

MINUTES

**BOARD OF COSMETOLOGY
Department of Business and Professional Regulation
Adams Mark Hotel Orlando
1500 Sand Lake Road
Orlando, Florida 32809
Monday, July 21, 2003**

The Board of Cosmetology meeting was called to order at approximately 9:00 a.m., by Ms. Mary Blanco, Chair.

Board Members Present

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

Board Members Absent

None

Other Persons Present

Jerry Wilson, Deputy Director, Division of Professions and Regulation, DBPR
Julie Malone, Executive Director, DBPR
June McKinney Bartelle, Assistant Attorney General, Department of Legal Affairs
Erica Glover, Assistant Attorney General, Department of Legal Affairs
Charles Tunncliff, 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
Michelle Holder, Orange County Public Schools
Arlen Black, Hillsborough County Public Schools
Elizabeth Petrusa, Academy of Career Training
Myra Jowers, FCCJ
John Conley, The Hairwraps Company, Inc.
Lorraine J. Brown, North Florida Community College
Lorraine McManus, Florida Technical School
Jennifer Kenney
Rachael Whelan
Amy Taylor
Barbara Youssef
Nora Kirkman
Verna Fudge
Dorothy Thornton

Eula Fulcher Pressley
Lynette Beuligmann, Puttin on the Ritz Salon
Daisy Jimenez, Respondent
Elena Jimenez, Interpreter for Daisy Jimenez
Miledys Tamarez, Respondent

The meeting was opened with a roll call and a quorum was established. Chair Blanco welcomed Ms. Smith to the Board of Cosmetology.

Approval of Minutes: April 13, 2003

Vice Chair Joseph Caetano moved to accept the minutes from the April 13, 2003, board meeting. Ms. Donna Osborne seconded the motion to approve 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. 2002-01748 against Studio Staff of Miami, Mr. Charles Tunncliff, Assistant General Counsel, presented the department's case in this matter. Ms. Daisy Jimenez, owner of Studio Staff, was present at the meeting with her Interpreter, Ms. Elena Jimenez. Ms. Elena Jimenez explained the case to Ms. Daisy Jimenez. After some discussion, Ms. Osborne 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 \$1,000 and costs of \$415.80. Ms. Jimenez has paid this matter in full. Mr. Anthony White seconded the motion and the motion passed unanimously.

Informal Hearings

Regarding Case No. 2002-013126 against Deborah Ward's Cuttin Loose Salon of Pensacola, Mr. Tunncliff presented the department's case in this matter. He added that Ms. Ward had contacted him prior to the meeting and asked for leniency in this matter. Mr. White 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 \$199.16. Ms. Osborne seconded the motion and the motion passed unanimously.

Regarding Case No. 2002-010190 against Leon Thien Nguyen of Lake Worth, Mr. Tunncliff indicated there was improper notice in this matter. Mr. Tunncliff contacted Mr. Nguyen regarding this case and Mr. Nguyen will would like to enter into a Stipulation which will come before the board at the next meeting.

Regarding Case No. 2002-010281 against Platinum Plus Hair and Nail Salon of Jacksonville, 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 \$750 and costs of \$245.71. Ms. Osborne seconded the motion and the motion passed unanimously.

Regarding Case No. 2002-010161 against Miledys Tamarez of Pembroke Pines, 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 \$1,500, costs of \$380.59, and a six month suspension. Ms. Osborne seconded the motion and the motion passed unanimously.

Defaults

Regarding Case No. 2002-01853 against Norma Jean Williams of Melbourne, Mr. Tunncliff asked that this case be pulled from the agenda and that it be rescheduled for the next board meeting.

