

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

Minutes of March 12, 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, Ms. Sylvia M. Kaplan, 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, Mrs. Barbara Ambroise, Program Development Assistant and Mrs. Marie Maiorano, Office Supervisor were present. Ms. Lisa Camooso, Ms. Lynne Rasiewicz and Mr. Joseph Stead were 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 Mr. Peter Macri and seconded by Mrs. Frances Gray, the Executive Director's report, Committee reports and Minutes of the regular monthly meeting held February 11, 2002 are accepted as read. The motion passed unanimously.

Mr. Jay Malanga thanked the Board Members for the letter sent to the Attorney General on his behalf and Mr. Griswold for being his strongest advocate.

Mr. Peter Macri indicated that the Board is happy to have Jay back and appreciates all of his hard work.

The Board applauded Mr. Jay Malanga.

INFORMAL HEARINGS

10:30 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.

Deputy Attorney General Kenneth Spassione indicated that he spoke to Ms. McPhillips & counsel and that she is willing to admit to the charges, agree to cease and desist and to pay a penalty of \$1,800.00 with three (3) installment payments. \$600.00 would be submitted with the order, \$600.00 to be paid within 30 days of entry of the order and \$600.00 within 60 days of entry of the order. Upon motion made by Mrs. Frances Gray and seconded by Mrs. Rose Policastro, the Board accepts Ms. Phyllis McPhillips' settlement offer. The motion passed unanimously.

10:45 A.M. Ms. Jennifer D. Joyce, 306 Sumner Avenue, Seaside Heights, New Jersey 08751 appeared for an investigative inquiry hearing in connection with her conviction and incarceration of Possession with Intent to Distribute Cocaine and Possession of CDS with Intent to Distribute on School Property and her desire to be admitted to the cosmetologist-hairstylist examination.

Mr. Dennis Gullo greeted Ms. Jennifer D. Joyce.

Deputy Attorney General Rhonda Pope Stephens gave her opening statement and asked that Ms. Jennifer D. Joyce be sworn in.

Ms. Jennifer D. Joyce 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 Mrs. Rose Policastro, 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 Ms. Rose Policastro and seconded by Mrs. Frances Gray, the Board returned to Open Session to announce it's decision. The motion passed unanimously.

Upon motion made by Mrs. France Gray and seconded by Mr. Peter Macri, Ms. Jennifer D. Joyce is to be allowed to sit for examination provided she has no future contact with the criminal justice system. The motion passed unanimously.

BUSINESS AGENDA

1. A memorandum received from Deputy Director Anthony Miragliotta with accompanying new rule N.J.A.C. 19:61-7 concerning the process for board member recusal and a form statement to be used by board members when they must recuse themselves because of a conflict of interest was presented to the Board for their information.

The Board acknowledged this information and directed that it be filed.

2. Correspondence received from Ms. Deborah Phlegar in connection with her application for initial (change of ownership) shop licensure of Chalet Hair Styling, 2 West Shore Trail, Sparta, New Jersey was presented to the Board for consideration. The shop only contains 219 square feet of floor space, 131 square feet short of the minimum required by N.J.A.C. 13:28-2.5; but she indicated that a shop has been operated at this location for 11 years and that it is impossible to expand at this time; and she asked that the Board waive it's minimum square footage requirement and issue the desired license.

Upon motion made by Mr. Peter Macri and seconded by Mrs. Frances Gray, Ms. Deborah Phelgar's application is approved with the condition that she will never have more than one (1) practitioner offering services at any given time and she rents additional space in the event the tenant next to her does not renew upon expiration of their lease. The motion passed unanimously.

3. Correspondence received from Mr. David E. Bagwell, Region I Director, National-Interstate Council of State Boards of Cosmetology, Inc. in connection with the Region 1 Conference to be held in Richmond, Virginia on May 11, 12 & 13, 2002 was presented to the Board for consideration. The Board previously considered this matter at the regular monthly meeting held January 8, 2002 and authorized Rose Policastro and Joseph Santagata to attend but since then, the dates of this event have been changed and the State has limited attendance at functions such as this to one (1) member. Therefore, the Board was asked to determine

whether it would still like to participate and if so, which member will represent the Board.

