

Board of Cosmetology and Hairstyling
Regular Monthly Meeting

124 Halsey Street - 6th Floor
Newark, New Jersey 07102
August 12, 2003

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

ROLL CALL:

Ms. Kathleen M. Alexander, Ms. Patricia Graffin, Mrs. Frances Gray, Ms. Elaine C. Haroldson, Mr. Peter Macri, Mr. Carlo Melini, Mrs. Rose Policastro, Mr. Joseph Santagata, Mr. Richard G. Griswold, Executive Director, Mr. Jay A. Malanga, Assistant Executive Director and Mrs. Barbara Ambroise, Program Development Assistant were present. Mr. Ronald J. Brown, Ms. Lynn Rasiewicz and Ms. Marie Maiorano, Office Supervisor were absent.

Mrs. Rose Policastro 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. Regina L. Thomas, Secretary of State and the Newark Star-Ledger and Trentonian Newspapers on December 11, 2002 and was posted in the Office of the Board of Cosmetology and Hairstyling on December 11, 2002.

ACCEPTANCE OF MINUTES:

Upon motion made by Mrs. Frances Gray and seconded by Ms. Elaine Haroldson, the Executive Director's report, Committee reports and Minutes of the regular monthly meeting held July 8, 2003 are accepted as read. The motion passed unanimously.

INFORMAL HEARINGS

10:30 A.M. Ms. Lisa Cabera, 132 Lamonte Avenue, Bound Brook, New Jersey 08805 appeared for an investigative inquiry hearing in connection with her desire to restore cosmetologist-hairstylist license #WG019691 and her convictions of Possession of a Controlled Dangerous Substance, Shoplifting and Credit Card Fraud.

Mrs. Rose Policastro greeted Ms. Lisa Cabera and explained why she had been scheduled to appear.

Deputy Attorney General Rhonda Pope Stephens gave her opening statement and asked that Ms. Cabera be sworn-in.

Ms. Lisa Cabera offered her testimony and answered questions of Deputy Attorney General Rhonda Pope Stephens and the Board.

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

See Court Reporter Transcripts for exact testimony.

Upon motion made by Mr. Peter Macri and seconded by Ms. Elaine Haroldson, the Board returned to Open Session to announce it's decision. The motion passed unanimously.

Upon motion made by Mrs. Frances Gray and seconded by Mr. Peter Macri, Ms. Lisa Cabera is to be allowed to restore her license but is to be informed that any future contact with the criminal justice system could result in suspension or revocation. The motion passed unanimously.

11:00 A.M. Mr. Matthew L. White, 29 Yale Avenue, Apt. #402, Irvington, New Jersey 07111 appeared for an investigative inquiry hearing in connection with his convictions of Possession of a Weapon for Unlawful Purpose, Aggravated Assault and Attempted Murder and his desire to pursue a career in the field of cosmetology and hairstyling.

Mrs. Rose Policastro greeted Mr. Matthew L. White and explained why he had been scheduled to appear.

Deputy Attorney General Rhonda Pope Stephens gave her opening statement and asked that Mr. White be sworn-in.

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

See Court Reporter Transcripts for exact testimony.

Upon motion made by Mrs. Frances Gray and seconded by Mr. Peter Macri, the Board returned to Open Session to announce it's decision. The motion passed unanimously.

Upon motion made by Mrs. Frances Gray and seconded by Ms. Elaine Haroldson, these convictions will not bar Mr. White from admission to examination at such time as he satisfies all requirements for admission provided he does not have any further contact with the criminal justice system. The motion passed unanimously.

BUSINESS AGENDA

1. The Notice of Proposed Re-adoption with amendments of N.J.A.C. 13:28, dated June 2, 2003 with comments received from Mr. Raymond Testa, Co-President, Association of Cosmetology & Hairstyling Schools of New Jersey was presented to the Board for consideration. The comment period expired on August 1, 2003; and the Board was asked to consider the comments and determine how it would like to proceed with regard to the re-adoption with amendments of N.J.A.C. 13:28.

Mr. Richard G. Griswold indicated that he received 1 e-mail comment from a person identifying himself as John Doe since mailing out the agenda materials; and he suggested that if Mr. Doe would have furnished a real name and address, copies of the laws and regulations could be mailed to him and that he might then understand why there are no barbering schools.

