

# **MINUTES**

## **BOARD OF COSMETOLOGY Department of Business and Professional Regulation Telephone Conference Call Friday, October 29, 2004**

### **Legislative Workshop**

The Board of Cosmetology legislative workshop was called to order at approximately 9:05 a.m., by Mr. Joseph Caetano, Vice Chair.

#### **Board Members Present**

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

#### **Board Members Absent**

None

#### **Other Persons Present**

Julie Malone Garofalo, Executive Director, Department of Business and Professional Regulation (DBPR)  
Diane Guillemette, Assistant Attorney General, Department of Legal Affairs (DLA)  
Dan Biggins Assistant Attorney General, DLA  
Charles Tunnicliff, Assistant General Counsel, Office of the General Counsel, DBPR  
Robyn Barineau, Government Analyst, DBPR  
Dana Ewaldt, Administrative Assistant, DBPR

#### **Interested Parties Present**

Myra Jowers, Florida Community College of Jacksonville (FCCJ)  
Susanne Warfield, National Coalition of Esthetic & Related Associations (NCEA)  
Shirley Wilson, Lake Technical Institute  
Dan Washburn, Great Clips of Orlando  
Gloria Power, Lake Technical Institute  
Charysse Covington, Lake Technical Institute  
Bev Podoski, Travis Technical Institute  
Elizabeth Petrusa, Academy of Career Training

Margie Menduni, Rutledge, Ecenia, Purnell & Hoffman, P.A.  
Denise Fuller  
M. Jaimangal, Academy of Beauty and Business  
Stella Marti, Tammy Taylor School Division

The legislative workshop opened with a roll call and a quorum was established. Vice Chair Caetano informed the attendees that the workshop would begin with the board members making comments to the proposed legislation and then other attendees would be given two to three minutes to speak to each section of the draft.

Ms. Donna Osborne informed the board of several minor technical and typographical changes to the draft.

**Section 477.013, Florida Statutes – Definitions.**

Ms. Myra Jowers, FCCJ, had no comment on this section.

Ms. Susanne Warfield, National Coalition of Esthetic & Related Associations (NCEA), indicated that section 477.013(2)(b), F.S., should reference “exfoliation.” Ms. Osborne agreed and indicated that “exfoliation” should be added in section 477.013(2)(b)1., F.S., after “cleansing”. Ms. Warfield also suggested that “electrical” should be added before “apparatus” in section 477.013(2)(b)1.a., F.S.

Ms. Shirley Wilson, Lake Technical Institute, suggested adding “back facials” and “deplatee” to section 477.013(2)(b)2., F.S. Ms. Osborne indicated that adding “back facials” and “deplatee” to the statute may overstep the cosmetology authority and infringe on the massage therapy practice. Mr. Dan Biggins, Assistant Attorney General, agreed that adding “back facials” and “deplatee” may be problematic. Ms. Diane Guillemette, Assistant Attorney General, agreed and added that the Board of Massage Therapy would probably have concerns with these two additions to the Board of Cosmetology’s practice act. The board agreed to strike “face, neck or arms” and add “skin.” Ms. Guillemette mentioned the possibility of the dermatologists having a concern with the addition of “skin.”

Mr. Dan Washburn, Great Clips of Orlando, had no comment on this section.

Ms. Gloria Power, Lake Technical Institute, suggested deleting “bobbing” from section 477.013(2)(a)1.b., F.S. She also suggested that students completing 1,200 hours of education and obtaining a license be titled “cosmetologists” and students completing 2,400 hours of education and obtaining a license be titled “master cosmetologists.” Ms. Power commented that the proposal of “hair stylist” is offensive and the term is outdated. Ms. Wilson interjected her support of Ms. Power’s proposal. Ms. Osborne indicated that “cosmetologist” and “master cosmetologist” titles might be confusing for these licensees in the services they are allowed to offer. Ms. Power suggested “hair cosmetologist.” Mrs. Laura Brown indicated that license titles might be difficult for those attempting to endorse in another state and Ms. Laurel Ritenbaugh

agreed. Ms. Osborne indicated her support of including “hair” in the license name for those individuals completing a 1,200 hour program who will not be able to offer any services other than hair services. Mr. Biggins stated that he believes that other states look at hours completed by licensees when considering endorsement or reciprocity.

