

MINUTES

**BOARD OF COSMETOLOGY
Department of Business and Professional Regulation
Adams Mark Hotel Orlando
1500 Sand Lake Road
Orlando, Florida 32809
Sunday, April 13, 2003**

The Board of Cosmetology meeting was called to order at approximately 9:10 a.m., by Ms. Mary Blanco, Chair.

Board Members Present

Mary Blanco, Chair
Joseph Caetano, Vice Chair
Donna Osborne
Laura Brown
Anthony White

Board Members Absent

Monica Smith

Other Persons Present

Julie Malone, Executive Director, DBPR
June McKinney Bartelle, Assistant Attorney General, Board Counsel
Charles Tunnicliff, Assistant General Counsel, Office of the General Counsel, DBPR
Robyn Barineau, Government Analyst, DBPR

Interested Parties Present

Leslie McGilvery, Court Reporter
Bonnie Poole, Florida Cosmetology Association
Michael Stahl, Miami Lakes Educational Center
Elizabeth Petrusa, Academy of Career Training
Michelle Holder, Orange County Public Schools
Suzy Hills, International School of Beauty
Myra Jowers, FCCJ
John Conley, The Hairwraps Company, Inc.
Maya M. Thomas, Maya's School of Beaute, Inc.
April Glaspey, Student attending Institute of Career Enhancement
Trevor W. Harrelson, Omni Financial Services
Dennis Harrelson, Omni Financial Services
Alicia Gilreath, It's Showtyme.Com
Phyllis Allen, Phil Rich Natural Hair
Tammy Keeton, First Coast Salon

Lien Van Nguyen, Queen Nails, Respondent
Charlie Nguyen, Hollywood Nail, Respondent
Pam Wende, Respondent
Ilona Harnas, Ilona Hair Gallery, Respondent
Cleo Weaver, Cleo's Unique, Respondent
Nicole Ryan (Hogan), Beauty and the Beach, Respondent
Gail Chapple, Cleo's Unique
Maria Torres, Respondent
Sheila Gates, Cut-N-Up, Respondent
Amy Brown, Cut-N-Up, Respondent

The meeting was opened with a roll call and a quorum was established. Chair Blanco excused Ms. Monica Smith's absence from the meeting and welcomed Mrs. Brown and Mr. White to the Board of Cosmetology.

Approval of Minutes: January 12, 2003

Ms. Donna Osborne moved to accept the minutes from the January 12, 2003, board meeting. Vice Chair Joseph Caetano asked that the references to his being Vice Chair be corrected as he was not elected until the end of the January 12, 2003, board meeting. Vice Chair Caetano seconded the motion to accept the minutes and the motion passed unanimously.

Ms. June McKinney Bartelle, Assistant Attorney General, inquired if all the board members had received their board meeting materials, if the materials were legible, and if the members had reviewed all the materials. All members responded in the affirmative to these questions.

Disciplinary Matters

Stipulations

Regarding Case No. 2002-007801 against Queen Nails of Jacksonville, Mr. Charles Tunncliff, Assistant General Counsel, presented the department's case in this matter. Mr. Lien Nguyen, owner of Queen Nails, was present at the meeting. Mr. Nguyen's interpreter, Mr. Lien Pham, explained the case to Mr. Nguyen. Mr. Anthony White moved that the board find the Respondent to have committed the offenses as alleged in the Administrative Complaint and adopt the Stipulation of the parties as the board's final action, and impose a fine of \$500 and costs of \$123.11. Ms. Osborne seconded the motion and the motion passed unanimously.

Informal Hearings

Regarding Case No. 2002-006952 against Charlie Nguyen of Tallahassee, Mr. Tunncliff presented the department's case in this matter. Mr. Nguyen was present at the meeting. Ms. Osborne moved that the board find the Respondent was properly

served with the Administrative Complaint, that there was competent substantial evidence to support the allegations as set forth in the Administrative Complaint, that the Respondent committed the offenses as outlined in the Administrative Complaint, and impose a fine of \$500 and costs of \$124.23. Vice Chair Caetano seconded the motion and the motion passed unanimously.

Regarding Case No. 2002-01825 against Pamela Eagle (Wende) of Melbourne, this case was originally agendaed as a Motion for Default and Final Order. Mr. Tunncliff indicated that since Ms. Wende was present, she asked that the case be moved to an Informal Hearing. Mr. Tunncliff then presented the department's case in this matter. Ms. Osborne moved that the board find the Respondent was properly served with the Administrative Complaint, that there was competent substantial evidence to support the allegations as set forth in the Administrative Complaint, that the Respondent committed the offenses as outlined in the Administrative Complaint, and impose a fine of \$300 and costs of \$108.84. Mr. White seconded the motion and the motion passed unanimously.

