

MINUTES

**FLORIDA BOARD OF COSMETOLOGY
Department of Business and Professional Regulation
Telephone Conference Call
850-921-5230 (Tallahassee)
888-816-1123 (Toll Free)
291-5230 (Suncom)**

September 7, 2005

9:00 a.m.

General Business Meeting

The Board of Cosmetology meeting was called to order at approximately 9:15 a.m., by Ms. Mary Blanco, Chair.

Board Members Present

Mary Blanco, Chair
Joseph Caetano, Vice Chair
Donna Osborne
Laurel Ritenbaugh
Monica Smith
Anthony White

Board Members Absent

Laura Brown

Other Persons Present

Robyn Barineau, Executive Director, Department of Business and Professional Regulation (DBPR)
Charles Tunnickliff, Office of the General Counsel, DBPR
Daniel Biggins, Assistant Attorney General, Department of Legal Affairs
Dana Ewaldt, Government Analyst, DBPR

Interested Parties Present

Valerie Lyons, Court Reporter
Christine Sepielli, Sheridan Technical Center
Ruth Sariubbo, Sheridan Technical Center
Patty Galdamez, Bradenton Beauty and Barber Academy, Inc.
Sally Crosby, Bradenton Beauty and Barber Academy, Inc.
Dan Washburn, Great Clips
Mary Crew, Florida Department of Education (DOE)
John Conley, The Hair Wraps Company
Myra Jowers, Florida Community College at Jacksonville (FCCJ)
Susan Lehr, FCCJ Government Relations

Patricia Boone
Nancy Bradley, Commission for Independent Education (CIE)
Kasongo Butler Nelson, CIE
Kim Matthews, North Florida cosmetology Institute (NFCI)
Anita Coppedge, NFCI
Jacqueline Oliphant
Mez Varol

The meeting was opened with a roll call and a quorum was established. Ms. Robyn Barineau, Executive Director, informed the board that Mrs. Laura Brown had provided prior notification regarding her absence from this meeting.

Approval of Minutes: Legislative Workshop of July 24, 2005

Ms. Donna Osborne moved to accept the minutes from the July 24, 2005, Legislative Workshop meeting. Vice Chair Joseph Caetano seconded the motion and the motion passed unanimously.

Approval of Minutes: General Business Board Meeting of July 25, 2005

Ms. Laurel Ritenbaugh moved to accept the minutes from the July 25, 2005 general business board meeting. Ms. Osborne seconded the motion 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.

Proposed Recommended Order

Regarding Case No. 2004-008641 and 2004-008603 against Mark Slayden of Coral Springs, Mr. Charles Tunncliff, Assistant General Counsel, presented the department's case in the matter and suggested assessing a fine of \$1,000 in line with the Administrative Law Judge's Proposed Recommended Order. Vice Chair Caetano moved that the Proposed Recommended Order be accepted by the board, in Toto. Ms. Ritenbaugh seconded the motion and the motion passed unanimously.

Old Business

Proposed 2006 Legislation

Chair Blanco asked that the proposed legislation be discussed and voted on section by section.

Section 477.013 Definitions.--

In 477.013(3)(b)5, Ms. Osborne suggested adding language clarifying chemical types that are specifically formulated for eyebrow or eyelash tinting. Mr. Biggins recommended the following language to be added at the end of the line: “with products manufactured specifically for eyebrows or eyelashes”.

In 477.013(3)(c)2, discussion ensued regarding a possible limitation of a nail technician’s services as the language did not include treatment of the hands and feet. The following language will be added at the end of the line: “including submersion of hands or feet in a bath of wax, clay, oils, lotions or other fluids”.

In 477.013(6), it was decided that the word “washing” would be changed to “cleansing”.

Ms. Osborne made a motion to accept the stated changes of section 477.013. Vice Chair Caetano seconded the motion and the motion passed unanimously.