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

4. Correspondence received from Ms. Constance Clark, 3910 Bayshore Road, N. Cape May, New Jersey 08204 in connection with the penalties assessed against her in the amount of \$800.00 for the alleged violations resulting out of a inspection of A.M.P., 3004 Boardwalk, Wildwood, New Jersey on August 21, 2001 was presented to the Board for consideration. She requested a hearing; and the Board was asked to review the matter prior to referral to the Division of Law Prosecution Section.

Upon motion made by Mrs. Frances Gray and seconded by Ms. Patricia Graffin, the Board went into Executive Session to discuss a pending disciplinary matter. The motion passed unanimously.

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

Upon motion made by Mr. Peter Macri and seconded by Mrs. Frances Gray, this matter is to be referred to the Prosecution Section for assignment of a Prosecuting Deputy. The motion passed unanimously.

5. Correspondence received from Ms. Adesumola Oluokun, Director, Joy's School of Hair Design on behalf of Mr. Maurice O. Page, 428 South Broad Street, Elizabeth, New Jersey 07202 in connection with his conviction and incarceration for Carjacking and his desire to obtain a student permit and complete a term of training at Joy's School of Hair Design and eventually become license was presented to the Board for consideration. This matter was presented in order that the Board might render a decision with respect to his eligibility for a permit and eventual licensure.

Upon motion made by Mrs. Frances Gray and seconded by Ms. Patricia Graffin, the Board withholds decision on this matter pending Mr. Maurice O Page's appearance for an investigative inquiry hearing.

6. Correspondence received from Mses. Irene Bermudez and Gizella B. Bukowski, t/a Design Lines, 446 New Brunswick Avenue, Fords, New Jersey 08863 in connection with the penalty assessed against them in the amount of \$250.00 for the alleged violation resulting out of an inspection of their shop on May 25, 2000 was presented to the Board for consideration. They indicated that they would like to waive their 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.

7. Correspondence received from Ms. Suong Thu Pham, 22 Firethorne Lane, Sicklerville, New Jersey 08081 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. 13:28-2.10(a)2 at Glamour Nail and Tanning Salon, Runnemede, New Jersey on February 16, 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 Mr. Peter Macri and seconded by Ms. Patricia Graffin, the fine stands. The motion passed unanimously.

8. Correspondence received from Ms. Melanie Willoughby, President, New Jersey Retail Merchants Association, 332 West State Street, Trenton, New Jersey 08618 in connection with their desire to have the Board support an amendment of N.J.S.A. 45:5B-17b(4) to allow for licensure by way of apprenticeship training was presented to the Board for consideration.

Mr. Dennis Gullo greeted Mr. Benton "Skip" Fonner, Legal Counsel and Mr. Phyllis Tampio, District Leader for Hair Cuttery and indicated that they could have 5 to 10 minutes to offer a presentation if they would like.

Mr. Benton Fonner distributed copies of a question and answer fact sheet for their proposed New Jersey registered apprenticeship program and advised that they are a hair salon chain, that they own and operate over 800 salons on the East Coast, that they have approximately 40 salons in New Jersey and that there is a major shortage of cosmetologist-hairstylists. He stated that they do not franchise, that they have been very successful in Virginia, Maryland, Georgia, Pennsylvania and Delaware and that their people get salon as well as classroom training. He indicated that they expect to have legislation introduced in the Senate next month and that they have come here to ask for the Board's support.

Mr. Phyllis Tampio stated that they are here to ask for the Board's support. She advised that what apprenticeship means today is different from long ago, that they have been working with the Departments of Education and Labor and that in most states, the program is 2000 to 3000 hours. She indicated that they have had enormous growth in New Jersey, that there are not enough licensees and that the only difference with this program is that they work while they go to school.

Mr. Richard G. Griswold questioned what efforts they are making right now to employ people.

Ms. Tampio stated that they are working with the Department of Labor and other Government sources.

Mr. Richard G. Griswold questioned whether they have contacted the proprietary schools and vocational schools in the areas where their shops are located to employ senior students who are not scheduled to attend classes.

Ms. Tampio stated that they have not but will employ students and graduates from these schools and will have the recruiters they have in every region contact the available programs.

Mr. Carlo Melini questioned whether there is any downside in the other states where they have this program.

