

**REGULAR MONTHLY MEETING  
BOARD OF COSMETOLOGY AND HAIRSTYLING  
124 HALSEY STREET - 6TH FLOOR  
NEWARK, NEW JERSEY 07102**

SEPTEMBER 14, 2004

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

Mr. Peter Macri 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 10, 2003 and was posted in the Office of the Board of Cosmetology and Hairstyling on December 10, 2003.

Upon motion made by Ms. Frances Tomeo and seconded by Mrs. Rose Policastro, the Executive Director's reports, Committee reports and minutes of the regular monthly meetings held June 8, 2004 and July 13, 2004 and the Executive Director's report for August 2004 are accepted as read. The motion passed unanimously.

Mr. Richard G. Griswold informed the Board that Laura Byrne has taken and passed the GED test and that there will not be any litigation on her case but that the issue is still out there and, therefore, the Board will have to continue its efforts to modify its statutes and regulations. He also indicated that DAG Rhonda Pope Stephens really did an excellent job avoiding litigation and getting the Byrnes and the Home School Legal Defense Fund attorneys to comply with the Board's ruling.

**INFORMAL HEARINGS**

10:30 A.M. Ms. Michele Legge, t/a Before and After Hair Center , 1174 Fischer Boulevard, Suite 6, Toms River, New Jersey was scheduled to appear in connection with the alleged violations resulting out of inspections of her shop on January 10, 2003 and June 10, 2003. On January 10, 2003, she was observed operating in an unsanitary or unsafe manner and a penalty of \$500.00 was assessed. On June 10, 2003 she was observed operating in an unsanitary manner, without all required minimum equipment and without all current licenses displayed with photos and was also cited for failing to respond to a subpoena served on June 10, 2003; and penalties of \$250.00, \$200.00, \$100.00 and \$1,000.00 respectfully were assessed.

Mr. Richard G. Griswold informed the Board that he received a call late yesterday from Deputy Attorney General Sunil Raval informing him that Ms. Michele Legge had accepted a tentative settlement offer, that the hearing has been adjourned so that the Board could consider the offer and that DAG Raval would like to address the Board on the matter.

Deputy Attorney General Sunil Raval stated that Ms. Michele Legge has agreed to a settlement of \$1800.00, that he faxed her a copy of the Consent Order and got it back signed and that he mailed her the original and asked her to return it by next Monday with the payment.

Upon motion made by Ms. Frances Tomeo and seconded by Mrs. Rose Policastro, the settlement of \$1800.00 is approved. The motion passed unanimously.

11:00 A.M. Ms. Kim A. Nguyen, t/a Kim's Fantasy Beauty Salon, 747 West Side Avenue, Jersey City, New Jersey 07306 appeared in connection with the alleged violation resulting out of an inspection of her shop on November 16, 2002. She was observed operating while aiding, abetting or knowingly permitting Denise Munoz to display a cosmetologist-hairstylist license not issued by the Board to practice illegally and a penalty of \$2500.00 was assessed. She was also cited for operating with Mao Q. Vu engaging in the practice of cosmetology and hairstyling without a valid license but paid the penalty (\$300.00) assessed for that violation.

Mr. Peter Macri greeted Deputy Attorney General John P. Miscione and Investigator Robert J. Lafferty, read the charges and noted that it is 11:30 a.m. and that respondent, Kim Nguyen is not present.

Deputy Attorney General John P. Miscione stated that he would like to proceed with this matter and move that a record be made of the testimony that has been accumulated with respect to the alleged violations.

Upon motion made by Ms. Frances Tomeo and seconded by Mrs. Kathleen Alexander, the Board approves DAG Miscione's request to proceed with a default hearing. The motion passed unanimously.

Mr. Richard G. Griswold was sworn-in, offered his testimony and answered questions of Deputy Attorney General John Miscione.

Investigator Robert J. Lafferty was sworn-in, offered his testimony and answered questions of Deputy Attorney General John Miscione.

See Court Reporter Transcripts for exact testimony.

Deputy Attorney General John Miscione stated that he would like to move, in the absence of the respondent Ms. Nguyen, that the Board find with the testimony that a fraudulent license was displayed and represented as Ms. Munoz's license and that Ms. Nguyen, as a shop owner had the responsibility to know the status of that license and, therefore, has aided and abetted the fraudulent practice of cosmetology. Also, Ms. Nguyen has neglected the record keeping requirements as required by the Board's regulations.

