

BOARD FOR BARBERS & COSMETOLOGY

MINUTES OF MEETING

The Board for Barbers & Cosmetology met on Monday, February 23, 2004, at the Offices of the Department of Professional and Occupational Regulation, 3600 West Board Street, 4th Floor, Richmond, Virginia. The following members were present:

Joyce L. Wilson-Clemmons
Virginia C. Dudley
Gloria L. Howard-Seldon
Lonnie E. Quesenberry
Kenneth A. Staples
Gregory A. Piper – in accordance with § 54.1-701 of the Code of Virginia the tattooing and body-piercing member shall not vote on any matters before the Board except matters related to tattooing and body-piercing until July 1, 2004.

Board member not present: Marian L. Alderson

DPOR staff present for all or part of the meeting included:

Louise Fontaine Ware, Director
Karen W. O'Neal, Deputy Director, RPD
William H. Ferguson, II, Executive Director
Zelda W. Dugger, Board Administrator
Earlyne Perkins, Legal Assistant
Sharon Sweet, Director of Education & Examination
Rashaun K. Minor, Administrative Assistant

A representative from the Office of the Attorney General was not present for meeting.

Ms. Wilson-Clemmons, Vice-Chair, determined a quorum was present and called the meeting to order at 9:01 a.m. **Call to Order**

Upon a motion by Mr. Quesenberry and seconded by Ms. Dudley the Board voted to approve the agenda as amended. The Hair Braiding and Tattooing and Body Piercing regulations were added to the agenda. The members voting 'yes' were Ms. Dudley, Ms. Howard-Seldon, Mr. Quesenberry, Mr. Staples, and Ms. Wilson-Clemmons. There were no negative votes. The motion passed unanimously. **Approval of Agenda**

Ms. Wilson-Clemmons asked if there was any public comment.

**Public Comment
Period**

Mary Tyree, Ms. Tyree is the owner of Beauty Boutique, Ltd in Hampton, Virginia. Ms. Tyree addressed the Board regarding grandfathering wax technician students and grandfathering Beauty Boutique as a waxing school.

The Board voted to approve the minutes of the September 15, 2003 Board for Barbers and Cosmetology meeting upon a motion by Mr. Quesenberry and seconded by Ms. Howard-Seldon. The members voting 'yes' were Ms. Dudley, Ms. Howard-Seldon, Mr. Quesenberry, Mr. Staples, and Ms. Wilson-Clemmons. There were no negative votes. The motion passed unanimously.

**Approval of
Minutes for
September 15, 2003
Board Meeting**

The Board voted to approve the minutes of the October 27, 2003 Board for Barbers and Cosmetology Informal Fact-Finding meeting upon a motion by Ms. Dudley and seconded by Mr. Quesenberry. The members voting 'yes' were Ms. Dudley, Ms. Howard-Seldon, Mr. Quesenberry, Mr. Staples, and Ms. Wilson-Clemmons. There were no negative votes. The motion passed unanimously.

**Approval of
Minutes for October
27, 2003 IFF**

In the matter of **File Number 2003-00296, Board v. Life Enterprises, Inc.**, the Board reviewed the record, which consisted of the investigative file, transcript and exhibits from the IFF, and the presiding Board member's summary and recommendation. Life Enterprises, Inc. did not appear at the meeting in person, by counsel, or by any other qualified representative.

**File Number
2003-00296 Life
Enterprises, Inc.**

Upon a motion by Mr. Quesenberry and seconded by Ms. Howard-Seldon, the Board voted that there was clear and convincing evidence that Life Enterprises, Inc. violated the following sections of its 2002 Regulations:

- 18 VAC 41-20-280(C)(2) (Count 1)
- 18 VAC 41-20-270(C)(1) (Count 2)
- 18 VAC 41-20-270(C)(4) (Count 3)

The members voting 'yes' were Ms. Dudley, Ms. Howard-Seldon, Mr. Quesenberry, Mr. Staples, and Ms. Wilson-Clemmons. There were no negative votes. The motion passed unanimously.

Upon a motion by Ms. Dudley and seconded by Mr. Quesenberry, the Board voted to accept the recommendations of the presiding Board member on all three counts and imposed the following monetary penalties and **revocation** of Kutz For Life's license:

- 18 VAC 41-20-280(C)(2) (Count 1) \$ 250.00

18 VAC 41-20-270(C)(1) (Count 2)	\$2,500.00
18 VAC 41-20-270(C)(4) (Count 3)	\$2,500.00

TOTAL	\$5,250.00

The members voting 'yes' were Ms. Dudley, Ms. Howard-Seldon, Mr. Quesenberry, Mr. Staples, and Ms. Wilson-Clemmons. There were no negative votes. The motion passed unanimously.

