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**Summary of Minutes for TSBBE Board Meeting**  
Held October 4th & 5th, 2004  
5717 Balcones Drive Suite 217  
Austin, Texas

**Agenda Item #1:** Chairman William Kuykendall called the board meeting of The Texas State Board of Barber Examiners to order at 2:32 pm. Members present were Chairman William H. Kuykendall, Vice Chairman Ron Brown, and Board Members Mary Lou Daughtrey, Janie Garza, Terrisa Johnson, and Janis E. Wiggins. Board Member James Dickerson was not present. A quorum was present.

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** for July 12 & 13, 2004 board meeting. Review of minutes was deferred to October 5th to give board members more time to review. (Minutes were reviewed, corrected, and accepted on October 5, 2004.)

**Mr. Kuykendall moved to Agenda item 3 - Signatures for Certificates of Appreciation** for former board members Taren Hollister and Wayne Moore, for former executive director Dr. Douglas A. Beran., and for barbers being recognized for years of service to the people of Texas.  
Discussion: regarding signature on certificates, who should sign Executive director or by the board. Wait till Nov. meeting to see amount of certificate, will discuss at next meeting.

**Mr. Kuykendall moved to Agenda item 4 - Public Comments**

Mr. Roland Finch, a barber from Brownwood, Texas, expressed concerns about the Sunset recommendation. He represents about 35 barbers in his area. He does not want to be joined with cosmetology and wants to stay as barbers. Wants to be inspected by a board that understands the barber profession.

Ms. Owens, a barber from Austin, expressed concerns about shared inspection regarding cosmetology inspectors understanding barber rules.

Mr. Joe Shirley, a barber from Coppell, Texas, stated his opposition to merging inspections on the grounds that merging will not benefit barbers, the Barber Board, or the Cosmetology Commission. He recommended postponing the implementation of the shared inspections program until the legislative session. Mr. Shirley also stated his opposition to proposed rules that would require shop owners to purchase statute and rule books. Mr. Shirley stated that he had requested in the past that board minutes be posted on the agency website, and that announcements of proposed and adopted rule changes be posted as well.

Mr. Finch, who also owns a print shop, suggested that, when the Rule book is reprinted, that the rules be printed on loose leaf paper so that changes can easily be made as new rules are adopted or amended.

**Mr. Kuykendall moved to Agenda item 5 - . Consideration of and possibly take action on Executive Director's Report.**

Mr. Parker gave the Board an update on the status of the shared inspections program. A contract is not ready at this point. Mr. Parker has been asked to give Cosmetology more specific instruction as to when to write a ticket for hair on the floor. Mr. Parker is in the process of writing a manual to be used to inspect our licensees.

Comments from public:

Mr. Finch: Had question regarding current hair style. Barbers do not have as much hair on floor as a cosmetologist does with one hair cut.

Mrs. Owens: would like board to make sure barbers are protected. Protect what we have had and not compromise our profession. Mr. Kuykendall says some compromise has to be, and that the Board will do anything reasonable to maintain policy. One of the points of the agreement between the agencies is that licensees will continue be inspected according to rules that applies to them - barber's under barber rules and cosmetologists under their rules.

Mrs. Owens also had a comment on shaving. She wants to make sure cosmetology inspects under our rules. The issue was addressed at joint meeting of barber and cosmetology inspectors.

Mr. Shirley stated his opinion that the Board should pay attention to sanitization issues such as blood borne diseases vs. smaller concerns such as hair on the floor. Mr. Shirley also expressed his concern that some barbers will be inspected by cosmetology employees who are not barbers.

Mr. Parker also informed the Board that the agency does not conduct background checks on applicants. Therefore, the agency does license some felons or others with some problems in their histories. Rule 51.83 says that the Board may suspend or revoke a license, refuse to issue or deny opportunity to take the exam if the person has been convicted or misdemeanor which directly related to responsibilities and duties of barbering. Also, a bill passed in last the 78th legislative session that authorized us and other licensing agencies to collect a fee from every applicant to pay for background checks. The Board has not taken any action to implement background checks. The Board is aware of the fact that a number of applicants have some sort of misdemeanor or criminal background. As of this moment we are not doing a back ground check, nor denying anyone the opportunity to take exam. There are no questions on any of our forms that ask about criminal convictions or background. Mr. Kuykendall suggested that information could be collected and brought to the Board for a decision on a case-by-case basis. Mr. Parker noted that a formal process would have to be put in place to treat all applicants equally and fairly, not just to pick certain people for background review.

