

MINUTES

**BOARD OF COSMETOLOGY
Department of Business and Professional Regulation
Tampa Marriott Westshore
1001 N. Westshore Blvd
Tampa, Florida 33607**

Sunday, April 10, 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
Joseph Caetano, Vice Chair
Donna Osborne
Laurel Ritenbaugh
Monica Smith
Laura Brown

Board Members Absent

Anthony White

Other Persons Present

Robyn Barineau, Executive Director, DBPR
Dan Biggins, Assistant Attorney General, Department of Legal Affairs
Drew Winters, Assistant General Counsel, Office of the General Counsel,
DBPR
Dana Ewaldt, Government Analyst, DBPR

Interested Parties Present

Patricia Gough, Court Reporter
Mai Phuong Chau, Endorsement Applicant
Louise King, Daytona Beach Community College
L. McInnis, Atlantic Technical Center
Rena Wood, Withlacoochee Technical Institute
Myra Jowers, Florida Community College at Jacksonville
Patricia Boone

The meeting was opened with a roll call and a quorum was established. Chair Blanco inquired if staff had received prior notification from Mr. White in regards to his absence. Chair Blanco requested that the record reflect Mr. White's absence as

unexcused since no prior notification was provided.

Approval of Minutes: January 9, 2005

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.

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.

Reinstatement

Regarding Case No. 2003-002243 against Aleisha Stephens, of Delray Beach. Ms. Stephens was not present for the meeting. A notice of hearing was forwarded to Ms. Stephens on March 4, 2005, which was returned unclaimed to the department. In line with the final order, filed on June 4, 2004, the Respondent was ordered to pay an administrative fine in the amount of \$3,000 and costs of \$160.70, a suspension of her license until the fine and costs were paid in full, and she was to appear before the Board at the July 25, 2004, meeting in Tampa. To date, Ms. Stephens has not complied with the conditions of the final order. Ms. Osborne moved that the board find the Respondent was properly served and made a motion to deny the reinstatement of her license due to non-compliance. Mrs. Brown seconded the motion and the motion passed unanimously.

Informal Hearings

Regarding Case No. 2004-055520 against Sa Tran Nguyen, of Riverview, Mr. Winters presented the department's case in this matter and suggested assessing a fine of \$1,000 and costs of \$115.77. 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 \$1,000 and costs of \$115.77. Ms. Osborne seconded the motion and the motion passed unanimously.

Regarding Case No. 2004-053949 against Clipper Shop of Clermont, Mr. Winters presented the department's case in this matter and suggested assessing a fine of \$150 and costs of \$94.57. 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 \$150 and costs of \$94.57. Ms. Osborne seconded the motion and the

motion passed unanimously.

Informal Hearings (Continued)

Regarding Case No. 2004-039858 against Robin Dickey of Tampa, Mr. Winters presented the department's case in this matter and suggested assessing a fine of \$500 and costs of \$37.57. Mrs. 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 \$37.57. Vice Chair Caetano seconded the motion and the motion passed unanimously.

Motions for Waiver of Rights and Final Order

Regarding Case No. 2004-025381 against Perfumeland of Orlando, Mr. Winters 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:

- Adrian Barrios; Boca Raton
Case No. 2004-001127
\$1,000 fine and \$84.03 costs
- Kevin Bond, d/b/a Columbia Street Hair and Nail Studio; Orlando
Case No. 2004-037938
\$500 fine and \$65.23 costs
- Michael Harris; West Palm Beach
Case No. 2004-032264
\$500 fine and \$63.16 costs
- JC Penney Company; West Palm Beach
Case No. 2003-092729
\$200 fine and \$116.31 costs
- Guillermo Delgado; Greenacres
Case No. 2004-011874
\$1,000 fine and \$103.53 costs

- Nail Famous and Spa; Boynton Beach
Case No. 2003-095596
\$350 fine and \$158.08 costs
- Lien Thi Vo; Wellington
Case No. 2004-001186
\$550 fine and \$113.35 costs
- Nelson Sanchez; Palm Springs
Case No. 2004-011878
\$500 fine and \$241.33 costs
- La Ca'Sha Hair Salon; Palm Bay
Case No. 2004-028935
\$300 fine and \$86.85 costs
- Kutting Edge Salon; Lady Lake
Case No. 2004-030051
\$500 fine and \$117.43 costs
- Nail Garden; Eustis
Case No. 2004-025381
\$500 fine and \$78.28 costs
- Denise Romero; Leehigh Acres
Case No. 2004-008223
\$500 fine and \$183.68 costs
- Nina's Hair Salon; Immokalee
Case No. 2004-053673
\$600 fine and \$189.94 costs
- Showtyme International Hair & More, Inc. Orlando
Case No. 2004-046881
\$50 fine and \$96.99 costs
- Talk of the Town Hair and Nail Salon; High Springs
Case No. 2004-027029
\$500 fine and \$183.22 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:

