

BOARD FOR BARBERS & COSMETOLOGY

MINUTES OF MEETING

The Board for Barbers & Cosmetology met on Monday, July 26, 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:

Jessie H. Anders
Hien Huu Do
Janet E. Girardi
Gloria L. Howard-Seldon
Algie T. Howell, III
Gregory A. Piper
Lonnie E. Quesenberry
Virginia Lee Sanders

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

Sandra Whitley Ryals, Chief Deputy Director
Karen W. O'Neal, Deputy Director, LRD
Nick A. Christner, Deputy Director for Compliance & Investigations
William H. Ferguson, II, Executive Director
Zelda W. Dugger, Board Administrator
Earlyne B. Perkins, Legal Assistant
Sharon M. Sweet, Director of Education & Examination
Rashaun K. Minor, Administrative Assistant

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

Mr. Ferguson, Executive Director, determined a quorum was present **Call to Order** and called the meeting to order at 9:15 a.m.

Mr. Ferguson introduced to the Board new board members Mr. Hien Huu Do, Ms. Janet E. Girardi, and Ms. Virginia Lee Sanders. Mr. Ferguson asked the Board Members and Staff to introduce themselves to the new board members. **Introductions**

Upon a motion by Mr. Quesenberry and seconded by Ms. Howard-Seldon the Board voted to approve the agenda as amended moving Board Member Training to the end of the agenda, and adding sanction guidelines, and the National-Interstate Council of State Boards for Cosmetology (NIC) Annual Conference. The members voting 'yes' were Mr. Anders, Mr. Do, Ms. Girardi, Ms. Howard-Seldon, Mr. Howell, Mr. Piper, Mr. Quesenberry, and Ms. Sanders. There were no negative votes. The motion passed unanimously. **Approval of Agenda**

For Board Chair, Mr. Ferguson opened the floor for nominations. Upon a motion by Ms. Howard-Seldon and seconded by Mr. Anders, Mr. Lonnie Quesenberry was nominated for Board Chair. Mr. Ferguson asked for any other nominations; there being no further nominations Mr. Ferguson closed the nominations. The Board elected Mr. Quesenberry as Board Chair. The members voting 'yes' were Mr. Anders, Mr. Do, Ms. Girardi, Ms. Howard-Seldon, Mr. Howell, Mr. Piper, Mr. Quesenberry, and Ms. Sanders. There were no negative votes. The motion passed unanimously.

Elections

Mr. Quesenberry assumed chairing the meeting.

For Board Vice Chair, Mr. Quesenberry opened the floor for nominations. Upon a motion by Mr. Quesenberry and seconded by Mr. Piper, Ms. Howard-Seldon was nominated for Board Vice-Chair. Mr. Quesenberry asked for any other nominations; there being no further nominations Mr. Quesenberry closed the nominations. The Board elected Ms. Howard-Seldon Board Vice Chair. The members voting 'yes' were Mr. Anders, Mr. Do, Ms. Girardi, Ms. Howard-Seldon, Mr. Howell, Mr. Piper, Mr. Quesenberry, and Ms. Sanders. There were no negative votes. The motion passed unanimously.

Mr. Quesenberry asked if there was any public comment.

Public Comment Period

Cynthia Bruggeman, Director of Professional Esthetics Alliance (PEA), introduced to the Board a few members and staff of PEA, Ms. Nell Strecker, with Yvonne de Vilar Scientific Skin Care School, in Vienna, VA, Ms. Laura Todd, with Advanced Institute of Medical Esthetics, in Mechanicsville, VA, Ms. Marian Alderson, with Beauti-Control Cosmetics and Past Board Chair of the Virginia Board for Barbers and Cosmetology, in Richmond, VA, and Ms. Cathie Shelton, with Anti-Aging Solutions, in Virginia Beach, VA. Ms. Bruggeman shared with the Board the purpose for organizing PEA and PEA's primary mission. Ms. Bruggeman stated she wanted to introduce herself and organization to the Board and looked forward to working with the Board in the future.

