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Summary of Minutes for TSBBE Board meeting  
Held July 12<sup>th</sup> & 13<sup>th</sup>, 2004  
5717 Balcones Drive Suite 217  
Austin, Texas

**Chairman William Kuykendall called the board meeting of the Texas State Board of Barber Examiners to order** at 3:05 pm. Members present were Chairman William Kuykendall, Ron Brown, Mary Lou Daughtrey, James Dickerson, San Juana (Janie) Garza, Terissa Johnson. Board member Janis Wiggins was not present. A quorum was present. Also present was Joe Pitner, Assistant Attorney General.

Staff present included: Glenn Parker, Executive Director; Jerry Daniels, Chief Financial Officer; Gloria Torres, Administrative Assistant for Enforcement.

**Mr. Kuykendall moved to Agenda item # 2**, Review and Approval of Minutes from Board Meeting of June 7, 2004. Mrs. Daughtrey and Mr. Dickerson requested minutes be correct to reflect their voting against accepting minutes from May 3, 2004 board meeting. Minutes were corrected. Mr. Kuykendall requested that minutes reflect that he prepared and submitted to the Executive Director a certified agenda for the executive session held on June 7, 2004. Minutes were corrected. Mr. Kuykendall instructed staff to include sufficient detail in minutes to reflect actions taken and a sense of discussions held. Mr. Dickerson moved to accept minutes as revised, Mr. Brown seconded, and minutes were approved by unanimous vote.

**Mr. Kuykendall moved to Agenda Item #3-** Public Comments. No one in the audience chose to address the board.

**Mr. Kuykendall moved to Agenda Item #4:** Consideration of and possibly take action on Agreed Orders (from Executive Director) for cases heard in Informal Hearings on June 14, 2004 and June 28, 2004. There was no Proposal of Decisions from SOAH.

The Board approved on a 5-1 vote (with Mr. Dickerson voting No) all the Agreed Orders presented by the Executive Director from Informal Conferences held on June 14, 2004 and June 28, 2004 for the following individuals:

1. Leo Butler, #43731: Operating Shop without license. Fine was dismissed.
2. April Pokluda, #59350: Expired license and expired permit. Fines upheld.
3. Bobby Tillman, #232793: Expired license, expired permit, employing unlicensed person. Upheld fines for expired license and expired permit. Dismissed fine for employing unlicensed person.
4. Ned Brooks, #229199: No shop permit. Fine dismissed.

5. Lala Lewis, #230322: Employing unlicensed barber. Fine reduced from \$500 to \$250.
6. Lydell Jones, #230322: Employing unlicensed barber. Fine reduced from \$500 to \$250.
7. Dorothy Patterson, #TCC 1000315: No shop permit. Fine dismissed.
8. Clifford Smith, #234359: Right of access. Fine reduced from \$500 to \$250.
9. Gilbert Gonzales, #53344: Employing unlicensed individual. Dismissed.
10. Kobra Dadfar, #219704: Expired shop permit. Fine reduced from \$100 to \$50.
11. Tina Wells, #562920: Right of access. Fine dismissed.
12. Tina Wells, #562920: Expired license and expired permit. Fines upheld.
13. Marc Hayes, #132857: Employing unlicensed person. Dismissed.
14. Marc Hayes, #132857: Expired shop permit. Fine reduced from \$100 to \$50.

Mr. Parker gave justification to the Board for his discretionary actions taken in the recommendations made to the Board in the Agreed Orders.

**Mr. Kuykendall moved Agenda Item #5:** Consideration of and possibly take action on Executive Director's report (general updates on agency operations).

- A. Agency implementation of audit recommendations. Mr. Parker reported that the agency continues to implement audit recommendations. Shop lists have been brought up to date and additional information added to show last shop inspection date and date the shop permit will expire. The agency is entering shop inspection reports within one week after receiving them – is caught up in that area for the first time in at least two years. Creating an effective inspection process is an ongoing effort. Financial controls are improved for handling cash and for creating the Annual Financial Report.
- B. Agency meeting with cosmetology staff re: sharing resources. Mr. Parker reported that, if a shared inspection system were to be created, he and the Executive Director of the Cosmetology Commission have agreed to create a system under which the state would be divided into regions with an inspector from the Barber Board or the Cosmetology Commission to inspect all shops in that region. Schools will still be inspected only by the respective licensing agency. Tentative date for implementation is September 1, 2004, if possible. May be later.
- C. The Attorney General's Office has not issued an opinion on the agency's request concerning the apparent conflict between the agency being required to renew licenses through the Texas Online Project while also being required to have licensees present a health certificate as a requisite for renewing a license.
- D. The agency is meeting with Texas Online to implement new requirements to allow shop permits and booth rentals to be renewed online. The target for implementation is September 1, 2004, but may be delayed because of the agency's request to be exempted from participation in Texas Online.

