

Regular Monthly Meeting
New Jersey State Board of Cosmetology and Hairstyling
124 Halsey Street - 6th Floor
Newark, New Jersey 07102

Minutes of January 8, 2002

The regular monthly meeting of the Board of Cosmetology and Hairstyling was called to order at 9:30 a.m..

ROLL CALL:

Ms. Patricia Graffin, Mrs. Frances Gray, Mr. Dennis Gullo, Mr. Peter Macri, Mr. Carlo Melini, Mrs. Rose Policastro, Mr. Joseph Santagata, Mr. Richard G. Griswold, Executive Director, Mr. Jay Malanga, Assistant Executive Director, Mrs. Barbara Ambroise, Program Development Assistant and Mrs. Marie Maiorano, Office Supervisor were present. Mr. Joseph F. Stead absent.

Mr. Dennis Gullo announced that the time, date and location of the meeting was listed in the Annual Notice Schedule. The Annual Notice Schedule was mailed to Mr. Deforest B. Soaries, Secretary of State, the Newark Star-Ledger and Trentonian Newspapers on December 12, 2001 and was posted in the Office of the Board of Cosmetology and Hairstyling on December 12, 2001.

ACCEPTANCE OF MINUTES:

Upon motion made by Mrs. Frances Gray and seconded by Mr. Peter Macri, the Executive Director's report, Committee reports and Minutes of the regular monthly meeting held December 11, 2001 are accepted as read. The motion passed unanimously.

Mr. Dennis Gullo stated that the February Board Meeting falls on a holiday.

Mr. Richard G. Griswold apologized for the mistake and indicated that he checked on meeting room availability and can reschedule the meeting for Monday, February 11th if that date fits into everyone's schedule.

Upon motion made by Mr. Peter Macri and seconded by Mr. Carlo Melini, the February Board Meeting date is changed from February 12th to the 11th, due to the holiday; and the Secretary of State and all others on the distribution list for the Annual Notice Schedule are to be notified accordingly. The motion passed unanimously.

INFORMAL HEARINGS

10:15 A.M. Mr. Joseph F. Morgano, Esquire and his client, Seda Weiss were scheduled to appear in connection with the outstanding penalties assessed against her in the amount of \$2750.00 for the alleged violations resulting out of an inspection of Universal Nails By Seda, 268A Norwood Avenue, Deal, New Jersey on September 25, 1998. She was observed operating without an experienced practicing licensee present and a penalty of \$250.00 was assessed. It is also alleged that she aided, abetted or permitted an unidentified female to use the license (WG67969) of Oksana Zlotnikova for the purpose of satisfying the Board of Cosmetology & Hairstyling experienced practicing licensee requirements and a penalty of \$2500.00 was assessed.

Mr. Richard G. Griswold informed the Board that the hearing has been adjourned and that he would like the

Board to go into Executive Session to discuss possible settlement.

Upon motion made by Mrs. Frances Gray and seconded by Mrs. Rose Policastro, the Board went into Executive Session to discuss settlement of a pending disciplinary matter. The motion passed unanimously.

Upon motion made by Mrs. Frances Gray and seconded by Mrs. Rose Policastro, the Board returned to Open Session. The motion passed unanimously.

Upon motion made by Mrs. Frances Gray and seconded by Mrs. Rose Policastro, Mr. Richard G. Griswold is to inform Deputy Attorney General Kenneth Spazzione of the settlement authorized by the Board in Executive Session. The motion passed unanimously.

10:45 A.M. Ms. Phyllis McPhillips, t/a Mc M's Salon & Spa, 4411 Landis Avenue, Sea Isle City, New Jersey 08242 was scheduled to appear in connection with the alleged violations resulting out of inspection of her shop on August 3, 2000. It is alleged that she aided, abetted or permitted Rachel Lynn Warren to represent herself to be Sabrina D. Hilliard, license #WG27944 to practice illegally and a penalty of \$2500.00 was assessed. Also, she was observed operating with Matthew V. Jacobi practicing cosmetology & hairstyling without a valid license and a penalty of \$300.00 was assessed.

Mr. Richard G. Griswold informed the Board that Ms. McPhillips requested an adjournment in order to retain legal counsel.

The Board directed Mr. Griswold to reschedule the matter for hearing on February 11, 2002.