Kathleen Russell, Director of Regulatory Affairs, with Inverness Corporation addressed the Board. Ms. Russell stated she submitted information to Mr. Ferguson regarding the proposed Body-Piercing regulations and the treatment of the Ear Piercing industry under the proposed Body-Piercing Regulations. Ms. Russell asked the Board to recognize the distinction and difference of the Ear Piercing practice and to define Ear Piercing and Body-Piercing separately. Ms. Russell also

cited the National Environment Health Association (NEHA) Body Art Model Code used by several states for the Board's consideration in developing guidelines.

There being no further comment before the Board the public comment period ended. Mr. Quesenberry thanked the public for their comments and time.

Upon a motion by Ms. Howard-Seldon and seconded by Mr. Piper the Board voted to approve the minutes of the April 26, 2004 Board for Barbers and Cosmetology Board meeting, the January 12, 2004 Board for Barbers and Cosmetology Informal Fact-Finding Conference minutes, the June 14, 2004 Board for Barbers and Cosmetology Informal Fact-Finding Conference minutes, the June 17, 2004 Board for Barbers and Cosmetology Informal Fact-Finding Conference minutes, and the June 29, 2004 Board for Barbers and Cosmetology Informal Fact-Finding Conference minutes.

**Approval of
Minutes for
April 26, 2004
Board Meeting;
January 12, 2004
IFF; June 14, 2004
IFF; June 17, 2004
IFF minutes; June
29 IFF minutes**

The members voting 'yes' were Mr. Anders, Mr. Do, Ms. Howard-Seldon, Mr. Howell, Mr. Piper, Mr. Quesenberry, and Ms. Sanders. There were no negative votes. Board member abstaining was Ms. Girardi. The motion passed unanimously.

In the matter of **File Number 2004-04724, Board v. Michael Brian Robinson**, the Board reviewed the record, which consisted of the investigative file, transcript and exhibits from the IFF, and the summary and recommendation. Mrs. Kai Wolf, Mr. Robinson's wife, was present at the meeting and addressed the Board on behalf of Mr. Robinson.

**File Number
2004-04724 Michael
Brian Robinson**

Upon a motion by Mr. Howell and seconded by Mr. Piper, the Board voted to accept the recommendation to approve the application of Mr. Michael Brian Robinson for a barber license. The members voting 'yes' were Mr. Anders, Mr. Do, Ms. Girardi, Ms. Howard-Seldon, Mr. Howell, Mr. Piper, Mr. Quesenberry, and Ms. Sanders. There were no negative votes. The motion passed unanimously.

The Board representative at the IFF, Ms. Marion Cooper, was not present and did not participate in the discussion or vote in this matter.

Ms. Howard-Seldon left the meeting.

**Ms. Howard-Seldon
leaves**

In the matter of **File Number 2003-02338, Board v. Wonder Nails**, the Board reviewed the record, which consisted of the investigative

**File Number
2003-02338 Wonder**

file, transcript and exhibits from the IFF, and the summary and recommendation. Wonder Nails did not appear at the Board meeting in person, or by counsel, or by any other qualified representative. **Nails**

Upon a motion by Mr. Piper and seconded by Mr. Howell, the Board voted that there was clear and convincing evidence that Wonder Nails violated the following section of its Regulations:

18 VAC 55-22-350(2)

The members voting 'yes' were Mr. Anders, Mr. Do, Ms. Girardi, Mr. Howell, Mr. Piper, and Mr. Quesenberry. The member 'abstaining' was Ms. Sanders. The motion passed by majority.

Upon a motion by Mr. Piper and seconded by Mr. Anders, the Board voted to accept the recommendations and to imposed the following monetary penalty:

18 VAC 55-22-350(2)	\$ 1000.00
TOTAL	<u>\$1000.00</u>

The members voting 'yes' were Mr. Anders, Mr. Do, Ms. Girardi, Mr. Piper, Mr. Quesenberry, and Ms. Sanders. The member voting 'no' was Mr. Howell. The motion passed by majority.

As presiding Board member, Ms. Howard-Seldon was not present during the discussion or vote, and as the Board representative at the IFF, Ms. Marion Cooper was not present and did not participate in the discussion or vote in this matter.