Ms. Charysse Covington, Lake Technical Institute, had no comment on this section.

Ms. Bev Podoski, Travis Technical Institute, agreed that confusion would occur if two degrees of cosmetology existed.

Ms. Elizabeth Petrusa, Academy of Career Training, had no comment on this section.

Ms. Margie Menduni, Rutledge, Ecenia, Purnell & Hoffman, P.A., had no comment on this section.

Ms. Denise Fuller had no comment on this section.

**Section 477.0131, Florida Statutes – Cosmetology Licensees.**

Ms. Jowers had no comment on this section.

Ms. Warfield had no comment on this section.

Ms. Wilson had no comment on this section.

Mr. Washburn had no comment on this section.

Ms. Power again suggested the license types of “cosmetologist” and “master cosmetologist.”

Ms. Covington had no comment on this section.

Ms. Podoski suggested the license type of “hair designer.”

Ms. Petrusa had no comment on this section.

Ms. Menduni had no comment on this section.

Ms. Fuller suggested the license types of “hair specialist” or “hair technician.” Ms. Power agreed that “hair technician” would be a sufficient license type.

**Section 477.0132, Florida Statutes – Specialty Certificates – Shampooing, Hair Braiding, Hair Wrapping and Body Wrapping Registrations.**

Ms. Laurel Ritenbaugh informed the board that she received an email from Ms. Rena Wood of Withlacoochee Technical Institute that suggested the board change the word “washing” to “cleansing” and the word “soap” to “shampoo” in section 477.0132(1), F.S.

Ms. Jowers had no comment on this section.

Ms. Warfield indicated that section 477.0132(4)(b), F.S., should include some instruction on blood borne pathogens in conjunction with the Blood Borne Pathogen Act.

Ms. Wilson stated that section 477.0132(1), F.S., does not require the shampoo service to be offered in a licensed salon. In addition, she suggested that the 30 day reference for the makeup application course offering be deleted from section 477.0132(5), F.S. She further stated that day requirements be deleted from all the course references in section 477.0132, F.S., and that there only be the course hour requirement reference in this section. Ms. Podoski agreed with Ms. Wilson as did Ms. Petrusa.

Mr. Washburn had no comment on this section.

Ms. Power had no comment on this section.

Ms. Covington had no comment on this section.

Ms. Podoski had no additional comment on this section.

Ms. Petrusa indicated that section 477.0132(4), F.S., does not address all the different types of body wraps that are applied by hand such as brush application, sprinkle application, etc. Ms. Guillemette added that body wrappers can only apply presoaked materials to the body and that brush on materials can be applied by estheticians. Ms. Wilson suggested including some hours on actual body wrapping in the body wrap course requirement. Ms. Fuller suggested adding an additional eight hours to the course for instruction on body wrapping and making the course requirement clearer to include instruction on diseases and disorders of the skin rather than the current instruction on diseases and disorders of the scalp. Ms. Fuller added that the industry is confused as to who needs a body wrapping license and Ms. Petrusa agreed. Vice Chair Caetano also agreed and suggested the course be increased to 100 hours of educational training. Ms. Fuller and Ms. Petrusa agreed that hands-on training needs to be provided with body wrapping courses. Ms. Wilson supported the increase of educational hours for body wrapping courses. Ms. Osborne suggested board discussion on this issue at the board meeting.

Ms. Menduni had no comment on this section.

Ms. Fuller added that there needs to be clarity in what services a body wrapper can offer.

**Section 477.0135, F.S. – Exemptions**

Ms. Jowers had no comment on this section.

Ms. Warfield asked for clarification to section 477.0135(1)(c), F.S, and the skin care services a registered nurse can provide. She added that nurses are beginning to practice at medical spas and are offering services at these spas. Mr. Biggins indicated that registered nurses can offer skin care services while practicing nursing, however, they are not able to hang a shingle holding themselves out as facial specialists.