Ms. Tampio stated that customers are their first concern, that they do a very high volume product and that their customers absolutely love the apprentices. The down side is that we have to learn about what the states regulations are and police them and that they do get a high drop out rate right from the beginning as opposed to the students coming from schools and working in salons and then finding out they do not like the atmosphere; but this way, they do not have to go through all of the training. They get a feel for the salon atmosphere right from the beginning.

Mr. Carlo Melini questioned the pass/fail rates for the people from their programs who take the state board test.

Ms. Tampio stated that out of 17 apprentices, they dropped down to 12 people but all 12 passed the pre-state and all but 2 passed the state board, that they have 75% who are passing and that their instructors are licensed state instructors.

Mrs. Frances Gray questioned what happens if they want to go to another shop or school.

Ms. Tampio indicated that the students can leave, that they do have a contract and that some students pay nothing and some pay back over 3 years.

Mrs. Frances Gray stated that they are more like a school. Ms. Tampio advised that she wouldn't say that.

Mr. Fonner indicated that they can get money from the Government if they get a certain kind or number of students but that for the most part, the company is funding the program.

Mr. Richard G. Griswold advised that he is confused by the statutory amendment they are proposing, that it seems to say that they will get approval from the Department of Labor and/or Education but have to comply with the rules and regulations of the Board of Cosmetology & Hairstyling; and that this makes no sense. Mr. Griswold stated that they are asking the Board to support an amendment of law which makes no sense from a regulatory standpoint.

Mr. Fonner indicated that they have established a National Guideline with the Department of Labor and Education and whatever they want, we will work with them to adopt similar guidelines involving the Board of Cosmetology and Hairstyling in-as-much-as we want you to be involved and oversee it.

Mr. Richard G. Griswold indicated that there was a proposal a couple of years ago which would have moved all of the proprietary schools of cosmetology and hairstyling into the Department of Education with the Department of Education responsible to promulgate regulations and the Board of Cosmetology and Hairstyling responsible to register students and perform all inspection/investigation functions, that this proposal looks very similar in that regard and that it is not realistic to think the Board and the Division of Consumer Affairs is going to function under the direction of the Commissioner of the Department of Education.

Mr. Fonner stated that if changes are needed, now would be the time to do it.

Mr. Richard G. Griswold advised that he does not believe the Board can legally enforce another Department's requirements, even if it was willing to do it.

Mr. Fonner indicated that the content of the program is still under the power of the Board of Cosmetology & Hairstyling.

Ms. Tampio stated that the Board just looks at their outline to make sure it is correct and gives them guidelines of what they want with the number of actual services by category.

Mr. Richard G. Griswold questioned how the Board or the Department of Labor or Education in other states have ability to monitor these programs.

Mr. Fonner stated that they file reports on a quarterly basis.

Ms. Tampio advised that the reports have to be signed by the appropriate people and everything has to be in place before the state board exam.

Deputy Attorney General Rhonda Pope Stephens asked for a copy of the National Guidelines.

Mr. Fonner responded that they will be happy to submit them.

Deputy Attorney General Rhonda Pope Stephens noted that in the agreement, they have a commitment to work in their salons.

Ms. Tampio indicated that Ms. Pope Stephens has an old agreement and that the new one does not have that in it.

Mrs. Frances Gray asked for a copy of the new one.

Ms. Tampio stated that she will submit one.

Mr. Carlo Melini questioned whether a person had a right to decide whether or not they want to work for them.

Mr. Fonner advised that they cannot force someone to stay if they do not want to.

Mr. Jay Malanga questioned whether they have contacted the major unions.

Mr. Fonner indicated that they have not.

Mr. Jay Malanga stated that he is the product of an apprenticeship program and it is a failure, that there are too many loopholes and that he is concerned about what this would do to proprietary schools and secondary school programs. He admitted that there appears to be a shortage, although the Department of Labor says there isn't but that he would be opposed to a program such as this based on an inability to control it.

Mr. Fonner indicated that Tony Impreveduto has been asked to sponsor this legislation as well as Senator Gerald Cardinale.

Ms. Tampio advised that they do not see this as a band-aid, that they have looked at what we had and determined that we need more mature, work oriented people, that the average age is mid 30's, that they are looking for long term employees and that there is success in this program.