Regarding Case No. 2002-00755 against Ilona's Hair Gallery of Sarasota, Mr. Tunncliff presented the department's case in this matter. Mr. Tunncliff informed the board that the Respondent has paid \$300 in this matter. Ms. Ilona Harnas was present at the meeting. Ms. Osborne moved that the board find the Respondent was properly served with the Administrative Complaint, that there was competent substantial evidence to support the allegations as set forth in the Administrative Complaint, that the Respondent committed the offenses as outlined in the Administrative Complaint, and impose a fine of \$500 and costs of \$61.57. Vice Chair Caetano seconded the motion and the motion passed unanimously.

Regarding Case No. 2002-004918 against Cleo R. Weaver of Rockledge, Mr. Tunncliff presented the department's case in this matter. Ms. Weaver and an employee, Ms. Gail Chapple, were present at the meeting. Vice Chair Caetano moved that the board find the Respondent was properly served with the Administrative Complaint, that there was competent substantial evidence to support the allegations as set forth in the Administrative Complaint, that the Respondent committed the offenses as outlined in the Administrative Complaint, and impose a fine of \$500 and costs of \$89.36. Ms. Osborne seconded the motion and the motion passed unanimously.

Defaults

Regarding Case No. 2002-02044 against Sheila Gates of Melbourne, this case was originally agendaed as a Motion for Default and Final Order. Mr. Tunncliff indicated that since Ms. Gates was present and disputed the allegations of fact contained in the Administrative Complaint, a Formal Hearing in this matter will be scheduled at a later date with the Division of Administrative Hearings.

Regarding Case No. 2002-01983 against Nicole Hogan of Palm Bay, Mr. Tunncliff presented the department's case in this matter. Ms. Hogan was present and

indicated that while she was out on maternity leave, the owner of the salon she employed by in at the time (who happened to be her mother), advised Ms. Hogan that she did not need to worry about the renewal of her license and that she would take care of renewing the license for her. The salon owner's check for payment of Ms. Hogan's license renewal was returned by the bank. Ms. Hogan has since renewed her license. Ms. Osborne moved that the board find the Respondent was properly served with the Administrative Complaint, that there was competent substantial evidence to support the allegations as set forth in the Administrative Complaint, that the Respondent committed the offenses as outlined in the Administrative Complaint, and impose a fine of \$100 and costs of \$110.34, allowing the Respondent to pay the costs over a two month period with the fine to be paid in monthly installments of \$25 after the costs have been paid in full. Mr. White seconded the motion and the motion passed unanimously.

Regarding Case No. 2002-02056 against Amy Brown of Melbourne, this case was originally agendaed as a Motion for Default and Final Order. Mr. Tunncliff indicated that since Ms. Brown was present and disputed the allegations of fact contained in the Administrative Complaint, a Formal Hearing in this matter will be scheduled at a later date with the Division of Administrative Hearings.

Informal Hearings

Regarding Case No. 2002-01196 against Mary A. Torres, a/k/a Maria Torres of Miami, Mr. Tunncliff presented the department's case in this matter. Ms. Torres was present at the meeting but needed a Spanish interpreter. Since there was no interpreter available, Mr. Tunncliff advised Ms. Torres that he would have a Spanish speaking individual from the department contact her regarding this matter and asked that this case be continued to the next board meeting.

Regarding Case No. 2002-010077 against Joseph G. Iandoli of Ft. Myers, Mr. Tunncliff presented the department's case in this matter. Ms. Osborne moved that the board find the Respondent was properly served with the Administrative Complaint, that there was competent substantial evidence to support the allegations as set forth in the Administrative Complaint, that the Respondent committed the offenses as outlined in the Administrative Complaint, and impose a fine of \$500 and costs of \$175.34, which have been paid in full. Vice Chair Caetano seconded the motion and the motion passed unanimously.

Regarding Case No. 2002-005305 against Anthony Scarr of Deerfield Beach, Mr. Tunncliff presented the department's case in this matter. Vice Chair Caetano moved that the board find the Respondent was properly served with the Administrative Complaint, that there was competent substantial evidence to support the allegations as set forth in the Administrative Complaint, that the Respondent committed the offenses as outlined in the Administrative Complaint, and impose a fine of \$500 and costs of \$67, allowing the Respondent to pay the fine in five monthly installments and the costs to be paid in full with the first monthly fine installment. Ms. Osborne seconded the motion and the motion passed unanimously.

