

BOARD FOR BARBERS & COSMETOLOGY

MINUTES OF MEETING

The Board for Barbers & Cosmetology met on Monday, February 28, 2005, 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
Gloria L. Howard-Seldon
Algie T. Howell, III
Lonnie E. Quesenberry
Virginia Lee Sanders

Board member not present: Janet E. Girardi

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

Louise Fontaine Ware, 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
Rashaun K. Minor, Administrative Assistant

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

Mr. Quesenberry determined a quorum was present and called the meeting to order at 9:13 a.m. **Call to Order**

Upon a motion by Mr. Anders and seconded by Mr. Howell the Board voted to approve the agenda as amended. The members voting 'yes' were Mr. Anders, Mr. Do, Ms. Howard-Seldon, Mr. Howell, and Mr. Quesenberry. There were no negative votes. The motion passed unanimously. **Approval of Agenda**

Upon a motion by Ms. Howard-Seldon and seconded by Mr. Do the Board voted to approve the minutes of the October 25, 2004 Board for Barbers and Cosmetology Board meeting, the November 3, 2004 Board for Barbers and Cosmetology Informal Fact-Finding Conference minutes, the November 18, 2004 Board for Barbers and Cosmetology Informal Fact-Finding Conference minutes, and the December 10, 2004 Board for Barbers and Cosmetology Informal Fact-Finding Conference. **Approval of Minutes for October 25, 2004 Board Meeting, November 3, 2004 IFF, November 11, 2004 IFF, and December 10, 2004**

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

Ms. Sanders arrives at 9:25 a.m.

Ms. Sanders arrives

Mr. Quesenberry asked if there was any public comment and because of the inclement weather public comment was received as participants arrived.

**Public Comment
Period**

Larry E. Hughes, of Lebanon, Virginia, was unable to attend today's meeting and submitted his comments in writing for the Board's consideration. Mr. Hughes' comments addressed the Proposed Body-Piercing regulation 18 VAC 41-60-170. Hours of instruction and performance. Mr. Hughes' concerns were the accessibility and the number of procedures required to be completed in the apprenticeship training curriculum requirements. Mr. Hughes suggested that the regulations require a set number of individual procedures for body-piercing and not to specify a set number for each type of body-piercing procedures.

Ms. Mariam Jensen, of Roanoke, Virginia addressed the Board regarding Micropigmentation. Ms. Jensen stated that she's a member of the Society of Permanent Cosmetics Professionals (SPCP) and the American Academy of Micropigmentation (AAM). Ms. Jensen stated that there is a difference between Micropigmentation and main stream tattooing. Ms. Jensen stated that apprenticing under a tattooer does not address her field of work. Ms. Jensen stated she does not place designs, letters, scrolls, figures, or symbols upon or under the skin of any person.

Ms. Jensen stated the AAM defines Micropigmentation as a separate specialty that involves the placement of colorants into the skin for the purpose of cosmetic enhancement, medical correction, and/or aesthetic restoration. Therefore, there is specialized training with unique standards required in order to perform Micropigmentation.

Ms. Jensen also stated that it is difficult to find approved training programs that specialized in Micropigmentation in Virginia. Ms. Jensen stated that the current Emergency Tattooing Regulations do not address those in the industry of permanent make-up for a means to obtain of licensure in this specialty field.

Mrs. Tammy D'Eramo, of Newport News, Virginia addressed the

Board regarding Micropigmentation. Ms. D'Eramo stated she is a certified Esthetician specializing in Micropigmentation and currently works for Dr. Mark Kanter, a plastic surgeon, at the Sentara CarePlex Hospital in Hampton, Virginia. Ms. D'Eramo stated she has performed over 500 permanent cosmetic procedures while working with Dr. Kanter.

Mrs. D'Eramo stated her purpose today is to educate the panel in the field of Micropigmentation and the specialized training required. Mrs. D'Eramo stated as a practitioner her expertise is in performing permanent makeup, facial enhancements on eyebrows, eyeliner, lip color as well as areola re-pigmentation in Mastectomy patients she does not tattoo designs on body parts.