Mrs. Mary Ann Sheehan stated that we might have to just answer the e-mail and cite the appropriate statute(s). She advised that she did a summary of Mr. Testa's comments, that his first comment pertains to 6.17(b) and that he thinks the existing regulation gives the Board more flexibility and that the Board should leave it as is and not amend it. Also, he asked that the Board look at the Federal regulations on relocations and transfers of ownership.

Mr. Richard G. Griswold suggested that the Board can inform him that it is inconsistent with the statute and that the goal of this agency differs from the goal of NACCAS and point out that the Board has shown it's willingness to streamline the process by adopting the regulation, even with the amendment. He stated that the Board has always been very mindful of the importance of continued operation, that he cannot recall a case where a school had to discontinue operation when it was going through a relocation or change of ownership but that the recent relocation of Artistic Academy turned into a real fiasco when the Board tried to short circuit the process to help out the school owner and students.

Ms. Mary Ann Sheehan stated that she thinks the Board should rely on the statute and refer him to 45:5B-36. It requires an initial applicaiton; and the Board will have discretion on a relocation but not a change of ownership. Also, he should be informed that the Board has a greater responsibility to the consumer than NACCAS. She advised that his 2nd comment deals with 13:28-6.24, teacher training students and that the has submitted the same comments the Association did in 1999. Students should not have the type of direct supervision that the Board is requiring, that 6.24(a) should be amended to read that a teacher would be readily available to the student teacher.

Mr. Richard G. Griswold stated that the Board considered his comments carefully in 1999 when the regulation was amended, that the Board has not changed it's view and that the Board is now just considering re-adoption of a requirement the Board believes is very necessary to protect the interests of students.

Ms. Mary Ann Sheehan indicated that Mr. Testa has asked that the Board look at it again since there are new members but that if the new members concur with the regulation, we can utilize the same response we used when it was originally amended.

Upon motion made by Mrs. Frances Gray and seconded by Ms. Elaine Haroldson, the Board approves the notice of re-adoption with amendments without change. The motion passed unanimously.

2. Correspondence received from Mr. Raymond Testa, Vice President, Natural Motion Institute of Hair Design 2800 Kennedy Boulevard, Jersey City, New Jersey 07306 in connection with their September new student start date was presented to the Board for consideration. He requested permission to allow their students to start on September 8th rather than September 2nd as required by N.J.A.C. 13:28-6.10.

Upon motion made by Mrs. Frances Gray and seconded by Ms. Kathleen Alexander, Mr. Raymond Testa's request is approved. The motion passed unanimously.

3. Correspondence received from Ms. Susan Guido, Manager, Concorde School of Hair Design, 15 Ward Street, Bloomfield, New Jersey 07003 in connection with their September new student start date was presented to the Board for consideration. She requested permission to allow the students at their Bloomfield and Ocean Township schools to start on September 8th rather than September 2nd as required by N.J.A.C. 13:28-6.10.

Upon motion made by Mrs. Frances Gray and seconded by Ms. Kathleen Alexander, Ms. Susan Guido's request is approved. The motion passed unanimously.

4. Correspondence received from Mr. Claus H. Lang, Vice President-Marketing, Professional Credential Services, Inc., 150 4th Avenue North, Suite 700, Nashville, TN 37219 with accompanying proposal for delivery of examination related services was presented to the Board for consideration. He indicated that they have entered into a partnership agreement with NIC to administer their examinations, that they have always made quality their focus and that they would like to assist the Board to provide exceptional services to it's candidates.

Mr. Richard G. Griswold suggested that the matter be referred to the Examination & Sites Committee and that possibly the Committee can meet with Mr. Lang. He indicated that the proposed per test charge of \$25.00 is more than double what we are paying Experior and that the 3 year contract Mr. Lang is proposing could be very problematic.

Upon motion made by Mrs. Frances Gray and seconded by Ms. Patricia Graffin, this matter is referred to the Examination and Sites Committee for review and is then to be brought back to the Board for further consideration The motion passed unanimously.

5. Correspondence received from Ms. Linda Karas, Associate Director, Reignbow Beauty Academy, 312 State Street, Perth Amboy, New Jersey 08861with accompanying revised class schedules for Reignbow

Beauty Academy and Reignbow Hair Fashion Institute was presented to the Board for consideration. Board approval is required by N.J.A.C. 13:28-6.13.

