

**BOARD OF COSMETOLOGY AND HAIRSTYLING
MONTHLY MEETING MINUTES
124 Halsey Street - 6th Floor
Newark, New Jersey 07102
FEBRUARY 13, 2007**

I CALL TO ORDER

The regular monthly meeting of the Board of Cosmetology and Hairstyling was called to order at 9:30 a.m. Mr. Chris Jones called the meeting to order and asked that everyone turn off their cell phones.

ROLL CALL:

Ms. Janice Alvarez, Mr. Ronald Jerome Brown, Mr. Jack A. Fornaro, Mr. Chris Jones, Mr. Carlo Melini, Mr. Joseph Santagata, Mrs. Barbara Ambrose, Program Development Assistant were present. Ms. Denise Pereau, Mr. Anthony T. Monaco, Mr. Jerry Speziale and Mr. Jay Malanga, Acting Executive Director were absent.

Also in Attendance:

Ms. Gracinda Almeida, Administrative Assistant, Ms. Marisol Rodrigues, Office Supervisor, Ms. Yolanda Morales, Principal Clerk Transcriber and the Board's Counsel.

II OPEN PUBLIC MEETINGS ACT

Mr. Chris Jones announced that the time, date and location of the meeting was listed in the Annual Notice Schedule. The Annual Notice Schedule was mailed to Ms. Nina Mitchell Wells, Secretary of State and the Newark Star-Ledger and Trentonian Newspapers on December 13, 2006 and was posted in the Office of the Board of Cosmetology and Hairstyling on December 13, 2006.

III APPROVAL OF MINUTES (OPEN & CLOSED)

Upon motion made by Mr. Ronald Brown and seconded by Mr. Joseph Santagata, the Executive Director's report, Committee reports and Minutes of the regular monthly meeting held January 9, 2007 are accepted as read. The motion passed unanimously.

IV PUBLIC PARTICIPATION PORTION

Mr. Chris Jones greeted Mr. Raymond Testa.

Mr. Raymond Testa from the New Jersey Cosmetology Teachers Association addressed the Board on proposed initiatives to improve test administration and results. He stated that he had been serving as a Commissioner for the National Accrediting Commission of Cosmetology Arts and Sciences (NACCAS), an agency recognized by the United States Department of Education to accredit cosmetology and hairstyling and barbering schools. He served 3 years in that position and resigned last November because of a change in the structure of the business he works for. He continues to serve on several active committees for NACCAS.

The main points of his appearance before the Board is to reiterate his proposed initiatives of December 2002. He stated that the Board was amenable to implement some of the initiatives including computer based testing. He is of the opinion that the other proposed initiatives should also be implemented at the same time as a matter of convenience.

Further, he stated that he is concerned about the pass rate of New Jersey students in which New Jersey ranked 49th. To address some of his initiatives, he provided the Board with a copy of a study entitled

Comparison of State Licensure Exam Procedures and Pass Rates which was prepared for The National Accrediting Commission of Cosmetology Arts & Sciences. The study was published on February 10, 2006 of 11 participating states using data from 1999 through 2003.

He stated that in order for schools to obtain federal funding the schools have to maintain a 70% passing rate. At that time the School Association petitioned NACCAS to give them a two year variance, because NACCAS requires that schools maintain a 70% pass rate. He stated that aside from CBT testing, he proposed that administrative changes would precipitate the implementation of the initiatives to improve passing rates. The administrative changes or initiative include early certification of written testing since it is already being done for the mass testing program and the separation of written from practical test to enhance the examinees chances for success. Furthermore, it will reduce the number of practical examinees since only those who have passed the written exam would be admitted. He asked that the Board implement these initiatives immediately to prevent any loss of financial aid, Pell grants, etc. With regard to the pass and fail rate, he suggested that a desirable pass rate for written test would be at 70% while that the practical test would remain at 75%.

Mr. Chris Jones thanked Mr. Testa for his comments.