Section 477.0131 Cosmetology licenses.--

There were no changes made to this section. Ms. Osborne made a motion to accept the section as drafted. Vice Chair Caetano seconded the motion and the motion passed unanimously.

Section 477.0132 Hair braiding, hair wrapping, and body wrapping registrations. --

In 477.0132(4), Mr. John Conley, of the Hair Wraps Company, suggested changing the word “course” to textbook. Ms. Osborne stated that she would not want language to limit usage to a single book. Mr. Biggins suggested adding the phrase “and text” after the word course. Ms. Osborne made a motion to accept the change as read by Board Counsel. Mr. Caetano seconded the motion and the motion passed unanimously.

Section 477.0135 Exemptions. --

Ms. Susan Lehr relayed to the board Representative Carroll’s opposition of the elimination of the shampooing exemption. Ms. Lehr defended the board’s position explaining that the focus of the board is protection of the public’s health and safety. Practitioners feel as if shampooers are being allowed to perform more [cosmetology] services than just shampooing. Rep. Carroll is opposed to the elimination of an employment opportunity. Per Ms. Lehr, it is the opinion of Rep. Carroll that this violation is a compliance issue that should be regulated accordingly. Ms. Lehr is concerned that the draft could be jeopardized if the shampoo exemption is stricken. Ms. Lehr presented the board with several options. Option #1 would be to meet with Rep. Carroll in order to defend the board’s position of the elimination. Both Ms. Osborne and Vice Chair Caetano volunteered to meet with Rep. Carroll. Option #2 would be to have a separate sponsor present an amendment that would eliminate the exemption. After further discussion, it was decided that to avoid placing the draft legislation in possible jeopardy, the exemption elimination would not be stricken from the draft. Ms. Osborne made a motion to accept section 477.0135 as written adding the stricken subsection (2) back to the draft proposal. Vice Chair Caetano seconded

the motion and the motion passed. Ms. Lehr informed the board that she would convey to Rep. Carroll the board's position of the elimination as well as convey the board's concession. In the next issue of the cosmetology newsletter, Ms. Barineau will address the current shampoo exemption and possible violations of the exemption.

Section 477.014 Qualifications for practice. --

No changes were made to this section. Vice Chair Caetano made a motion to accept the section as drafted. Ms. Osborne seconded the motion and the motion passed unanimously.

Section 477.019 Cosmetologists; hair technicians; estheticians, nail technicians; qualifications; licensure; license renewal; endorsement; continuing education. --

In item number 3.a.(I), Ms. Osborne stated it is her opinion that 1,000 hours may not be adequate time to teach all aspects of hair services. Ms. Osborne recognizes that a change is necessary but wants to ensure that the board is voting on the right change. Ms. Lehr reminded the board that the 1,000 hour hair technician would be eliminating nail and skin services from the curriculum.

Ms. Lehr addressed Rep. Carroll's concern with the elimination of paragraph number 4. Rep. Carroll would like the supervised practice exception to remain in the draft. The stricken language of the draft would possibly eliminate an opportunity for employment. Ms. Lehr suggested the draft resemble the existing law with a cap on the time period of how long the individual is allowed to work under the supervision of a licensed cosmetologist.

Mr. Biggins suggested a limit of 60 days for the supervised practice exception.

In paragraph (6)(a) of the draft, it was discussed that the time period should be changed from 2 years to 4 years for an inactive licensee to be required to take refresher courses, not exceeding 250 hours instead of 500 hours.

In section 477.019(6)(b), discussion ensued to add the stricken language back in the draft leaving the language as is currently written in the law, but strike the words "or body wrapping".

In section 477.019(6)(c), it was discussed to leave this language as is currently written in the law and strike the last sentence "the number of hours for the refresher course may not exceed 48 hours".

Vice Chair Caetano made a motion to accept the changes as amended. Ms. Osborne seconded the motion and the motion passed unanimously.

Section 477.0201 Specialty registration, qualifications; registration renewal; endorsement. --

No changes were made to this section. Ms. Osborne made a motion to accept the section as drafted. Vice Chair Caetano seconded the motion and the motion passed unanimously.