Ms. Wilson had no comment on this section.

Mr. Washburn had no comment on this section.

Ms. Power had no comment on this section.

Ms. Covington had no comment on this section.

Ms. Podoski had no comment on this section.

Ms. Petrusa had no comment on this section.

Ms. Menduni had no comment on this section.

Ms. Fuller had no comment on this section.

**Section 477.014, F.S. – Qualifications for Practice.**

Ms. Jowers had no comment on this section.

Ms. Warfield indicated her confusion with this section. Vice Chair Caetano mentioned adding “or enrolled in a cosmetology school” after “licensed” in section 477.014(3), after “certified” in section 477.014(4), F.S., and after “certified” in section 477.013(5), F.S.

Ms. Wilson asked about the advantages of this section. Ms. Osborne informed the participants that “facial specialists” will be titled “estheticians” and that “manicure/pedicure/nail extension specialists” will be titled “nail technicians.” In addition, licenses will be of more value to licensees as they will be better qualified and more employable.

Mr. Washburn had no comment on this section.

Ms. Power had no comment on this section.

Ms. Covington had no comment on this section.

Ms. Podoski had no comment on this section.

Ms. Petrusa had no comment on this section.

Ms. Menduni had no comment on this section.

Ms. Fuller had no comment on this section.

**Section 477.015, F.S. – Board of Cosmetology.**

**Section 477.016, F.S. – Rulemaking.**

**Section 477.017, F.S. – Legal Services.**

**Section 477.018, F.S. – Investigative Services.**

There were no proposed changes to these sections.

**Section 477.019, F.S. – Cosmetologists; Qualifications; Licensure; License Renewal; Endorsement; Continuing Education.**

Discussion ensued regarding increasing the number of refresher course hours for individuals in violation of continuing education requirements from 48 to 500 refresher course hours as set forth in section 477.019(7)(b), F.S. Ms. Jowers indicated that increasing from 48 refresher course hours to 500 refresher course hours is substantial and would need justification. Ms. Osborne stated that the refresher course would be geared toward those licensees who had not been practicing for sometime.

Ms. Warfield suggested referencing just licensees in section 477.019(7)(a), F.S, rather than licensees and certified specialists since the proposal offers estheticians a license rather than a specialty certificate and since she understood there would no longer be specialists. Mr. Biggins indicated that her concern would be covered under the licensing portion of the statute and that body wrapping, hair braiding, hair wrapping, shampooing and makeup applicators would still be considered specialists. Ms. Warfield suggested amending this same portion of the draft that references "...state and federal laws and rules as they pertain to cosmetologists, cosmetology, salons, specialists, specialty salons..." to "...state and federal laws and rules as they pertain to licensees..." to encompass all the licenses. Ms. Wilson suggested inserting "...state and federal laws and rules as they pertain to the field of cosmetology;" Ms. Guillemette suggesting deleting the current proposal and amending it to read, "...state and federal laws and rules as they pertain to the cosmetology practice act;" Ms. Warfield also suggested amending the proposal to read, "courses given at educational conferences..." rather than "courses given at cosmetology conferences..." as this statement is outdated.

Vice Chair Caetano suggested removing “both” from the first sentence of section 477.019(7)(a), F.S.

Ms. Wilson inquired about section 477.019(2)(a), F.S., and asked if “the ability to benefit” references financial aid students only. Ms. Julie Malone Garofalo, Executive Director, informed the participants that she received an email from Ms. Mary Crew of the Department of Education inquiring about “the ability to benefit” statement and its meaning. Ms. Osborne added that “the ability to benefit” means that the individual taking a course is able to comprehend the course by being able to read and write. She added that “the ability to benefit” would take the place of a GED or high school diploma. Ms. Petrusa stated that the Commission for Independent Education rules require a student to have a high school diploma, GED or “the ability to benefit” test before enrolling in a course or program greater than 450 hours. Ms. Jowers added that “the ability to benefit” clause only applies to financial aid students at her school. Ms. Guillemette stated that “the ability to benefit” clause was added to be more in line with the Commission for Independent Education’s rules. She added that the criteria for “the ability to benefit” would have to be established by the Commission for Independent Education since they have jurisdiction over the schools. For clarity, Ms. Power suggested deleting “and” and reinserting “or” in this section.

