

# **MINUTES**

**BOARD OF COSMETOLOGY  
Department of Business and Professional Regulation  
The Florida Mall Hotel  
1500 Sand Lake Road  
Orlando, Florida 32809**

**Sunday, January 9, 2005**

The Board of Cosmetology meeting was called to order at approximately 9:05 a.m., by Ms. Mary Blanco, Chair.

## **Board Members Present**

Mary Blanco, Chair  
Donna Osborne  
Laura Brown  
Laurel Ritenbaugh

## **Board Members Absent**

Joseph Caetano, Vice Chair  
Monica Smith  
Anthony White

## **Other Persons Present**

Julie Malone Garofalo, Executive Director, DBPR  
Dan Biggins, Assistant Attorney General, Department of Legal Affairs  
Charles Tunnicliff, Assistant General Counsel, Office of the General Counsel,  
DBPR  
Robyn Barineau, Government Analyst, DBPR

## **Interested Parties Present**

Letha Wheeler, Court Reporter  
Jacki Knudsen, Pensacola Junior College  
Karina Rolnik, Steiner Education Group  
John Conley, The Hairwraps Company, Inc.  
Rena Wood, Withlacoochee Technical Institute  
Myra Jowers, Florida Community College at Jacksonville  
Louise Hersey, Normandy Beauty School  
Michelle Holder, Orange County Public School System  
Rocco DiBernardo, SOS  
Lacey Wells, Student at Institute for Creative Enhancement  
Jacky Puckett, Student at Institute for Creative Enhancement  
Juan Alberto, Hair Garden Salon, Inc., Respondent  
Janie Soliz, Janie's Beauty Shop, Respondent  
Marcie West Bishop, Respondent

Shikeca Cooper, Examination Applicant  
Bozena J. Sicari, Endorsement Applicant  
Pamela Batchelor  
Kim VanFossen  
Patricia Boone  
Steve Sicari

The meeting was opened with a roll call and a quorum was established. Chair Blanco excused the absences of Vice Chair Joseph Caetano and Ms. Monica Smith due to health issues.

### **Approval of Minutes: October 10, 2004, and October 29, 2004**

Mrs. Laura Brown moved to accept the minutes from the October 10, 2004, board meeting. Ms. Donna Osborne seconded the motion to accept the minutes and the motion passed unanimously.

Mrs. Brown asked that the minutes of the October 29, 2004, conference call board meeting be amended on page seven to reflect her change in favor of booth renting licensure because occupational licensing is not required in all counties. Mrs. Brown moved to accept the minutes from the October 29, 2004, conference call legislative workshop and the amended minutes from the October 29, 2004, board meeting. Ms. Osborne seconded to the motion to accept the minutes and the motion passed unanimously.

### **Disciplinary Matters**

Mr. Dan Biggins, Assistant Attorney General, inquired if all the board members had received their board meeting materials and if the members had reviewed all the materials. All members responded in the affirmative to these questions.

### **Informal Hearings**

Regarding Case No. 2003-057777 against Hair Garden Salon, Inc. of Miami, Mr. Charles Tunncliff, Assistant General Counsel, presented the department's case in this matter. The department suggested assessing a fine of \$550 and costs of \$133.06. Mr. Juan Alberto, owner of Hair Garden Salon, Inc. was present and offered mitigation in this matter. Mr. Alberto indicated that he has not ever had any violations in the past and that it was not his intention to allow his salon license to become delinquent. He indicated that upon the inspector finding his salon license to be delinquent, he immediately contacted his bank to determine whether or not his renewal payment had cleared his bank. Upon finding that the check had not cleared his bank account, he immediately went online and renewed his salon license. Mr. Alberto added that the proposed fine and costs amount would cause an extreme financial burden on him. Mrs. 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 \$550, allowing the Respondent to pay the fine in six equal monthly installments. Ms. Osborne seconded the motion and the motion passed unanimously.