Mrs. D'Eramo provided the Board with copies of information from other state boards that currently regulate Micropigmentation.

Mrs. D'Eramo stated that she has been extensively trained in the field of Micropigmentation and has not been trained as a tattoo artist. Mrs. D'Eramo stated that the way the statute is written, it lumps general tattooing in with permanent makeup allowing a tattoo artist to perform permanent cosmetic procedures without having any specialized training; this in itself is putting the public health and safety at great risk.

Mrs. D'Eramo stated she is not opposed to regulation; however, as the regulations are currently written they do not adequately address the permanent make-up industry.

Mr. Robert D'Eramo, of Newport News, Virginia addressed the Board regarding the Emergency Tattooing Regulations. Mr. D'Eramo stated that he is the husband of Tammy D'Eramo, who works in field of Micropigmentation in a Doctor's office. Mr. D'Eramo stated the definition in statutes incorrectly imposes tattoo regulations upon medical facilities. Mr. D'Eramo stated that the intent of this statute is to promote health safety issues in tattoo parlors, but the statute derives its definitions from a bill that was passed back in 1951, stating exemption was permitted for Doctors, Nurses and Veterinarians. Under the law, a highly trained technician like his wife, who is not a nurse, doctor, or vet is defined as a tattoo artist and a Doctor's office as a Tattoo Parlor.

Mr. D'Eramo stated that the Hampton Health Inspector visits his wife's work site every month and inspects for sterilization and sanitation, even though procedures are performed in a doctor's office.

The Hampton Sentara Careplex is a hospital not a tattoo parlor as the law implies.

Mr. D'Eramo stated there is a serious need for these issues to be addressed and asks the Board to exempt Doctor offices and clinical setting that perform Micropigmentation.

The Board recessed at 10:22 a.m. and reconvened at 10:43 a.m.

Break

In the matter of **File Number 2005-01640, Board v. Chi Le**, the Board reviewed the record, which consisted of the investigative file, transcript and exhibits from the IFF, and the summary and recommendation. Ms. Chi Le was present at the meeting and addressed.

File Number
2005-01640 Chi Le

Upon a motion by Mr. Do and seconded by Mr. Anders, the Board voted that Ms. Le failed to comply with all procedures established by the Board, and the testing service, with regard to her conduct at the examination, section 18 VAC 41-20-80.E, by violating the testing procedures in bringing notes into the testing environment and adopted the summary to deny the application.

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

In the matter of **File Number 2004-04695, Board v. OH Nails**, OH Nails knowingly and voluntarily waives any proceedings for this matter under the Administrative Process Act, §§ 2.2-4019, 2.2-4020, and 2.2-4021 of the 1950 *Code of Virginia*, as amended. OH Nails did not appear at the meeting in person, by counsel, or by any other qualified representative.

File Number
2004-04695 OH Nails

OH Nails signed a Consent Order acknowledging an understanding of the charges and admits to the following violations and consents to the following terms:

Count 1:	18 VAC 41-20-260.A	\$ 50.00
Count 2:	18 VAC 41-20-270.B.6	\$ 50.00
Count 3:	18 VAC 41-20-270.E.14	\$ 50.00
Count 4:	18 VAC 41-20-270.F.1	\$ 50.00
Count 5:	18 VAC 41-20-270.F.2	\$ 50.00
Count 6:	18 VAC 41-20-270.J	\$ 50.00

TOTAL: \$300.00

Upon a motion by Ms. Howard-Seldon and seconded by Ms. Sanders, the Board voted to accept the Consent Order.

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

In the matter of **File Number 2004-05095, Board v. Royal Nails**, Royal Nails knowingly and voluntarily waives any proceedings for this matter under the Administrative Process Act, §§ 2.2-4019, 2.2-4020, and 2.2-4021 of the 1950 *Code of Virginia*, as amended. Royal Nails did not appear at the meeting in person, by counsel, or by any other qualified representative.