Mr. Parker reviewed for the Board the status of the agency's implementation of the audit recommendations that were made in the Fall of 2003. He also informed the Board that the State Auditor's Office would be conducting a follow-up audit before the beginning of the 79th legislative session in January, 2005. Mr. Parker stated that he testified before the Senate finance committee headed by Senator Ogden at a recent meeting. Senator Ogden asked the state auditors to conduct the follow-up audits for the Barber Board and the Cosmetology Commission.

Mr. Parker also informed the Board that the agency does not yet have a true risk-based inspection process in place because of a lack of resources. The agency data base needs to be replaced. It is not possible for the current system to connect tickets issued with the shops in which the violations occurred. Mr. Parker has taken steps to move toward a true risk-based system, including adding fields to the Shop Inspection List to show the last date a shop was inspected, the last date a shop inspection was attempted, and the date the shop permit expires. The implementation of an effective enforcement system and a risk-based inspection system will have to be implemented in increments as resources allow.

Mr. Parker reported that good progress has been made in addressing the audit recommendations in regard to financial issues. Mr. Jerry Daniels will complete the Annual Financial Report for FY 2004 4-6 weeks ago of schedule as part of a pilot project with the Comptrollers Office. Also, a new system has been implemented to achieve a better separation of duties in handling incoming payments for license renewals, etc. and the three-day deposit rule is being met. Mr. Parker informed the Board that he is most concerned about the collection of fines. Mr. Parker, Mr. Daniels, and Ms. Torres are working to collect and organize the necessary information to begin a systematic effort to collect fully adjudicated outstanding fines and penalties.

Mr. Parker gave the Board an update on the status of Texas Online projects. Since the last board meeting, we asked to be exempted from all Texas Online processes completely. Or, if they would not do that, to exempt us

from things requiring a health certificate in order to renew license or from having to implement the issuance of original licenses through Texas Online. The Texas Online authority did not grant either exemption request for us but they did allow us to be exempted from implementing some additional things they had originally schedule us to implement this year, including issuing original shop permits on line.

Concerning legislative hearings and possible activity before January, 2005, Mr. Parker reported on two hearings that he had attended. (1) A Senate Finance Committee hearing concerning the agency's Legislative Appropriations Request (LAR); and (2) A meeting of the House Appropriations Regulatory Subcommittee. The purpose of the House Committee meeting was to check on how agencies are doing during the current biennium. Chairman Ruben Hope asked if we had any interest in continuing education and asked the Texas Department of Licensing & Regulation (TDLR) if they were prepared to take on some more agencies such as the Barber Board and the Cosmetology Commission if they are asked.

Mr. Parker also noted that the Sunset Commission has made it recommendations. The next thing is for a bill to be drafted that will reflect their recommendations. The bill will show what Sunset recommended, i.e., to abolish the Barber Board and Cosmetology Commission and create a new agency. Mr. Brown and Mr. Kuykendall led a discussion of possible courses of action that the Board could take in regard to the upcoming legislative session. Some identified options are: (1) Not to engage at all and see what comes out of the legislature session; (2) Wait until the Sunset Bill comes out of the Legislative Council, and give input at that point; or (3) Work with the Sunset Commission and other legislative leadership to let them know what the Barber Board believes are the most reasonable options and the pros and cons of the various recommendations.

Mr. Parker informed the Board that the most recent agency Personnel Manual was revised in March, 2000, and that the Board Governance policies in the Handbook are the most current. Copies were distributed to all Board members.

Mr. Parker also discussed the Risk Assessment Report. He noted that legislative requirement to file a report and that large agencies have internal audit departments to help assess risks to the agency. Small agencies such as ours have been exempted by the State Auditor's Office from having to conduct an in-depth assessment. The SAO created a worksheet that small agencies can fill out to evaluate different risks in things that we do in all areas of the agency, from enforcement to licensing to accounting.

**Mr. Kuykendall moved to Agenda Item 17. Consideration of and possibly take action to propose an amendment to Rule 51.5 (Good Standing Required for License Renewal)** to specify that the Board may suspend a license or permit for certain causes including but not limited to the failure to pay a fine or penalty in full within a specified time period from the date that the Board approves an Agreed Order from the Executive Director or a Proposal For Decision from the State Office of Administrative Hearings in which the fine and/or penalty is upheld or assessed, or the accumulation of a certain number of fines within a specified time period. The Board would be required to notify the license or permit holder of its intention to suspend the license or permit and the holder would have the right to a hearing at the State Office of Administrative Hearings before the license or permit could be suspended.

Ms. Daughtrey made a motion to accept the rule change to rule 51.5 to read administrative fines and penalties shall be paid in full within 90 days of licensee being notified in writing of the boards final approval of an agreed order from Executive Director or final approval of proposal for a decision from an ALJ of the State Office Administrative Hearings. The motion was seconded by Ms. Garza. The motion carried unanimously.