Upon motion made by Mrs. Rose Policastro and seconded Ms. Frances Tomeo, the Board went into Executive Session for the purpose of deliberation. The motion passed unanimously.

Deputy Attorney General John Miscione left the room but immediately returned to inform the Board that Ms. Nguyen is now present and that he has no objection to the Board hearing her.

Upon motion made by Mr. Carlo Melini and seconded by Mr. Ronald Brown, the Board will allow Ms. Nguyen to give her testimony. The motion passed unanimously.

Mr. Peter Macri greeted Ms. Kim A. Nguyen and advised that the Board will hear her testimony and that the Attorney General has no objection.

Ms. Kim A. Nguyen was sworn-in, offered her testimony and answered questions of Deputy Attorney General John Miscione and the Board.

Upon motion made by Ms. Patricia Graffin and seconded by Ms. Frances Tomeo, 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. Rose Policastro and seconded by Ms. Frances Tomeo, the Board returned to Open Session to announce its decision. The motion passed unanimously.

Upon motion made by Mrs. Frances Tomeo and seconded by Mr. Ronald Brown, the Board finds Ms. Kim

Nguyen guilty as charged but due to mitigating circumstances, the penalty is reduced to \$1000.00 with no assessments for costs. The motion passed unanimously.

11:30 A.M. Mr. Giacomo Duva, Esquire and his client, Thomas Kakos appeared in connection with Mr. Kakos' application for initial shop licensure of Salon Thanos, 214 West Front Street, Red Bank, New Jersey. The shop only contains 297 square feet of floor space, 53 square feet short of the minimum required by N.J.A.C. 13:28-2.5; and although the Board, at the regular monthly meeting held April 13, 2004, denied Mr. Duva's request for a waiver, it approved his request for a hearing, even though it does not believe Mr. Kakos is entitled to one.

Mr. Peter Macri greeted Mr. Giacomo Duva, Esquire and his client, Thomas Kakos.

Mr. Giacomo Duva addressed the Board. He stated that his client does not dispute the investigators findings but that there is a legitimate hardship here. He indicated that being aware of the 350 square feet requirement, his client entered into a lease which specifies that he has 400 square feet, that he has explored every avenue of expansion and there are none, other than moving the outer wall of the building but that it is not possible because the building is on the historical site list. He advised that his client has been paying rent for 2 years, that he satisfies all other safety requirements and that the 350 square foot requirement is arbitrary and capricious; and he asked that the Board waive its minimum square footage requirement.

Mr. Duva and Mr. Kakos answered questions of the Board.

See Court Reporter Transcripts for exact testimony.

Upon motion made by Ms. Frances Tomeo and seconded by Mrs. Rose Policastro, this matter is tabled pending Mr. Duva's submission of a revised floor plan to include a loft area which could be used as storage space. The motion passed unanimously.

## **BUSINESS AGENDA**

1. The recommendations of the Committee on the hearings it conducted on July 13, 2004 in the matters of David Blackson, Renna DeLaRosa and Frank D. Alfieri as well as agenda items 1-16 were presented to the Board for consideration. The Committee's recommendations appear in the minutes which were distributed to all Board Members on August 3, 2004.

Upon motion made by Ms. Frances Tomeo and seconded by Ms. Patricia Graffin, the Board ratifies the recommendations of the Committee made on July 13, 2004. Mrs. Rose Policastro abstained; but the motion passed.

2. Correspondence received from Ms. Jennifer Clugh, 2100 High Hill Road, Swedesboro, New Jersey 08085 in connection with her conviction of Mail Fraud and her desire to complete a term of training at The Technical Institute of Camden County 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 Ms. Clugh's eligibility for licensure.

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

3. Correspondence received from Mr. Kasun Mathis, 42 40th Street, Apt. 1L, Irvington, New Jersey 07111 in connection with his desire to retain credit of the 1063 hours of training he completed at Concorde School of Hair Design, Bloomfield as of March 1, 1999 was presented to the Board for consideration. N.J.A.C. 13:28-6.21(L)3 precludes the granting of credit to students absenting themselves for a period of 5 years or more; but he asked that the Board waive its five year limitation in light of a financial hardship.