11:15 A.M. Ms. Rachel Lynn Warren, 139 44th Street, Sea Isle City, New Jersey 08242 was scheduled to appear in connection with her alleged violation of N.J.S.A. 45:5B-7 and N.J.S.A. 45:1-21(b) at McM's Salon & Spa, Sea Isle City, New Jersey on August 3, 2000. It is alleged that she engaged in the use or employment of dishonesty, fraud, deception, misrepresentation, false promise or false pretense in that she represented herself to be Sabrina D. Hilliard, license #WG27944 to engage in the practice of cosmetology & hairstyling illegally and a penalty of \$2500 was assessed.

Mr. Richard G. Griswold informed the Board that this matter has been adjourned so that it can be heard on the same day of the Phyllis McPhillips hearing.

11:30 A.M. Mr. William Esterlund, 515 Mullica Hill, A215, Glassboro, New Jersey 08028 was scheduled to appear for an investigative inquiry hearing in connection with his conviction of Attempted Theft By Deception and the settlement he entered into with the Office of Insurance Fraud Prosecutor. Mr. Esterlund is the holder of cosmetologist-hairstylist license #WG11991 and was asked to appear in order that the Board might determine whether disciplinary action should be initiated against him.

Note: The Board previously considered this matter at the regular monthly meetings held February 13, 2001 and December 11, 2001 but withheld decision pending Mr. Esterlund's appearance for hearing.

Deputy Attorney General Rhonda Pope Stephens informed the Board that Mr. Esterlund called to advise that he has the flu and to request an adjournment.

The Board directed Mr. Griswold to reschedule the matter for hearing on February 11, 2002.

BUSINESS AGENDA

1. Correspondence received from Ms. Kathleen A. Russell, Corporate Counsel, Inverness Corp., 17- 10 Willow Street, Fair Lawn, New Jersey 07410 in connection with the proposed amendment of N.J.A.C. 13:28-

2.10 was presented to the Board for consideration. The Board previously considered this matter at the regular monthly meeting held November 13, 2001 and passed a motion to adopt the amendment; but in preparing a response for the Notice of Adoption, Deputy Director Anthony Miragliotta found that Ms. Russell did not clearly explain the Department of Health's position on ear piercing and indicated that he would like to further discuss the matter with the Board to ensure that the Board is comfortable with prohibiting ear piercing in light of the Department of Health criteria.

Mr. Dennis Gullo greeted Deputy Director Anthony Miragliotta and Ms. Kristen Linnus, Regulatory Analyst.

Deputy Director Anthony Miragliotta stated that Kristen Linnus has been involved on the rule making for body piercing but was not available when the Board considered this matter the last time, so he appeared. He advised that Ms. Russell only furnished a portion of the Department of Health rules with her comment but in preparing the Board's responses to the comments, he looked at all of the rules and became concerned when he found an entire section on ear piercing with provisions for people who are only piercing the lobes with a single use stud claspe system and are not doing the trailing edger of the ear. People in this category do not pose a health threat and are exempt from the Department of Health's rules. He indicated that he then had Kristen call the Department of Health, that their attitude is that these people should not be regulated and at that point, he did not want to go any further without discussing the matter with the Board. He stated that he concurred fully with the Board's original position that ear piercing should be prohibited based upon the information we had at that time but that it may be difficult to defend health and safety concerns if the Department of Health is saying there aren't any.

Mr. Peter Macri indicated that he has a wife and daughters and knows that infections are common if you don't use the right materials.

Deputy Director Anthony Miragliotta advised that he believes the way Health has defined ear piercing takes care of the sanitation issue. They require the use of a pre-sterilized single use stud rather than the old system of multiple use needles.

Ms. Patricia Graffin stated that her salon uses a device manufactured by Inverness and that she has not had any problems.

Mr. Richard G. Griswold indicated that the Department of Health's rule is more than a little confusing.

Deputy Director Anthony Miragliotta agreed but noted that we now know that lobes with a single stud claspe system are not subject to regulation.

Mr. Richard G. Griswold indicated that the Board can argue that it does not want to allow this because if someone goes beyond the lobes and/or doesn't use a single stud claspe system, it is back in a dual jurisdiction situation.

Deputy Director Anthony Miragliotta stated that the Department of Health person Kristen spoke to did not think the Board of Cosmetology & Hairstyling should prohibit ear piercing because it would be treating it's licensees differently than the general public in-as-much as the general public can do it anywhere.

Mr. Richard G. Griswold advised a prohibition on piercing ear lobes wouldn't be any different than the existing prohibition on permanent makeup.

Deputy Director Anthony Miragliotta questioned whether permanent make up is invasive.