Mrs. Daughtrey made a motion to reconsider and amend to amendment re: 90 day period and making it a 30 day period. Mr. Kuykendall seconded and motion passed unanimously.

**Mr. Kuykendall moved to Agenda Item 6. Consideration of and possibly take action on agency reports,** including but not limited to:

Financial Operations Report for Fiscal year 2004  
Agency Operations Budget for Fiscal Year 2005  
Report on School and Enrollments for Fiscal Year 2004  
Report on School and Enrollments for Fiscal Year 2005  
Report on Barber Examination for Fiscal Year 2004  
Report on Barber Examination for Fiscal Year 2005  
Report on Fines and Receivables for Fiscal Year 2004

Mr. Daniels gave reports on the agency's financial operations, appropriations and expenditures by month. No Board action was taken.

**Mr. Kuykendall moved to Agenda item 12 - Consideration of and possibly take action to adopt a revised interagency contract with the Texas Cosmetology Commission** to include a new provision whereby inspectors employed by either agency are empowered to conduct inspections of shops and individuals licensed by either agency.

Mr. Parker reported that we do not have a new shared inspection contract at this time.

**Mr. Kuykendall moved to Agenda Items 9, 10, and 11 - second reading of proposed rule changes.** All were published in the Texas Register at least 30 days ago, and no comments have been received from the public.

**Agenda Item #9 - Consideration of and possibly take action for final adoption of proposed changes to Rule 51.3 (Administrative Fines)** to eliminate required warnings for first offenses on some categories of violations related to health or sanitation concerns and to replace them with fines.

**Agenda Item #10 - Consideration of and possibly take action for final adoption of proposed changes to Rule 51.93 (Sanitation Rules) and Rule 51.3 (Administrative Fines)** to require regular, documented sanitation procedures for equipment and baths used for pedicures and/or manicures and to impose fines for violations as appropriate.

**Agenda Item #11 - Consideration of and possibly take action for final adoption of proposed changes to Rule 51.1 (Regular Meetings and Examinations)** to eliminate the requirement that examinations and/or board meetings be held on days and months currently specified in Rule 51.1. The purpose of the proposed changes is to give the Board more flexibility in conducting board business and administering examinations.

Mrs. Daughtrey made a motion to pass all three agenda items as stated. The motion was seconded, and was approved unanimously.

**Mr. Kuykendall moved to Agenda item 13 - Consideration of and possibly take action to propose an amendment to Rule 51.93(e) (Sanitation Rules...)** to require that each chair or station in a barbershop have its own jar or container of liquid sterilizer for use in sterilizing combs, brushes, clipper guards, and other implements between use and that combs, instruments, or equipment must be totally immersed in the solution. In addition, solution must be clean.

Discussion ensued concerning keeping the sterilizer clean and free of hair and debris, and that the solution shall be replaced when liquid becomes dirty. The Board suggested to Mr. Parker that the item be reworded to require that the solution be replaced in accordance with manufactures instruction. The proposed amendment was tabled with instructions to bring back the following day, which it was (see below).

The Board recessed at 5:04 p.m. on Monday, October 4, and reconvened at 9:12 a.m. on Tuesday, October 5, 2004.

**Mr. Kuykendall moved to Agenda item 7 - Consideration of and possibly take action on Agreed Orders** (from Executive Director) for cases heard in Informal Hearings on July 19, 2004, August 23, 2004, and September 20, 2004 for the following individuals:

- A. July 19, 2004 Informal Conferences
  1. Anthony Hines, File #227809
  2. Jennifer Hill, File #96693
  
- B. August 23, 2004 Informal Conferences
  1. Eugene Braun, File #45703
  2. Kazeem Robana Albankudi, File #TCC 1099814
  3. Warner Horton, File #2231322
  4. Patrick Cooksey, File #218229
  5. Duwayne Brown, File #220647

C. September 20, 2004 Informal Conferences

1. Regina Jefferson, File #TCC 978425
2. Sigdalia Gutierrez, File #223346
3. Huong Lan Le, File #238963
4. Jeremy McLin, File #224377

Mr. Parker gave a brief statement of the justification for discretionary action on agreed orders.

Mr. Brown moved to approve, and was seconded. The motion carried unanimously.