Regarding Case No. 2004-032650 against Norman's of NY or Boca Raton, Mr. Tunncliff presented the department's case in this matter and suggested assessing a fine of \$500 and costs of \$64.93. Mrs. 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 \$500 and costs of \$64.93. Ms. Laurel Ritenbaugh seconded the motion and the motion passed unanimously.

Regarding Case No. 2003-048681 against Anita Wiley of Stuart, Mr. Tunncliff presented the department's case in this matter and suggested assessing a fine of \$1,950 and costs of \$139.48. After discussion by the board, 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 \$1,950, costs of \$139.48, and a six month license suspension. Ms. Ritenbaugh seconded the motion and the motion passed unanimously.

Regarding Case No. 2003-073498 against Erlinda Carreno of Immokalee, Mr. Tunncliff presented the department's case in this matter and suggested assessing a fine of \$500 and costs of \$140.94. Mrs. 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 \$500 and costs of \$140.94. Ms. Osborne seconded the motion and the motion passed unanimously.

Regarding Case No. 2004-027534 against Janie's Beauty Shop of Immokalee, Mr. Tunncliff presented the department's case in this matter and suggested assessing a fine of \$500 and costs of \$130.16. Ms. Janie Soliz, owner of Janie's Beauty Shop, was present and offered mitigation in this matter. Ms. Soliz admitted that she did not dispute the material facts of this case so this matter was heard as an Informal Hearing rather than a Motion for Waiver of Rights and Final Order. Ms. Soliz indicated that she bought the salon in 2002 and when she changed the name and location, she submitted a new application and received her license not realizing that the license was due for renewal in November of that year. She now realizes that salon licenses are due for renewal every November 30 of even numbered years. Mrs. 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 \$500 and costs of \$130.16, allowing the Respondent to pay the fine and costs in six monthly installments with the first installment paying the costs in full. Ms. Osborne seconded the motion and the motion passed unanimously.

### **Motion for Reconsideration**

- Marcie West Bishop; Belle Glade  
Case No. 2003-070819  
\$2,250 fine, costs of \$399.03, and a six-month license suspension  
Original Final Order entered August 11, 2004

Ms. Bishop was present at the board meeting. Mr. Tunncliff reminded the board that Ms. Bishop appeared at the October 10, 2004, board meeting at which time the board agreed to a reconsideration of this case at their January 2005 board meeting. In addition, the board asked Ms. Bishop to provide additional documentation supporting her abusive marriage. Ms. Bishop complied with the board's request and her personal information was included in the agenda and its addendum for the board's review and consideration. Ms. Robyn Barineau, Government Analyst, informed the board that Ms. Bishop had paid the remaining \$50 due in the prior case against her (2001-00505) and that she has made three payments toward the current final order (2003-070819) in the amounts of \$399.03, \$399, and \$399.03, totaling \$1,197.06. Ms. Osborne moved to remove the license suspension so long as Ms. Bishop continued to make the required payments to pay the outstanding fine and costs in full. The motion failed for lack of a second. Mrs. Brown suggested decreasing the fine amount to \$1,053.03 and costs of \$144.03 due to Ms. Bishop's good faith efforts at providing documentation supporting her personal situation and her continued payments toward the outstanding fine and costs of this case. Ms. Osborne indicated she sympathized with Ms. Bishop but felt that the original fine amount of \$2,250 and costs amount of \$144.03 was just because of her prior violations. Mrs. Brown moved to assess a fine of \$1,053.03 and costs of \$144.03 in this matter. Ms. Ritenbaugh seconded the motion and the motion passed unanimously.

### **Informal Hearings (continued)**

Regarding Case No. 2003-046632 against Alanda Harper of West Palm Beach, Mr. Tunncliff presented the department's case in this matter and suggested assessing a fine of \$200 and costs of \$135.75. 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 \$200 and costs of \$135.75. Ms. Ritenbaugh seconded the motion and the motion passed unanimously.