V EXECUTIVE DIRECTOR'S ANNOUNCEMENTS

VI FOR BOARD CONSIDERATION

1. Correspondence received from Mr. Marvin Johnson, t/a Marvin's Haircuts with Style, 32 East High Street, Glassboro, New Jersey in connection with the penalties assessed against him in the amount of \$450.00 for the alleged violations resulting out of an inspection of his shop on September 22, 2006 was presented to the Board for consideration. He has indicated that he would like to waive his right to a hearing but has furnished a written explanation for the Board to consider before rendering its final decision.

The Board noted that Mr. Johnson renewed his license only after the inspection date.

After discussion, upon motion made by Mr. Jack Fornaro and seconded by Ms. Janice Alvarez, the Board directed that the fines stand. The motion passed unanimously.

2. Correspondence received from Ms. Clea Louis, 10 38th Street, Apt. 402, Irvington, New Jersey in connection with the penalty assessed against her in the amount of \$2,500.00 for her alleged violation of N.J.S.A. 45:1-21(b) & N.J.S.A. 45:4B-7 at Sally African Beauty Mall, Irvington, New Jersey on April 21, 2006 was presented to the Board for consideration. She has indicated that he would like to waive her right to a hearing but has furnished a written explanation for the Board to consider before rendering its final decision.

After discussion, upon motion made by Ms. Janice Alvarez and seconded by Mr. Jack Fornaro, the Board directed that the fine stand. The motion passed unanimously.

3. Correspondence received from Ms. Jennifer Smith, 3921 Recreation Lane, Naples, Florida 34116 in connection with her conviction of Possession of a Controlled Substance and her desire to reinstate her cosmetology-hairstylist license #WG25775 was presented to the Board for consideration.

After discussion, upon motion made by Mr. Ronald Brown and seconded by Mr. Jack Fornaro, the Board withheld decision on this matter pending Ms. Smith's appearance at an investigative inquiry. The motion passed unanimously.

4. Correspondence received from Ms. Rachel Lenox, A-7 Bentley Road, Eastampton, New Jersey 08060 in connection with her conviction of Unlawful Possession of Weapons and her desire to complete a term of training at Rizzierie Aveda School for Beauty and Wellness and eventually become licensed was presented to the Board for consideration.

Note: The Board previously reviewed this matter at the regular monthly meeting held October 10, 2006; but withheld decision pending a copy of the police report.

After discussion, upon motion made by Mr. Jack Fornaro and seconded by Mr. Carlo Melini, the Board withheld decision on this matter pending Ms. Lenoxfs appearance at an investigative inquiry. The motion passed unanimously.

5. Senate Bill No. 2473 authorizes courts to waive the license revocation process for an obligor whose child support arrearage equals or exceeds six months worth of payments provided that the obligor make a satisfactory showing that he is employed and is currently making child support payments was presented to the Board for consideration.

After discussion, upon motion made by Mr. Joseph Santagata and seconded by Mr. Ronald Brown, the Board supports Senate Bill No. 2473 for the following reasons: it gives the obligor a second chance, it is a good incentive for the obligor to keep employment and make payments. The motion passed unanimously.

6. Correspondence received from Ms. Angela L. Nielsen, 135 Bengal Boulevard, Barnegat, New Jersey with regard to her application for initial shop licensure of Hair & Nails Day Spa By All Angels, 299 Route 9 South, Waretown, New Jersey was presented to the Board for consideration. The report of inspection reflects that the shop contains child care services for its clients within the confines of the shop.

After discussion, upon motion made by Mr. Carlo Melini and seconded by Ms. Janice Alvarez, the Board approved Ms. Nielsenfs application for cosmetology and hairstyling shop licensure of Hair & Nails Day Spa By All Angels, Waretown, New Jersey provided she satisfies the minimum square footage requirement minus the babysitting area and asked that she be notified that the Board does not give an opinion regarding the babysitting area and that she should seek private legal advice should she intend to offer any babysitting services. Mr. Ronald Brown and Mr. Jack Fornaro opposed the motion. Motion passed.

7. IMO Tinafs Beauty Salon (Tinafs African Hair Salon), 422 Central Avenue, East Orange, New Jersey 07018 was presented to the Board for consideration. A complaint regarding Tinafs Beauty Salon was received for Board review.