File Number 2004-05095 Royal Nails

Count 1:	18 VAC 41-20-270.B.5	\$ 50.00
Count 2:	18 VAC 41-20-270.B.6	\$ 50.00
Count 3:	18 VAC 41-20-270.B.7	\$ 50.00
Count 4:	18 VAC 41-20-270.B.8	\$ 50.00
Count 5:	18 VAC 41-20-270.F.2	\$ 50.00
Count 6:	18 VAC 41-20-270.J	\$ 50.00

TOTAL: \$300.00

Upon a motion by Mr. Howell and seconded by Ms. Howard-Seldon, the Board voted accept the Consent Order.

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

In the matter of **File Number 2005-00757, Board v. Nail Trix** the Board reviewed the record, which consisted of the investigative file, transcript and exhibits from the IFF, and the summary and recommendation. Nail Trix did not appear at the meeting in person, by counsel, or by any other qualified representative.

File Number 2005-00757 Nail Trix

Upon a motion by Ms. Howard-Seldon and seconded by the Mr. Do the Board voted that there was clear and convincing evidence that Nail Trix violated the following sections of the Regulations.

Count 1:	18 VAC 41-20-120.A
Count 2:	18 VAC 41-20-280.A.5

Count 1: 18 VAC 41-20-240.A.1
Count 2: 18 VAC 41-20-280.B.1
Count 3: 18 VAC 41-20-280.B.2
Count 4: 18 VAC 41-20-280.B.2

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

Ms. Howard-Seldon was not present during the discussion or vote.

Upon a motion by Mr. Howell and seconded Mr. Do, the Board voted to accept the recommendations for count 1 and count 2 and to increase the monetary penalty for count 3 and count 4 citing the severity of the violations and imposed the following monetary penalties:

Count 1:	18 VAC 41-20-240.A.1	\$ 600.00
Count 2:	18 VAC 41-20-280.B.1	\$ 600.00
Count 3:	18 VAC 41-20-280.B.2	\$ 750.00
Count 4:	18 VAC 41-20-280.B.2	\$ 750.00

TOTAL FROM ALL FILE NUMBERS	<u>\$21,600.00</u>
-----------------------------	--------------------

The Board also imposed revocation of the cosmetology school license.

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

Ms. Howard-Seldon was not present during the discussion or vote.

In the matter of File Numbers 2004-01528, 2005-01958, 2004-01530, 2005-01959, 2004-01532, 2005-01960, 2004-01534, 2005-01961, 2004-01938, 2005-01962, 2004-02085, 2005-01963, 2004-022129, 2005-01964 Board v. Maria Francine Lee-Driver the Board reviewed the records, which consisted of the investigative file, transcript and exhibits from the IFF, and the summary and recommendation. Ms. Maria Francine Lee-Driver did not appear at the meeting in person, by counsel, or by any other qualified representative.

File Numbers 2004-01528, 2005-01958, 2004-01530, 2005-01959, 2004-01532, 2005-01960, 2004-01534, 2005-01961, 2004-01938, 2005-01962, 2004-02085, 2005-01963, 2004-02129, 2005-01964
Maria Francine Lee-Driver

Upon a motion by Ms. Sanders and seconded by Mr. Anders, the Board voted that there was clear and convincing evidence that Re-Ons Academy Inc violated the following section of its Regulations:

(Effective July 1, 2003)

Count 1: 18 VAC 41-20-240.
Count 2: 18 VAC 41-20-280.B.1
Count 3: 18 VAC 41-20-280.B.2
Count 4: 18 VAC 41-20-280.B.2

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

Ms. Howard-Seldon was not present during the discussion or vote.

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

Count 1:	18 VAC 41-20-240	\$ 600.00
Count 2:	18 VAC 41-20-280.B.1	\$ 600.00
Count 3:	18 VAC 41-20-280.B.2	\$ 600.00
Count 4:	18 VAC 41-20-280.B.2	\$ 600.00
TOTAL FROM ALL FILE NUMBERS		<u>\$16,800.00</u>

The Board also imposed revocation of the cosmetology instructor license and the barber teacher license.

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

Ms. Howard-Seldon was not present during the discussion or vote.

Ms. Howard-Seldon returns to the meeting.