Regarding Case No. 2003-060948 against Patti's Hair Lounge, Patricia Blake of Ft. Lauderdale, Mr. Tunncliff asked that this case be pulled from the agenda to be considered at a later date.

### **Motions for Waiver of Rights and Final Order**

Regarding Case No. 2004-037194 against Victoria Drago of Tampa, Mr. Tunncliff asked that this case be pulled from the agenda to be considered at a later date.

Unless otherwise stated, by appropriate motion the board found that the Respondent was properly served with the Administrative Complaint, the Respondent failed to respond within 21 days thereby waiving their right to elect a hearing in this matter, 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:

- Hung Viet Nguyen; Tallahassee  
Case No. 2003-049825  
\$500 fine and \$109.71 costs
- Maria G. Lopez; Coral Gables  
Case No. 2004-026284  
\$500 fine and \$34.10 costs
- Maiketa T. Terrell; Eglin AFB  
Case No. 2004-032008  
\$500 fine and \$115.19 costs
- Taneka Lennon; West Palm Beach  
Case No. 2003-044539  
\$200 fine and \$125.35 costs
- Ban Le; Hialeah  
Case No. 2004-008388  
\$1,500 fine and \$171.36 costs
- Varda Israel; Plantation  
Case No. 2004-002367  
\$500 fine and \$168.02 costs
- Lavon Henderson; Hollywood  
Case No. 2004-024650  
\$500 fine and \$226.07 costs

- Nadia Pena; Orlando  
Case No. 2003-072104  
\$1,000 fine and \$446.98 costs
- Hair Impact; Lauderhill  
Case No. 2004-034979  
\$500 fine and \$241.33 costs
- Elizabeth Sansom; Lantana  
Case No. 2003-086154  
\$550 fine and \$138.54 costs

### **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:

- Flor S. Parra; West Palm Beach  
Case No. 2003-086164  
\$500 fine and \$106.32 costs
- Natural Creations Salon; Plant City  
Case No. 2004-036188  
\$500 fine and \$10.89 costs
- Olga Santiago; Miami  
Case No. 2004-021152  
\$500 fine and \$30.25 costs
- Andre S. Lewis; Pompano Beach  
Case No. 2003-076450  
\$1,500 fine and \$222.84 costs
- Reflections Hair Studio & Spa; Oviedo  
Case No. 2004-007219  
\$200 fine and \$99.54 costs
- Nails Max; Jupiter  
Case No. 2003-091657  
\$700 fine and \$177.48 costs
- Thuy Hang Dang; Marietta, Georgia  
Case No. 2004-034344  
\$500 fine and \$187.26 costs

- Roldolfo Macedo, d/b/a Ashley Salon; Indiantown  
Case No. 2003-082908  
\$500 fine and \$119.85 costs
- Adolfinia Becerra; Miami  
Case No. 2004-022431  
\$100 fine and \$44.50 costs

## **Department Attorney Report**

Mr. Tunncliff informed the board that there are currently 158 open cosmetology cases in the legal section.

Mrs. Brown asked Mr. Tunncliff about a prior Respondent's suggestion that inspectors note on citations which individuals are alleged to have violated the laws and rules. Mr. Tunncliff informed Mrs. Brown that this suggestion has been discussed and department inspectors are aware of this request. He added that the notes portion of a legal case file often have detailed information that the board does not see which lists who violated the laws and rules.

Mrs. Brown inquired if Mr. Tunncliff had been able to determine whether or not final orders of the board were listed on individual or business credit reports. Mr. Biggins indicated he believed that if a final judgment were obtained through the civil court system based on non-payment of a board final order, then that judgment would be listed on a credit report. Mr. Tunncliff will research this matter with the department's collections attorney and report his findings to the board at the next board meeting.