Ms. Wilson also stated her objection to increasing the nail technician educational hours to 600 which would be the same as the esthetician educational hours. She added that students are now focusing more on the esthetics profession as this industry is the fastest growing. Ms. Power agreed that the esthetics educational hours should be 600 but that 600 educational hours for a nail technician program are excessive. Ms. Osborne interjected that the nail industry has changed and more hours are necessary. She added that the 600 hour requirement for an esthetician license would be for an entry level professional as would the 600 hour requirement for a nail technician. She stated that there are deficiencies in the current 240 hour nail technician curriculum that need to be addressed and are harmful to the public and the licensee such as drilling on nail beds. Ms. Jowers agreed that 600 educational hours for nail technicians is excessive and suggested 350 to 500 education hours for a nail program. Mrs. Brown mentioned nail technician education requirements in other states and stated that Alabama requires 750 hours, Arizona requires 600 hours, Arkansas requires 600 hours, California requires 400 hours, and Colorado requires 350 hours. Vice Chair Caetano stated that Rhode Island requires 300 hours, South Carolina requires 300 hours, South Dakota requires 400 hours, Tennessee requires 600 hours and North Carolina requires 300 hours. He further stated that Massachusetts appeared to have one of the lowest esthetician educational hours requirement of 300 and the average for all states for esthetician educational hours appeared to be 600.

Ms. Wilson asked if the board had considered how to address a student moving from one program to another and the credit they should be given when transferring to another program. Ms. Jowers stated that for Department of Education schools, the Department of Education determines what can be transferred.

Ms. Wilson also inquired whether or not a student could challenge the board to sit for the state examination. She suggested the board consider allowing a student to challenge the board for the cosmetology state examination at 2,200 hours. Ms. Jowers agreed that there should be an allowance for a student to challenge the board.

Ms. Wilson asked how timely the department would issue a work permit in accordance with section 477.019(4), F.S., and if a fee would be associated with this permit. Ms. Guillemette informed Ms. Wilson that a fee would be associated with this permit as the department would be involved in processing an application and issuing the permit. Ms. Malone Garofalo informed participants that the department had not conducted an official review of the proposed language but that there would probably be a cost for issuing the permit. Ms. Osborne added that she feels there should be an allowance in the law for supervised practice for cosmetology school graduates.

Ms. Wilson asked if the board still wanted to use the term “chemical makeup” as referenced in section 477.019(7)(a), F.S. Ms. Osborne stated that “chemical makeup” should be utilized as it refers to all things being brought into the industry and their composition.

Mr. Washburn informed the participants that section 477.019(4), F.S., would defeat the allowance of students being able to work supervised as soon as they complete cosmetology school. Ms. Wilson agreed with Mr. Washburn and added that it might take several months before a permit would be issued. Ms. Guillemette stated that rules could be drafted to establish cut off dates requiring graduates to pass an examination by the end of two permitting cycles. Mr. Washburn suggested allowing graduates to work supervised for up to 60 days before completing an examination. Ms. Petrusa suggested allowing hairdressers to work supervised up to 60 days after an application date before taking an examination.

Mr. Washburn supports section 477.019(6), F.S., as it would make it easier for individuals attempting to become licensed in Florida from another state. Vice Chair Caetano suggested allowing individuals to work on their out of state licenses after applying for licensure in Florida until they are notified of a deficiency or they receive a Florida license. He added that Texas currently offers temporary licenses. Mr. Washburn agreed that offering a temporary license might be a way to assist out of state licensees while attempting to become licensed in Florida.

Ms. Power had no additional comments on this section.

Ms. Covington had no comments on this section.

Ms. Podoski had no comments on this section.

Ms. Petrusa agreed that graduates need an opportunity to work immediately after completing school.



Ms. Menduni had no comment on this section.

