

MINUTES

**BOARD OF COSMETOLOGY
Department of Business and Professional Regulation
Doubletree Guest Suites Tampa Bay
3050 North Rocky Point Drive West
Tampa, Florida 33607**

Sunday, October 26, 2003

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
Laura Brown
Monica Smith
Anthony White

Board Members Absent

Other Persons Present

Julie Malone, Executive Director, DBPR
Erica Glover, Assistant Attorney General, Department of Legal Affairs
Charles Tunncliff, Assistant General Counsel, Office of the General Counsel, DBPR
Drew Winters, Assistant General Counsel, Office of the General Counsel, DBPR
Robyn Barineau, Government Analyst, DBPR

Interested Parties Present

Patricia Gough, Court Reporter
Mary Crew, Florida Department of Education
Robert Valdez, Florida Cosmetology Schools Association
Bonnie Poole, Florida Cosmetology Association
Rose Mary Ammons, Associated Licensed Professionals of Florida
Jean Hierlihy, Pasco County Schools
Gail Stout, Pasco County Schools
Karina Rocnik, Florida College of Natural Health
Arlen Black, Hillsborough County Schools
JoAnn Daves, Hillsborough County Schools
Lynette Beuligman, Puttin on the Ritz Salon
R. M. Gomez, Attorney for Respondents Hair by Scott and Jay Kushner
Carlos Alvarado, Personal Representative for Respondent Carrie Pinkstaff

The meeting was opened with a roll call and a quorum was established.

Approval of Minutes: July 21, 2003, and September 29, 2003

Vice Chair Joseph Caetano moved to accept the minutes from the July 21, 2003, and September 29, 2003, board meetings. Ms. Donna Osborne seconded the motion to accept the minutes and the motion passed unanimously.

Ms. Erica Glover, 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.

Mr. Charles Tunncliff, Assistant General Counsel, introduced Mr. Drew Winters, Assistant General Counsel, as his replacement as prosecuting attorney for the Board of Cosmetology. Mr. Tunncliff thanked the board for again allowing him to work with them.

Disciplinary Matters

Informal Hearings

Regarding Case No. 2002-013553 against Carrie Pinkstaff of Jacksonville, Mr. Winters presented the department's case in this matter. Mr. Carlos Alvarado, the Respondent's personal representative and owner of her employing salon, was present at the meeting. Mr. Alvarado explained that he had been allowing cosmetology students to perform some services in his salon other than washing hair, sweeping floors, and answering the telephone for many years. He has been made aware that the cosmetology laws and rules do not allow students to perform any other services. Mr. Alvarado suggested the board consider proposing legislation to support an apprenticeship program so that students are not put out on a salon floor to work after being licensed with no other salon training. Ms. Osborne informed Mr. Alvarado that the board had considered supporting such a proposal but, at this time, there are other more pressing legislative initiatives the board supports. Mr. Alvarado indicated he has submitted an application to the Commission for Independent Education to open a cosmetology school as he feels students are not receiving proper training. 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 \$420.77. Mr. Anthony White seconded the motion and the motion passed unanimously.

Regarding Case No. 2003-0048633 against Hair by Scott of Miami Lakes, Mr. Winters presented the department's case in this matter. Mr. R. M. Gomez, attorney for Respondent, was present at the meeting. Mr. Gomez indicated that Mr. Jay Kushner, the Respondent's employee, moved prior to his license renewal form being mailed to him. He realized several months after his license expired that his license renewal form had not been received and he then contacted a continuing education provider to complete his required continuing education before renewing his license. Upon completion of his

continuing education, he mailed a check to the department for his renewal fee. Mr. Gomez asked the board for leniency since Mr. Kushner has now complied with all renewal requirements, and he will be required to pay any fine and costs assessed in this case. 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 \$122.17, allowing the Respondent to pay the amount due in five installments as follows: initial payment of \$162.17 and \$40 each month thereafter. Vice Chair Caetano seconded the motion and the motion passed unanimously.

Regarding Case No. 2003-048641 against Jay Kushner of Miami Lakes, Mr. Winters presented the department's case in this matter. Mr. R. M. Gomez, attorney for Respondent, was present at the meeting. Mr. Gomez reiterated the same mitigation as offered in Case No. 2003-048633. He asked the board for leniency in this matter. Ms. Laura 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 \$250 and costs of \$135.54, allowing the Respondent to pay the amount due in five installments as follows: initial payment of \$185.54 and \$50 each month thereafter. Mr. White seconded the motion and the motion passed unanimously.