Ms. Osborne informed Mr. Tunncliff that she received several phone calls from individuals who attempted to file a complaint or notify the department of unlicensed activity and the callers were told, "we are too busy to handle." She indicated one particular caller was complaining about a salon which has been unlicensed for over seven months. Mr. Tunncliff instructed the board members to contact him personally with any complaints and provided his various telephone numbers. He reminded the board that the department must have sufficient information to pursue a complaint. The board was grateful and thanked Mr. Tunncliff for his assistance.

## **Applications**

### **Application for Licensure by Examination**

- Shikeca Cooper  
Ms. Julie Malone Garofalo, Executive Director, informed the board that Ms. Cooper was attempting to obtain a Florida cosmetology license by examination. The application Ms. Cooper provided to the department was signed by an official of a school which has been closed for several years, with Ms. Cooper having completed cosmetology school in 1995. After reviewing the provided documentation, Mrs. Brown moved to allow Ms. Cooper to sit for

the cosmetology examination so long as she has met all other examination requirements. Ms. Osborne seconded the motion and the motion passed unanimously.

### **Application for Licensure by Endorsement**

- **Bozena J. Sicari/New York**

Ms. Garofalo informed the board that Ms. Sicari was attempting to endorse from the state of New York. The state of New York certified that Ms. Sicari obtained a license with 1,000 hours or equivalent experience, however, Ms. Sicari's cosmetology school transcript reflected 1,000 school hours. Ms. Sicari has subsequently obtained 200 additional hours of training at Total Hair and Nails Academy of West Palm Beach. Her original license certification, however, did not verify whether or not Ms. Sicari had passed a written examination. Ms. Garofalo indicated she spoke with a supervisor at the New York Board of Cosmetology office who verified that in order for Ms. Sicari to obtain a New York cosmetology license, she would have passed a written examination. Ms. Sicari added that she attempted to get written information verifying her passing a written examination but was told that her records had been destroyed. She added that she was not only required to take a written examination in New York, but she was also required to take a practical examination for licensure. Based on the agenda information, and the verbal information provided by Ms. Garofalo and Ms. Sicari, Ms. Osborne moved to approve Ms. Sicari's application for endorsement. Mrs. Brown seconded the motion and the motion passed unanimously.

### **Hair Braiding Course Applications**

- **Academy of Health and Beauty**

Ms. Ritenbaugh moved to approve this course application. Mrs. Brown seconded the motion and the motion passed unanimously.

- **Simplicity Hair Design/Suncura Cobb**

Ms. Osborne moved to approve this course application. Ms. Ritenbaugh seconded the motion and the motion passed unanimously.

- **All Dolled Up**

Ms. Osborne moved to approve this course application. Mrs. Brown seconded the motion and the motion passed unanimously.

### **Hair Wrapping Course Applications**

- **Academy of Health and Beauty**

Ms. Osborne moved to approve this course application contingent upon the provider striking the portions of the course relating to non-hair wrapping

techniques (pages 1137-1140 of the agenda). Mrs. Brown seconded the motion and the motion passed unanimously.

- Simplicity Hair Design  
Mrs. Brown moved to approve this course application. Ms. Ritenbaugh seconded the motion and the motion passed unanimously.
- Latashia Green  
Ms. Osborne moved to approve this course application. Mrs. Brown seconded the motion and the motion passed unanimously.

### **Body Wrapping Course Applications**

- Academy of Health and Beauty  
Ms. Osborne moved to approve this course application contingent upon the provider amending their course completion certificate to reflect their 15-hour course rather than a 12-hour course. Ms. Ritenbaugh seconded the motion and the motion passed unanimously.
- Body Wrap Institute of Florida  
Ms. Osborne moved to approve this course application. Ms. Ritenbaugh seconded the motion and the motion passed unanimously.
- Latashia Green  
Ms. Osborne moved to approve this course application. Ms. Ritenbaugh seconded the motion and the motion passed unanimously.
- Circuit Works, d/b/a Circuit Works for Women  
Ms. Osborne moved to approve this course application. Ms. Ritenbaugh seconded the motion and the motion passed unanimously.