**Ms. Howard-Seldon
returns**

The Board took under consideration the Emergency Body-Piercing Regulations, the Proposed Body-Piercing Regulations, and the Proposed Tattooing Regulations.

**Body Piercing
Emergency and
Proposed
Regulations and
Tattooing Proposed
Regulations**

Upon a motion made by Mr. Anders and seconded by Ms. Sanders the Board voted not to change the fees in the Body-Piercing Emergency and Proposed Regulations and Tattooing Proposed Regulations citing in order to maintain consistency with other regulations under the Board for Barbers and Cosmetology and without having a fee analysis to base such a change. The Board also voted that the Board initiate

regulatory review to conduct a fee analysis of all regulations under the Board for Barbers and Cosmetology.

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

Upon a motion made by Ms. Sanders and seconded by Ms. Howard-Seldon, the Board adopted the Emergency Body-Piercing Regulations, the Proposed Body-Piercing Regulations, and the Proposed Tattooing Regulations and gave Board staff the authorization to revise as deemed necessary by the Office of the Attorney General or Executive Branch Review.

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

The Board was informed that House Bill 2510, if signed by the Governor Warner, will require licensure for estheticians and be enacted in 2007, the Board's membership would increase from 8 to 10 members, beginning July 1, 2005.

House Bill 2510
Estheticians

The Board was informed that House Bill 1822 Day spas; definition, wine license for on-premises consumption does not affect the Board directly. This Bill creates a day spa license that allows wine on-premises for consumption and also defines day spa and sets the amount of state and local license taxes.

House Bill 1822
Day Spa

The Board was informed of House Bill 1850 Professions and occupations; availability of examinations in languages other than English did not pass.

House Bill 1850
Non-English
Examination

Upon a motion made by Mr. Howell and seconded by Ms. Sanders the Board voted to ask the testing vendor to pursue any options for offering exams in other languages without compromising the validity or security of the exams and report back to the Board.

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

Ms. Sweet reported that she received a request from a cosmetology instructor that the Board consider dropping the roller set from the practical portion of the cosmetology exam. Ms. Sweet reported that

Examination

passed exams had required the roller set and it is an option if the Board wishes to consider this request and add to it to the April agenda.

Ms. Sweet stated that National-Interstate Council of State Boards of Cosmetology (NIC) is planning to meet in Richmond the first week in August regarding the exam. Ms. Sweet informed the Board they are welcomed to attend this meeting.

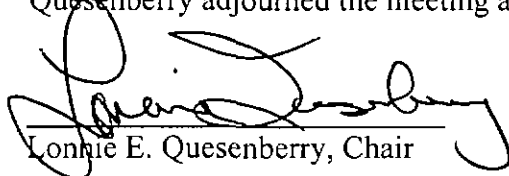
Mr. Anders reported on the National Association of Barber Boards of America 78th Annual conference held in Reno, Nevada September 18-23, 2004. Mr. Anders reported 47 delegates were present for the meeting and discussed methods of licensure, application, endorsement, schools, and hours of training. Mr. Anders reported many of the Boards are now combined Boards with Cosmetology.

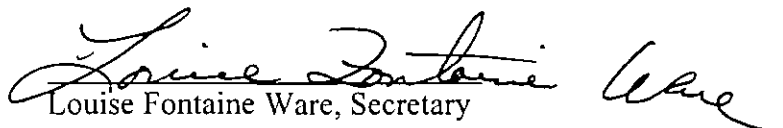
**National Association
of Barber Boards of
America**

Mr. Anders encouraged the Board to attend a meeting; he found it very educating and it provided helpful information. Mr. Anders stated the next annual conference is scheduled for September 17-22, 2005 in Myrtle Beach, South Carolina.

There being no other business to be brought before the Board, Mr. Quesenberry adjourned the meeting at 11:30 a.m.

Adjourn


Lonnie E. Quesenberry, Chair


Louise Fontaine Ware, Secretary

COPY TESTE:

Custodian of the Records

**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTEREST ACT**

TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of
State Government [§2.1-639.13(D)] and
Local Government [§2.1639.14(E)]

1. Name: Gloria Howard-Seldon
2. Title: Board Member - Virginia Board for Barbers and Cosmetology
3. Agency: Department of Professional and Occupational Regulation
4. Transaction: February 28, 2005 Board Meeting
5. Nature of Personal Interest Affected by Transaction: _____

6. I declare that:

(a) I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction: _____

(b) I am able to participate in this transaction fairly, objectively and in the public interest.