- Legend Groomers Salon; Lauderdale Lakes
Case No. 2004-035376
\$500 fine and \$201.04 costs
- B-Nails 2; Port Saint Joe
Case No. 2004-030129
\$500 fine and \$79.79 costs
- Lucia R. Barros; Orlando
Case No. 2003-096286
\$500 fine and \$316.57 costs
- Phenom-A-Nails
Case No. 2004-012814
\$100 fine and \$97.21 costs
- U.S. Nails; West Palm Beach
Case No. 2004-034299
\$250 fine and \$215.05 costs
- Antonio Cioffi; Jupiter
Case No. 2004-004566
\$1,050 fine and \$110.39 costs
- Thuy-Tien Tran
Case No. 2004-004570
\$1,300 fine and \$244.76 costs
- Styles Unlimited; Tallahassee
Case No. 2004-040678
\$150 fine and \$129.83 costs
- Tai Do Nguyen
Case No. 2004-048635
\$250 fine and \$87.00 costs

- Tran Trong, d/b/a Natural Nails; Live Oak
Case No. 2004-038027
\$250 fine and \$491.02 costs
- Supercuts #9267; Port St. Lucie
Case No. 2004-019780
\$600 fine and \$97.61 costs
- Thuy T. Tran; Palm Beach Gardens
Case No. 2004-002831
\$1,250 fine and \$126.14 costs
- Zaher Sawari; Boynton Beach
Case No. 2003-072201
\$1,000 fine and \$153.83 costs
- Patti's Hair Lounge / Patricia Blake; Wilton Manors
Case No. 2003-060948
\$125 fine and no costs
- Andy Vo; Wellington
Case No. 2004-001185
\$250 fine and \$97.61 costs

Department Attorney Report

Mr. Winters informed the board that there are currently 178 open cosmetology cases in the legal section.

The agenda action items regarding cases against salons and owners and final orders being placed on individual and / or business credit reports were tabled to the next agenda for presentation by Mr. Charles Tunnicliff, Assistant General Counsel.

Applications

Application for Licensure by Endorsement

- Ameenah Caputo / New York
This matter was resolved prior to the meeting; the application was pulled from the agenda.

Applications

Application for Licensure by Endorsement (Continued)

- **Mai Phuong Chau / Colorado**

Ms. Chau was present and was sworn in by the court reporter. Ms. Barineau, Executive Director, informed the board that Ms. Chau was attempting to obtain a Florida cosmetology license by endorsement. The licensure certification from Colorado indicates that there are open / unresolved disciplinary actions against Ms. Chau's manicurist license. Ms. Chau is currently in a probationary status with the state of Colorado until November 2005. After review and discussion of the case, it was determined that the Colorado case was against all of the employees and the salon owner / employer, as well as Ms. Chau. The board expressed concerns with the violations of sanitation, blade usage and of methyl methacrylate (MMA) being used in the salon. Mrs. Brown addressed Ms. Chau with several general questions in regard to sanitation procedures, as well as the identification of MMA. All the responses given by Ms. Chau were not acceptable to the board. There were several suggestions that the application be tabled until the Colorado probationary period was satisfied. Chair Blanco pointed out that Ms. Chau would be able to satisfy the 240 hour education requirement before the probationary period was terminated. Ms. Chau admitted that she is currently enrolled in a 240 hour nail program. Mr. Biggins reminded the board that application denial [versus tabling] should be the course of action due to the statutory time frame constraints for application processing. Mrs. Brown made a motion that the application for endorsement be denied based on the current disciplinary proceedings of another state. Ms. Osborne seconded the motion and the motion passed unanimously. After the motion, Chair Blanco reminded Ms. Chau that once she had completed her nail program, she would be eligible to reapply for licensure.