### **Application for HIV/AIDS Initial Licensure Course**

- All Dolled Up  
Ms. Osborne moved to approve this course application. Mrs. Brown seconded the motion and the motion passed unanimously.

### **Application for Continuing Education Course**

- Oh So Pretty: Profitable Promotions; 2 Hours  
Ms. Ritenbaugh moved to approve this course application. Mrs. Brown seconded the motion and the motion passed unanimously.

## **Committee Reports**

### **Continuing Education Committee – Mary Blanco, Chair**

There was no Continuing Education Committee report.

### **Rules Committee – Donna Osborne, Chair**

There was no Rules Committee report.

### **Legislative Committee – Laura Brown, Chair**

Ms. Garofalo mentioned that the final version of the board's 2005 legislative proposal was included in the agenda. Ms. Osborne indicated that she has received many calls about the proposed legislation. Ms. Michelle Holder, Orange County School System, informed the board that a group of school owners and salon owners has grouped together to move the board's legislative proposal through the 2005 Legislature. She added that this unnamed group is utilizing her as a consultant in this endeavor. Ms. Holder advised the board that the portion of the draft calling for licensure of cosmetic demonstrators has been stricken from the proposal, as the Florida Retail Federal would be against this license which could potentially kill the entire bill. Mrs. Brown interjected that these individuals need to be aware of the sanitation and sterilization issues involved in their business. Ms. Holder added that the Department of Education has some concerns with the language and she intends to speak with their representatives about their concerns. Ms. Holder informed the board that there is a House and a Senate sponsor for this legislation and these sponsors intend to simultaneously introduce this legislation to their respective houses. She added that Mr. Dan Washburn submitted a letter last week asking for justification of the educational hours increase. Ms. Holder indicated that the industry has progressed since the original hours were established thus substantiating the need to increase the educational hours for licenses. Ms. Holder added that the group has some concerns with increasing the administrative fine cap per count from up to \$500 to up to \$5,000 and increasing the refresher course hours cap from 48 hours to 500 hours. Mr. Biggins mentioned that the fine change was suggested in order to bring the rule in line with the department statute. Ms. Osborne stated that the reason for increasing the refresher course hours is to give the ability for someone who has not been in the industry for awhile to take a refresher course. In addition, concerns have been expressed not only with the increase in educational hours but also the creation of new licenses and creation of new examinations. She added that she also expressed to the group her concern with allowing cosmetology students to work after completing their education and before they are licensed. She indicated that legislators may question why licensure is even required if school graduates are allowed to work after completing their education. Ms. Holder added that the supervised work exemption as stated in the original legislative proposal has been stricken. Ms. Ritenbaugh questioned why cosmetology students are allowed to work after failing their first attempt of the examination. Ms. Jacki Knudsen, Pensacola Junior College, inquired if holders of a hair stylist, nail technician and

esthetician license would be allowed to combine all these individual licenses into a cosmetologist license and if they would be required to take the cosmetology examination even though they had been examined for their other licenses. The board agreed that holders of these three individual licenses should be able to convert them into a cosmetologist license without further examination. Ms. Holder added that this situation could be addressed by rule and that she will relay this suggestion to the group. The board stated that it wants to retain the current supervised work exemption as is. Ms. Holder will provide Ms. Garofalo with a current version of the bill which has approved by the group and Ms. Garofalo will then provide all board members with a copy of the legislation.

## **New Business**

Ms. Garofalo mentioned a recent meeting with the Bureau of Education and Testing. She added that after looking at board rule 61G5-18.011, Florida Administrative Code (F.A.C.), there is no designated hour requirement for the initial HIV/AIDS course. Mr. Biggins will open rule 61G5-18.011, F.A.C., for discussion at the next board meeting. Ms. Osborne indicated her belief that the initial HIV/AIDS course should be a four-hour course and the HIV/AIDS continuing education course should be a two-hour course.