**Mr. Kuykendall moved to Agenda Item #6,** consideration of and possibly take action on agency reports. Mr. Parker and Mr. Daniels presented agency reports on financial operations, fines and receivables, enrollments, examinations, and the Third Quarter Performance Report. No exceptional items were noted except that the agency will not meet the performance

measures assigned for participation in Texas Online. This was as expected due to low usage of the internet by licensees and the requirement to present a health certificate.

**Mr. Kuykendall moved to Agenda Item # 7**, Consideration of and possibly take action on report and recommendation from Board Committee on Shared Resources with Cosmetology. Mr. Brown and Mr. Dickerson updated the Board on the meeting held with Cosmetology's committee. After extensive discussion, Mr. Kuykendall recessed the meeting until 9:00 a.m. on Tuesday, July 13, 2004.

The Board reconvened at 9:24 a.m. on Tuesday, July 13, 2004 and continued with discussion of Agenda Item #7. Mr. Dickerson made motion to authorize Mr. Parker with advice of subcommittee and with the ultimate ratification by TSBBE to enter into agreement with Texas Cosmetology Commission to start joint inspections by September 1, 2004, provided:

- a. Inspections cost the TSBBE no more than currently allotted for inspection.
- b. TSBBE inspection frequency is within the Board's guidelines.
- c. Mileage reimbursement rate of all inspectors are equal.
- d. Barber inspection standards are not adversely affected.
- e. Barber inspectors continue to inspect barber schools.
- f. Salaries of all inspectors and enforcement staff will be reviewed with intent to equal salaries.

Motion was seconded by Mr. Kuykendall, and passed unanimously.

**Mr. Kuykendall then moved to Agenda Item #8**, Consideration of and possibly take action on continued regulation of manicurists by TSBBE. The Board discussed why it regulates manicurists and observed that it is required by statute to do so. No action was taken.

**Mr. Kuykendall moved to Agenda Item # 9**, Consideration of and possibly take action to finally adopt rule changes to Texas Administrative Code, Title 22, Part 2, Chapter 51, Subchapter D, Rule § 51.98 to adopt new fees required by the Texas Online Authority. The motion to adopt rules as published in the Texas Register was made by Mr. Dickerson and seconded by Mrs. Daughtrey. New motion by Mr. Dickerson: apply for exemption from Texas Online fees for renewal of license that require a health certificate and not apply for exemption of license that do not require a health certificate. Mr. Kuykendall seconded the motion, all approved.

**Mr. Kuykendall moved to Agenda Item # 10**, Consideration of and possible take action to finally adopt rule changes to Texas Administrative Code, Title 22, Part 2, Chapter 51, Subchapter B. Rule § 51.12 to require new barber school or colleges to pay required inspection or re-inspection fees before inspections will be scheduled by the Board. Mrs. Daughtrey motioned to approve rule, Mr. Brown seconded all agreed no one opposed. Mr. Dickerson was out of the room during this vote.

**Mr. Kuykendall moved to Agenda Item #11**, Consideration of and possibly take action on possible changes to Rule 51.3 (Administrative Fees) to be proposed concerning eliminating required warnings for some categories of violations regarding sterilization and sanitization and replacing the 1<sup>st</sup> offense in those categories with fines. Mr. Brown made the motion to approve and Mr. Dickerson seconded. The motion passed unanimously.

**Mr. Kuykendall moved to Agenda Item #12**, Rule 51.93, Sanitation Rules for Footspas. Staff proposed amendments to Rule 51.93 to require specific sanitation procedures for cleaning footspas between customers, daily, and once each two weeks. Ms. Daughtrey moved to accept the proposed changes and Ms. Johnson seconded. Mr. Dickerson offered a friendly amendment to require that footspas not in compliance be taken out of use and not used again until they have been sanitized in accordance with the proposed amendments to the rule. The amendment to the motion was accepted and the motion carried unanimously.