Mr. Richard G. Griswold stated that it is.

Deputy Director Anthony Miragliotta stated that in addition to the Department of Health, several other health

advisory groups have indicated that piercing the lobes with this system is not an issue.

Mr. Richard G. Griswold questioned what the Board does if it finds someone doing trailing edges, lips, noses, etc. in it's shops.

Deputy Director Anthony Miragliotta indicated that it is the Board's jurisdiction, their issue and their licensees and that the Board can do anything it wants but that if someone challenges the prohibition, we would have a problem. He advised that he fully understands the concerns and that we have to draw the line at some point but is concerned that we don't have justification to prohibit lobes.

Mr. Dennis Gullo suggested that the Board defer to the Department of Health's definition.

Deputy Director Anthony Miragliotta stated that the Board can do that and that it would be preferable to try to make the changes to this proposal but if we define the lobe, use the Department of Health Definition and prohibit all other piercings, we may have to go through the entire process all over again.

Mr. Richard G. Griswold questioned how the Board will defend against allowing piercing the trailing edge of the ear, the nose and other parts of the body in the event that Inverness or some other manufacturer comes up with a new gun which is safe to use for that purpose.

Deputy Director Anthony Miragliotta advised that the Board will have to reassess it's position and go through this process all over again.

Mr. Richard G. Griswold expressed concern that the Board is weakening it's ability to control this down the road.

Deputy Director Anthony Miragliotta indicated that concern about something that could happen tomorrow is not justification for denial of something that is okay today.

Upon motion made by Mr. Carlo Melini and seconded by Mrs. Frances Gray, the proposed amendment is to be modified to allow piercing of the ear lobe with a single use stud claspe system; and the proposed rule is approved for adoption with this change. The motion passed unanimously.

Mr. Richard G. Griswold advised that it should only be allowed in shops, not schools because ear piercing is not a service that falls within the definition of cosmetology and hairstyling.

Deputy Director Anthony Miragliotta stated that they will take a look at the entire rule to insure that we do not have any inconsistencies, that it may have to be re-proposed if there is too much rewording but that they will try to work with the existing proposal.

Mr. Richard G. Griswold asked that they keep in mind that there should be specific wording on what the consequences will be to the shop owner if people working for them go beyond the ear lobe since the people performing the service do not have to be licensed by the Board.

Deputy Director Anthony Miragliotta indicated that the rule is getting bigger and bigger and that a whole new rule may be necessary but that they will try to work with the existing proposal and will bring it back to the Board.

2. Correspondence received from Ms. Jennifer D. Joyce, 306 Sumner Avenue, Seaside Heights, New Jersey 07551 in connection with her desire to be admitted to the cosmetologist-hairstylist examination and her conviction and incarceration for Possession with Intent to Distribute Cocaine and Possession of CDS with Intent to Distribute on School Property was presented to the Board for consideration. This matter was presented in order that the Board might render a determination with respect to Ms. Joyce's eligibility for

admission to examination.

Upon motion made by Mrs. Frances Gray and seconded by Mrs. Rose Policastro, the Board withholds decision on this matter pending Ms. Jennifer D. Joyce's appearance for an investigative inquiry hearing. The motion passed unanimously.

2. Correspondence received from Mr. James Cupoli, t/a James Anthony Hair Design, 646 Valley Road, Gillette, New Jersey 07933 in connection with the penalty assessed against him in the amount of \$100.00 for the alleged violation resulting out of an inspection of his shop on March 21, 2000 was presented to the Board for consideration. He indicated that he would like to waive his right to a hearing but furnished a written explanation for the Board to consider before rendering it's final decision.

Upon motion made by Mrs. Frances Gray and seconded by Mr. Peter Macri, the fine stands. The motion passed unanimously.

3. Correspondence received from Ms. Jacqueline Freeman, 20 Overhill Way, Berkeley Heights, New Jersey 07922 in connection with the penalty assessed against her in the amount of \$100.00 for her alleged violation of N.J.S.A. 45:5B-12(f) and N.J.A.C. 13:28-2.12(a)2 at James Anthony Hair Design, Gillette, New Jersey on March 21, 2000 was presented to the Board for consideration. She indicated that she would like to waive her right to a hearing but furnished a written explanation for the Board to consider before rendering it's final decision.

Upon motion made by Mrs. Frances Gray and seconded by Mr. Carlo Melini, the fine stands. The motion passed unanimously.