Applications for Hair Braiding Courses

- **Princess Khadijah's Natural Hair Braiding School**

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

- **Jiggy Styles Hair Salon**

Ms. Barineau pointed out that the completion certificate does not reflect the placement of the student name / identification. Ms. Osborne moved to approve this course application with the contingency that the course completion certificate be corrected and sent to the Executive Director within 30 days. Vice Chair Caetano seconded the [contingency] motion and the motion passed unanimously.

- Tresses International Gallery
After review and discussion of the course material, the board felt that the material contains information that should not be included in this course, i.e., the references to cosmetic products. Ms. Osborne made a motion to deny the course application. She is requesting that a more specific course outline be submitted. Mrs. Brown seconded the motion and the motion passed unanimously.
- Academies of Technology
Mrs. Brown made a motion to approve this application. Ms. Osborne seconded the motion and the motion passed unanimously.
- Angelene Foreman
Ms. Osborne made a motion to deny this application based upon non-pertinent information being included in the course material. Mrs. Brown seconded the motion and the motion passed unanimously.

Applications for Body Wrapping Courses

- World Class Academy of Beauty
Ms. Barineau pointed out that the course has been submitted as a 16 hour course versus the 12 hours required. After review and discussion of the material, Ms. Osborne made a motion to deny the application. The submitted material is illegible; the copies are too dark or have been cut off by the copier. If the provider wishes to resubmit the course material they should be clear enough to read. Vice Chair Caetano seconded the motion and the motion passed unanimously.
- Academy of Healing Arts
Mrs. Brown made a motion to approve this application. Ms. Osborne seconded the motion and the motion passed unanimously.

Continuing Education Course Applications

Ms. Smith recused herself from being able to vote on these applications. The Aesthetic Congress Communications and her employer have business dealings with one another.

- Sound and Music in the Spa – 1 hour (Live)
Ms. Osborne made a motion to approve this application. Mrs. Brown seconded the motion. The motion passed unanimously.
- Hyperpigmentation Solutions – 1 hour (Live)
Ms. Osborne made a motion to approve this application. Mrs. Brown seconded the motion. The motion passed unanimously.

- Creative Marketing Advertising and PR for the Skin Care Salons and Spas – 1 hour (Live)
Mrs. Brown made a motion to approve this application. Vice Chair Caetano seconded the motion. The motion passed unanimously.
- Skin Care of the Future – 1 hour (Live)
Mrs. Brown made a motion to approve this application. Vice Chair Caetano seconded the motion. The motion passed unanimously.
- The Latest in Medical Facial Rejuvenation Treatments – 1 hour (Live)
After review and discussion of the course material, Chair Blanco made a motion to deny this application. She felt the material addressed [cosmetic] medical procedures, that it is not specific enough to esthetics and the information being presented was out of the cosmetology realm / scope of authority. Her concern was that a Facial Specialist might interpret the course material as authorization to perform the [cosmetic] medical procedure. Vice Chair Caetano seconded the motion for denial. The motion was opposed by Ms. Ritenbaugh; she felt like the material would help the Facial Specialist recognize the signs of a [cosmetic] medical treatment and not necessarily authorizing the Facial Specialist to perform the medical treatment.
- All About Acne – 1 hour (Live)
Ms. Osborne recused herself from voting on this course application due to knowing the instructor personally. After discussion of the material, Ms. Brown made the motion to deny the application. She had concerns regarding the evasiveness of the extractions. Mrs. Brown felt like more clarity was needed on the treatment of acne versus extraction. Vice Chair Caetano seconded the motion and the motion passed unanimously.
- Help I'm Over 40 and my Skin is Dry and Breaking Out – 1 hour (Live)
Ms. Osborne made the motion to approve this application. Vice Chair Caetano seconded the motion. The motion passed unanimously.
- Exotic Body Wraps from Around the World – 1 hour (Live)
Ms. Osborne made the motion to approve this application. Ms. Ritenbaugh seconded the motion. The motion passed unanimously.
- Why Peels – 1 hour (Live)
Ms. Osborne made the motion to approve this application. Ms. Ritenbaugh seconded the motion. The motion passed unanimously.
- Microcurrent and Anti-Aging Esthetics 1 hour (Live)
Ms. Osborne made the motion to approve this application. Mrs.

Brown seconded the motion. The motion passed unanimously.

Committee Reports

Continuing Education Committee – Mary Blanco, Chair

There was no Continuing Education Committee report. Chair Blanco asked Mrs. Brown if she would be willing to serve as Chair this committee. Mrs. Brown accepted the assignment. Staff will notify the Continuing Education Office of the change.