**Mr. Kuykendall moved to Agenda Item #13**, Consideration of and possibly take action on proposal to establish Board Examination dates for 2005. Motion by Mrs. Daughtrey to accept specific dates on which to hold written and practical examinations, motion passed none opposed. Examinations will be held on the following dates (all of which are on a Monday):

January 10, 2005  
February 7, 2005  
March 7, 2005  
April 4, 2005  
May 2, 2005  
June 6, 2005  
July 11, 2005  
August 1, 2005  
September 12, 2005  
October 3, 2005  
November 7, 2005  
December 5, 2005

**Mr. Kuykendall moved to Agenda Item #14**, Consideration of and possibly take action on proposal to establish Board meeting dates for remainder of fiscal year 2004 and fiscal year 2005. Mrs. Daughtrey moved to accept dates all approved, no one opposed. The Board approved the following months for board meetings:

October, 2004  
January, 2005  
April, 2005  
July, 2005

Specific dates were not set, but board meetings will likely be held on the Monday afternoon following examinations and/or the Tuesday following the Monday on which examinations are conducted.

**Mr. Kuykendall moved to Agenda Item #15**, Consideration of and possibly take action on proposal to change Rule 51.1 (Regular Meetings and Examination) to eliminate the requirement that examinations and/or board meeting be held on days and months currently specified. The purpose of the proposed rule revision is to provisions of a rule that the board has not been following and to give the board more flexibility in scheduling board meetings and examination dates. Mr. Dickerson moved for approval, Mr. Kuykendall seconded, and the motion carried, all in favor no one opposed.

**Mr. Kuykendall moved to Agenda Item # 16,** Consideration of and possibly take action on Strategic Plan for fiscal year 2005-2006. Mr. Kuykendall requested that the Strategic Plan be edited to reflect that some licensees come from disadvantage socio-economic backgrounds. Board agreed and the Plan was edited. Ms. Daughtrey moved to approve the Strategic Plan, with edits, and was seconded by Mr. Dickerson. The motion carried unanimously

**Mr. Kuykendall moved to Agenda Item #17,** Consideration of and possibly take action on the Legislative Appropriations Request. Mr. Parker presented the LAR to the Board and informed the Board that all agencies were required to submit an LAR with a 5% reduction in baseline appropriations from the current biennium. A 5% reduction for the Barber Board is approximately \$30,000. If the funds are cut, the agency may have to eliminate one employee, probably from the enforcement function. Mr. Parker also informed the Board that the LAR contains “exceptional items” request to (1) restore the 5% cut; (2) increase funding to allow the agency to reimburse employees at current state rates for travel; (3) increase funding to allow agency to replace the current licensing and database system; and, (4) seek a rider to obtain specific appropriation authority to spend funds from the Tuition Protection Account, if necessary.

Mr. Dickerson made a motion to approve the LAR as written, Ms. Daughtrey seconded, and the motion passed unanimously.

**Mr. Kuykendall moved to Agenda Item #18,** Board to Convene in Executive Session for deliberation of personnel matter under 551.074 of the Texas Government Code including, but not limited to, consideration of Board self-evaluation and of Executive Director. Mr. Joe Shirley objected to the Board going into executive session to conduct a self-evaluation on the grounds that the Open Meetings Act does not allow executive session for that purpose. After discussion with Mr. Pitner, Mr. Kuykendall announced that the Board self-evaluation would be deferred to a future board meeting.

**Mr. Parker then requested that his evaluation by the board (Agenda Item #19)** be conducted in open session. Also, some board members had not completed their evaluations. Mr. Kuykendall postponed Mr. Parker’s evaluation to a future meeting. All papers and documents related to Mr. Parker’s evaluation will be open records.

The board then recessed from approximately 3:50 until 4:05. Upon reconvening, Mr. Kuykendall then addressed the Board to share some personal background information and board history.

No action was taken on Agenda Item #20, the Board’s legislative package.

Mr. Kuykendall adjourned the board meeting at 5:10 p.m.