In the matter of **File Number 2003-00735, Board v. Mr. B's Barber Shop**, the Board reviewed the record, which consisted of the investigative file, transcript and exhibits from the IFF, and the presiding Board member's summary and recommendation. Mr. B' Barber Shop did not appear at the meeting in person, by counsel, or by any other qualified representative.

File Number
2003-00735 Mr. B's
Barber Shop

Upon a motion by Ms. Dudley and seconded by Mr. Quesenberry, the Board voted that there was clear and convincing evidence that Mr. B's Barbers Shop violate the following sections of its 2002 Regulations:

- 18 VAC 41-20-270(D)(1) (Count 1)
- 18 VAC 41-20-270(C)(7) (Count 2)
- 18 VAC 41-20-270(C)(1) (Count 3)

The members voting 'yes' were Ms. Dudley, Ms. Howard-Seldon, Mr. Quesenberry, Mr. Staples, and Ms. Wilson-Clemmons. There were no negative votes. The motion passed unanimously.

Upon a motion by Mr. Quesenberry and seconded by Mr. Staples the Board voted to accept the recommendation of the presiding Board member on all counts and imposed the following monetary penalties:

18 VAC 41-20-270(D)(1) (Count 1)	\$250.00
18 VAC 41-20-270(C)(7) (Count 2)	\$100.00
18 VAC 41-20-270(C)(1) (Count 3)	\$100.00

TOTAL	\$450.00

The members voting 'yes' were Ms. Dudley, Ms. Howard-Seldon, Mr. Quesenberry, and Ms. Wilson-Clemmons. There were no negative votes. The motion passed unanimously.

In the matter of **File Number 2003-02939, Board v. C-3 School, LLC**, the Board reviewed the record, which consisted of the investigative file, transcript and exhibits from the IFF, and the

File Number 2003-
02939 C-3 School,
LLC

presiding Board member's summary and recommendation. C-3 School, LLC, did not appear at the meeting in person, by counsel, or by any other qualified representative.

Upon a motion by Ms. Dudley and seconded by Mr. Quesenberry the Board voted there was clear and convincing evidence that C-3 School, LLC violated the following section of its 2002 Regulations:

18 VAC 41-20-250

The members voting 'yes' were Ms. Dudley, Ms. Howard-Seldon, Mr. Quesenberry, Mr. Staples, and Ms. Wilson-Clemmons. There were no negative votes. The motion passed unanimously.

Upon a motion by Ms. Dudley and seconded by Mr. Quesenberry the Board voted to accept the recommendations of the presiding Board member and imposed the following monetary penalty:

18 VAC 41-20-250	\$150.00

TOTAL	\$150.00

The members voting 'yes' were Ms. Dudley, Ms. Howard-Seldon, Mr. Quesenberry, Mr. Staples, and Ms. Wilson-Clemmons. There were no negative votes. The motion passed unanimously.

In the matter of **File Number 2003-01086, Board v. Wonder Nails**, the Board reviewed the record, which consisted of the investigative file, transcript and exhibits from the IFF, and the presiding Board member's summary and recommendation. Myly Thi Nguyen, owner of Wonder Nails and Nham Thi Le a co-worker and interpreter for Ms. Nguyen was present.

File Number 2003-01086 Wonder Nails

Upon a motion by Mr. Quesenberry and seconded by Ms. Howard-Seldon the Board voted that there was clear and convincing evidence that Wonder Nails violated the following sections of its 2002 Regulations:

18 VAC 41-20-270(D)(1) (Count 1)
18 VAC 41-20-270(B)(7) (Count 2)
18 VAC 41-20-270(E)(7) (Count 3)

The members voting 'yes' were Ms. Dudley, Ms. Howard-Seldon, Mr. Quesenberry, Mr. Staples, and Ms. Wilson-Clemmons. There were no negative votes. The motion passed unanimously.

Upon a motion by Ms. Dudley and seconded by Ms. Howard-Seldon the Board voted to accept the recommendations of the presiding Board member and imposed the following monetary penalty:

18 VAC 41-20-270(D)(1) (Count 1)	\$1000.00

TOTAL	\$1000.00

Included in the motion the Board voted that no monetary penalty be imposed for violation of 18 VAC 41-20-270(B)(7)(Count 2) and 18 VAC 41-20-270(E)(7) (Count 3).

The members voting 'yes' were Ms. Dudley, Ms. Howard-Seldon, Mr. Quesenberry, Mr. Staples, and Ms. Wilson-Clemmons. There were no negative votes. The motion passed unanimously.

