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MINUTES BOARD MEETING JANUARY 6, 2003 *(Minutes are in Italics)*

1. Pursuant to Chapter 551 of the Texas Government Code, call to order and roll call by William H. Kuykendall, J. D., Chairman, Texas State Board of Barber Examiners (TSBBE).

Chairman Kuykendall called the meeting to order at 9:20 a.m. Board members in attendance were Wayne Moore, Janie Garza, and Ronald Brown. Mr. Hollister and Mrs. Wiggins were absent. Also in attendance were Douglas A. Beran, Executive Director, Jason Ray, Assistant Attorney General, in lieu of Assistant Attorney General Joe Pitner, Mary Feys, Administrative Technician II, and visitors Booker T. Spencer, Dawn Mills, William Wagner.

2. Read and possibly approve Board Minutes of November 5, 2002.

Mr. Moore made the motion, seconded by Mr. Brown, that the minutes be accepted. Mr. Kuykendall suggested changes to the minutes on items 13, 16, and 18. The suggested changes were seconded by Mrs. Garza. The amended minutes were approved unanimously.

3. Public Comment.

Chairman Kuykendall asked the visitors if they had any comments. They did not.

4. Discuss for possible action Proposals for Decision from the State Office of Administrative Hearings (September 23, October 22, November 12).

Chairman Kuykendall introduced the item and deferred to Dr. Beran who gave Board members a history of the three dockets. Mr. Moore made the motion, seconded by Mr. Brown, to accept the proposals for decisions and the final orders. The motion carried unanimously.

5. Discuss for possible ratification the Agreed Orders in the Matter of Assessment of an Administrative Penalty Against Certain Licensees in Cases Brought for Informal Hearings before the Executive Director (November 18, December 9, 2002).

Chairman Kuykendall introduced the item and deferred to Dr. Beran who gave the Board members an overview of the agreed orders. Dr. Beran also gave an overview of Mr. Penelton's violation and spoke on behalf of Mr. Penelton as requested by Mr. Penelton. Mr. Moore made the motion, seconded by Mrs. Garza, to accept the informal conference penalties. The motion carried unanimously.

6. Discuss for possible action regarding the adoption of proposed amendments to rule §51.93 Sanitation Rules for Barber Shops and Barber Schools and Colleges. The proposed amendments clarify that barber shops shall have not less than one sink per three (rather than two) chairs whereas barber schools/colleges shall have not less than one sink per two chairs. Proposed language is in [brackets]; deleted language is in (parentheses).

§51.93(b)(5): Washing facilities to be provided. Every such establishment shall be provided with suitable and adequate washing facilities for barbering services. Sinks or wash basins must be of nonabsorbent material and properly trapped, with not less than one sink per [three] (two) chairs [for barbershops and one sink per two chairs for barber schools/colleges].

Chairman Kuykendall introduced the item. Mr. Moore made the motion to adopt the changes, seconded by Mr. Brown. Mr. Moore then gave a history of the proposed amendments. The motion carried unanimously.

The Board agreed there is no grandfather provision in the adopted sanitation amendments.

The Board agreed that the rules/amendments adopted since the rulebook was published shall be distributed as follows:

a. One copy of the rules/amendments shall be sent to the schools with a note that the schools should copy the rules/amendments and distribute them to students who already have the rulebooks. The note also shall identify the applicable page numbers in the rulebook for the rules/amendments.

b. One copy of the rules/amendments shall be stapled in each rulebook that is purchased from the agency.

c. The sanitation rules shall be distributed to barber shops by the agency's inspectors and shall be inserted in each barber shop renewal for a length of time to be determined by staff. The insert shall be less than a full page and a bright color.

d. The nail certification rule shall be distributed to specialty shops by inspectors.

7. Update on License Renewal Using the Internet (TexasOnline).

Chairman Kuykendall introduced the item and Dr. Beran briefed the Board on a meeting staff had with representatives of TexasOnline and their plans for marketing TexasOnline. Dr. Beran and Margie Weaver noted TexasOnline will mail postcards to Barber Board licensees at renewal and will provide flyers for Board inspectors to distribute during their inspections and to insert in renewals.

Mr. Kuykendall suggested TexasOnline should facilitate an arrangement with a computer company such that barbers who do not have computers to access license renewal online could buy computers at a discount.

8. Consider for possible action what options are available to the Board and what procedures it can follow when it becomes aware of a pending/imminent school closure.

Chairman Kuykendall introduced the item and noted the recent school closures. Mr. Kuykendall deferred to Mrs. Garza who gave a history of the school closures and the circumstances encountered by students who had not completed their course work upon closure of the schools. She briefed the Board on the steps she took as a school owner to assist students who had attended a closed school.

Mr. Kuykendall asked Dr. Beran to brief the Board on the information he obtained from federal representatives. He noted that a student at an accredited school can attend another accredited school through a teach out if there is money left in the student's Title IV account. But, if the student were to transfer to a non-accredited school, none of the money in the student's account could be used to pay for the non-accredited school; the student would be a private-pay student and pay his own way. He noted the purpose of the Student Tuition Protection Account and Surety Bond is to refund unused tuition if a school closes. Those appear to contemplate private pay. The tuition at the accredited schools is paid by the federal government, so there is no language that the federal government is to be refunded for tuition. Can it then be used for students at the accredited school whose tuition was paid by the federal government but have an incomplete education? Dr. Beran suggested that the tuition protection account or the surety bond could be used by a student only if he were liable for some payment to the Department of Education. Still, that would be a refund to the federal government, which may not be the purpose of the tuition protection account or the surety bond. Thus, those students without a complete education would go to another school by scholarship or good will.

Board members discussed how the federal money is sent to the schools, spent by the schools, and refunded by the schools.

Mr. Kuykendall asked for an opinion from the Attorney General whether students that receive federal money versus students who pay their own tuition fall under the Student Tuition Protection Account and if the money can be used in the current fiscal year even though the board does not have appropriation authority for the account that now exists.

Chairman Kuykendall also directed Dr. Beran to file a claim with the company that issued the Surety Bond for the closed schools. The Assistant Attorney General concurred.

9. If needed and pursuant to §551.071 and §551.074 of the Texas Government Code, the Board may enter into Executive Session.

Chairman Kuykendall asked if there were any items for Executive Session. There were none. Mr. Kuykendall then asked if anyone wished to make a public comment. There was none.

Chairman Kuykendall adjourned the meeting at 3:15 p.m.