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MINUTES BOARD MEETING MARCH 3, 2003 (*Minutes are in Italics*)

1. Pursuant to Chapter 551 of the Government Code (Open Meetings), 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 1:55 p.m. Board members in attendance were Janie Garza, Ronald Brown, Janis Wiggins, Taren Hollister. Mr. Moore was absent. Also in attendance were Joseph Pitner, Assistant Attorney General, Douglas A. Beran, Mary Feys, Administrative Technician II (Director of Enforcement), and visitors William Wagner, Acres Home Barber College, Jack Rogers, Barber, and Johnnie Weaver, Barber.

2. Read and possibly approve Board Minutes of January 6, 2003.

Mrs. Wiggins made the motion, seconded by Mr. Hollister, that the minutes be approved. The motion carried unanimously.

3. Public Comment.

Mr. Kuykendall asked for comments from the visitors. There were none. Joe Shirley's e-mail was distributed to the Board members. Mr. Kuykendall asked the visitors for their comments on the state-mandated 7% budget reduction. Johnnie Weaver suggested there should be an answer for the whole state on the budget shortfall; he added that it is unfair that only 100 barbers have renewed online at a cost of \$20,000. Barbers cannot renew online because they have to send in a medical statement. That is an injustice to the barbers but a benefit to TexasOnline. William Wagner asked if the interest on the TexasOnline fund could not be given back to the Barber Board.

4. Review and discuss TSBBE's administrative fine report for 09/01/02 - 02/28/03.

Mr. Kuykendall introduced the item and deferred to Dr. Beran. He introduced Mary Feys, the Board's Director of Enforcement, who presented the report.

5. Consider for possible approval for publication and public comment the following proposed amendments to rule §51.98 State-Mandated Fee for Occupational Licensing Transactions Using the Internet. Proposed deletions are shown in (parentheses); proposed additions are shown in [brackets]. As requested by the TexasOnline Authority, the proposed amendments provide that all manicurists shall pay a \$3.00 fee to TexasOnline; by rule, barbers already pay a \$6.00 TexasOnline fee.

§51.98. As required by Senate Bill 187 and Senate Bill 645, 77th Texas Legislature, Regular Session, each licensee, upon renewal, shall pay (a \$6.00) [the following] State-Mandated Fee for Occupational Licensing Transactions Using the Internet [: \$6.00 for a barber; \$3.00 for a manicurist]. This fee is in addition to the renewal fee.

Mr. Kuykendall introduced the item and Dr. Beran and Glenn Parker (the Board's new Chief Fiscal Officer) gave the background to the proposed rule. After discussion, Mr. Hollister made the motion to approve the proposed rule for publication in the Texas Register, seconded by Mr. Brown. The motion carried unanimously.

6. Pursuant to the letter from Gov. Perry, Lt. Gov. Dewhurst, and Speaker Tom Craddick that agencies reduce their FY03 expenditures by 7%, review and discuss the TSBBE's budget for 09/01/02 - 02/28/03, the budget-cut memorandum sent to staff by the Executive Director, and any other budget-reduction options

Mr. Kuykendall introduced the item. Dr. Beran distributed the draft response to the request by the Governor's Office to portray Board members' attendance records and travel expenses for the past two calendar years. After discussion, the draft response will be changed such that travel expenses are attributed to the dates earned rather than the dates paid. Mr. Kuykendall and Dr. Beran briefed the Board on the discussions he, Dr. Beran, and Mr. Parker have had with the Texas Legislature regarding how the agency will achieve the 7% reduction and the reduction for the upcoming biennium. Dr. Beran then presented the steps the agency has taken to meet the 7% reduction and the documents presented to the Texas Legislature regarding the 7% reduction for the current year. The theme of those documents is the agency already is cost efficient. Mr. Kuykendall, Dr. Beran, and Mr. Parker briefed the Board on the legislative bills and appropriation bills that would impact the Board and the interactions they have had with the legislature regarding those issues. Board members expressed their willingness to travel for free and discussed other measures to meet the 7% reduction.