In the matter of **File Number 2003-03147, Board v. Hollywood Nails**, the Board reviewed the record, which consisted of the investigative file, transcript and exhibits from the IFF, and the presiding Board member's summary and recommendation. Hollywood Nails did not appear at the meeting in person, by counsel, or by any other qualified representative.

File Number
2003-03147
Hollywood Nails

Upon a motion by Mr. Quesenberry and seconded by Ms. Dudley the Board voted that there was clear and convincing evidence that Hollywood Nails violated the following sections of its 2002 Regulations:

18 VAC 41-20-270(D)(1)

The members voting 'yes' were Ms. Dudley, Ms. Howard-Seldon, Mr. Quesenberry, Mr. Staples, and Ms. Wilson-Clemmons. There were no negative votes. The motion passed unanimously.

Upon a motion by Mr. Quesenberry and seconded by Ms. Howard-Seldon the Board voted to accept the recommendation of presiding Board member and imposed the following monetary penalty:

18 VAC 41-20-270(D)(1)	\$250.00

TOTAL	\$250.00

Included in the motion, the Board voted that re-inspection of Hollywood Nails would be conducted by an investigator with the Enforcement Division of the Department of Professional and Occupational Regulation within sixty (60) days. The members voting

'yes' were Ms. Dudley, Ms. Howard-Seldon, Mr. Quesenberry, Mr. Staples, and Ms. Wilson-Clemmons. There were no negative votes. The motion passed unanimously

In the matter of **File Number 2003-02010, Board v. Nguyen**, the Board reviewed the record, which consisted of the investigative file, transcript and exhibits from the IFF, and the presiding Board member's summary and recommendation. Myly Thi Nguyen, owner of Wonder Nails and Nham Thi Le a co-worker and interpreter for Ms. Nguyen was present.

File Number 2003-02010 Nguyen

Upon a motion by Ms. Howard-Seldon and seconded by Mr. Quesenberry the Board voted that Nguyen violated the following sections of its 2003 Regulations:

- 18 VAC 41-20-270(D)(1) (Count 1)
- 18 VAC 41-20-270(B)(7) (Count 2)
- 18 VAC 41-20-270(E)(7) (Count 3)
- 18 VAC 41-20-120(A) and (B) (Count 4)

The members voting 'yes' were Ms. Dudley, Ms. Howard-Seldon, Mr. Quesenberry, Mr. Staples, and Ms. Wilson-Clemmons. There were no negative votes. The motion passed unanimously.

Upon a motion by Mr. Quesenberry and seconded by Ms. Howard-Seldon the Board voted to reject the recommendations of the presiding Board member and voted no monetary penalty be imposed against the individual licensee for the violation of these regulations due to a monetary penalty being previously assessed against the business, Wonder Nails. The members voting 'yes' were Ms. Dudley, Ms. Howard-Seldon, Mr. Quesenberry, Mr. Staples, and Ms. Wilson-Clemmons. There were no negative votes. The motion passed unanimously.

At 10:12 a.m. the Board recessed and reconvened at 10:25 a.m.

Break

The Board reviewed the public comment received regarding the Wax Technician regulations. Upon a motion by Ms. Howard-Seldon and seconded by Mr. Quesenberry the Board voted to amend the General Requirements 18 VAC 41-40-20.B.1. to include the language "esthetician training that is substantially equivalent to the Virginia program" and 18 VAC 41-40-20.B.2. to include the language "training that is substantially equivalent to the Virginia program" and 18 VAC 41-40-30 license by endorsement to include "esthetician". The members voting 'yes' were Ms. Dudley, Ms. Howard-Seldon, Mr.

Regulations:
Wax Technician

Quesenberry, Mr. Staples, and Ms. Wilson-Clemmons. There were no negative votes. The motion passed unanimously.

The Board reviewed the February 19, 2004 proposed Hair Braiding regulations. Upon a motion by Mr. Quesenberry and seconded by Ms. Howard-Seldon the Board voted to adopt the proposed Hair Braiding regulations. The members voting 'yes' were Ms. Dudley, Ms. Howard-Seldon, Mr. Quesenberry, Mr. Staples, and Ms. Wilson-Clemmons. There were no negative votes. The motion passed unanimously.

Regulations:
Hair Braiding

The Board reviewed the February 19, 2004 revisions to the Proposed Tattooing and Body Piercing regulations. Upon a motion by Mr. Quesenberry and seconded by Mr. Piper, the Board voted to adopted the proposed regulations with the following revisions:

Regulations:
Tattooing and Body Piercing

Section 18 VAC 41-50-20.2. to include the language "The applicant shall be required to provide documentation to the board that they have received the full series of Hepatitis B vaccine or provide proof of immunity by blood titer".