Defaults

Unless otherwise stated, by appropriate motion the board found that the Respondent was properly served with the Administrative Complaint, the Respondent was in default, the board accepted the allegations as stated in the Administrative Complaint and adopted them as the findings of fact and conclusions of law of the board, and imposed the penalties shown below:

- Tracy Krimm; North Ft. Myers
Case No. 2001-09538
\$150 fine and \$313.74 costs
- Dieuseul Joachim; West Palm Beach
Case No. 2002-00837
\$1,000 fine and \$135.87 costs
- Davetta Williams; Boynton Beach
Case No. 2001-00746
\$200 fine and \$116.63 costs
- Garcia Davis; Miami
Case No. 2001-04854
\$500 fine and \$176.52 costs
Mr. Tunnicliff corrected the record to reflect the proper name of the Respondent to Garcia Wellesly Davis
- Ngoc Duong; Tallahassee
Case No. 2002-006953
\$500 fine and \$124.23 costs
- Jeris Tuccinardi; Sarasota
Case No. 2002-004788
\$500 fine and \$40.23 costs
- Theresa Ann Wilby; Boca Raton
Case No. 2002-01305
\$1,000 fine and \$276.47 costs
- Marie Gauvin; Ft. Myers
Case No. 2001-06167
\$500 fine and costs of \$299.85

Regarding Case No. 2002-004625 against Romelia Agudo of Melbourne, Mr. Tunnicliff informed the board that he received a request for a continuance in this matter

as the Respondent had a death in the family and was currently out of the country. Mrs. Brown moved to continue this case to the next board meeting. Ms. Osborne seconded the motion and the motion passed unanimously.

Stipulations

Unless otherwise stated, by appropriate motion the board found the Respondent to have committed the offenses as alleged in the Administrative Complaint and adopted the Stipulation of the parties as the board's final action regarding a penalty to be imposed on the Respondent as follows:

- Tich Van Le; Orlando
Case No. 2001-05697
\$50 fine and \$188.22 costs
- Roberta K. Tuccinardi; Sarasota
Case No. 2002-004791
\$500 fine and \$40.23 costs
(Paid in full)
- Jayne's Hair Designs; Daytona Beach Shores
Case No. 2002-008382
\$500 fine and \$165 costs, allowing the Respondent to pay the fine in five monthly installments and the costs to be paid in full with the first monthly fine installment
- Allan Kalvin; Jupiter
Case No. 2001-09536
\$550 fine and \$124.11 costs
(Paid in full)

Department Attorney Report

Mr. Tunncliff distributed a Prosecuting Attorney Status Report. He informed the board that Ms. Tiffany Short will be moving to Tampa and her last day with the department was April 11.

Applications

Cosmetology Endorsement Application

- Jerry L. Brunson
Ms. Malone informed the board that Mr. Brunson's application was placed on the agenda as his endorsement application indicated his Montana cosmetology license is currently on probation. Ms. Malone mentioned that he was requested to provide additional materials relating to this matter for

inclusion in the agenda, and he was requested to appear before the board at this meeting. Failing to demonstrate that he holds a current license in another state, Ms. Osborne moved to deny Mr. Brunson's application. Mrs. Brown seconded the motion and the motion passed unanimously.

Continuing Education Provider and Course Applications

- Creative Professional Nails, Inc.
Course Application
Nail Master Seminar
Ms. Osborne moved to deny this course application as the course materials did not include a list of all references and source materials. Vice Chair Caetano seconded the motion and the motion passed unanimously.

- Kearse for Educating of Kearus, L.L.C.
Course Application
HIV/AIDS Training
Mrs. Brown moved to deny this course application requesting a more detailed course outline. Ms. Osborne seconded the motion and the motion passed unanimously.

- Kearse for Educating of Kearus, L.L.C.
Course Application
Cosmetologist Biennial Refresher – 16 Hours
Ms. Osborne moved to deny this course application requesting a more detailed course outline. Vice Chair Caetano seconded the motion and the motion passed unanimously.

- Omni Financial Services
Provider Application
Ms. Osborne moved to approve the provider application of Omni Financial Services. Mr. White seconded the motion and the motion passed unanimously.

- Omni Financial Services
Course Application
The Financial Management Workshop
Ms. Osborne moved to deny this course application as the course does not relate to the practice of cosmetology. Mr. White seconded the motion and the motion passed unanimously.

- Omni Employee Benefit Consultants
Provider Application
Ms. Osborne moved to approve the provider application of Omni Financial Services. Mrs. Brown seconded the motion and the motion passed unanimously.

