

EXECUTIVE SUMMARY

Board of Cosmetology

I. General Information

Meeting Type: General Business
Meeting Date: Monday, November 20, 2006, and
Tuesday, November 21, 2006
Meeting Location: The Florida Hotel and Conference Center
1500 Sand Lake Road
Orlando, Florida 32806

Attendees:

Joseph Caetano, Chair
Laurel Ritenbaugh, Vice Chair
Laura Brown
Myra Jowers
Donna Osborne
Robyn Barineau, Executive Director, Department of Business and Professional Regulation (DBPR)
Dan Biggins, Assistant Attorney General, Department of Legal Affairs
Charles Tunncliff, Assistant General Counsel, Office of the General Counsel, DBPR
Tiffany Harrington, Assistant General Counsel, Office of the General Counsel, DBPR
Dana Ewaldt, Government Analyst, DBPR
Louise King, Daytona Beach Community College
Dan Washburn
Michael Stahl

II. Major Issues/Actions

- Chair Joseph Caetano excused Ms. Monica Smith's absence from the meeting.
- Chair Caetano mentioned that he met with several representatives from the Florida Association of Beauty Professionals (FAB) which is a new Florida cosmetology and barbering association, as well as Ms. Cynthia Henderson and Mr. Lewis Betts. Chair Caetano added that FAB has indicated a willingness to assist with moving the cosmetology legislation in 2007.
- The board reviewed the proposed salon flyer prepared by Vice Chair Laurel Ritenbaugh which includes information relating to sanitation tips for licensees and their customers, information relating to the proposed rule for sanitizing and sterilizing foot baths, and information encouraging individuals to file unlicensed activity complaints. The board would like to require salons to post this flyer and have inspectors distribute the flyer to salons for posting. Mr. Dan Biggins, Assistant Attorney General, will open the salon requirements rule for discussion at the January 2007 board meeting. Additionally, Ms. Robyn Barineau, Executive Director, indicated that she would ask the department's Communications Office and the Division of Regulation to comment on the flyer and provide their comments at the January 2007 board meeting.

- Based on a request for a declaratory statement submitted by Regal Nails Salon & Spa, LLC, the board agreed that manicure/pedicure/nail extension specialists should not be allowed to perform eyelash extensions. The board agreed that cosmetologists, facial specialists and full specialists are allowed to perform eyelash extensions.
- Ms. Myra Jowers informed the board that one of the reasons that HB771 (2006 legislation) failed was due to the fact that statutory fees cap increases were requested in the legislation but all the current fees had not been capped to their statutory limits. The board then agreed to raise the following fees:
 - Initial registration as a specialist – from \$25 to \$50
 - Salon application – from \$45 to \$50
 - Biennial renewal fee for specialists – from \$30 to \$50
 - Delinquent renewal fee for specialists – from \$30 to \$50
 - Inactive renewal fee for registrants – from \$20 to \$50
 - Inactive renewal fee for cosmetologists – from \$25 to \$50
- Ms. Barineau reported that as of June 30, 2006, the cash balance in the board's operating account was in deficit over \$1.7 million, and the board's unlicensed activity account balance was \$685,947. She added that the assessment has already begun to reduce the negative operating account balance, and it is projected that the assessment will generate \$2.9 million by June 30, 2007, and an additional \$2.5 million by June 30, 2008.
- Ms. Barineau reported that as of November 16, 2006, 79 percent of licensees whose licenses were due for renewal on October 31, 2006, had complied with all their continuing education requirements.
- The board agreed that the products Let's Touch and Let's Dance can be used independently for sanitation purposes.
- Ms. Barineau advised the board that the department is still attempting to address the board member vacancy situation and is seeking assistance from boards to assist with locating qualified applicants to fill vacancies on all its boards and commissions. Ms. Barineau suggested that interested applicants contact the department or the Governor's Appointments Office for a Gubernatorial Appointments Questionnaire.
- Mr. Dan Biggins, Assistant General Counsel, reported that the rule requiring licensees to laminate their licenses with a current picture for posting at their workstations should be effective soon. Salons and licensees will have until July 1, 2007, to comply with this new requirement.
- To eliminate some industry concern and questions, the board agreed to amend their salon requirements rule to require the disinfection of foot baths with low foaming soap rather than the currently required chelating soap.
- Mr. Biggins reported that the rule to change the number of days a continuing education provider has to transmit course completion information to the department from five days to 30 days, or prior to the licensee's renewal date, whichever occurs sooner, should be effective soon.
- The board agreed to pursue the proposed amendments to the supervised cosmetology practice exception rule, Rule 61G5-18.0055, Florida Administrative Code. This rule will amend the current supervised practice exception allowance as follows:
 - “(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, ~~and pending the results of that examination and the issuance of a license to practice~~

~~cosmetology by the Department, an applicant for licensure as a cosmetologist by examination is shall be eligible to practice temporarily in a current, actively licensed cosmetology salon practice cosmetology subject to 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 reexamine 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.~~
- ~~(a) All cosmetology services to be 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.~~
- ~~(b) All cosmetology services performed by the applicant under this exception shall be performed in a licensed cosmetology salon. For all times during which the applicant is practicing in the cosmetology salon, the license for the cosmetology salon shall be in a current and active status.~~
- ~~(2) Prior to beginning the practice of cosmetology or performance of cosmetology services under this exception, all applicants shall provide to the cosmetology salon license holder or his or her representative a copy of the completed application for licensure by examination submitted to the Department by the applicant, and a copy~~