Signature: _____

Gloria Howard-Seldon

Date: _____

2/28/05

**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTEREST ACT**

TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of
State Government [§2.1-639.13(D)] and
Local Government [§2.1639.14(E)]

1. Name: Virginia Lee Sanders
2. Title: Board Member - Virginia Board for Barbers and Cosmetology
3. Agency: Department of Professional and Occupational Regulation
4. Transaction: February 28, 2005 Board Meeting
5. Nature of Personal Interest Affected by Transaction: _____

6. I declare that:

(a) I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction: _____

- (b) I am able to participate in this transaction fairly, objectively and in the public interest.

Signature: Virginia E. Sanders Date: 2/28/05

**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTEREST ACT**

TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of
State Government [§2.1-639.13(D)] and
Local Government [§2.1639.14(E)]

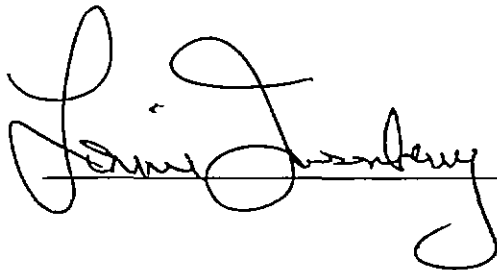
1. Name: Lonnie E. Quesenberry
2. Title: Board Member - Virginia Board for Barbers and Cosmetology
3. Agency: Department of Professional and Occupational Regulation
4. Transaction: February 28, 2005 Board Meeting
5. Nature of Personal Interest Affected by Transaction: _____

6. I declare that:

(a) I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction: _____

(b) I am able to participate in this transaction fairly, objectively and in the public interest.

Signature:



Date:

Feb. 28, 2005

**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTEREST ACT**

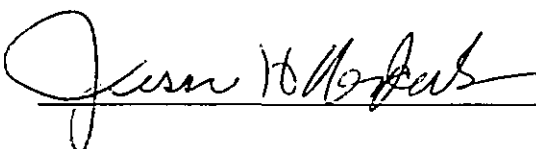
TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of
State Government [§2.1-639.13(D)] and
Local Government [§2.1639.14(E)]

1. Name: Jessie H. Anders
2. Title: Board Member - Virginia Board for Barbers and Cosmetology
3. Agency: Department of Professional and Occupational Regulation
4. Transaction: February 28, 2005 Board Meeting
5. Nature of Personal Interest Affected by Transaction: _____

6. I declare that:

(a) I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction: _____

(b) I am able to participate in this transaction fairly, objectively and in the public interest.

Signature:  Date: 2-28-05

**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTEREST ACT**

TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of
State Government [§2.1-639.13(D)] and
Local Government [§2.1639.14(E)]

1. Name: Algie T. Howell, III
2. Title: Board Member - Virginia Board for Barbers and Cosmetology
3. Agency: Department of Professional and Occupational Regulation
4. Transaction: February 28, 2005 Board Meeting
5. Nature of Personal Interest Affected by Transaction: _____

6. I declare that:

(a) I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction: _____

- (b) I am able to participate in this transaction fairly, objectively and in the public interest.

Signature:  Date: 2-28-05

**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTEREST ACT**

TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of
State Government [§2.1-639.13(D)] and
Local Government [§2.1639.14(E)]

1. Name: Hien Huu Do
2. Title: Board Member - Virginia Board for Barbers and Cosmetology
3. Agency: Department of Professional and Occupational Regulation
4. Transaction: February 28, 2005 Board Meeting
5. Nature of Personal Interest Affected by Transaction: _____

6. I declare that:

(a) I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction: _____

(b) I am able to participate in this transaction fairly, objectively and in the public interest.

Signature: _____

Date: _____

02/28/2005