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:

- Marie A. Murray; Melbourne
Case No. 2002-01826
\$250 fine and \$281.20 costs
- Wonderful Hair Care; Sunrise
Case No. 2001-02377
\$1,500 fine and \$1,130.59 costs
Mr. Tunncliff corrected the record to reflect the proper filing date of the Administrative Complaint to be February 3, 2003, and the proper proposed fine to be \$1,500
- Cindy McGill; Pensacola
Case No. 2002-013124
\$500 fine and \$207.71 costs
- C-D Nails; Melbourne
Case No. 2002-013656
\$50 fine and \$148.85 costs
- Zuni's; Miami
Case No. 2001-00575
\$1,000 fine and \$219.27 costs

- Mai Son Bui; Palm Beach Gardens
Case No. 2002-01424
\$1,250 fine and costs of \$162.85 costs
- Phuong M. Le; Pearland, Texas
Case No. 2002-01553
\$500 fine and costs of \$15.32
Mr. Tunncliff corrected the record to reflect that proper service of the Administrative Complaint was achieved by publication in the Tallahassee Advertiser.
- Romelia Agudo; Melbourne
Case No. 2002-004625
\$1,500 fine and costs of \$315.77
- Ebel Geneus; Delray Beach
Case No. 2002-007482
\$1,550 fine and costs of \$159.04
- Jose Ojeda; Orlando
Case No. 2001-02006
\$500 fine and costs of \$534.29

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:

- Hair Obsession; Miami
Case No. 2003-001748
\$50 fine and \$80.93 costs
(Paid in full)

Department Attorney Report

Mr. Tunncliff mentioned an email included in the agenda regarding salon square footage requirements and if the board had considered reducing the square footage requirements. The board had no comment.

Applications

Application for Hair Braiding Course

God's Anointed Place

Ms. Osborne moved to approve this application for hair braiding. Vice Chair Caetano seconded the motion and the motion passed unanimously.

Continuing Education Provider and Course Applications

Aesthetic Congress Communications

5 Course Applications:

OSHA Hazard Communication Standard

Airbrush Makeup

Environmental Issues

Chemical Makeup for the Esthetician

Natural vs. Synthetic Ingredients and Products

Ms. Smith recused herself from this matter as her employer is affiliated with the Aesthetic Congress. After some discussion, Ms. Laura Brown moved to approve all five courses with the contingency that the provider amend the Chemical Makeup for the Esthetician course to reflect facial specialist rather than esthetician. Vice Chair Caetano seconded the motion and the motion passed unanimously.

Oh So Pretty

10 Course Applications:

Sanitation for Nail Specialists

Sanitation for Cosmetologists

OSHA for the Nail Specialist

OSHA for the Cosmetologist

Gray Coverage

Corrective Color Techniques

Communicable Diseases

Bookkeeping in the Salon

Beautiful Blondes

All About Reds

After some discussion, Ms. Osborne moved to approve all ten courses with the contingencies that the provider supply the missing reference and source materials and for the OSHA for the Nail Specialist course, the provider change the outline reference to a licensed manicurist in Florida rather than Indiana. Mr. White seconded the motion and the motion passed unanimously.

NailPro Magazine-NailPro Nail Institute

1 Course Application:

NailPro Nail Institute

The board indicated concern with this provider supplying samples during the course presentation. The board agreed to table this course application until board staff could contact the provider about this issue.

Art of Beauty

4 Course Applications:

Natural Nail Specialist I: Basic

Natural Nail Specialist II: Advanced

Salon Development I: Basic

Salon Development II: Advanced

After some discussion, Mr. White moved to approve these courses with the contingency that the provider amend the course completion certificate to reflect Florida rather than Ohio. Vice Chair Caetano seconded the motion and the motion passed unanimously.

Reconsideration

Notice of Intent to Deny Kearse for Educating of Kearus, L.L.C., AIDS Training
And Cosmetology Biennial Refresher Continuing Education Courses

The board agreed to reconsider this matter because of the newly provided detailed outline. Vice Chair Caetano moved to approve the courses as amended. Ms. Osborne seconded the motion and the motion passed unanimously.