- Omni Employee Benefit Consultants
Course Application
Labor and Liability Challenges of Today's Small Employer
Ms. Osborne moved to deny this course application as the course does not relate to the practice of cosmetology and there was no course evaluation included in the course materials. Mr. White seconded the motion and the motion passed unanimously.

Committee Reports

Continuing Education Committee

Chair Blanco indicated she has been reviewing continuing education applications as they have been provided to her by the Bureau of Education and Testing. She will consider appointing one of the new members to chair this committee at the next board meeting.

Rules Committee

Ms. Osborne had no report.

Legislative Committee

- MMA
Vice Chair Caetano reported that legislation relating to the prohibition of MMA will not be introduced this legislative session but that he knows of two members that are possibly interested in sponsoring this legislation during the 2004 session. He added that several television stations and the St. Petersburg Times have recently aired/printed segments on MMA.
- Reciprocity/Endorsement with Other States
Vice Chair Caetano had no additional information to report.

Old Business

The board agreed to conduct a workshop in conjunction with the next board meeting to discuss booth renters, cosmetology definitions, body wrapping requirements and hair braiding requirements.

Other Business

Executive Director Report

Ms. Malone informed the board that the board's cash balance as of June 30, 2002, was \$556,091.

Ms. Malone referenced the NIC recommendations for proposed bylaw amendments, NIC Annual Conference information, American Association of Cosmetology Schools Association Spring Management Conference information, Cosmetology Educators of America 9th Annual Convention information, cosmetology examination statistics, and the Board of Cosmetology January press release included in the agenda for informational purposes.

Ms. Malone informed the board that the board office had received an inquiry as to whether or not a salon could also hold a barbershop license. After some discussion and agreement that there are unique differences between salon and barbershop requirements, Mrs. Brown moved to deny the allowance of a cosmetology salon to dually hold a barbershop license. Ms. Osborne seconded the motion and the motion passed unanimously.

Ms. Malone informed the board that the Central Intake Unit will not destroy old application files and will store them since there is no fee for storage.

Ms. Malone read a proposal for reexamination candidates, one of the highlights being that reexam candidates can go directly to the testing vendor to schedule another examination without having to reapply to the department for reexamination. She added that there will be a cost savings to the applicant since the new vendor will only be charging \$9 per hour for the cosmetology examination. She indicated that there will be revenue sharing opportunities for the board to participate in such as allowing the candidate to take a pretest on the internet at a cost of \$25; \$5 would go to the vendor and \$20, minus any credit card charges, would be remitted to the department. After some additional discussion, Ms. Osborne moved to have Ms. June McKinney Bartelle, Assistant Attorney General, notice for rule development, Rule 61G5-18.004(2), Florida Administrative Code, to amend the process for reexamination. Mr. White seconded the motion and the motion passed unanimously.

Ms. Malone questioned the board about delegating the review of continuing education provider and course renewal to the department. After some discussion, Ms. Osborne moved that courses with changes, which are up for renewal, need to come back to the board's continuing education committee for review. Vice Chair Caetano seconded the motion and the motion passed unanimously.

The board asked Ms. Malone to determine whether or not an approved course, which has been translated into Spanish, needs to be approved again with another course number.

The board asked Ms. Malone to provide periodic updates on the examination process.

As a group, the board completed the nail care industry survey from Shelley Sekula-Gibbs, M.D. Vice Chair Caetano moved to have Ms. Malone forward the board's response to Dr. Sekula-Gibbs. Ms. Osborne seconded the motion and the

motion passed unanimously.

Ms. Malone reported that all of the courses from Miami Lakes Educational Center in question from the former board meeting have been approved.

Ms. Malone informed the board that Senate Bill 600, relating to hair braiding, was temporarily postponed in the Senate Regulated Industries Committee. She also stated that there is no House companion bill.

Ms. Malone advised the board that the regulation/compliance address and telephone listing, the 2003 cosmetology statistics/English and Spanish, the NIC minutes and general information from the February 10, 2003, executive board meeting, and the email of March 13, 2003, from Lori Esposito regarding cosmetology services offered to wedding parties contained in the supplemental information folders was provided for informational purposes.

Ms. Malone mentioned the email and letter from Promissor requesting the purchase/lease of examination items from the cosmetology examination item bank. After some discussion and conclusion that the cosmetology practice act does not allow for the purchase of examination items from the cosmetology examination item bank, Mrs. Brown moved to deny Promissor's request. Ms. Osborne seconded the motion and the motion passed unanimously.