Section 18 VAC 41-50-20.7 to include language "Persons who (i) make application between July 1, 2004 and July 1, 2005, and (ii) have completed five years out of the last 8 years documented work experience as a tattooer or body-piercer respectively, and (iii) have completed health education to include but not limited to blood borne disease, sterilization, and aseptic techniques related to tattooing and body-piercing respectively and first aid and CPR that is acceptable to the board are not required to complete 18 VAC 41-50-20.A.6."

Section 18 VAC 41-50-160. remove "schools" and in section 18 VAC 41-50-160.B. to include the language "clean and orderly manner" and in section 18 VAC 41-50-160.C. to include the language "All facilities shall have a blood spill clean-up kit in the work area" and in section 18 VAC 41-50-160.D. to include the language "an EPA registered, hospital grade disinfectant. Surfaces that come in contact with blood or other body fluids shall be immediately disinfected with an EPA registered germicide solution. Appropriate personal protective equipment shall be worn during cleaning and disinfecting procedures".

Section 18 VAC 41-50-160.K. to include the language "Locations that use only a mechanized, presterilized ear-piercing system that penetrates the outer perimeter or lobe of the ear or both are not required to be equipped with hot and cold or tempered running water under pressure".

Section 18 VAC 41-50-160.N. to include the language “No food or drink will be stored or consumed in the tattooing, body-piercing, or sterilization areas” and in section 18 VAC 41-50-170.E. to include the word “standard”.

Section 18 VAC 41-50-170.F. to include the language “Tattooers or body-piercers with draining lesions on their hands or face will not be permitted to work until cleared by a health-care professional” and in section 18 VAC 41-50-170.I. to include the language “Tattooing inks and dyes shall be placed in a single-use disposable container for each client. Following the procedure, the unused contents and container will be properly disposed of” and in section 18 VAC 41-50-170.J. to include the language “If shaving is required, razors shall be single-use and disposed of in a puncture resistant container”.

Section 18 VAC 41-50-170.L. to include the language “A set of individual, sterilized needles shall be used for each client. Single use disposable instruments shall be disposed of in a puncture resistant container” and in section 18 VAC 41-50-170.M. to include the language “Used, non-disposable instruments shall be kept in a separate, puncture resistant container until brush scrubbed in hot water soap and then sterilized by autoclaving. Contaminated instruments shall be handled with disposable gloves”.

Section 18 VAC 41-50-17.T. to include the language “Contaminated disposable and single use items shall be disposed of in accordance with state regulations regarding disposal of biological hazardous materials”.

Ms. Wilson-Clemmons advised the Board that the National-Interstate Council of State Boards of Cosmetology is planning to meet May 1-2, 2004 in Nashville and the Board Chair will represent the Board.

**NIC Region 1
Meeting**

Information concerning several outreach programs was distributed to the Board. The Board reviewed pamphlets for “Cut Out Domestic Violence” from the Office of the Attorney General, “Connections” from the Circle Center Adult Day Services, and “Alzheimer’s Care” from the Alzheimer’s Association for informational purposes.

Outreach Programs

A copy of Mr. Howell’s letter of resignation was distributed to the Board. Mr. Howell’s letter expressed his excitement to embark upon a new opportunity to serve as Delegate, representing District 90, in the Virginia General Assembly and was thankful to have had the opportunity to have been a part of the Board.

**Delegate
Algie T. Howell, Jr.**

The Board was updated on the status of House Bill 124 and Senate Bill Legislation 624 which stated:

HB 124 Board for Barbers and Cosmetologists; membership. Requires that of the two licensed cosmetologists on the Board for Barbers and Cosmetologists, at least one such member shall be a salon owner. Currently, of the two licensed cosmetologists appointed, one may be an owner or operator of a cosmetology school. The bill provides that it does not affect existing appointments for which the terms of current members have not expired. However, any new appointments made after July 1, 2004, shall be made in accordance with the provisions of the bill. The bill contains technical amendments.

The patron of this bill is David B. Albo.

SB 624 Department of Professional and Occupational Regulation, Board for Barbers and Cosmetology; designation of shop or salon. Requires applicants for licensure as a barber, cosmetologist or nail technician to submit a designation to the Board for Barbers and Cosmetology of the licensed barbershop, cosmetology salon or nail salon at which the applicant will conduct his business. In addition, the bill requires barbers, cosmetologists and nail technicians to update the designation when the license is renewed. This bill was continued 2005.

The patron of this bill is Jay O'Brien.