Ms. Frances Tomeo stated that she thinks he should be evaluated by a school.

Mr. Richard G. Griswold indicated that he cannot recall the Board ever approving a waiver of the 5 year limitation for anyone who had not completed the full course.

Upon motion made by Ms. Frances Tomeo and seconded by Ms. Patricia Graffin, Mr. Kasun Mathis' request is denied. Mr. Ronald Brown opposed the motion; but the motion passed.

4. Correspondence received from Mr. James D. Damiano, 470 Forest Street, Unit #5, Kearny, New Jersey 07032 in connection with his conviction of Conspiracy to Violate the Gambling Laws, Promoting Gambling and Possession with Intent to Distribute CDS and his desire to be admitted to the cosmetologist-hairstylist examination was presented to the Board for consideration. The Board previously considered this matter at the regular monthly meeting held July 18, 2000 and determined that these convictions would not bar Mr. Damiano from licensure provided he complied with the terms and conditions of his probation, submitted quarterly reports from his probation officer with the results of his random urine tests, furnished immediate notification of any change of employment or residential address and had no further contact with the criminal justice system; but Mr. Damiano has not complied with those conditions and submitted a letter of explanation.

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

5. Correspondence received from Ms. Sang Yum Nam, 55 Bergen Boulevard, Apt. 3A, Palisades Park, New Jersey 07650 in connection with the Provisional Order of Discipline issued to her on May 20, 2004 was presented to the Board for consideration. She indicated that she will forfeit her license voluntarily but asked that the Board be lenient with any fines and allow her to become licensed legally in a short period of time.

Deputy Attorney General Rhonda Pope Stephens indicated that the fine is \$1500.00 and that the Board has on occasion reduced the fine but has not been willing to modify the terms regarding revocation and reinstatement.

Upon motion made by Ms. Patricia Graffin and seconded by Mrs. Rose Policastro, the Board will reduce the penalty to \$1000.00 but will not modify the terms of the Order with respect to the period of revocation or the reinstatement provisions. The motion passed unanimously.

6. All available information in connection with the Provisional Order of Discipline issued to Ms. Jung Sik Kim, 46-01 39th Avenue Apt. 602, Sunnyside, New York 11104 was presented to the Board for consideration. Ms. Kim remitted payment of the penalty (\$1500.00) and surrendered her license #WG03381300 as required by the Order; and the Board was asked to determine whether a Final Decision and Order has to be issued in this matter.

Upon motion made by Mrs. Rose Policastro and seconded by Ms. Frances Tomeo, the Board directed that a Final Decision and Order is to be issued. The motion passed unanimously.

7. Correspondence received from Dr. Lauren Wood, Experior Assessments, LLC, 1260 Energy Lane, St. Paul, MN 55108 in connection with the National Examination Council meeting for the cosmetology fields they are conducting on October 18-19, 2004 was presented to the Board for consideration. She asked that the Board recommend a cosmetologist-hairstylist and a skin care specialist participant, who are state-recognized for their professional knowledge and practice, to participate in their test development project.

Upon motion made by Ms. Frances Tomeo and seconded by Ms. Patricia Graffin, the Board recommends Mrs. Rose Policastro participate in this project. The motion passed unanimously.

8. Correspondence received from Mr. Robert W. Avery, Esquire on behalf of Sang Mi Lee in connection

with the Provisional Order of Discipline issued to her on May 24, 2004 was presented to the Board for consideration. Mr. Avery furnished a request for modification of the proposed penalties and indicated that although it would be difficult, she will pay the penalty but asked that the period of provisional revocation be reduced from two years to six months.

Upon motion made by Ms. Patricia Graffin and seconded by Ms. Frances Tomeo, Mr. Avery is to be informed that his request for modification of the period of provisional revocation is denied but that the Board is willing to reduce the penalty to \$1,000.00. The motion passed unanimously.