Ms. Malone referred to a facsimile received from Nancy Cahill of Idamar Enterprises asking whether or not out-of-state licensed professionals from Clairol who will be performing services on attendees at the Odyssey Network 2003 Business Retreat in the Ritz-Carlton Salon will need to be licensed in Florida to perform these services. She added that these professionals will not be charging the attendees a fee and the salon will be closed to the public during this retreat. Vice Chair Caetano moved that these professionals will not need Florida licenses to perform their services. Ms. Osborne seconded the motion and the motion passed unanimously.

Ms. Malone mentioned the misleading information relating to the prohibition of MMA in Florida contained on the Beauty Tech website and that Deputy Secretary Julie Baker has asked that they remove the misleading information.

Ms. Malone informed the board of the request by NIC for an overview of legislation during the 2003 session. She added that Legislative Affairs Director Candace Wright-Jones advised NIC of the hair braiding bill and the MMA language for the 2004 session.

Board Attorney Report

Ms. McKinney Bartelle had no report.

Division of Regulation

Ms. Malone mentioned the unlicensed activity roadblock/sweep in Miami-Dade county press release and the 2002-2003 sweep data by region, and the quarterly complaints report included in the agenda for informational purposes.

Ms. Malone added that the unlicensed activity section spent \$1,579.22 of the requested \$74,700 requested and that \$73,120.78 was transferred back to the unlicensed activity trust fund. Ms. Malone will inquire as to why more of the originally requested allotment was not expended.

Bureau of Education and Testing

There was no report from the Bureau of Education and Testing.

Board Member Comments

There were no comments from the board members.

Chairperson Comments

Chair Blanco had no additional comments.

Correspondence

Letter to Maria Porcayo dated January 31, 2003

The letter from Ms. Porcayo and response from Ms. Malone were included in the agenda for informational purposes.

Letter to Jacqui Maldonado dated February 27, 2003

The letter from Ms. Maldonado and response from Ms. Malone were included in the agenda for informational purposes.

Letter to Angela Artemik of Academy of Healing Arts, Massage and Facial Skin Care, Inc., dated February 28, 2003

The letter from Ms. Artemik and response from Ms. Malone were included in the agenda for informational purposes.

Letter to Bill Tran of Luxury Nails dated February 26, 2003

The letter from Mr. Tran and response from Ms. Malone were included in the agenda for informational purposes.

Letter to Vivian Brunelle dated February 26, 2003

Ms. Brunelle faxed another letter outlining the details of her business and this letter was included in supplemental information. Ms. Brunelle indicates that she will not be applying make up to any client's face, and she only intends to sell her cosmetic line to clients. She contends that the only compensation she will receive will be from the sale of her product line. Vice Chair moved to have Ms. Malone respond to Ms. Brunelle informing her that her service does not fall under the practice of cosmetology and she, therefore, would not need a cosmetology license to operate. Ms. Osborne seconded the motion and the motion passed unanimously.

Letter to Rachel Cook and Connie Carter of Orange Park Beauty Academy dated February 26, 2003

The letter from Ms. Cook and Ms. Carter and response from Ms. Malone were included in the agenda for informational purposes.

Letter to Claudia Johnson dated February 28, 2003

Chair Blanco stated that in order for Ms. Johnson to perform the services outlined in her letter, she would need to be licensed as a cosmetologist.

Public Comments

Ms. Michelle Holder, Orange County Public Schools, asked if there were a departmental liaison with the Department of Education. Ms. Malone informed Ms. Holder that if she will contact her, she will be glad to provide assistance, if possible.

Ms. Bonnie Poole, Florida Cosmetology Association, provided the board with a postcard one of her members received from Informed and stated that it was very misleading, alarming the member that her continuing education credit had not been received by the department. Chair Blanco advised Ms. Poole that she agreed it was misleading.

Ms. Poole asked the board to provide her with 100 copies of the cosmetology laws and rules.

Mr. Michael Stahl of Miami Lakes Educational Center publicly thanked Ms. Malone for his assistance with his course approvals.

Ms. Alicia Gilreath inquired about an apprenticeship program. Ms. McKinney Bartelle advised Ms. Gilreath that the board has no jurisdiction.

Ms. Phyllis Allen spoke about the need for more training hours for hair braiders and why hair braiders do not have to perform hair braiding services in a licensed salon.

Ms. McKinney Bartelle referred Ms. Allen to the laws and rules and suggested she attend the upcoming workshop.

Dates and Locations of Future Board Meetings

The board agreed to conduct a workshop to discuss booth renters, cosmetology definitions, body wrapping requirements and hair braiding requirements and a board meeting in Orlando, Florida, on Sunday, July 20, 2002, and Monday, July 21, 2003, respectively.

There being no further business, the meeting was adjourned at approximately 1:45 p.m.

JM/rb