Regarding Case No. 2003-061755 against Karlene Graham of Coconut Creek, Mr. Winters presented the department's case in this matter. 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 \$250 and costs of \$122.30. Ms. Osborne seconded the motion and the motion passed unanimously.

Regarding Case No. 2003-042825 against Trade Secret #7101 of Melbourne, Mr. Winters 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 \$200 and costs of \$142.52. Mr. White seconded the motion and the motion passed unanimously.

Regarding Case No. 2003-043003 against North Star Beauty Salon of Boynton Beach, Mr. Winters referred the board to a letter recently received from the Respondent's attorney along with a copy of a signed Settlement Stipulation in this matter. Mr. Winters presented the department's case in this matter. Vice Chair Caetano 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 imposing a \$400 fine and costs of \$94.33. Ms. Monica Smith seconded the motion and the motion passed unanimously.

Regarding Case No. 2003-044050 against Annette's for Hair and Nails of Ormond Beach, Mr. Winters 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 \$200 and costs of \$132.59. Vice Chair Caetano seconded the motion and the motion passed unanimously.

Regarding Case No. 2003-042977 against Gizelle Migdol of Delray Beach, Mr. Winters referred the board to a letter recently received from the Respondent indicating that because of ill health, she was unable to attend this or any future board meetings. Her letter asked the board for leniency in this matter. 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 \$200 and costs of \$94.33, allowing the Respondent to pay the amount due in five installments as follows: initial payment of \$134.33 and \$40 each month thereafter. Ms. Osborne seconded the motion and the motion passed unanimously.

Regarding Case No. 2002-010190 against Leon Thien Nguyen of Lake Worth, Mr. Winters 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 \$1,500 and costs of \$130.67. Mr. White seconded the motion and the motion passed unanimously.

Defaults

Regarding Case No. 2002-00913 against Carmelo Migliore of Naples, Mr. Winters referred the board to a letter recently received from the Respondent along with a copy of a signed Settlement Stipulation in this matter. Vice Chair Caetano 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 imposing a \$500 fine and costs of \$260.25. Mr. White seconded the motion and the motion passed unanimously.

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:

- Braids, Locs & More; Riviera Beach
Case No. 2002-015001
\$500 fine and \$123.05 costs

- Calandra Sands; Pompano Beach
Case No. 2003-061667
\$350 fine and \$100.03 costs
- Gail Daniels Chapple; Melbourne
Case No. 2002-004921
\$500 fine and \$514.71 costs
Mr. Winters corrected the record to reflect the proper amount of costs to be assessed in this case of \$514.71; the incorrect cost amount was reflected on the Amended Memorandum to the board
- Carmella J. Lipani
Case No. 2002-015032
\$500 fine and \$137.32 costs
- Norma Jean Williams; Melbourne/Palm Bay
Case No. 2002-01853
\$500 fine and \$89.36 costs
- Elizabeth Mills; Palm Bay
Case No. 2002-01931
\$800 fine and \$165.32 costs
- Clara Smith; Lauderdale Lakes
Case No. 2003-046754
\$250 fine and \$154.50 costs

Stipulations

Regarding Case No. 2003-004935 against Hair Cuttery #2959 of Falls Church, Virginia, Ms. Brown recused herself from this matter as she knows the owner of the salon. 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 imposing a \$200 fine and costs of \$137.54. Vice Chair Caetano seconded the motion and the motion passed unanimously.

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:

- Mary A. Torres; Miami
Case No. 2002-01196
\$500 fine and \$483.10 costs
- Hot Heads; Boynton Beach
Case No. 2003-042881
\$200 fine and \$116.07 costs

- Dayna Purdy; Delray Beach
Case No. 2003-042898
\$200 fine and \$116.07 costs
- The Salon at Valencia Isles; Boynton Beach
Case No. 2003-043122
\$250 fine and \$116.07 costs
- Nails for Less; Tallahassee
Case No. 2003-049822
\$500 fine and \$44.87 costs
- Molly Hoffman; Jupiter
Case No. 2002-006619
\$500 fine and \$277.55 costs
- Hairmania International, Inc.; Miami
Case No. 2002-012170
\$500 fine and \$256.57 costs

Department Attorney Report

Mr. Winters distributed a Prosecuting Attorney Status Report. He informed the board that there are currently 166 open cosmetology cases in the legal section. Mr. Winters asked the board for consideration to work with the Rules Committee and Board Counsel on the citation rules. He suggested possibly broadening the citation rules for licensees practicing on a delinquent license. The board agreed to allow Mr. Winters to work with Ms. Osborne, Rules Committee Chair, and Ms. Glover on the citation rules and asked that they bring a proposal back to the board for consideration at the next meeting.