Section 477.0212 Inactive Status. --

Ms. Lehr reported that Rep. Carroll is concerned about all fees. Ms. Lehr suggested leaving the fees as they currently are drafted. Once the bill is filed the department will provide an analysis of associated costs. Delinquent and initial license fees should be higher than active license renewals. Rep. Carroll feels that the hair braiding and hair wrapping fees should not be as high as the other license fees. Discussion ensued regarding fees and the financial position of the board.

Mr. Biggins' recommendation for section 477.0212(1), is to strike "cosmetologist's" and after the word "license" add the phrase "issued pursuant to this chapter".

Vice Chair Caetano made a motion to accept the amendment as read by Counsel. Ms. Osborne seconded the motion and the motion passed unanimously.

Section 477.023 Schools of cosmetology; licensure. --

No changes were made to this drafted section. Vice Chair Caetano made a motion to accept the section as drafted. Ms. Osborne seconded the motion and the motion passed unanimously.

Section 477.026 Fees; disposition. --

In item (1)(e), Ms. Lehr suggested a lower fee cap not exceeding \$40 versus the proposed \$50 amount for hair braiders and hair wrappers. By lowering the cap amount, that could eliminate a possible disagreement with the hair braiding industry. Mr. Conley agreed with the lower fee cap amount.

Ms. Osborne made a motion to accept the drafted section with the lower cap amount from \$50 to \$40. Ms. Ritenbaugh seconded the motion and the motion passed unanimously.

Section 477.0263 Cosmetology services to be performed in a licensed salon; exception. --

Ms. Osborne would like the phrase "or school" stricken from subsection (4). Ms. Osborne does not think schools or the student should have this level of authority. Ms. Osborne made a motion to approve this section with the phrase "or school" being stricken from subsection (4). Vice Chair Caetano seconded the motion and the motion passed with a majority. Ms. Ritenbaugh voted in opposition to the motion.

Section 477.0265 Prohibited acts. --

No changes were made to this section. Vice Chair Caetano made a motion to accept the section as drafted. Ms. Osborne seconded the motion and the motion

passed unanimously.

Section 477.028 Disciplinary Proceedings. --

No changes were made to this section. Ms. Osborne made a motion to accept the section as drafted. Vice Chair Caetano seconded the motion and the motion passed unanimously.

Section 477.029 Penalty. --

No changes were made to this section. Vice Chair Caetano made a motion to accept the section as drafted. Ms. Ritenbaugh seconded the motion and the motion passed unanimously.

Other Business

Executive Director's Report

Ms. Barineau noted that the National Interstate Council (NIC) memorandum was on the agenda for informational purposes only.

Public Comments

Ms. Barineau noted that the correspondence received from Ms. Susan Lehr and from Ms. Dyan Sax-Braff were added to the agenda for informational purposes only.

Chairperson Comments

Chair Blanco polled the board to see if other members were receiving calls from individuals displaced by Hurricane Katrina who are inquiring about licensure in Florida. Ms. Osborne indicated that she, too, is receiving similar inquiries. The board agreed that Florida needs to find a way to accommodate these impacted individuals. Ms. Barineau informed the board that the department is making every effort within the law to assist these individuals with licensure as expeditiously as possible. Vice Chair Caetano suggested the Governor consider issuing an Executive Order to assist these individuals much like the former Executive Order allowing unlicensed roofers to work in Florida after the hurricanes of 2004. Ms. Barineau informed the board that she would relay their concerns to the department. Ms. Mary Crew, Department of Education, distributed telephone numbers to assist individuals impacted by Hurricane Katrina who are attempting to enroll in Florida public schools: 1.877.352.2731 or contact Kathy Torian at 850.245.9968.

Adjournment

Ms. Barineau reminded the board of the October 2, 2005, general business board meeting in Tampa, Florida. There being no other business, the meeting was adjourned at 11:40 a.m.