Mr. Dennis Gullo thanked them for their input.

Mr. Richard G. Griswold questioned whether the Board wants to refer this to a Committee or poll the members first. He indicated that if the Board is opposed, there is no sense in having a committee spend time on it.

Mrs. Frances Gray indicated that we need to get right on this, that this is not good.

Mr. Jay Malanga stated that this is very self-serving.

Ms. Patricia Graffin advised that she does not like it, that small business people would not be able to participate.

Mr. Richard G. Griswold indicated that the Board or the Department of Education does not have the capacity to oversee a program such as this and that it could put the public's safety at risk.

Ms. Sylvia Kaplan questioned whether the problem is with the apprenticeships or the advantages it gives to this group.

Mr. Jay Malanga stated that it is two fold and that shops will get hurt by this.

Mr. Richard G. Griswold indicated that the way they have this structured, they have their own schools in shops and that he could never support an apprenticeship program after what he saw with the Barber Board.

Ms. Sylvia Kaplan advised that in the other areas for apprenticeships, the vocational schools do the theory and then they go out.

Mr. Richard Griswold suggested that the members be polled.

Mr. Joseph Santagata, Mr. Carlo Melini, Ms. Sylvia Kaplan and Mr. Dennis Gullo indicated that they are interested in looking at it.

Ms. Patricia Graffin suggested that they can call on their own to see how the other states are doing with this.

Mr. Joseph Santagata stated that he thought it would be good to know more about it and not take a stand without knowing more.

Mr. Dennis Gullo suggested informing Ms. Willoughby that the Board does not sponsor legislation and that it is not up to the Board.

9. Correspondence received from Mr. Todd Drayton, Esquire on behalf of Veronique Gede, t/a Beauty Rama Unisex, 649 Scotland Road, Orange, New Jersey 07050 in connection with the Final Decision and Order issued to her on December 13, 2001 was presented to the Board for consideration. He asked that the Board reconsider the disciplinary sanctions set forth in the order.

Upon motion made by Mr. Peter Macri and seconded by Mrs. Rose Policastro, the Board went into Executive Session to discuss a pending disciplinary matter. The motion passed unanimously. Upon motion made by Ms. Patricia Graffin and seconded by Mr. Joseph Santagata, the Board returned to Open Session to announce its decision. The motion passed unanimously. Upon motion made by Mrs. Frances Gray and seconded by Mr. Peter Macri, Mr. Todd Drayton's request for reconsideration is denied and he is to be asked to instruct his client to surrender her license and remit payment of the penalties and costs immediately. The motion passed unanimously.

10. Correspondence received from Mr. Michael Kim, President in connection with American School of Cosmetology, Inc., 6-16 State Highway Route 5, Palisades Park, New Jersey 07650 was presented to the Board for consideration. He indicated that the school has ceased operation and that he will not be pursuing licensure.

Mr. Peter Macri asked what will happen to the students.

Mr. Richard G. Griswold indicated that they were only offering instruction in manicuring and that Mr. Kim claims all students have completed their training but that he is required to retain his school records for 5 years and should keep the Board informed as to where the records are and where he can be reached.

Ms. Sylvia Kaplan questioned why they can't send their records to another school.

Mrs. Rose Policastro advised that there are no more existing students.

Mr. Richard G. Griswold stated that the Board will have its copies of their time sheets for 7 years.

Upon motion made by Mr. Peter Macri and seconded by Mrs. Rose Policastro, Mr. Michael Kim is to be informed that it is his responsibility to keep the records of the students and provide the Board with his current address and telephone number so that students can be referred to him if necessary. The motion passed unanimously.

11. A copy of the Appellate Division decision in the matter of Anthony Rulli, d/b/a Hair I Go, L.L.C. was presented to the Board for their information. It rebuffs virtually all of the arguments made by Mr. Rulli's attorney and affirms the Board's decision in this matter.

Mr. Peter Macri stated that Deputy Attorney General Rhonda Pope Stephens did the excellent job in arguing this appeal.

The Board commended Deputy Attorney General Rhonda Pope Stephens for a job well done.