Disciplinary Matters (continued)

Informal Hearings

Regarding Case No. 2002-010161 against Miledys Tamarez of Pembroke Pines, Ms. Brown moved to reconsider this matter as the Respondent arrived at the meeting and wished to speak regarding this case. Mr. White seconded the motion and the motion passed unanimously. Ms. Tamarez offered mitigation in this matter informing the board that she had a family emergency and left her salon in the care of her sister when the inspector arrived and discovered unlicensed activity violations. After additional discussion, Ms. Brown 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 \$1,500, costs of \$89.36, and a six month suspension. Vice Chair Caetano seconded the motion and the motion passed unanimously.

Other Business

Regulation Report

Mr. Jerry Wilson, Deputy Director of the Division of Professions and Regulation, reintroduced himself and explained his new role with the department. He mentioned the Margate Regional Office unlicensed activity sweep information, the barber/cosmetology enforcement activity for fiscal year 2002-2003, the cosmetology statistics for fiscal year 2002-2003, the regional inspection percentages, the Division of Professions and Regulation inspection pie chart for fiscal year 2002-2003, the unlicensed activity bar chart for fiscal year 2002-2003, and the quarterly complaint report from 1998 to 2003 all contained in the agenda. He added that the board members are welcome to have a demonstration of the PDAs and should contact he or Ms. Malone to set up a demonstration. Mr. Wilson also mentioned the division's desire to improve on

the follow-up of unpaid citations.

Chair Blanco inquired about the suspension of computer-based testing services. Mr. Wilson informed the board that a recommended order is expected from the hearing officer on August 6 or 7, 2003. At that point, the parties will have appellate rights and at the earliest, the resolution of the computer-based testing situation would come around the end of August. Chair Blanco asked if the department has considered offering the examination in schools. Mr. Wilson will explore this possibility with the department's Bureau of Education and Testing. School representatives in attendance at the board meeting were willing to offer their schools as examination sites. Ms. Malone informed the board about a new letter being mailed to examination eligible applicants explaining the current pen and paper examination scheduling process. Ms. June McKinney Bartelle, Assistant Attorney General, had been asked by two separate board members about a former rule allowing cosmetology students to work after they had submitted an application to the department. Ms. McKinney Bartelle researched this matter and discovered this exemption from several years' back but, unfortunately, that portion of the statute has been repealed and this option is not currently available.

Committee Reports

Legislative Committee

Reciprocity/Endorsement with Other States

Vice Chair Caetano moved to approve the reciprocity language provided in the agenda addendum and proceed with this initiative during the 2004 legislative session. Mr. White seconded the motion and the motion passed unanimously.

MMA

Ms. Osborne moved to proceed with the formerly approved MMA language during the 2004 legislative session. Vice Chair Caetano seconded the motion and the motion passed unanimously.

New Business

Legislative Workshop

Developing Booth Rental Licensure

Ms. Osborne stated that she believes there needs to be a check and balance with booth renters and likes the language provided by Vice Chair Caetano which is patterned after the Texas booth renter law. Mr. White informed the board that he is against booth rental licensure as he does not feel this initiative has anything to do with protecting the public's health, safety and welfare. He further added that from the comments at the workshop, there is concern about further fragmenting the license. Additionally, he believes that the biggest reason stated for booth rental licensure was competition and payment of taxes, things the board should not be involved with. Ms. Brown indicated that she feels booth rental licensure is important and would hold the booth renter accountable. Ms. Smith stated that booth rental licensure is not a health, safety, welfare issue. She agreed that the issue with booth renters is taking salon clients and non-

payment of taxes. Vice Chair Caetano mentioned that booth renters need to be more accountable. Ms. Osborne believes that booth renters do affect health issues and should be responsible for following all sanitation and other laws as business owners are required to do. Chair Blanco added that booth renters need to be more accountable for their respective areas/space. Chair Blanco asked for a vote on proceeding with booth rental licensure. Chair Blanco, Vice Chair Caetano and Ms. Osborne voted in favor of booth rental licensure. Mr. White, Ms. Smith and Ms. Brown voted against booth rental licensure. The motion failed.