5. Correspondence received from Ms. Jamie Marie Waller, 907B Trenton Avenue, Point Pleasant, New Jersey 08742 in connection with the penalty assessed against her in the amount of \$100.00 for her alleged violation of N.J.S.A. 45:5B-12(f) and N.J.A.C. 13:28-2.12(a)2 at Beauty Elements, Toms River, New Jersey on October 27, 1999 was presented to the Board for consideration. She indicated that she would like to waive her right to a hearing but has furnished a written explanation for the Board to consider for rendering it's final decision.

Upon motion made by Mrs. Frances Gray and seconded by Mrs. Rose Policastro, the fine stands.

The motion passed unanimously.

6. Correspondence received from Ms. Brandi M. Leonard, 4 Ticonderoga Road, Laurel Springs, New Jersey 08021 in connection with the penalty assessed against her in the amount of \$300.00 for her alleged violation of N.J.S.A. 45:5B-15(h) at P.B. Cosmetology Education Center, Gloucester, New Jersey between September 17, 2000 and March 1, 2001 was presented to the Board for consideration. She indicated that she would like to waive her right to a hearing but furnished a written explanation for the Board to consider before rendering it's final decision.

Upon motion made by Mrs. Frances Gray and seconded by Mrs. Rose Policastro, the fine stands. The motion passed unanimously.

4. Correspondence received from Ms. Bernice R. Hevalow, 618 Adriatic Avenue, Atlantic City, New Jersey 08401 in connection with the penalty assessed against her in the amount of \$250.00 for her alleged violation of N.J.S.A. 45:5B-7 & 35 at Hill's Barber Shop, Pleasantville, New Jersey on September 17, 1999 was presented to the Board for consideration. She indicated that she would like to waive her right to a hearing but furnished a written explanation for the Board to consider before rendering it's final decision.

Upon motion made by Mrs. Frances Gray and seconded by Mrs. Rose Policastro, the fine stands. The

motion passed unanimously.

8. Correspondence received from Ms. Cherie L. Weiss, 3 Burton Way, Apt. 508, Landing, New Jersey 07801 in connection with the penalty assessed against her in the amount of \$100.00 for her violation of N.J.S.A. 45:5B-12(f) and N.J.A.C. 13:28-2.12(a)2 at Estatica Hair Design, Randolph, New Jersey on October 2, 1998 was presented to the Board for consideration. She has indicated that she would like to waive her right to a hearing but furnished a written explanation for the Board to consider before rendering it's final decision.

Upon motion made by Mrs. Frances Gray and seconded by Mrs. Rose Policastro, the fine stands. The motion passed unanimously.

5. Correspondence received from Mr. Akio Smith, Clinton House, 21 N. Clinton Avenue, Trenton, New Jersey 08609 in connection with his conviction and incarceration for Possession of CDS and Possession of a Fire Arm and his desire to complete a term of training at Empire Beauty School Inc., Lawrenceville and eventually become licensed was presented to the Board for consideration. This matter was presented in order that the Board might render a determination with respect to his eligibility for licensure.

Upon motion made by Mrs. Frances Gray and seconded by Mrs. Rose Policastro, the Board withholds decision on this matter pending Mr. Akio Smith's appearance for an investigative inquiry hearing. The motion passed unanimously.

6. Correspondence received from Ms. Jae Han, t/a Cooper Fashion Nails, 201 Kresson-Gibbsboro Road, #6, Voorhees, New Jersey 08043 in connection with the penalties assessed against her in the amount of \$1300.00 for the alleged violations resulting out of an inspection of her shop on March 22, 2001 was presented to the Board for consideration. She indicated that she would like to waive her right to a hearing but furnished a written explanation for the Board to consider before rendering it's final decision.

Upon motion made by Mrs. Frances Gray and seconded by Mr. Peter Macri, the fines stand. The motion passed unanimously.

AGENDA SUPPLEMENT

7. Correspondence received from Mr. David E. Bagwell, Region I Director, National Interstate Council of State Boards of Cosmetology, Inc. in connection with the Region I meeting to be held in Richmond, Virginia on May 4th and 5th was presented to the Board for consideration.

Mrs. Rose Policastro stated that she would like to go to the meeting.

Mr. Joseph Santagata indicated that he would also like to go.

Upon motion made by Mrs. Frances Gray and seconded by Mr. Peter Macri, Mrs. Rose Policastro and Mr. Joseph Santagata are authorized to represent the Board at this function. The motion passed unanimously.