Ms. Howard-Seldon returns to the meeting.

**Ms. Howard-Seldon
returns**

In the matter of **File Number 2004-03188, Board v. McNair Barber Hair Stylist** the Board reviewed the record, which consisted of the investigative file, transcript and exhibits from the IFF, and the summary and recommendation. McNair Hair Stylist did not appear at the Board meeting in person, or by counsel, or by any other qualified representative.

**File Number
2004-03188 McNair
Barber Hair Stylist**

Upon a motion by Mr. Piper and seconded by Ms. Howard-Seldon, the Board voted that there was clear and convincing evidence that McNair Hair Stylist violated the following section of its Regulations:

18 VAC 40-20-270.E.2 (Effective July 1, 2003) (Count 1)

The members voting 'yes' were Mr. Anders, Mr. Do, Ms. Girardi, Ms. Howard-Seldon, Mr. Howell, Mr. Piper, Mr. Quesenberry, and Ms. Sanders. There were no negative votes. The motion passed unanimously.

Upon a motion by Mr. Howell and seconded by Mr. Anders, the Board voted to accept the recommendations and the Board imposed the following monetary penalties:

18 VAC 40-20-270.E.2.	\$100.00
TOTAL	<u>\$100.00</u>

The members voting 'yes' were Mr. Anders, Mr. Do, Ms. Girardi, Ms. Howard-Seldon, Mr. Howell, Mr. Piper, Mr. Quesenberry, and Ms. Sanders. There were no negative votes. The motion passed unanimously.

The Board representative at the IFF, Ms. Marion Cooper, was not present and did not participate in the discussion or vote in this matter.

In the matter of **File Number 2004-04049, Board v. Linh P. Doan** the Board reviewed the record, which consisted of the investigative file, transcript and exhibits from the IFF, and the summary and recommendation. Mr. Linh Doan did not appear at the Board meeting in person, or by counsel, or by any other qualified representative.

File Number
2004-04049 Linh P.
Doan

Upon a motion by Mr. Howell and seconded by Mr. Piper, the Board voted that there was clear and convincing evidence that Linh P. Doan violated the following section of its Regulations:

18 VAC 41-20-270.E.2. (Effective July 1, 2003) (Count 1)

The members voting 'yes' were Mr. Anders, Mr. Do, Ms. Girardi, Ms. Howard-Seldon, Mr. Howell, Mr. Piper, Mr. Quesenberry, and Ms. Sanders. There were no negative votes. The motion passed unanimously.

Upon a motion by Mr. Piper and seconded by Ms. Sanders, the Board voted to impose no monetary sanction due to the shop being sanctioned for violation of this regulation.

The members voting 'yes' were Mr. Anders, Mr. Do, Ms. Girardi, Ms.

Howard-Seldon, Mr. Piper, Mr. Quesenberry, and Ms. Sanders. The member voting 'no' was Mr. Howell. The motion passed by majority.

The Board representative at the IFF, Ms. Marion Cooper, was not present and did not participate in the discussion or vote in this matter.

Ms. Howard-Seldon left the meeting.

**Ms. Howard-Seldon
leaves**

In the matter of **File Number 2003-00822, Board v. Anh Tran Thuy Sadevy** 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. Ms. Anh Tran Thuy Sadevy did not appear at the Board meeting in person, or by counsel, or by any other qualified representative.

**File Number
2003-00822 Anh
Tran Thuy Sadevy**

Upon a motion by Mr. Howell and seconded by Mr. Piper, the Board voted that there was clear and convincing evidence that Ms. Sadevy violated the following sections of its Regulations:

18 VAC 55-22-350(1), to wit: 18 VAC 55-22-90(A) (Count 1)
18 VAC 55-22-350(2) (Count 2)

The members voting 'yes' were Mr. Anders, Mr. Do, Ms. Girardi, Mr. Howell, Mr. Piper, Mr. Quesenberry, and Ms. Sanders. There were no negative votes. The motion passed unanimously.

