



NORTH CAROLINA STATE BOARD OF BARBER EXAMINERS

www.ncbarbers.com • info@ncbarbers.com
Telephone (919) 981-5210 • Fax (919) 981-5068

Minutes for Public Meeting

Held October 24, 2017, at 8:30 a.m.
5809 Departure Drive, Suite 102
Raleigh, North Carolina

Board Members

Don Beal, Chair
Jamie Norton, Vice Chair
Gary Gardner
Steffon Sharpless
Valerie Willis

Executive Director

Dennis Seavers

Counsel to the Board

Palmer Sugg

The meeting of the North Carolina State Board of Barber Examiners was called to order at 8:34 a.m., on October 24, 2017, at the board's office at 5809 Departure Drive, Suite 102, Raleigh, North Carolina.

The following board members were present during the meeting: Don Beal, Jamie Norton, and Steffon Sharpless (by telephone). The following board members were absent: Gary Gardner and Valerie Willis.

Also in attendance were Dennis Seavers, Executive Director, and Palmer Sugg, Counsel to the Board.

OPEN SESSION

Ethics awareness and conflict of interest

Mr. Beal read the statement required by N.C.G.S. § 138A–15(e) on ethics awareness and conflicts of interest. No board members indicated that they had any potential or actual conflicts.

Minutes from previous meeting

Mr. Sharpless made a motion to approve the minutes from the August 21, 2017 meeting. Mr. Norton seconded the motion, which passed, 3–0.

Complaint report

Mr. Beal referred board members to Mr. Seavers's October 16, 2017 complaint report (see Attachment 1). Mr. Seavers explained that the board only needed to take action if the board wanted to reopen a dismissed complaint. The board took no action.

Proposed rulemaking

Mr. Beal referred board members to Mr. Seavers's October 6, 2017 memo recommending rule changes to increase the number of retail spaces that would qualify for barbershops (see Attachment 2). Mr. Sharpless made a motion to propose the rule amendments, and Mr. Norton seconded. The motion passed, 3–0.

Audit and financial statements

Mr. Beal referred board members to the board's financial statements and related audit reports for fiscal year 2017. Mr. Seavers offered an overview of the statements and answered questions from board members. Mr. Norton made a motion to adopt the financial statements, and Mr. Beal seconded. The motion passed, 3–0.

Online barber classes

Mr. Beal referred board members to Mr. Seavers's October 11, 2017 memo about online classes for barber schools (see Attachment 3). Mr. Sharpless made a motion to adopt the proposed implementation steps, and Mr. Norton seconded. The motion passed, 3–0.

Supervision requirement for apprentices

Mr. Beal referred board members to Mr. Seavers's October 10, 2017 memo that discussed various policy options for the supervision requirements for apprentices (see Attachment 4). Mr. Norton made a motion to adopt option 3 (i.e., no change to the existing requirement). Mr. Sharpless seconded the motion, which passed, 3–0.

Merger with the North Carolina Board of Electrolysis Examiners

Mr. Seavers discussed the status of merger discussions between the Board of Barber Examiners and the Board of Electrolysis Examiners. The board expressed its preference to maintain some proportional representation on the newly merged board—keeping the four barber members and public members, with one to two representatives from the community currently regulated by the Board of Electrolysis Examiners or a physician member. The board deferred to the Board of Electrolysis Examiners to recommend the qualifications for its one or two members.

Administrative hearings

Bobby J. Erwin had received a violation for operating a barber shop without first filing for a barber shop permit. He subsequently received a probable-cause letter assessing civil penalties and fees for the violation. He submitted a timely appeal of the violation and appeared at the hearing in person. Mr. Sugg presented evidence to the board and asked Mr. Erwin questions. Randy Wilson, a board inspector, was present and answered questions. Mr. Erwin presented evidence in support of his appeal and answered questions from the board members.

Theron A. McAlmon had received a violation for operating a barber shop without first filing for a barber shop permit. He subsequently received a probable-cause letter assessing civil penalties and fees for the violation. He submitted an appeal of the violation and appeared at the hearing in person. Mr. Sugg presented evidence to the board and asked Mr. McAlmon questions. Joanna Lewis, a board inspector, was present and answered questions. Mr. McAlmon presented evidence in support of his appeal and answered questions from the board members.