Mr. Ronald Brown recused himself from this matter; and there not being a quorum, upon motion made by Ms. Janice Alvarez and seconded by Mr. Carlo Melini, the matter was tabled for the next monthly meeting. The motion passed unanimously.

8. An affidavit of service with respect to a filed Provisional Order of Discipline IMO Gennaro Vitale reflected it was issued to Mr. Gennaro Vitale, 7805 _ Atlantic Avenue, Margate, New Jersey 08402 on November 30, 2006 was presented to the Board for consideration. To date no written response from Respondent has been received by the Board. This matter was subject to finalization 30 days after issuance. The Attorney General seeks the entry of a Final Order of Discipline without modification in this matter.

Upon motion made by Ms. Janice Alvarez and seconded by Mr. Jack Fornaro, a Final Order of Discipline is to be issued to Mr. Gennaro Vitale. The motion passed unanimously.

9. Complaints received from students of Dawn Til Dusk, an unlicensed facility conducting 40 hours of make-up application, stating that the facility failed to conduct lessons and to refund money was presented to the Board for consideration.

The Office of Consumer Protection informed the Board that Dawn Til Dusk offered a 40 hour make-up course in Bloomfield, New Jersey and throughout cities in the United States. The cost of the make-up course was \$1,600.00 dollars and \$800.00 for the make-up kit.

About 20 registrants who registered online or by telephone and paid by credit card complained that when they called to confirm the class they were told that the class was postponed or cancelled.

Additionally, some of the students noted that additional money was taken from their credit card accounts without their authorization.

The classes were either scheduled at the New Jersey facility or at a hotel in the state where the course was being offered. The students stated that when they arrived at the hotel, the hotel had no knowledge or record of Dawn til Dusk having scheduled a make-up course at their hotel. No refund was given to the complainants.

It appears that Dawn Til Dusk did not meet any of the exceptions to offer courses in cosmetology and hairstyling without a school license in particular N.J.S.A. 45:5B-7, N.J.S.A. 45:5B-8 and N.J.S.A. 45:5B-10. The Board stated that the offering of a 40 hour make-up course without the benefit of a duly authorized school license violates N.J.S.A. 45:5B-12(g) in that the application of cosmetic preparation when done for payment either directly or indirectly or when done without payment for the general public falls within the definition of beauty culture N.J.S.A. 45:5B-3(d) and cosmetology and hairstyling N.J.S.A. 45:5B-3(j).

Upon motion made by Ms. Janice Alvarez and seconded by Ronald Brown, this matter is to be referred to The Office of Consumer Protection and Essex County Prosecutorfs Office for prosecution to enjoin Dawn Til Dusk from offering any make up courses and to obtain restitution for the affected students. The motion passed unanimously.

AGENDA SUPPLEMENT

Upon motion made by Mr. Ronald Brown and seconded by Ms. Janice Alvarez, the Board added the following matter as a supplement to the agenda. The motion passed unanimously.

Correspondence received from Ms. Kathleen Czerhoniak, t/a Salon DfPinache, 51 Trinity Street, Newton, New Jersey in connection with the penalty assessed against her in the amount of \$2,500.00 for the alleged violation resulting out of an inspection of her shop on October 4, 2005 was presented to the Board for consideration. She has indicated that she would like to waive her right to a hearing but has furnished a written explanation for the Board to consider before rendering its final decision. Further, Ms. Czerhoniak requested that the Board renew her shop license pending Board decision.

The Board indicated that because the matter was only recently included in the agenda, it did not have adequate time to review the matter.

Upon motion made by Mr. Ronald Brown and seconded by Mr. Carlo Melini, the Board withholds decision on the matter of permanent make-up but allows Ms. Czerhoniak to renew her shop license while awaiting the Boardfs decision. The motion passed unanimously.

VII HEARINGS

11:00 A.M. Mr. Ronald DeSimone, Esquire and his client, Ms. Irene E. Gaughan, t/a Nails At Last By Irene, 227 West Broad Street, Palmyra, New Jersey appeared for hearing in connection with the outstanding penalties assessed against Ms. Gaughan for the alleged violations of N.J.S.A. 45:5B-13(j), N.J.S.A. 45:5B-37 and N.J.A.C. 13:28-2.12(b) resulting out of inspection of her shop on November 3, 2005.