12. A memorandum received from Ms. Tisha Adams, Legislative Liaison, Division of Consumer Affairs with accompanying copy of Senate Bill #296, sponsored by Senators James S. Cafiero and John J. Matheussen

and a copy of the comments the Board submitted after reviewing Senate Bill #1564 on October 10, 2000 was presented to the Board for consideration. S-296 is a reintroduction of S-1564; and Ms. Adams inquired as to whether the Board's position will remain the same or whether the Board will take a different position this legislative session.

Mr. Peter Macri stated that he thinks this is ridiculous and that he does not support this bill.

Mr. Carlo Melini indicated that he supports it.

Mrs. Frances Gray advised that the concept of limited licenses is ridiculous, that 40 hours is just not enough and that there is more to shampooing than just putting shampoo and water on a person's head.

Mr. Carlo Melini questioned why is 40 hours not enough?

Mrs. Rose Policastro stated that shampooing is not just putting shampoo and water over the hair, that there are different shampoos for different types of hair, that you have to do an evaluation of the scalp, that there are sanitary rules, bacteriology, etc. and that 40 hours would not do it.

Mr. Richard G. Griswold indicated that last time the Board discussed this, the opposition was not based upon the number of hours but rather fragmentation of licenses, enforcement and public safety.

Mrs. Frances Gray advised that this would just make it a lot easier for people to practice without a license.

Mr. Carlo Melini stated that there will always be violations of our laws, no matter what.

Upon motion made by Mr. Peter Macri and seconded by Mrs. Frances Gray, the Board is opposed to Senate Bill #296 for reasons set forth in our memo of October 10th. Ms. Patricia Graffin, Mrs. Frances Gray, Mr. Peter Macri and Mrs. Rose Policastro voted for the motion. Mr. Dennis Gullo, Mr. Carlo Melini and Mr. Joseph Santagata opposed the motion; and Ms. Sylvia Kaplan abstained.

13. Correspondence received from Mr. Barbino Garcia, Mr. Jerome J. Lombardo, Mr. Garcia's landlord and Assemblyman Paul DiGaetano in connection with Mr. Garcia's application for initial licensure of Justin Barber Shop, 262 Gregory Avenue, Passaic, New Jersey 07055 was presented to the Board for consideration. The shop only contains 272 square feet of floor space, 78 square feet short of the minimum required by N.J.A.C. 13:28-2.5; and they asked that the Board waive its minimum square footage requirement and issue the desired license.

Upon motion made by Mr. Peter Macri and seconded by Mrs. Frances Gray, Mr. Garcia's request is denied in as-much-as it is an initial shop application. The motion passed unanimously.

Mr. Peter Macri indicated that we might want to let them know that we would have approved the request if this was a pre-existing shop.

14. A memorandum received from Ms. Maryann Sheehan, Regulatory Analyst, Division of Consumer Affairs with accompanying proposed revised amendment to N.J.A.C. 13:28-2.10 which would prohibit body piercing services but permit the piercing of ear lobes in licensed shops and a draft of Board responses to the comments received on the proposal was presented to the Board for consideration.

Mr. Richard G. Griswold stated that this amendment still prohibits body piercing but allows for piercing of the ear lobe only.

Ms. Maryann Sheehan stated that she assumes everyone has read the amendment and that she has a question as to whether the Board wants to allow ear piercing in schools. She noted that the proposal only

allows it in shops.

Mr. Richard G. Griswold indicated that schools are only supposed to be offering instruction in cosmetology and hairstyling and that ear piercing does not fall within the definition; and the Board concurred.

Upon motion made by Mrs. Frances Gray and seconded by Mr. Peter Macri, the revised amendment of N.J.A.C. 13:28-2.10 is approved for adoption. The motion passed unanimously.

COMMITTEE REPORTS

Mr. Dennis Gullo distributed copies of the committee assignments and noted that he only assigned 3 members to each committee but that if anyone wants to be added to a committee, they should just let him know.

Examination & Sites:

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

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.

School & Department of Education Liaison:

Mrs. Rose Policastro reported that New Concept Beauty School No. 2 submitted a revised curriculum for the skin care course they proposed to offer, that numerous corrections are needed and that she has given it to Mr. Griswold to return to them.

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. Frances Gray, the meeting was adjourned at 3:00 p.m.. The motion passed unanimously.

Countersigned:

RICHARD G. GRISWOLD, Executive Director