9. A memorandum received from Deputy Attorney General Adriana Baudry with accompanying correspondence she received from Mr. Robert W. Avery, Esquire in connection with the Provisional Order of Discipline issued to Mrs. Yu Sook Kim, 224 Bellemeade Avenue, Fort Lee, New Jersey 07024 was presented to the Board for consideration. Deputy Attorney General Baudry and Mr. Avery agreed to settle this matter by way of Consent Order on May 5, 2004; but Mr. Avery advises that he cannot locate his client and asks that the Board refrain from entering a Final Order as he wishes to have his client sign the Consent Order as soon as she becomes available; and Deputy Attorney General Baudry indicated that it would behoove the Board to allow Mr. Avery some time to find his client but that a reasonable time limit of not more than ninety (90) days should be imposed.

Upon motion made by Ms. Frances Tomeo and seconded by Mrs. Rose Policastro, Mr. Robert W. Avery is to be informed that he has ninety (90) days to find his client and have her sign the Consent Order and that if he is unable to do so, the Board's settlement offer is withdrawn. The motion passed unanimously.

10. A request received from Mr. Burt Liebman, Regulatory Affairs Officer, Division of Consumer Affairs in connection with Assembly Bill #1763, sponsored by Assemblyman Donald Tucker was presented to the Board for consideration. If enacted, it would permit a person with a criminal record to obtain certain employment if the disqualifying offense was committed more than ten (10) years ago and Mr. Liebman asked that the Board furnish its comments.

Deputy Attorney General Rhonda Pope Stephens stated that this Board does deal with a lot of criminal offenses, that it looks at all matters regardless of how long ago the crime occurred; and that this proposal differs a lot from what our Board normally does.

Mr. Richard G. Griswold stated that virtually all serious offenses are excluded from the 10 year time limitation and that the Board has never suspended or revoked a license for the crimes covered by this.

Upon motion made by Mr. Carlo Melini and seconded by Ms. Patricia Graffin, the Board is not opposed to this bill in its present form. The motion passed unanimously.

11. Correspondence received from Mr. Kenneth E. Calloway, Esquire on behalf of Catherine Chidley, t/a Cathy's Corner, 3500 Boardwalk, Wildwood, New Jersey 08360 in connection with the outstanding penalties assessed against her in the amount of \$800.00 for the alleged violations resulting out of an inspection of her business on August 21, 2001 was presented to the Board for consideration. He indicated that he also represents Kristein O'Mahony, t/a Wrap-Tat, a sister store to the Chidley store and that his client is prepared to enter into the same Consent Order that was entered into with O'Mahony.

Mr. Richard G. Griswold indicated that the outstanding penalties against Catherine Chidley are greater than those that were assessed against O'Mahoney and that a settlement of \$450.00 to \$500.00 would be in line with the O'Mahoney settlement.

Upon motion made by Ms. Frances Tomeo and seconded by Ms. Rose Policastro, Deputy Attorney General Rhonda Pope Stephens is authorized to settle this matter with a Consent Order and a penalty of \$500.00 with a promise to cease and desist. The motion passed unanimously.

12. All available information in connection with the Provisional Order of Discipline issued to Ms. Nan Hee

Lee, 512 Durie Avenue, Closter, New Jersey 07624 on May 19, 2004 was presented to the Board for consideration. Ms. Lee remitted payment of the penalty (\$1500.00) but did not surrender her cosmetologist-hairstylist license #WG32605 as required by the Order; and the Board was asked to determine whether a Final Decision and Order should be issued in this matter.

Upon motion made by Ms. Patricia Graffin and seconded by Ms. Kathleen Alexander, a Final Decision and Order is to be issued. The motion passed unanimously.

13. Correspondence received from Mr. Ross Di Peri, 57-B Maryland Avenue, Whiting, New Jersey 08759 in connection with the outstanding penalty assessed against him in the amount of \$100.00 for his alleged violation of N.J.S.A. 45:5B-12(f) & N.J.A.C. 13:28-2.12(a) at Jim's Barber & Hairstyling Shop, Toms River, New Jersey on January 11, 2003 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 its final decision.

Upon motion made by Ms. Frances Tomeo and seconded by Mrs. Rose Policastro, Mr. Ross DiPeri is guilty as charged but the penalty is reduced to \$50.00 due to mitigating factors. The motion passed unanimously.