Applications

Hair Braiding Course Applications

- School District of Hillsborough County
Ms. Osborne moved to table this course application until the next meeting asking the provider to amend the Disorders and Diseases of the Scalp course outline deleting all specific references to treatment services since hair braiders are not allowed to offer any of these services. Mr. White seconded the motion and the motion passed unanimously.
- Exotica Academy, Inc.
Ms. Osborne moved to deny this course application because of the limited course outline. Vice Chair Caetano seconded the motion and the motion passed unanimously.

Application for HIV/AIDS Initial Licensure Course

- Associated Licensed Professionals of Florida
Ms. Brown moved to approve this course application. Vice Chair Caetano seconded the motion and the motion passed unanimously.

Other Business

Executive Director Report

Department of Education/Occupational Completion Points

Ms. Mary Crew from the Department of Education explained how occupational completion points are derived from the grooming and salon services core, facial specialty program, nail specialty program, and the cosmetology program. She added that the information included in the agenda materials was for informational purposes. Ms. Crew advised the board that when the Legislature moved to a performance based budget in 1997, occupational completion points were established for the high schools, vocational schools and community colleges to receive student funding.

Committee Reports

Continuing Education Committee

Chair Blanco indicated she has continued to review continuing education applications as they have been provided to her by the Bureau of Education and Testing. She added there will be several courses for the board's review on the next meeting agenda.

Rules Committee

Ms. Osborne mentioned her attendance at the recent National Interstate Council meeting where other attendees agreed that their states are also concerned with the public's health, safety and welfare. She added that there is a national testing problem with Vietnamese students. Ms. Osborne further stated that meeting attendees agreed that state laws need to be more effectively communicated by schools. She mentioned that other states discussed increasing curriculum hours.

Legislative Committee

Ms. Malone informed the board that the department is pursuing limited legislation during the 2004 legislative session. She was informed by the department's Legislative Affairs Office that the department's legislation will include initiatives that affect the entire department. Based on this information, it appears that the board's legislative initiatives for 2004 including MMA, reciprocity/endorsement, and cosmetology definitions will not be included in the department's 2004 legislative agenda. She stated that the department has no concerns with the board seeking separate sponsorship of their 2004 legislative initiatives. Vice Chair Caetano mentioned a legislative proposal to exempt make-up artists

from licensure in the State of Florida. He added that a group of individuals has hired former legislator John Grant of Daytona Beach to lobby the Legislature for booth rental regulation. Ms. Lynette Beuligman stated that it would be a mistake to allow make-up artists the opportunity to practice without a license. Mr. Robert Valdez, Florida Cosmetology Schools Association, will contact Ms. Malone to obtain a copy of the board's proposed 2004 legislative initiatives.

New Business

Chair Blanco asked Ms. Malone to explain the Financial Report contained in the agenda materials. Ms. Malone informed the board that as of June 30, 2003, the board's net assets are (\$603,798). She added that as of June 30, 2002, the board's net assets were \$566,091. Ms. Malone mentioned the Legislature's trust fund sweep during the last fiscal year of \$7.5 million and the current fiscal year trust fund sweep of \$25 million. She informed the board that the first quarter financial statements for fiscal year 2003-2004 should be available in November and will be included in the next board meeting agenda. Ms. Malone informed the board that as of October 23, 2003, 45,117 licensees that are up for renewal on October 31, 2003, had renewed their licenses and that 25,952 had not yet renewed their licenses. Chair Blanco mentioned the need to increase licensure fees which do not require a statutory change and are allowable by rule. Ms. Osborne moved to have the fee rules noticed for rule development at the next board meeting; the rules for facial and nail specialty educational hours for discussion of increasing those hours; and the body wrapping registration rules for discussion of possibly moving body wrapping into the facial specialty registration. Mr. White seconded the motion and the motion passed unanimously.

Old Business

There was no old business for discussion.

Other Business (continued)

Executive Director Report (continued)

Section 455.229, Florida Statutes

Ms. Malone informed the board that this statutory reference was included in the board meeting agenda to remind board members to properly dispose of board meeting materials.