## **Other Business**

### **Executive Director Report**

#### **Operating and Unlicensed Activity Accounts for Periods September 30, 2003 and September 30, 2004**

Ms. Garofalo informed the board that as of September 30, 2004, the board's cash balance was (\$617,220).

Ms. Garofalo informed the board, per Mrs. Brown's request at the October 2004 board meeting, that the Information Technology expense includes the following factors: payment for technology support; the benefit share for the Accenture contract through 2006; and the 41 cents per license paid to Accenture which will conclude in 2009.

#### **Board of Cosmetology Newsletter/December 2004**

Ms. Garofalo informed the board that the newsletter was mailed to all salons in December 2004 and is now posted on the board's website.

**National Interstate Council of State Boards of Cosmetology (NIC)  
Bulletin/October 2004  
National Coalition of Esthetic & Related Associations (NCEA) Esthetic  
Equipment Registry (EER)**

Ms. Garofalo informed the board that this information was included in the agenda for informational purposes.

**Board Member Comments**

Ms. Osborne informed the board that she contacted NIC for additional information on their national testing program. She added that NIC provides testing centers for both their written and practical examinations. The per candidate cost for administration of the NIC written examination is \$75 with examination results provided to the candidate immediately. The per candidate cost for administration of the NIC practical examination is \$45 with examination results provided to the candidate within 48 hours. Ms. Osborne stated that NIC currently offers the practical examination on Mondays throughout the various states utilizing their testing program. Ms. Holder informed the board that she is personally against administering a practical examination at the state board level as it delays the licensing process. After further discussion, Ms. Osborne agreed to contact NIC to determine how many candidates could be examined in one year and how many candidates could be reexamined annually. Ms. Osborne will report her findings at the next board meeting. Additionally, staff will provide the number of examinations and reexaminations administered by the department annually at the next board meeting.

**Executive Director Report (continued)**

Ms. Garofalo informed the board that this would be her last meeting as their Executive Director as she will be leaving the department to join her husband in Tampa in February 2005. She thanked them for the opportunity to work with them. The board collectively wished her well.

**Board Attorney Report**

**Rules Report/Disciplinary Guidelines**

Mr. Biggins distributed his Rules Report which detailed all the outstanding board rules and their statuses. He added that he will have an extensive draft of the disciplinary guidelines available at the next board meeting. Mr. Biggins also mentioned the board's previous discussion about compliance with local building, zoning and fire code standards being a salon requirement. He provided a copy of rule 6E-2.004, F.A.C. – Standards and Procedures for Licensure. The board will address this topic again at the next board meeting.

## **Regulation Report**

### **Complaints and Investigative Statistics for July Through October 2004**

Ms. Garofalo informed the board that this report was included in the agenda for informational purposes.

## **Bureau of Education and Testing**

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

## **Board Member Comments**

There were no additional board member comments.

## **Chairperson Comments**

Chair Blanco had no additional comments.

## **Public Comments**

There were no additional public comments.

## **Correspondence**

### **Email to Susan Tobin Dated October 18, 2004**

Ms. Garofalo informed the board that this correspondence was included in the agenda for informational purposes.

### **Email to Anonymous Writer Dated December 10, 2004, Regarding Onsite Hair and Makeup Services**

### **Email to Anonymous Writer Dated December 14, 2004, Regarding Onsite Hair and Makeup Services**

### **Email to Shannon Gray Dated December 15, 2004, Regarding Onsite Hair and Makeup Services**

The board agreed that the writers' concerns have been addressed in the 2005 legislative proposal.

## **Dates and Locations of Future Board Meetings**

The board agreed to conduct its next meeting on Sunday, April 10, 2005, in Tampa, Florida.

## **Elections**

Mrs. Brown moved to elect Ms. Mary Blanco, Chair, and Mr. Joseph Caetano, Vice Chair, of the Board of Cosmetology. Ms. Ritenbaugh seconded the motion and the motion passed unanimously.

There being no further business, the meeting was adjourned at approximately 12:45 p.m.

JG/rb