Count 1: Upon a motion by Ms. Sanders and seconded by Mr. Howell, the Board voted to accept the recommendation of the presiding Board member on Count 1 and amended and imposed the sanctions as follows: a monetary penalty of \$2,500.00 and suspension of Sadevy's license, number 1206 011830, for 12 months. The Board imposed the suspension based upon the facts of the case, the seriousness and the nature of the violation, and the need to protect the public. The members voting 'yes' were Mr. Anders, Ms. Girardi, Mr. Howell, Mr. Piper, Mr. Quesenberry, and Ms. Sanders. The member voting 'no' was Mr. Do. The motion passed by majority.

Count 2: Upon a motion by Ms. Sanders and seconded by Mr. Howell, the Board voted to accept the recommendation of the presiding Board member on Count 2 and amended and imposed the sanctions as follows: a monetary penalty of \$500.00 and suspension of Sadevy's license, number 1206 011830, for 6 months. The Board imposed the suspension based upon the facts of the case, the seriousness and the nature of the violation, and the need to protect the public. The

members voting 'yes' were Mr. Anders, Ms. Girardi, Mr. Howell, Mr. Piper, and Ms. Sanders. The members voting 'no' were Mr. Do and Mr. Quesenberry. The motion passed by majority. As presiding Board member at the IFF, Ms. Howard-Seldon, was not present during the discussion or vote.

Totals of sanctions imposed for Count 1 and Count 2:

Suspension of Sadevy's license, number 1206 011830:

18 VAC 55-22-350(1) to wit: 18 VAC 55-22-90(A) (Count 1)	12 months
18 VAC 41-20-270(C)(1) (Count 2)	6 months
TOTAL	<hr/> 18 months

Monetary penalties:

18 VAC 55-22-350(1) to wit: 18 VAC 55-22-90(A) (Count 1)	\$2,500.00
18 VAC 41-20-270(C)(1) (Count 2)	500.00
TOTAL	<hr/> \$3,000.00

Ms. Howard-Seldon returns to the board meeting.

**Ms. Howard-Seldon
returns**

Ms. Sharon Sweet reported that on June 12, 13, and 14 of 2004, a test development workshop was convened in Dunedin, Florida by the National-Interstate Council of State Boards of Cosmetology (NIC). Schroeder Measurement Technologies (SMT) facilitated the workshop.

Examinations

Ms. Sweet stated the purpose of this workshop was to develop exam specifications and write and review items for the NIC Tattooing, Body Piercing, and Wax Technology written licensure examination through a focus group process, and develop task lines for the Wax Technology practical examination. Ms. Sweet stated that in preparation for this workshop, SMT developed an outline of knowledge, skills, and abilities associated with the practice of Tattooing, Body Piercing, and Wax Technology.

Ms. Sweet reported that SME were asked to consider the role of the individual engaged in the practice, and that the examination specifications should reflect the knowledge, skills and abilities that each practitioner should possess in order to perform their role at a

sufficient level of competency, while ensuring public protection.

Ms. Sweet ended the report by fielding questions from the board members.

The Board recessed at 10:50 am and reconvened at 11:01 am

Break

The Board was informed that the regulatory process set by the APA was completed and the Wax Technician Regulations went into effect July 1, 2004.

Wax Technician Regulations

The Board was informed that the Governor approved the Hair Braiding Emergency regulations and the regulations went into effect July 1, 2004. Mr. Ferguson stated the proposed regulations are in Executive Review which consists of review and approval by the Department of Planning and Budget, the Secretary of Commerce and Trade, and the Governor; after which time the proposed regulations are published and there is a designated 60-day public comment period. All public comment is assimilated for the Board's consideration; after approval of final regulations, the regulations will go through Executive Review again and upon approval the regulations will be published in the Virginia Registrar and become final.

Hair Braiding Regulations

The Board was informed that the Governor approved the Tattooing Emergency regulations and the regulations went into effect July 1, 2004. Mr. Ferguson stated the proposed regulations are in Executive Review which consists of review and approval by the Department of Planning and Budget, the Secretary of Commerce and Trade, and the Governor; after which time the proposed regulations are published and there is a designated 60-day public comment period. All public comment is assimilated for the Board's consideration; after approval of final regulations, the regulations will go through Executive Review again and upon approval the regulations will be published in the Virginia Registrar and become final.