Ms. Fuller had no comment on this section.

**Section 477.0201, F.S. – Specialty Certificates; Qualifications; Certification Renewal; Endorsement.**

Ms. Malone Garofalo inquired if the intent was to delete the references in section 477.0201(1)(b), F.S., relating to the various schools. After discussion, the school references were added back to the legislative proposal and the reference to "an approved specialty certificate program provider" was deleted.

Ms. Jowers had no comment on this section.

Ms. Warfield had no comment on this section.

Ms. Wilson had no comment on this section.

Mr. Washburn agreed that the school references should remain in the statute.

Ms. Power had no comment on this section.

Ms. Covington had no comment on this section.

Ms. Podoski had no comment on this section.

Ms. Petrusa agreed the reference to "an approved specialty certificate program provider" should be removed from the language.

Ms. Menduni had no comment on this section.

Ms. Fuller had no comment on this section.

**Section 477.0212, F.S. – Inactive Status.**

Ms. Jowers had no comment on this section.

Ms. Warfield had no comment on this section.

Ms. Wilson had no comment on this section.

Mr. Washburn had no comment on this section.

Ms. Power had no comment on this section.

Ms. Covington had no comment on this section.

Ms. Podoski had no comment on this section.

Ms. Petrusa had no comment on this section.

Ms. Menduni had no comment on this section.

Ms. Fuller had no comment on this section.

**Section 477.0213, F.S. – Cosmetology Graduates of Florida School for the Deaf and Blind; Licenses.**

**Section 477.022, F.S. – Examinations.**

**Section 477.023, F.S. – Schools of Cosmetology; Licensure.**

There were no proposed changes to these sections.

**Section 477.024, F.S. – Booth Renter License.**

Ms. Jowers had no comment on this section.

Ms. Warfield had no comment on this section.

Ms. Wilson had no comment on this section.

Mr. Washburn had no comment on this section.

Ms. Power had no comment on this section.

Ms. Covington had no comment on this section.

Ms. Podoski had no comment on this section.

Ms. Petrusa had no comment on this section.

Ms. Menduni had no comment on this section.

Ms. Fuller had no comment on this section.

**Section 477.025 – Cosmetology Salons; Specialty Salons; Booth Rental Salons; Requisites; Licensure; Inspections; Mobile Cosmetology Salons.**

Ms. Jowers had no comment on this section.

Ms. Warfield had no comment on this section.

Ms. Wilson had no comment on this section.

Mr. Washburn asked if this language meant that there would be a special license for a booth rental salon. Ms. Osborne stated that a booth rental salon license would be required for a salon which housed booth renters. Ms. Malone Garofalo interjected that there would be increased costs associated with inspections and for the department's Central Intake Unit. Mr. Washburn added that some salons have employees and booth renters. Ms. Osborne stated that in these cases, there would need to be both a cosmetology salon license and a booth rental salon license. Ms. Ritenbaugh stated that the email she received from Ms. Wood inquired as to why there needed to be a booth renter portion of the law since the regulation of booth renters should fall under the jurisdiction of the Internal Revenue Service. Vice Chair Caetano interjected that Texas currently has a booth renter law which could serve as a model for Florida. Ms. Fuller added that for liability reasons, there should be a booth renter license and a booth rental salon license. Vice Chair Caetano stated that there would be common areas in the salon such as the storage and reception areas.

Ms. Power had no comment on this section.

Ms. Covington had no comment on this section.

Ms. Podoski had no comment on this section.

Ms. Petrusa had no comment on this section.

Ms. Menduni had no comment on this section.

Ms. Fuller stated that adding the booth renter and booth rental salon licenses and regulation to the law would be a positive move for the board.

**Section 477.026, F.S. – Fees; Disposition.**

Ms. Jowers had no comment on this section.

Ms. Warfield had no comment on this section.

Ms. Wilson had no comment on this section.

Mr. Washburn added that there needs to be a fee associated with booth renters. Vice Chair Caetano stated that Texas currently charges \$65 for licensing of a booth renter. Mr. Biggins stated that an addition of section 477.026(g), F.S., can be added to address the booth renter fee.