Rules Committee – Donna Osborne, Chair

Ms. Osborne reported that she is experiencing opposition from the industry to the proposed legislation. Ms. Osborne added that the National Coalition of Esthetics & Related Associations (NECA) is supportive of the current proposed legislation. However, the National Cosmetology Association (NCA) is showing opposition to the increase of hours and to licensure of booth renters.

Legislative Committee – Laura Brown, Chair

There was no Legislative Committee report.

New Business

As per section 455.203, F.S., Chair Blanco made a motion to approve the new Executive Director, Robyn Barineau. The motion was seconded by Ms. Osborne and the motion passed unanimously.

Other Business

Executive Director's Report

Financial Report, December 31, 2004, Operating Account

Ms. Barineau informed the board that as of December 31, 2004, their cash balance was (\$430,939). Questions arose of ways to possibly increase revenue. Ms. Barineau pointed out, that the board may want to consider increasing revenue by adjusting fees that are not currently at the statutory cap. Also, the board may want to consider amending the current rule to allow for biennial salon inspections rather than annual inspections.

Board Attorney Report

Disciplinary Guidelines

Mr. Biggins mentioned the guidelines are a meaningful range between a violation and the penalty. At this point, the board agreed to table this matter for further discussion at the next board meeting.

Rule 61G5-18.011, F.A.C. – Initial Licensure or Registration Requirement for Instruction on Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome; Course Content and Approval Requirements

Mr. Biggins, Assistant Attorney General, will draft the rule, for amendment, to read as follows:

(3) -“All educational courses on HIV and AIDS which are taught to fulfill the requirements for initial licensure or registration under Chapter 477, F.S., shall be approved by the Board. To be considered for the Boards’ approval, courses on HIV and AIDS shall consist of 4 hours combined education of:”

Vice Chair Caetano made a motion to accept this rule amendment. Ms. Osborne seconded the motion and the motion passed unanimously.

Rule 6E-2.004, F.A.C – Standards and Procedures for Licensure

The board agreed to amend rule 61G5-20.002, Florida Administrative Code, by adding section (1)(d) as follows:

-“Submit proof of compliance with all local building and fire codes.”

Vice Chair Caetano made a motion to accept this rule amendment. Ms. Osborne seconded the motion and the motion passed unanimously.

Board Member Comments

Per the board’s request, Ms. Barineau mentioned the pass / fail rates for cosmetology examination candidates for the period of June 2004 through February 2005. The rate for the initial exam: 3,400 exams given - 1, 299 passed. The rate for the retake exam: 256 given – 43 passed. Concerns were expressed over the rates. Avenues of improvement need to be researched.

Ms. Osborne has specific concerns with Promissor in regards to special need candidates. She added that the low passage rate may be contributed to students with non-documented special needs. Ms. Ritenbaugh is receiving student feedback that the examination content is not curriculum weighted.

Chair Blanco, Ms. Osborne, Ms. Ritenbaugh and Mrs. Brown mentioned the former presentation by NIC regarding the national testing program and their desire to utilize national testing. The board asked Ms. Barineau to research a national testing vendor for the cosmetology examination.

Ms. Osborne expressed her interest in the reinstatement of practical examinations for licensure.

Chairperson Comments

Chair Blanco had no additional comments.

Public Comments

Ms. Rena Wood, Withlacoochee Technical Institute, advised the board that she supports the increase of educational hours, however, the Department of Education will need additional time to develop the educational hour increase curriculum.

Ms. Myra Jowers, Florida Community College at Jacksonville, informed the board that she supports the increase in esthetic education hours, but she would like to know how the curriculum will change with the increase. Ms. Jowers also supports the examination requirement for nail technicians.

Ms. Patricia Boone voiced her opposition to booth rental licensure as she feels this would place more restrictions upon salons and individuals.

Correspondence

Letter from American Antimicrobial Industries

This correspondence was forwarded from a manufacturer for information purposes only; product promotion.

Email from Anonymous Writers

There were three (3) emails, submitted to the department, in regard to the allowance for "wedding day" procedures to be performed outside of a licensed salon; i.e., brides' home, church, etc.

Dates and Locations of Future Board Meetings

The board agreed to conduct its next meeting on Sunday, July 24, 2005, in Orlando, Florida.

ADJOURNMENT

There being no further business, the meeting was adjourned at approximately 1:00 p.m.