Chair Blanco asked Ms. Malone to draft a letter in support of H.B. 2133.

Ms. Brown asked about accountability of the cosmetologist versus the cosmetology salon when inspections are performed.

Vice Chair Caetano publicly resigned from the Board of Cosmetology at 12:50 p.m.

Proposed Definitions to Update Cosmetology

The board agreed to the following changes in the drafted definitions to update cosmetology :

- (6)(a) - Strike "perform"
- (6)(a)(I) A. - Strike "or" and add "being powered"
- (6)(a)(I) B. - Add "being powered"
- (6)(a)(ii) - Add back "of the skin and muscles from the knee, including the lower leg" and "of the nails of the feet, and massaging or"; strike "from the" and "while"
- (6)(a)(ii) A. - Add "being powered"
- (6)(b)(ii) - Add back "herbal wraps for the purposes of cleansing" and strike "bandages, blankets, plastic, cloth, wraps, or other such devices for the purposes of detoxifying and/or cleansing or"
- (6)(c) - Strike this entire section
- (9) - "Hair braiding" - This portion was entirely stricken and should be readded
- 11.(c) - Add "and hairline"

Ms. Osborne moved to approve the language as amended and move forward with this initiative during the 2004 legislative session. Mr. White seconded the motion and the motion passed unanimously.

Discussion ensued regarding the proposed course definition provided by Mr. John Conley at the legislative workshop. Ms. Erica Glover, Assistant Attorney General, mentioned that this change may need to be addressed by the department's governing statute, Chapter 455, F.S. Ms. Malone will research.

Body Wrapping Educational Requirements

Ms. Osborne agreed that body wrapping should be included in an esthetics program. She added that the board will need to further evaluate this matter and possibly increase the required educational hours to 600+ hours. Ms. Smith and Ms. Brown agree that body wrapping should fall under the services performed by an esthetician. Ms. Osborne moved to keep the

body wrapping requirements as they currently stand. Ms. Smith seconded the motion and the motion passed unanimously.

Hair Braiding Educational Requirements

Chair Blanco informed the board that she feels the hair braider license should be eliminated and that hair braiding should fall under the services performed by a cosmetologist. Ms. Brown moved to keep the current hair braiding requirements as is. Ms. Smith seconded the motion and the motion passed unanimously.

Applications (continued)

Continuing Education Provider and Course Applications

NailPro Magazine-NailPro Nail Institute

1 Course Application:

NailPro Nail Institute

During the break, Ms. Malone contacted Ms. Vicky Peters with NailPro Nail Institute. Ms. Peters indicated they will not provide samples/products to course attendees if this will allow their course to be approved. Ms. Osborne moved to approve this course application with Ms. Peters' word that no samples/products will be distributed to course attendees. Mr. White seconded the motion and the motion passed unanimously.

Other Business (continued)

Correspondence

Ms. Malone referred to the letters contained in the agenda addressed to Ms. Nancy Cahill, Dr. Shelly Sekula-Gibbs, and Ms. Vivian Brunelle and added they were only for informational purposes. She also referenced the information provided by Mr. Bernard King regarding research on barbicide.

Ms. Malone mentioned the email from Ms. Sherry Parker. The board asked Ms. Malone to respond to Ms. Parker informing her there is no advanced facial specialty registration and outlining the services both a facial specialist and a body wrapper can perform.

Ms. Malone referred to the letters to Ms. Maya Thomas included in the agenda. The board asked Ms. Malone to respond to Ms. Thomas informing her that the board has no authority to offer an apprenticeship program and that no changes to the hair braiding requirements will be made at this time.