Mr. Ferguson advised the Board that he and Ms. Dugger met with the Department of Education to discuss students on the job training "School to Work" program. Upon a motion by Mr. Staples and seconded by Ms. Howard-Seldon the Board voted, to give Mr. Ferguson permission to write a letter of clarification, on behalf of the Board, to the Department of Education regarding the students on the job training program. Department of Education

Mr. Quesenberry, appointed by the Board to assist the Agency's Inspections Committee, distributed to the Board for its review DRAFT inspection violation recommendations for possible infringements of the regulations and statutes that govern the practice of barbering and cosmetology. Inspection Committee

The Board deferred discussion to a future meeting.

Ms. Sweet gave the Board a status report of the exam request for proposal (RFP) for the barbering and cosmetology exam. Ms. Sweet Examination

noted that the general statistics report was attached for informational purposes.

Upon a motion by Mr. Quesenberry seconded by Ms. Dudley the Board voted to appoint Ms. Howard-Seldon to assist in the development of the Hair Braiding examination. The members voting 'yes' were Ms. Dudley, Ms. Howard-Seldon, Mr. Quesenberry, Mr. Staples, and Ms. Wilson-Clemmons. There were no negative votes. The motion passed unanimously.

Upon a motion by Mr. Quesenberry and seconded by Mr. Staples the Board voted to appoint Mr. Piper as the liaison to assist in the development of the tattooing and body piercing examination. The members voting 'yes' were Ms. Dudley, Ms. Howard-Seldon, Mr. Quesenberry, Mr. Staples, and Ms. Wilson-Clemmons. There were no negative votes. The motion passed unanimously.

At 11:50 a.m. Ms. Dudley made the following motion:

Closed Meeting
Examination
Hair Braiding

Ms. Chair, I move that this meeting be recessed and that the Board immediately reconvene in closed meeting for the purpose of consultation and /or briefings by staff members pertaining to examination issues within the jurisdiction of the Board as permitted by §2.2-3711.A.11 of the *Code of Virginia*. The following non-member will be in attendance to reasonably aid the consideration of the topic: Sharon Sweet, Director, Office of Education and Examination, John Stanger, Experior Testing Service, and Zelda Dugger, Board Administrator, Board for Barbers and Cosmetology.

The motion is made with respect to the matter identified as agenda item number 17 Examination.

The members voting 'yes' were Ms. Dudley, Ms. Howard-Seldon, Mr. Quesenberry, Mr. Staples, and Ms. Wilson-Clemmons. There were no negative votes. The motion passed unanimously.

At 1:54 p.m., the Board reconvened in open session.

Open Meeting

WHEREAS, the Board for Barbers and Cosmetology has convened a closed meeting on this date pursuant to an affirmative recorded voted in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, §2.2-3712 of the *Code of Virginia* requires a certification by the Board that such closed meeting was conducted in conformity

with Virginia law;

NOW , THEREFORE, BE IT RESOLVED that the Board for Barbers and Cosmetology hereby certified that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which the certification resolutions applies and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Board for Barbers and Cosmetology.

The members voting 'aye' were Ms. Virginia Dudley, Ms. Gloria Howard-Seldon, Mr. Lonnie Quesenberry, Mr. Kenneth Staples, and Ms. Joyce Wilson-Clemmons. There were no 'nays'.

ABSENT DURING THE MEETING: Ms. Marian Alderson

Upon a motion by Mr. Quesenberry and seconded by Ms. Howard-Seldon, the Board voted to approved the questions for the Hair Braiding examination with the exceptions of those questions that were deleted and the Board appointed Ms. Howard-Seldon to assist with the exam. The members voting 'yes' were Ms. Dudley, Ms. Howard-Seldon, Mr. Quesenberry, Mr. Staples, and Ms. Wilson-Clemmons. There were no negative votes. The motion passed unanimously.

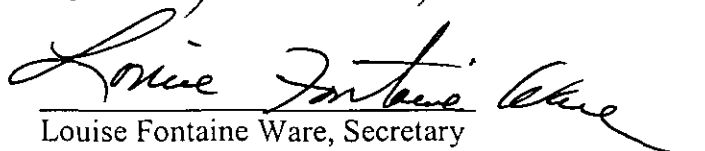
Mr. Kenneth A. Staples resigned as the Barber Board member and submitted his letter of resignation to the Board. Mr. Staples stated he has always enjoyed public service work and would miss serving on the Board.

Resignation

There being no other business to be brought before the Board, Ms. Wilson-Clemmons declared the meeting adjourned at 2:03 p.m.

Adjourn


Joyce L. Wilson-Clemmons, Vice-Chair


Louise Fontaine Ware, Secretary

COPY TESTE:

Custodian of the Records