Mrs. Rose Policastro stated that she has some concerns with their part time Thursday through Saturday schedule, that it is over 20 hours and is in contradiction of the regulation and that she called Ms. Karas but Ms. Karas has not called her back as yet.

Upon motion made by Mrs. Frances Gray and seconded by Ms. Kathleen Alexander, this matter is tabled until Mrs. Policastro receives clarification on the part time schedule. The motion passed unanimously.

6. Correspondence received from Mr. Nghi Nguyen, President, Sunrise Nails Salon, Route 130 & Cinnaminson Avenue, Store #6, Cinnaminson, New Jersey 08077 in connection with the penalties assessed against him in the amount of \$2500.00 for the alleged violations resulting out of an inspection of his shop on June 9, 2000 was presented to the Board for consideration. He remitted payment of the penalties assessed against him for operating without proper ventilation (\$200.00) and without an experienced practicing licensee present (\$300.00) and admitted to the charge of operating with three (3) unlicensed person practicing and waived his right to a hearing but advised that the business will be closed permanently on June 27, 2003 and that he will be returning his shop license; and he asked that the Board accept his payment of \$500.00 in settlement of all violations.

Mr. Richard G. Griswold stated that Mr. Nguyen has returned his shop license.

Ms. Kathleen Alexander indicated that he was very negligent and suggested that the Board compromise and settle for \$1000.00.

Upon motion made by Ms. Kathleen Alexander and seconded by Ms. Elaine Haroldson, the penalty on this violation is reduced to \$1000.00. The motion passed unanimously.

7. Correspondence received from Mr. Robert F. Vidal, t/a The Gifted Cutters Barber Shop, 800 First Avenue, Elizabeth, New Jersey in connection with the penalties assessed against him in the amount of \$900.00 for the alleged violations resulting out of an inspection of his shop on August 18, 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 Ms. Patricia Graffin, the fines stand. The motion passed unanimously.

8. Correspondence received from Ms. Faith Ginsberg, t/a The Arrangements, 1070 Route 46, Ledgewood, New Jersey 07852 in connection with the penalties assessed against her in the amount of \$500.00 for the alleged violations resulting out of inspections of her shop on August 12, 1999 and September 29, 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 Ms. Patricia Graffin and seconded by Ms. Kathleen Alexander, the fines stand. The motion passed unanimously.

9. Correspondence received from Ms. Jennifer Krimko, Esquire on behalf of Marina Josie, Inc. in connection with the penalties assessed in the amount of \$2,900.00 for the alleged violations resulting out of inspections of Diana Genel Salon, 59 Brighton Avenue, West End, New Jersey 07740 was presented to the Board for consideration. She asked that the Board consider accepting immediate payment of \$1900.00 in full satisfaction of all outstanding penalties.

Upon motion made by Mrs. Frances Gray and seconded by Mr. Carlo Melini, Ms. Krimko is to be informed that the Board will accept \$1900.00 in full satisfaction of all outstanding penalties. The motion passed unanimously.

10. Correspondence received from Mr. Wayne I. Christie, Esquire on behalf of Mr. Ludby Arguelles, t/a Double Vision Unisex, 160 Kearny Avenue, Kearny, New Jersey 07032 in connection with the penalties assessed against him in the amount of \$800.00 for the alleged violations resulting out of an inspection of the shop on December 11, 2002 was presented to the Board for consideration. He indicated that Double Vision Unisex is no longer in existence and asked that the Board consider accepting payment of \$500.00 in settlement of all outstanding penalties.

Upon motion made by Mr. Carlo Melini and seconded by Ms. Patricia Graffin, Mr. Christie is to be informed that the Board will accept \$500.00 in settlement of all outstanding penalties. The motion passed unanimously.

11. Correspondence received from Ms. Yolanda Neris, Admissions Rep, Empire Beauty Schools, Plaza at Cherry Hill, 2100 Route 38 West, Cherry Hill, New Jersey 08002 on behalf of Horace Cooper in connection with his convictions of Manufacturing/Dispensing a Controlled Dangerous Substance, Possession of Schedule I and II Narcotics, Hindering Prosecution and Conspiracy and his desire to complete a term of training at Empire Beauty School and eventually become licensed was presented to the Board for consideration. The Board was asked to render a determination with respect to his eventual eligibility for licensure.