~~of the notification by the Department that the applicant has been scheduled to take the licensure examination. All applicants shall also provide to the cosmetology salon license holder or his or her representative a copy of the results of all licensure examinations taken by the applicant immediately upon receipt of those results by the applicant. If the applicant is required to apply for reexamination in order to continue practicing cosmetology or performing cosmetology services under this exception, the applicant shall also provide to the cosmetology salon license holder or his or her representative a copy of the completed application for reexamination submitted to the Department by the applicant.~~

~~(3) Upon receipt of the results of the first licensure examination taken by the applicant which indicate that the applicant has failed to achieve a passing grade on the licensure examination, the applicant shall immediately cease the practice of cosmetology or performing cosmetology services under this exception unless and until the applicant applies to retake the licensure examination at the next available licensure examination immediately following the licensure examination which the applicant failed. Once the applicant shall have submitted a complete application for reexamination and shall have paid all applicable reexamination fees, the applicant shall be eligible to resume the practice of cosmetology subject to the same conditions as stated above.~~

~~(4) Upon receipt of the results of the second licensure examination taken by the applicant which indicate that the applicant has failed to achieve a passing grade on the licensure examination, the applicant shall immediately cease the practice of cosmetology or performing cosmetology services under this exception; and shall not be eligible to resume the practice of cosmetology until after the applicant shall have taken and passed the licensure examination and been issued a license to practice cosmetology by the Department.”~~

- The board agreed to amend their rule to allow barbers to operate in cosmetology salons so long as there is a cosmetologist employed in the salon. A similar rule is currently in the Florida Barbers' Board rules.
- The board extended an invitation to the department's Bureau of Education and Testing to attend the January board meeting to give the testing presentation previously provided to Ms. Donna Osborne.
- Based on a letter provided to the board from the Ms. Angela Artemik and Ms. Catherine A. Parramore of the Academy of Healing Arts Massage & Facial Skin Care, Inc., and the questions contained therein regarding body wrapping restrictions, the board asked that Ms. Barineau extend an invitation to Ms. Artemik and Ms. Parramore to attend the January board meeting so that they can address their questions and concerns in person.
- Mr. Biggins and Mr. Charles Tunnicliff, Assistant General Counsel, assisted Ms. Barineau with board member training.
- Due to outstanding disciplinary matters, the board asked that the licensure application for Ms. Mavery Fuentes come before them before she is issued a license.
- The board recommended Ms. Barineau include information in the next newsletter reminding licensees that they can request material safety data sheets from all product providers which should list the materials used in the product and the dangers of the materials. The board agreed this would be helpful especially for nail products to ensure no methyl methacrylate (MMA) is contained in a nail product.
- After presenting 88 disciplinary cases for the board's consideration, Mr. Tunnicliff reported there are currently 220 cosmetology cases in the legal section. He added that, currently, there are over 65 cases ready for board presentation at the January

2007 board meeting, thus necessitating an additional day for the January 2007 board meeting.

III. Legislation/Rule Promulgation

- Mr. Biggins will proceed with rule development for Rule 61G5-20.002, Florida Administrative Code, for discussion at the January 2007 board meeting. The board would like to require that all salons post a proposed flyer notifying consumers of sanitation and sterilization tips and other public safety issues.
- Mr. Biggins will proceed with amending the following fee rules: Rule 61G5-24.002(1)(d), 61G5-24.005, 61G5-24.008, 61G5-24.010, and 61G5-24.017, Florida Administrative Code.
- Mr. Biggins will proceed with amending Rule 61G5-20.002(2), Florida Administrative Code, to change the current requirement from the use of chelating soap to low foaming soap in foot baths.
- Mr. Biggins will proceed with amending Rule 61G5-18.0055, Florida Administrative Code, to change the cosmetology supervised practice allowance.
- Mr. Biggins will proceed with amending Rule 61G5-20.001, Florida Administrative Code, to allow barbers to operate in cosmetology salons.

IV. Action Required

- Ms. Barineau will provide the Communications Office and the Division of Regulation with the board's proposed flyer for comment and provide their comments at the January 2007 board meeting.
- Mr. Biggins will prepare the required final order for the Regal Nails Salon & Spa, LLC, declaratory statement matter.
- Ms. Barineau will extend an invitation for the Bureau of Education and Testing to provide their testing presentation at the January 2007 board meeting.
- Ms. Barineau will extend an invitation for Ms. Artemik and Ms. Parramore of the Academy of Healing Arts Massage & Facial Skin Care, Inc., to attend their January 2007 board meeting.
- Mr. Biggins will respond to the email submitted by Ms. Tara Dowdel of Paul Mitchell The School regarding the scope of authority for a facial specialist.
- Ms. Barineau will include information in the next newsletter suggesting licensees request material safety data sheets from all product providers which should list the materials used in the product and the dangers of the materials.
- Mr. Biggins and Mr. Tunncliff will prepare final orders from this meeting for filing with the Agency Clerk's Office.

Robyn Barineau
Executive Director
November 30, 2006