Ms. Malone mentioned the letter to Ms. Noreen Haines included in the agenda. The board asked Ms. Malone to respond to Ms. Haines informing her that in order to perform microdermabrasion, she must be at least a facial specialist.

Mr. John Givens from ImagiNail demonstrated his company's new machine that automatically decorate nails with whatever images the client chooses. He specifically asked if the operator of the machine would need to be a nail specialist and where the service can be

offered. Ms. Robyn Barineau will provide Mr. Givens with instructions on requesting a declaratory statement.

Committee Reports

Continuing Education Committee

Chair Blanco indicated she has been reviewing continuing education applications as the Bureau of Education and Testing has provided them to her. She will continue as chair of this committee.

Rules Committee

Ms. Osborne informed the other board members that she is always soliciting their input for new rules. If any board member has suggestions for new rules or amending current rules, they should provide their suggestions to the board office.

Legislative Committee

Chair Blanco appointed Ms. Brown as the new chair of the Legislative Committee.

Other Business (continued)

Executive Director

Ms. Malone gave an overview of the continuing education 100 percent monitoring initiative which will begin August 31, 2003.

Ms. Malone informed the board that the California Board of Cosmetology will no longer be providing license certifications to other states on behalf of their licensees. The California board now directs all states to a website which lists licensee information but does not include examination history or educational hours. Ms. Glover advised the board that Chapter 477, F.S., requires that applicants by endorsement must meet substantially similar or more stringent requirements than those in Florida in order to qualify for endorsement. After additional discussion, the board agreed that the department must be provided with examination and educational information for endorsement verification purposes.

Ms. Malone mentioned the newsletter, newspaper article regarding the Escambia County Sheriff's Department, and the email from Mr. Hugh Proctor contained in the agenda and provided for informational purposes.

Ms. Malone directed the board to the NIC conference information and the Cosmetology Educators of America conference information contained in the agenda. Ms. Brown moved to send Chair Blanco to the NIC conference in Sacramento, CA. Mr. White seconded the motion and the motion passed unanimously.

Ms. Malone informed the board that the Division of Professions and Regulation telephone list provided in the agenda was for informational purposes.

Ms. Malone advised the board that she researched the unlicensed activity funds expenditure. She distributed a brochure previously prepared by the department and paid for by the board's unlicensed activity funds. A suggestion was made to send the brochure to schools for distribution and to have inspectors distribute the brochures when conducting inspections. Ms. Brown suggested the brochure also be placed on the board's webpage.

Ms. Malone directed the board to the financial statements contained in the agenda addendum and stated they were provided for informational purposes.

Ms. Malone mentioned the email from Ms. Mary Crew of the Department of Education included in the agenda addendum regarding occupational completion points. The board asked Ms. Malone to contact Ms. Crew and obtain additional information from Ms. Crew regarding this topic for discussion at the next board meeting.

Ms. Malone informed the board that the smoke free workplace initiative became effective July 1 and the Department of Health is enforcing this new law.

Ms. Malone mentioned the \$25 million sweep of the Professional Regulation Trust Fund. She will provide the board with more details at the next meeting.

Bureau of Education and Testing

Ms. Malone mentioned the information contained in the agenda from Ms. Hui Ding requesting that the cosmetology examination be translated into Chinese. Ms. Osborne moved to deny Ms. Ding's request. Ms. Smith seconded the motion and the motion passed unanimously.

Board Attorney Report

Ms. Glover mentioned the reexamination rule 61G5-18.004, F.A.C., which has been developed. She added that until there is a new computer-based testing vendor, there is no need to proceed in this regard.

Dates and Locations of Future Board Meetings

The board agreed to conduct its next board meeting in Tampa, Florida, on Sunday, October 26, 2003.

Public Comments

Ms. Lynette Beuligmann inquired about the resolution of the individuals seeking an exemption for performing make up services without a license. Ms. Malone will follow up on this issue.

There being no further business, the meeting was adjourned at approximately 5:10 p.m.

JM/rb