Mr. Chris Jones greeted Mr. Ronald DeSimone and Ms. Irene E. Gaughan, read the charges and asked that Ms. Gaughan be sworn-in.

Deputy Attorney General David Puteska greeted the Board and gave his opening statement.

Mr. Ronald DeSimone gave his opening statement.

Mr. Chris Jones asked that Investigator Mahasky be sworn-in.

Investigator Michael Mahasky offered his testimony and answered questions of Deputy Attorney General David Puteska and Mr. Ronald DeSimone.

Ms. Irene E. Gaughan offered her testimony and answered questions of Deputy Attorney General David Puteska and the Board.

See Court Reporter Transcripts for exact testimony.

Mr. Ronald DeSimone gave his closing statement.

Deputy Attorney General David Puteska gave his closing statement.

Upon motion made by Ms. Janice Alvarez and seconded by Mr. Carlo Melini, the Board went into Executive Session for the purpose of deliberation. The motion passed unanimously.

Upon motion made by Mr. Jack Fornaro and seconded by Mr. Carlo Melini, the Board returned to Open Session to announce its decision.

Upon motion made by Mr. Carlo Melini and seconded by Mr. Jack Fornaro, the Board withheld decision on this matter but held the record open to allow respondent to submit additional documentation within 15 days as follows: a copy of the license or permit issued by the Department of Health to allow Ms. Gaughan to apply permanent make-up and a copy of the Board of Health inspection report, a copy of the lease or contractual agreement made with the doctors performing medical services and any other documentation the licensee thinks the Board should have regarding her permanent make-up license or permit. The motion passed unanimously.

The Board stated that the matter Board will be placed before the Board at the next Board meeting on March 13, 2007 and a decision will be rendered at that time. Neither Mr. Ronald DeSimone nor his client is required to attend and there will be no further hearing on the matter.

VIII EXECUTIVE SESSION

Upon motion made by Mr. Carlo Melini and seconded by Mr. Ronald Brown, the Board went into Executive Session for the purpose of conducting investigative inquiries.

Upon motion made by Mr. Carlo Melini and seconded by Mr. Joseph Santagata, the Board returned to Open Session.

IX COMMITTEE REPORTS

PUBLIC RELATIONS:

Mr. Chris Jones stated that Denise Perea had asked him to report that there are two articles ready to be put on the Board's web site and that Grace had spoken to her on the procedure the Board needs to follow in order to get it posted on the web site.

LEGISLATION:

Mr. Carlo Melini reported that all committee work is up to date.

VIOLATION:

No report was given.

EDUCATION:

Ms. Janice Alvarez reported that all committee work is up to date.

EXAMINATION AND SITES:

Ms. Janice Alvarez reported that the committee work is up to date.

SCHOOL

Ms. Janice Alvarez reported that all committee work is up to date.

REGULATORY

No report was given.

OLD BUSINESS

Mr. Chris Jones reminded the Board Members that if they knew of any one who is interested in becoming a Board Member, they could contact the Governor's Office.

Mr. Chris Jones stated that he has received a proposal from LaserGrade from Jay and that LaserGrade would like to come in for a formal presentation. The Board has already discussed and moved to change the current examination vendor to LaserGrade. He asked that the Proposal be referred to the Examination and Sites Committee for review and after their review they are to report back to the Board. He stated that the Board is now at the contract review stage with LaserGrade pending approval from fiscal department.

Ms. Janice Alvarez asked that a copy of the proposal be distributed to all the Committee Members of the Examination and Sites Committee and that she will be setting up a conference call/meeting to review this matter in the near future.

X ADJOURNMENT

Upon motion made by Ms. Janice Alvarez and seconded by Mr. Carlo Melini, the meeting was adjourned at 4:00 P.M.. The motion passed unanimously.

CHRIS JONES, Chairperson

Countersigned:

JAY A. MALANGA, Acting Executive Director