**Mr. Kuykendall moved to Agenda Item 8. Consideration of and possibly take action on Proposals for Decisions (PFD) from State Office of Administrative Hearings for SOAH hearings held on May 17, 2004 and June 21, 2004.**

May 17, 2004 SOAH Hearings

PFDs With Recommendations to Uphold:

1. Edgar Falcon, SOAH Docket #502-04-5101.W
2. Sherla Gordon, SOAH Docket #502-04-5102.W
3. Tavares Demont Hansboro, SOAH Docket #502-04-5103.W
4. Rufus Wayne Warren, SOAH Docket #502-04-5109.W
5. Jarvis Terrell Oaks, SOAH Docket #502-04-5110.W (1601.402)
6. Sherie La Ruth, SOAH Docket #502-04-5111.W
7. Christopher Henderson, SOAH Docket #502-04-5112.W
8. Vicki Diane Loeve, SOAH Docket #502-04-5113.W

PFDs With Recommendations to Dismiss:

1. Gregory P. Hendricks, SOAH Docket #502-04-5104.W
2. Edward Lawrence, SOAH Docket #502-04-5105.W
3. Jarvis T. Oaks, SOAH Docket #502-04-5110.W (1601.408)

June 21, 2004 SOAH Hearings

PFDs With Recommendations to Uphold:

1. Torace Latrelle Davis, SOAH Docket #502-04-5446.W
2. Norvell Montgomery, SOAH Docket #502-04-5458.W
3. Adja Guege, SOAH Docket #502-04-5450.W
4. Chad Eugene Hood, SOAH Docket #502-04-5454.W
5. Devone T. Gaskin, SOAH Docket #502-04-5448.W
6. Dominique Sherrard, SOAH Docket #502-04-5463.W
7. Joel Moor, SOAH Docket #502-04-5459.W
8. Andre Hargrove, SOAH Docket #502-04-5451.W
9. Alfred Williams, SOAH Docket #502-04-5467.W
10. Vickie Lacy, SOAH Docket #502-04-5457.W
11. Richard Pickens, SOAH Docket #502-04-5460.W
12. Debra Trotter, SOAH Docket #502-04-5466.W
13. Anthony Ifeanyi, SOAH Docket #502-04-5455.W
14. Corey Hartley, SOAH Docket #502-04-5452.W
15. Van McKeith Frank, SOAH Docket #502-04-5447.W
16. Marcus Richard, SOAH Docket #502-04-5461.W
17. Marcus Green, SOAH Docket #502-04-5449.W
18. Leona Nicole Sasser, SOAH Docket #502-04-5462.W

PFDs With Recommendations to Dismiss: None

Mr. Brown made a motion to adopt PFDs from SOAH hearings and was seconded. The motion carried unanimously.

**Mr. Kuykendall moved to Agenda item 14 - Consideration and possibly take action to propose new rule 51.91 responsibility of shop owner / manager** on shop permit regarding individual without a license or expired who practice barbering in the shop and to amend rule 51.3 administrative fine. And 51.141 definitions.

The Board approved the proposed new Rule 51.91 and moved to a discussion of the proposed definitions for Rule 51.141, which attempted to define the terms “expired license”, “inactive license”, and “unlicensed”. Discussion ensued. Mr. Parker withdrew the proposal for definitions, to spend additional time to work on them. Mr. Kuykendall appointed a Rules Committee to be made up of Board members Kuykendall, Brown, and Daughtrey.

**Mr. Kuykendall moved to Agenda Item 13 - Consideration of and possibly take action to propose an amendment to Rule 51.93(e) (Sanitation Rules)** to require that each chair or station in a barbershop have it’s own jar or container of liquid sterilizer for use in sterilizing combs, brushes, clipper guards, and other implements between use and that combs, instruments, or equipment must be totally immersed in the solution. In addition, solution must be clean.

(e) Cleaning and Disinfecting

A container of liquid sterilizer shall be located at each barber chair or station in a shop , school, or college to be used to disinfect or sterilize combs, brushes, scissors or other equipment described in 51.93 (C), (1), above, which may be safely immersed in a liquid sterilizer. Equipment and tools to be placed in the liquid sterilizer shall first be cleaned by wiping, brushing or by running water over the implement to remove hair and other contaminants before being immersed in the liquid sterilizer. The liquid sterilizer shall be kept reasonably free of hair and other debris and shall be replaced when the liquid becomes dirty.

A disinfectant, germicide, or bactericide used shall be approved by the Environmental Protection Agency and used according to label instructions. When not in use, or when not in a liquid sterilizer, instruments shall be placed in dry disinfectant equipment or under germicidal ultraviolet light. Metallic instruments with a cutting edge shall be disinfected after proper washing by wiping carefully with a clean cotton pad saturated with a 70% ethyl alcohol; solution, or clipper blades may be disinfected with spray-type disinfectants approved by the Environmental protection Agency.