Ms. Power had no comment on this section.

Ms. Covington had no comment on this section.

Ms. Podoski had no comment on this section.

Ms. Petrusa had no comment on this section.

Ms. Menduni had no comment on this section.

Ms. Fuller had no comment on this section.

**Section 477.0263, F.S. – Cosmetology Services to be Performed in a Licensed Salon; Exceptions.**

Ms. Jowers had no comment on this section.

Ms. Warfield had no comment on this section.

Ms. Wilson had no comment on this section.

Mr. Washburn had no comment on this section.

Ms. Power had no comment on this section.

Ms. Covington had no comment on this section.

Ms. Podoski had no comment on this section.

Ms. Petrusa if hair braiders, hair wrappers and body wrappers were now going to be required to offer their services in a salon and if this was the intent of the law. Ms. Osborne agreed that hair braiders and hair wrappers should be able to work outside of a salon. Ms. Petrusa stated that all services should be performed in a salon. Ms. Wilson asked how cosmetic specialists working in department stores are going to comply with offering their services in a licensed salon. Mr. Biggins suggested reconsidering the exemption for make up in a retail establishment. Vice Chair Caetano suggested creating a make up salon license. Ms. Fuller added that she did not see how the board could require a department store make up person to become licensed. Ms. Wilson stated that if they are touching the public by applying make up, they should be licensed.

Ms. Menduni had no comment on this section.

Ms. Fuller had no additional comments on this section.

Mr. M. Jaimangal, Academy of Beauty and Business (just joining the telephone conference call), had no comment on this section.

**Section 477.0265 – Prohibited Acts.**

Ms. Jowers had no comment on this section.

Ms. Warfield had no comment on this section.

Ms. Wilson had no comment on this section.

Mr. Washburn had no comment on this section.

Ms. Power had no comment on this section.

Ms. Covington had no comment on this section.

Ms. Podoski had no comment on this section.

Ms. Petrusa had no comment on this section.

Ms. Menduni had no comment on this section.

Ms. Fuller had no comment on this section.

Mr. Jaimangal had no comment on this section.

**Section 477.028, F.S. – Disciplinary Proceedings.**

Ms. Jowers had no comment on this section.

Ms. Warfield had no comment on this section.

Ms. Wilson had no comment on this section.

Mr. Washburn had no comment on this section.

Ms. Power had no comment on this section.

Ms. Covington had no comment on this section.

Ms. Podoski had no comment on this section.

Ms. Petrusa asked if section 477.028(1)(c), F.S., included salons and individuals. Mr. Biggins confirmed that this section includes individual licensees and salon licensees.

Ms. Menduni had no comment on this section.

Ms. Fuller had no comment on this section.

Mr. Jaimangal had no comment on this section.

**Section 477.029, F.S. – Penalty.**

Ms. Jowers had no comment on this section.

Ms. Warfield had no comment on this section.

Ms. Wilson had no comment on this section.

Mr. Washburn had no comment on this section.

Ms. Power had no comment on this section.

Ms. Covington had no comment on this section.

Ms. Podoski had no comment on this section.

Ms. Petrusa had no comment on this section.

Ms. Menduni had no comment on this section.

Ms. Fuller had no comment on this section.

Mr. Jaimangal had no comment on this section.

Mr. Charles Tunncliff, Assistant General Counsel, asked if the board would entertain increasing the statutory fine caps per count from \$500 to \$5,000.

Ms. Wilson asked what will happen once the board votes on this legislation later today. Ms. Malone Garofalo indicated that the legislation will need to go to a sponsor who has been contacted by Ms. Osborne and who will present it to the Legislature. If passed by the Legislature and signed into law by the Governor, it will become effective sometime after July 1, 2005. A participant asked who the sponsor will be and Vice Chair Caetano indicated Senator Victor Crist will be sponsoring some cosmetology legislation and the board has several other House sponsors lined up for assistance. Ms. Wilson asked that the schools be given sufficient time to incorporate these new changes into their curriculums.

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

JM/rb