Article from NACCAS Review, "Beauty Professionals Take to the Hill"

Ms. Malone advised the board that this article was included in the agenda for informational purposes.

NIC Bulletin/July 2003

Ms. Malone informed the board that this bulletin was included in the agenda for informational purposes.

National Coalition of Esthetic & Related Associations' Annual Meeting

Ms. Malone advised the board that this material was included in the agenda for informational purposes. Ms. Osborne informed the board that she would personally be attending a January workshop in Orlando to be conducted by the National Coalition of Esthetic & Related Associations and will report any information she obtains. Ms. Smith indicated she may also be personally attending this January workshop.

Board Attorney Report

Ms. Glover mentioned that she amended rules 61G5-29.001(2)(a) and 61G5-29.012(2)(a), Florida Administrative Code, to incorporate a technical change to reference Chapter 1005, Florida Statutes, rather than Chapter 245, Florida Statutes.

Regulation Report

Ms. Malone mentioned the 2003-2004 Sweep Results by Region, Sting Results, and Complaints Reports included in the agenda. Ms. Brown asked that Ms. Malone include in the next meeting agenda information relating to fines and costs assessed by licensee/registrant.

Bureau of Education and Testing

Ms. Malone informed the board that computer-based testing resumed on October 14, 2003.

Board Member Comments

There were no comments from the board members.

Chairperson Comments

Chair Blanco had no additional comments.

Correspondence

Letter to Chairman Bill Thomas of the Committee on Ways and Means, U.S. Hours of Representatives, Dated September 18, 2003

Ms. Malone indicated that this letter was included in the agenda for informational purposes.

Letter to Claus H. Lang Dated September 24, 2003

Ms. Malone informed the board that her response to Mr. Lang was included in the agenda for further instruction. The board agreed that Mr. Lang's letter should be forwarded to the Bureau of Education and Testing for a response.

Letter to Noreen Marie Haines, LMT, Dated September 24, 2003

Ms. Malone advised the board that this letter was included in the agenda for informational purposes.

Letter to Maya Thomas Dated September 24, 2003

Ms. Malone informed the board that this letter was included in the agenda for informational purposes.

Letter to Hui Ding Dated September 22, 2003

Ms. Malone indicated that this letter was included in the agenda for informational purposes.

Email to Sherry Parker of Florida College of Natural Health Dated September 29, 2003

Ms. Malone indicated that this email was included in the agenda for further instruction. The board asked Ms. Malone to inform Ms. Parker that the board will discuss increasing the facial specialty educational hours requirement at the next board meeting.

Letter to Deborah King Dated September 29, 2003

Ms. Malone indicated that this letter was included in the agenda for further instruction. The board asked Ms. Malone to inform Ms. King that the board will discuss increasing the facial specialty educational hours requirement at the next board meeting.

Letter to Laura L. Root Dated September 29, 2003

Ms. Malone indicated that this letter was included in the agenda for further instruction. The board asked Ms. Malone to inform Ms. King that the board will discuss increasing the facial specialty educational hours requirement at the next board meeting.

Letter to Denise R. Fuller Dated September 29, 2003

Ms. Malone indicated that this letter was included in the agenda for further instruction. The board asked Ms. Malone to inform Ms. Fuller that the board will discuss increasing the facial specialty educational hours requirement at the next board meeting.

Letter to Velita Limbaugh Dated September 29, 2003

Ms. Malone indicated that this letter was included in the agenda for further instruction. The board asked Ms. Malone to inform Ms. Limbaugh that the board will discuss increasing the facial specialty educational hours requirement at the next board meeting.

Email to Susanne S. Warfield Dated September 29, 2003

Ms. Malone indicated that this email was included in the agenda for further instruction. The board asked Ms. Malone to inform Ms. Warfield that the board will discuss increasing the facial specialty educational hours requirement at the next board meeting.

Ms. Smith indicated she has been personally contacted by several individuals about increasing the facial specialty educational hours requirement to 600 hours. She will forward any information she receives from these individuals to include in the next board meeting agenda.

Public Comments

Ms. Beuligman asked about the possibility of having licensees include their license numbers in advertisements.

Dates and Locations of Future Board Meetings

The board agreed to conduct its next meeting on Sunday, January 11, 2004, at 9:00 a.m., in Tallahassee, Florida.

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

JM/rb