Mrs. Daughtrey made motion to accept, with changes in definitions made by Mr. Brown in addition to the changes of “may” to “shall” as identified. Mr. Brown seconded. Motion carried unanimously.

**Mr. Kuykendall moved to Agenda Item 15 - Consideration of an possibly take action to propose an amendment to rule 51.16(a)** to clarify that it is the broad’s requirement that each student who enrolls in a barber school be issued for permanent retention by the individual hi or her own set of books purchased by the school or the student from the TSBBE that contain the applicable Texas State Statutes and TSBBE board Rules governing the practice of barbering, and related occupations as regulated by the Board of Barber Examiners. The proposed rule would further clarify that each new student is to issue a new set of books upon enrollment and is to keep ownership possession of the books permanently and is not to return the books to the school. The executive Director would be empowered to adopt procedures ensuring the enforcement of the proposed rule changes.

Mr. Parker recommended that rule 51.16(a) be amended to read as follows:

(a) A barber school or college shall furnish each student within seven days of the student[’]s enrollment his or her own copy of the current hand books published by the board containing the laws, rules, and regulations governing the practice of barbering. It is the intent of the board that each student retains permanent ownership of the books so that he or she will have ready access to and be knowledgeable of the laws and rules that regulate barbering. The Executive Director shall implement the necessary operating procedures and requirements to ensure that all schools purchase and distribute the books in compliance with the intent of the board.

Mr. Brown moved to adopt 51.16 (a) amended as posted with changes; motion was seconded, and passed unanimously.

**Mr. Kuykendall moved to Agenda Item 16 - Consideration of and possible action to propose an amendment to Rule 51.77 (Barber Shop Permit) and to rule 51.97 (Booth Rental Permit)** to require that the permit holders(s) for barber shops, specialty shops, and independent contractors (booth rental) purchase current copies of the Statutes and Rules Booklets whenever an original shop permit or booth rental permit is issued and whenever a shop permit or booth rental permit is issued and whenever a shop permit or booth rental permit is

renewed ,and to keep the Statutes and Rules booklet on site in the shop or booth. The Executive Director would be empowered to adopt procedures ensuring the enforcement of the proposed rule changes.

Mr. Parker proposed that Rule 51.77 be amended as follows:

Applicant for an original barbershop or specialty shop permit and applicants for the renewal of a barbershop or specialty shop permit shall purchase from the board at the time they submit their permit applications a copy of the current statute and rules published by the board containing the laws, and rules, and regulations governing the practice of barbering. And make the laws and rules publication available for review to individuals in barber shop and specialty shop.

Mr. Brown made motion to approve and Mrs. Garza seconded. Motion passed unanimously.

Mr. Parker proposed that Rule 51.97 be amended as follows:

(e) Applicants for an original booth rental permit and applicants for the renewal of a booth rental permit shall purchase from the board at the time they submit their permit applications a copy of the statutes and rules published by the board containing the laws and rules governing the practice of barbering.

Motion for approval was made by Mr. Kuykendall and seconded by Mrs. Garza. The motion passed unanimously.

**Mr. Kuykendall moved to Agenda Item 2- Approval of minutes for July 12-13, 2004.** Mr. Brown noted error in Agenda Item #7 e. Should Read Barber inspectors continue to inspect barber schools instead of barber shops. Minutes were corrected. Mr. Kuykendall noted some grammatical errors in minutes, which were corrected. Other corrections were as follows:

Agenda Item #6, Mr. Kuykendall, change “move” to “moved.”

Agenda Item # 16 was changed to read:

*Consideration of and possible 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 disadvantaged socio-economic backgrounds. Broadly 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.*

Agenda Item # 19 Changed to read

*Mr. Parker then requested that his evaluation by the board be conducted in open session, as is his right under the Open Meetings Act. Mr. Kuykendall reminded Mr. Parker that an evaluation might contain some criticisms or comments better conducted in an executive session. Mr. Parker said that his salary is published in the Appropriations Act and he is subject to frequent public criticism at legislative hearings. . Mr. Kuykendall postponed Mr. Parker’s evaluation to a future meeting and to allow Board members to complete evaluations.*

In addition, the following change was made:

*The Board then recessed from approximately 3:50 until 4:05. Upon reconvening, Mr. Kuykendall announced that he would like to address the Board to share some personal background and board history information to help fellow board members get to know each other a little better.*

Mr. Brown Made the motion to approve the minutes as corrected and Mr. Brown seconded. Mrs. Daughtrey opposed the changes to the minutes of the July meeting.

Mr. Kuykendall adjourned the board meeting at 4:15 pm