8. Ms. Yong Ok Chin, Owner, Crucita Vidro, Supervising Teacher, Maxine Friend, Yong's friend and language specialist, Lisa Helbig, who has been working on the school application for Yong and Casey Chin and Yong's daughter appeared before the Board to discuss the school application for Onyx Beauty School.

Mr. Dennis Gullo greeted Ms. Chin and introduced her to the Board.

Mrs. Rose Policastro advised that the application states that the form of ownership is a partnership.

Ms. Helbig stated that a mistake was made in the application and that the school is owned by a corporation.

Mrs. Rose Policastro informed Ms. Helbig that she needs to include her address; and Ms. Helbig did so.

Mrs. Rose Policastro went over the deficiencies on the application, had questions on the floor plan and asked for clarification of exactly where Onyx Beauty School's space ends.

Ms. Chin stated that there is a driving school next door and that they use the same hallway as the school right right now but that she will eventually rent all the first floor space for the school; and upon questioning, she advised that the name of the driving school is New Seoul Driving School.

Mrs. Rose Policastro went over the contract and questioned whether they are going to type in the hours for each course since that information is not pre-printed.

Ms. Helbig indicated that the information will vary from course to course and that they will type it in.

Mrs. Rose Policastro noted that they have to have a manikin for each student and a separate lavatory for the teachers, that there are supplies missing from the manicuring kit and they need to put them on the equipment list. Also, they are missing supplies from the cosmetologist-hairstylist kit, have not furnished hour by hour breakdowns and would be better off doing them according to the Milady book. In the bulletin, all information should be consistent with other printed materials, the faculty and staff should be the same as the faculty and staff on the application, there should be guidelines on student withdrawals, the number of required course hours for each course should be specified and their passing grade should be changed from 70% to 75%, the passing grade on the State Board exam. Mrs. Policastro also advised that all printed materials pertaining to the manicuring course must be corrected to reflect that the course is 300 hours and not 200 and that their submission does not contain monthly evaluations; and she recommended that Ms. Chin make all of the corrections discussed today and resubmit her application

Mr. Richard G. Griswold questioned whether anyone in their group is involved with New Seoul Driving School or ICM Education Group Inc. or whether Onyx Inc. is in any way connected to that business.

Ms. Chin stated that they are not associated with those organizations.

Mr. Dennis Gullo indicated that if anyone has particular preferences as to what committees they would like to work on, he would appreciate it if they will let him know.

COMMITTEE REPORTS

Education & New Studies:

Mrs. Frances Gray reported that all committee work is up to date.

Violation:

Mr. Jay Malanga reported that all committee work is up to date.

Mr. Richard G. Griswold asked Mr. Malanga whether the UPL has been issued to American School of Cosmetology charging them with operating without a school license and the many other violations evidenced by the last report of inspection; and Mr. Malanga indicated that it has not been issued as yet but that he has almost completed his review and expects to issue it within the next week or so.

Mr. Richard G. Griswold reminded the members that American School of Cosmetology relocated from Madison to Palisades Park without notifying the Board, that they are operating without a license and although he met with Mr. Kim, the owner several months ago to impress upon him the seriousness of this matter, he has still not applied for a school license; and he recommended that the Board give him a deadline and begin

an action to close the school if he does not comply.

The Board directed Mr. Griswold to inform Mr. Kim that he has 30 days to submit his application and if he fails to do so, an action will be brought against him to close the school.

School & Department of Education Liaison:

Mrs. Rose Policastro reported that there are a lost of problems with the Onxy Beauty School application for license as evidenced by the meeting with representatives of that organization earlier today. She also advised that she has left several messages for Margie Wagner and that she has not gotten back to her but as soon as she does, she will report back to the Board. She stated that there are still things missing from her curriculum and that she has not furnished an explanation as to what educational benefits might be derived from their new student start date schedule as opposed to the first Monday of each month. Mrs. Policastro indicated that she has completed her review of the New Concepts Beauty School Skin Care Specialty curriculum and has several questions but has been unable to reach anyone at the school in- as-much as it has been closed since at least December 24th.

Legislation:

Mr. Peter Macri reported that all committee work is up to date.

Public Relations:

Ms. Patricia Graffin reported that all committee work is up to date.

Upon motion made by Mr. Peter Macri and seconded by Mrs. Rose Policastro, the meeting was adjourned at 3:07 p.m.. The motion passed unanimously.

DENNIS GULLO, Chairperson

Countersigned:

RICHARD G. GRISWOLD, Executive Director



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