7. Given the 7% budget reduction (item #6 of the agenda), consider waiving, suspending, or modifying rule §51.12 Inspection of New Barber School or College. Also consider a policy that a proposed new barber school give the TSBBE a 60-day notice prior to the inspection. The rule reads as follows:

§51.12. Two board members or one board member and the board's executive director shall inspect a proposed new barber school or college to determine that it fulfills all requirements of the board and of the Texas Barber Law, §9.

Mr. Kuykendall introduced the item and explained the history of the item. Mr. Hollister made the motion to consider waiving or modifying a rule, seconded by Mrs. Garza. Mr. Brown made the motion to suspend the board rule for school inspections until the next regularly scheduled board meeting, seconded by Mr. Hollister. Mr. Kuykendall requested an amendment that the suspension would be in place until the next regularly called meeting, subject to reconsideration at that time. Mr. Brown accepted the amendment. The motion carried unanimously as follows: "The rule, section 51.12, is suspended considering the state's economic shortfall and deficit; that suspension shall continue until further review at the Board's next regularly called meeting and will expire at that time in the absence of an extension by the Board."

At Mr. Kuykendall's request, Dr. Beran briefed the Board on the 12 1/2% reduction for the next biennium.

The Board directed the Executive Director to send a letter to school owners and prospective school owners advising them that the Board needs reasonable notice, not less than three weeks, due to budget constraints, for school inspections.

8. Consider establishing an Executive Committee of the Board, consisting of the Board Chairman and Vice Chairman, to serve for the duration of the 78th Texas Legislature. Also consider delegating authority to the Board Chairman to make decisions, as Chairman of the Executive Committee, on behalf of the Board during the 78th Texas Legislature.

Mr. Kuykendall noted this item was placed on the agenda at his request and explained his rationale for the item.

After discussion, Mr. Hollister made the motion to establish an Executive Committee of the Board, consisting of the Board Chairman and Vice Chairman, to serve for the duration of the 78th Texas legislature and delegate the authority to the Board Chairman to make decisions, as Chairman of the Executive Committee, on behalf of the Board during the 78th Texas Legislature; the motion was seconded by Mrs. Wiggins. The motion carried unanimously.

9. Pursuant to Chapter 551 of the Government Code, the Board will go into executive session to consider the following:

- a. the revised teacher examination.
- b. if schools should be required to have their students countersign their progress reports
- c. pending or contemplated litigation

Upon conclusion of the Executive Session, the Board will return to the open meeting to take appropriate action on items 9a, 9b, and 9c.

At 3:28 p.m., the Board went into executive session. At 4:30 p.m., the Chairman called the Board back into open meeting.

With regard to 9a, Mr. Brown recommended tabling the examination until the Board has the funds to send the examination to the national testing service for revision. The Board agreed.

With regard to 9b, Mr. Kuykendall stated the Executive Director will write to the barber school owners reminding them to comply with rule 51.38 regarding the contents of the progress reports and attach a blank progress report form for uniformity to track information and determine its reliability.

With regard to 9c, Mr. Kuykendall notified the Board that the Townsend is postponed until November 2003 and requested the Executive Director to report, based on reasonable suspicion, any violations of rule or statute to the appropriate authorities. This is delegated to the current and future Executive Directors should any complaint be received of alleged criminal activity in the field or at a school. The Board's expectation is the Executive Director will exercise his/her best judgment to determine whether there is reasonable suspicion that a crime has occurred and forward a report to the proper authorities.

10. Adjourn

Mr. Kuykendall asked if there were any other comments from the audience. In response to a question from Mr. Wagner about the progress reports, Mr. Kuykendall stated that the Barber statute requires specific data and the Barber Board has received progress reports that do not contain all of the data. The Board's expectation is the data will be provided in the form of the Board's progress report so everyone will place the data in that format. If a school has a compelling reason not to use the format, then it should contact Dr. Beran.

Mr. Kuykendall adjourned the meeting at 4:45 p.m.