14. Correspondence received from Ms. Charlotte A. Agundez, t/a Ponytail Express, Inc., 105 Lacey Road, Whiting, New Jersey 08759 in connection with the outstanding penalties assessed against her in the amount of \$450.00 for the alleged violations resulting out of an inspection of her shop on May 20, 2004 was presented to the Board for consideration. She paid the penalties (\$150.00) assessed for operating without a price list posted and without a current shop license displayed and indicated that she would like to waive her right to a hearing on the remaining three (3) charges but furnished a written explanation for the Board to consider before rendering its final decision.

Upon motion made by Ms. Patricia Graffin and seconded by Ms. Kathleen Alexander, the fines stand. The motion passed unanimously.

15. Correspondence received from Ms. Allison Mercury, 1529 Compton Terrace, Hillside, New Jersey 07205 in connection with the outstanding 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 Platinum Twelve 21 Unisex Salon, Newark, New Jersey on September 9, 2003 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 its final decision.

Upon motion made by Ms. Patricia Graffin and seconded by Ms. Kathleen Alexander, the fine stands. The motion passed unanimously.

16. The application for initial shop licensure of Class & Cutters, 612 S. Broad Street, Elizabeth, New Jersey submitted by Andres Fernandez with accompanying criminal background information in connection with his convictions of Drug Distribution Class A and Drug Violation Near School/Park was presented to the Board for consideration. This matter was presented in order that the Board might determine whether Mr. Fernandez is eligible for licensure in light of his convictions.

Upon motion made by Ms. Frances Tomeo and seconded by Ms. Kathleen Alexander, Mr. Andres Fernandez is to be scheduled to appear for an investigative inquiry hearing. The motion passed unanimously.

## **COMMITTEE REPORTS**

Mr. Peter Macri stated that he, Mr. Griswold, Mr. Malanga and Barbara Ambrose were asked to attend Mr. Emiliani's Advisory Board meeting yesterday, that he did a presentation on the Board's function and which Board members head each committee, that Mr. Griswold, Mr. Malanga and Ms. Ambrose did presentations on unlicensed practice and cross over exams and that all presentations were well received.

#### Examination & Sites:

Ms. Frances Tomeo reported that the Committee met two weeks ago, that it is looking at all avenues for computer based testing and that it is reviewing answers PCS and Experior furnished in response to questions raised by the Committee. She also indicated that if time permits, the Committee is going to meet at the conclusion of today's Board meeting.

Mr. Richard G. Griswold indicated that the committee needs to identify all of the Boards needs in terms of reports, processing, scheduling, etc. so that both companies will have everything they need to quote a per test price. He also recommended that the listing of needs for regular tests and special tests should be separated and that there should be separate contracts if the Board decides to continue with the special tests.

#### Education & New Studies:

Mrs. Rose Policastro reported that they are working with the Exam Committee and that all work is up to date.

#### Violation:

Mr. Joseph Santagata reported 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.

Mr. Richard G. Griswold indicated that Mrs. Bridget Damiano informed him that Capri is not going through with their purchase of Shore Beauty School and, therefore, the Committee will not have to take further action on their application.

Mrs. Rose Policastro advised that Professional Beauty School had some major problems on their final School Inspection.

Mr. Richard G. Griswold stated that the discrepancies are so substantial that he does not believe they will be further pursuing their application for initial school license.

#### Legislation:

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

#### Public Relations:

Ms. Patricia Graffin reported that all Committe work is up to date. She also advised that she had gone to a dermatologist in New York and that he is willing to attend a meeting to do a presentation for the Board about a non-invasive two day skin treatment process, that she doesn't know a lot of the specifics about the process but that the person receiving the treatment would need to take Demerol for pain.

Mr. Richard G. Griswold indicated that he can't see what purpose would be served by listening to a presentation by a doctor on what sounds like a medical treatment but that it's up to the Board.

Mr. Carlo Melini stated that he would not object to hearing him but questioned how much time he would need.

Ms. Kathleen Alexander expressed a willingness to hear him also.

Mrs. Rose Policastro stated that the Board will have to revisit microdermabrasion, glycolic acid and so forth

because it is all coming into the salons.

Upon motion made by Mr. Carlo Melini and seconded by Ms. Frances Tomeo, the meeting was adjourned at 3:38 p.m.. The motion passed unanimously.

PETER MACRI, Chairperson

Countersigned:

RICHARD G. GRISWOLD, Executive Director