Upon motion made by Mrs. France Gray and seconded by Ms. Patricia Graffin, the Board withholds decision on this matter pending Horace Coopers's appearance for an investigative inquiry hearing. The motion passed unanimously.

12. Correspondence received from Ms. Michelle Rose Lyden, 275 Engle Street, H-3, Englewood, New Jersey 07631 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-7 at West End Hair Salon, Allendale, New Jersey on March 31, 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 Ms. Patricia Graffin and seconded by Mr. Peter Macri, the fine stands. The motion passed unanimously.

13. Correspondence received from Mr. Robert A. Shaw, President, Salon Development, PO Box 346, East Hanover, New Jersey 07936 in connection with the penalties assessed against them in the amount of \$350.00 for the alleged violations resulting out of an inspection of Cutting Crew, Jamesway Plaza Shopping Center, Route 57, Hackettstown, New Jersey on June 27, 2001 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 Ms. Patricia Graffin, the fines stand. The motion passed unanimously.

14. Correspondence received from Mr. Joo T. Chung, 601 Ridge Road, Lyndhurst, New Jersey 07071 in connection with the penalties assessed against him in the amount of \$800.00 for the alleged violations resulting out of an inspection of Sun's Nail & Etc. Gallery, Lyndhurst, New Jersey on July 20, 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 Mr. Peter Macri and seconded by Mrs. Frances Gray, the fines stand. The motion passed unanimously.

15. Correspondence received from Lloyd D. Levenson, Esquire on behalf of Borgata Hotel Casino & Spa in connection with the difficulty they recently encountered in obtaining a shop license for Spa Toccare at Borgata Hotel Casino & Spa was presented to the Board for consideration. He indicated that they applied

for and received a full shop license instead of a skin care specialty shop license because of their desire to open quickly with both skin care and massage services; but that it is their belief that massage services are not ancillary services related to the beautification of the body or the enhancement of personal appearance, nor are they included in the definition of cosmetology and hairstyling; and that they believe the proper license for Spa Toccare is a skin care specialty shop license and that they should also be able to provide massage services.

Deputy Attorney General Rhonda Pope Stephens stated that she has a very short legal analysis dealing with this on it's way up but in the meantime, will give the Board a little backround on the situation. She indicated that Borgata had their grand opening a few weeks ago and wanted to obtain a skin care shop license to offer skin care and massage services but were informed that full body massage is an ancillary service and that ancillary services are not allowed in skin care specialty shops, so they provided all necessary minimum equipment and obtained a full service shop license in order to be able to have their grand opening but really only want a skin care specialty shop license and are arguing that full body massages are not ancillary beautification services and, therefore, are allowed under existing law and regulations.

Mr. Richard G. Griswold stated that if you look at the definition of cosmetology and hairstyling, a good argument can be made that body massage is an ancillary service but on the other hand, you have an attorney arguing that it is not a service which enhances personal appearance or beautifies the body and, therefore, should be allowed but the Board's position is that if it's not a cosmetology and hairstyling or ancillary service, it can't be offered in any shop.

Mrs. Frances Gray indicated that something has to be done because a lot of salons are offering this service and it should be regulated.

Mr. Richard G. Griswold advised that the statute requires us to allow a regular shop to sell related merchandise and offer ancillary services; and although massage services started to get popular in shops a few years ago, the Board held off on doing anything because legislation passed requiring the Board of Nursing to regulate massage therapists; but they have not, to date, done anything in terms of licensing, regulations, etc..

Mrs. Frances Gray indicated that the Board should find a place for massage therapy.

Mrs. Elaine Haroldson stated that they only need a certificate to work.

Mr. Richard G. Griswold advised that the last thing he heard is that the Board of Nursing is only going to require licensure if a person holds themselves out to be a certified massage therapist and that it would be easier for this Board to act if it knew what, if anything, the Board of Nursing is going to do.

Deputy Attorney General Rhonda Pope Stephens stated that the Board has traditionally viewed this service to be ancillary.

Mr. Joseph Santagata indicated that they do use lotions and, therefore, you can argue that it's skin care.

Mrs. Frances Gray stated that body massage is incorporated in the Milady standard text book.

Deputy Attorney General Rhonda Pope Stephens advised that a legal answer could be that the Board considers massage services to be ancillary and that skin care shops can offer this service.