Tattooing Regulations

The Board was informed that the Governor did not approve the Body-Piercing Emergency regulations.

Body Piercing Regulations

The board took under consideration the Body-Piercing Emergency and Proposed regulations. The Board reviewed the revisions made to include body-piercing ear-only to the regulations.

Mr. Piper made motion to defer the vote on the Body-Piercing Emergency and Proposed regulations to the next Board meeting. Ms. Girardi seconded the motion. The members voting 'yes' were Mr.

Anders, Ms. Girardi, and Mr. Piper. The members voting 'no' were Mr. Do, Ms. Howard-Seldon, Mr. Howell, Mr. Quesenberry, and Ms. Sanders. The motion failed.

Mr. Quesenberry made a motion to adopt the Emergency Body-Piercing Regulations and defer the vote on the Proposed Body-Piercing Regulations until the next meeting and give staff the authority to make general revisions based upon Executive Review. Ms. Sanders seconded the motion. The members voting 'yes' were Mr. Anders, Mr. Do, Ms. Girardi, Ms. Howard-Seldon, Mr. Howell, Mr. Quesenberry, and Ms. Sanders. The member voting 'no' was Mr. Piper. The motion passed by majority.

The Board took under consideration resolutions of appreciate for past board members.

**Other Board
Business
Resolutions**

Mr. Anders made a motion to approve resolutions of appreciation for past members of the Board. Ms. Howard-Seldon seconded the motion. The members voting 'yes' were Mr. Anders, Mr. Do, Ms. Girardi, Ms. Howard-Seldon, Mr. Howell, Mr. Piper, Mr. Quesenberry, and Ms. Sanders. The motion passed unanimously.

The Board reviewed sanction guidelines created as a possible means to facilitate the process for resolving complaints; instead of conducting informal fact-finding conferences. The sanction guidelines were developed using the Board's history of actions on Consent Orders and Informal Fact-Finding Summaries/Final Orders.

Sanction Guidelines

Ms. Dugger stated the sanction guidelines were to issue a citation, depending on the severity of the violation and specifics of the each case. The case would still come before the Board to ratify and the Board would have the choice to hear the case based on the options available to the Board.

It was reported to the Board that preparations for the NIC Annual 2004 Conference to be held in Richmond, Virginia at the Omni Richmond Hotel on August 27-30, 2004, were on-going.

**NIC Annual 2004
Conference**

The Board recessed at 12:10 p.m. and reconvened at 12:38 p.m.

Break

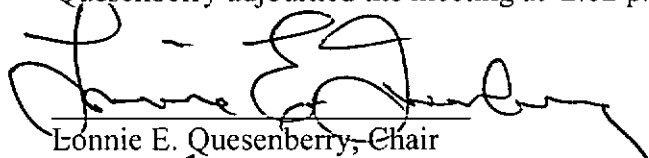
Ms. Karen O'Neal gave a training presentation on the roles and responsibilities of a board member. Ms. O'Neal went over the general board business, a board's authority, and a board's purpose. Ms. O'Neal concluded the training by fielding questions from the board members.

**Board Member
Training**

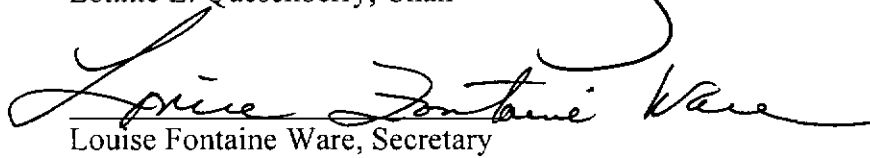
Ms. Girardi left the meeting at 1:15 p.m.

Ms. Girardi leaves

There being no other business to be brought before the Board, Mr. **Adjourn**
Quesenberry adjourned the meeting at 2:02 p.m.



Lonnie E. Quesenberry, Chair



Louise Fontaine Ware, Secretary

COPY TESTE:

Custodian of the Records