be approved for continuing education credit.

(8) EFFECTIVE DATE – This rule shall apply to all licensed cosmetologists and registered specialists under Chapter 477, F.S.; and, shall not apply to any registered hair braiders or registered hair wrappers. Those licensees and registrants who are currently licensed or registered and whose license or registration is scheduled to expire on October 31, 1999, shall not be required to complete the continuing education requirement as set forth in this rule for the renewal of their current license or registration; but, shall be required to complete all continuing education requirements set forth in this rule as a condition of all renewals of their license or registration after November 1, 1999. Those licensees and registrants whose current license or registration is scheduled to expire on October 31, 2000, shall only be required to complete the HIV/AIDS continuing education requirement and six (6) hours of additional continuing education as a condition of renewing their current license or registration. The six (6) hours of additional continuing education shall be composed of such subject or subjects excluding HIV/AIDS as the licensee or registrant may choose provided they comply with all requirements as set forth by this rule. Those licensees and registrants whose license or registration shall expire after October 31, 2000, shall be required to complete and comply with all continuing education requirements as set forth in this rule as a condition for the renewal of their license or certificate.

The board agreed to amend section (1)(b)1. to strike the current language and replace it with standard cleaning and disinfecting precautions, to add section (1)(b)3. to refer to infestation control, and to update section (6)(a)1. to reference the most current form number. The board agreed that section (6)(c) should mirror section (6)(e). The board agreed that the first sentence and the word "therefore" should be stricken in section (6)(g). The board agreed that the reference in section (6)(i) to rule 61-60.015 should be replaced with section 455.2178, that a complete copy of the course as will be provided to the licensee should be required for submission with the course application, and to strike section (8). The board also agreed that there would be no negative impact on small business nor would there likely be any increase in regulatory costs in excess of \$200,000 in the aggregate within one year after implementation. The board will review the draft language at their January 2013 meeting.

- Ms. Barineau informed the board of the following meeting dates and locations:
 - January 7 and 8, 2013 – St. Augustine
 - April 8 and 9, 2013 – Tampa
 - July 15 and 16, 2013 – Orlando
 - October 21 and 22, 2013 – Altamonte Springs.

III. Legislation/Rule Promulgation

- Mr. Dolan will move forward with drafting the proposed changes to the following rules:
 - 61G5-18.007, Florida Administrative Code – Endorsement of Cosmetologists
 - 61G5-20.0015, Florida Administrative Code – Performance of Cosmetology or Specialty Services Outside a Licensed Salon
 - 61G5-20.002, Florida Administrative Code – Salon Requirements
 - 61G5-30.001, Florida Administrative Code – Disciplinary Guidelines
 - 61G5-31.004, Florida Administrative Code – Hair Braiding, Hair Wrapping, and Body Wrapping Course Requirement; and
 - 61G5-32.001, Florida Administrative Code – Continuing Education.
- The board agreed that Rule 61G5-30.006, Florida Administrative Code – Notice of Non Compliance (NNC), should be opened for discussion at their January 2013 meeting. They agreed that a violation of the special events allowance should be considered as an NNC on the first violation.
- The board agreed that Rule 61G5-22.005, Florida Administrative Code – Sanitation and Sterilization, should be opened for discussion at their January 2013 meeting. They agreed that sterilization should be amended as this process is no longer the industry standard.

IV. Action Required

- Mr. Dolan will prepare final orders from this meeting for filing with the Agency Clerk's Office.
- Mr. Dolan will research federal laws regarding the allowance of service animals in public places for possible incorporation in Rule 61G5-20.002, Florida Administrative Code – Salon Requirements.
- Mr. Dolan will respond to the petition for variance and waiver of rules 61G5-20.002(5) and 61G5-20.002(6), Florida Administrative Code, submitted by LAKA USA, LLC.
- Mr. Dolan will respond to Mr. Carney's email.
- The board will further discuss posting inspection sheets on the Internet at a future meeting.

Robyn Barineau
Executive Director
October 15, 2012