Mr. Richard G. Griswold indicated that when Assemblywoman Weinberg amended the Cosmetology and Hairstyling Act to require the Board to issue manicuring shop licenses and allow manicurists to do hair removal with no additional training, the Board felt that since the manicuring training requirements were so inadequate, the maicuring shop license is so specialized and none of the ancillary services being offered fall within the scope of manicuring, ancillary services should not be allowed in manicuring shops; and when

Senator Inverso amended the Act to create skin care specialty shops, the Board prohibited the offering of ancillary services in those shops; but since all of the ancillary services presently being offered relate to skin and skin care specialists have twice as much training as manicurists, the Board may want to re-assess its position.

Mrs. Frances Gray stated that most of the skin care people go into massaging.

Deputy Attorney General Rhonda Pope Stephens indicated that Borgata has a full service salon and wants to convert it to a skin care specialty shop; and that the Board should consider allowing Boragata to convert.

Mr. Malanga questioned why the Board would want to change that now.

Mr. Richard G. Griswold advised that the Board needs to decide whether or not it wants to make such a change.

Ms. Patricia Graffin indicated that she is not comfortable making this kind of change today and would like some time to think about it.

Mr. Carlo Melini stated that we have to determine whether it is a reasonable fit that works for everyone.

Deputy Attorney General Stephens advised that it is a reasonable fit.

Mr. Richard G. Griswold indicated that the Board should have an opportunity to digest this, that Borgata is presently operating with a full service shop license and that there is no good reason for this change to be rushed if the Board wants time.

Deputy Attorney General Stephens stated that she thinks skin care and massage go hand in hand.

Mrs. Frances Gray advised that it is not right to try to push something like this through until its long term effects are considered.

Upon motion made by Mr. Peter Macri and seconded by Ms. Elaine Haroldson, the Board would like its Education and New Studies Committee to consider this proposal and make a recommendation at the next meeting. The motion passed unanimously.

Mrs. Rose Policastro indicated that Fran, Elaine and she will meet on this and make a recommendation at the next meeting. She also asked Kathy Alexander to work with the Committee.

COMMITTEE REPORTS

Examination & Sites:

Mrs. Rose Policastro reported the Committee will be meeting next Tuesday to discuss the PCS proposal.

Mrs. Barbara Ambrose stated that Doug Cornelson, Director of Experiior Assessments would like to conduct an item review workshop at a place and time convenient to the Board Members.

Mrs. Rose Policastro stated that a weekend meeting for the item review workshop would be fine and that she would like it held at the Sheraton in Secaucus.

Education & New Studies:

Mrs. Rose Policastro reported that they will be meeting next Tuesday to discuss the body massage issue..

Violation:

Mr. Joseph Santagata reported that the Committee met before this meeting and that all Committee work is up to date.

School & Department of Education Liaison:

Mrs. Rose Policastro reported that all Committee Work is up to date.

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.

Old Business:

Mrs. Rose Policastro asked if the Board would like to further consider the request for approval of a name change submitted by Mrs. Anna Rizzieri..

Mr. Peter Macri questioned whether the Board wants to make her use a disclaimer which indicates that the word wellness does not pertain to medical.

Mr. Richard G. Griswold stated that if push comes to shove, the Board can probably keep her from using the name but does it want to?

Mr. Carlo Melini stated that he does not see a problem with her using wellness.

Upon motion made by Mrs. Frances Gray and seconded by Mr. Peter Macri, the Board approves the change of name from Rizzieri Institute to Rizzieri Aveda School for Beauty and Wellness. The motion passed unanimously.

New Business:

Mr. Jay Malanga commented on the NIC pass-fail figures recently received by the Board. They come up with a 70.25% pass/fail. He indicated that the report is on 30 schools, about 22 out of the 30 use 75% pass/fail and 8 use 70% and our scores with Experior are higher than theirs.

Mrs. Frances Gray stated that the wording on the PA test is much easier than New Jersey; and that Experior's problem is service.

Mr. Jay Malanga indicated that Ms. Ambroise has informed him that the scores have been a lot better.

Upon motion made by Mr. Peter Macri and seconded by Mr. Carlo Melini, the meeting was adjourned at 3:10 p.m.. The motion passed unanimously.

ROSE POLICASTRO, Chairperson

Countersigned:

RICHARD G. GRISWOLD, Executive Director