Felony petitions

The following applicants were given notice to appear before the board but failed to appear: George A. Brown III and Jorge Thornton.

The North Carolina Department of Public Safety (NCDPS) had submitted documentation in support of Dusty L. Cameron receiving a registered barber license. Sophia Feaster of NCDPS presented information about Mr. Cameron's record and offered testimony in support of Mr. Cameron.

NCDPS had submitted documentation in support of Djuan A. Huey receiving a registered barber license. Ms. Feaster presented information about Mr. Huey's record and offered testimony in support of Mr. Huey.

NCDPS had submitted documentation in support of Samuel L. McSwain receiving a registered barber license. Ms. Feaster presented information about Mr. McSwain's record and offered testimony in support of Mr. McSwain.

NCDPS had submitted documentation in support of Manuel S. Mendoza receiving a registered barber license. Ms. Feaster presented information about Mr. Mendoza's record and offered testimony in support of Mr. Mendoza.

Blake Greenfield had submitted a student-permit application. He appeared and was sworn in. Mr. Sugg presented evidence to the board and asked Mr. Greenfield questions. Mr. Greenfield offered testimony and answered questions from the board.

Lorenzo E. Turner had submitted a student-permit application. He appeared and was sworn in. Mr. Sugg presented evidence to the board and asked Mr. Turner questions. Mr. Turner offered testimony and answered questions from the board.

CLOSED SESSION

Mr. Beal made a motion to go into closed session under N.C.G.S. § 143–318.11, and Mr. Norton seconded. The motion passed, 3–0. Mr. Beal reminded board members that matters discussed in closed session are confidential and must not be discussed outside of the closed session. The board went into closed session at 11:07 a.m. and returned to open session at 11:25 a.m.

DETERMINATIONS

The board changed Mr. Erwin's violation to a warning and reduced the civil penalty to \$165.

The board dismissed the violation for Theron A. McAlmon.

The board ordered that Dusty L. Cameron be offered a consent order with terms and conditions, including five years of probation.

The board ordered that Djuan A. Huey be offered a consent order with terms and conditions, including five years of probation.

The board ordered that Samuel L. McSwain be offered a consent order with terms and conditions, including five years of probation.

The board ordered that Manuel S. Mendoza be offered a consent order with terms and conditions, including five years of probation.

The board ordered that Blake Greenfield be offered a consent order with terms and conditions, including five years of probation.

The board ordered that Lorenzo E. Turner be offered a consent order with terms and conditions, including five years of probation.

Mr. Beal adjourned the meeting at 11:25 a.m.

Minutes approved on November 15, 2017

Don Beal

Jamie Norton

Gary Gardner

Steffon Sharpless

Valerie Willis



NORTH CAROLINA BOARD OF BARBER EXAMINERS

Memo

TO: Board members

FROM: Dennis Seavers

DATE: October 16, 2017

SUBJECT: Complaint report

Under 21 NCAC 06C .0912, the executive director must “submit to the Board a report of dismissed complaints that he or she has not previously reported, with a summary of the allegations and a justification for the dismissal.” The executive director is required to dismiss complaints for the following reasons:

- The complaint lacks information, such as barbershop location or a description of the alleged conduct, necessary to investigate the complaint. (Before dismissal, the executive director must attempt to collect additional information from the complainant, if possible.)
- The complaint alleges conduct that is not prohibited by the board’s statutes or rules or is not within the board’s jurisdiction.
- After receiving a recommendation from the investigator, the executive director determines that the allegation is untrue.

This memo serves as the required report. By a majority vote, the board may reopen any of these complaints if the board believes that the dismissal was not justified. If the board agrees with the dismissals, no further action is required.

Complaint ID 64

On March 28, 2017, a complainant alleged to the board that he went to a barbershop for a haircut and shave. During services, he was cut, so he looked for a license. He was unable to find the license issued by the board. An inspector for the board investigated the complaint and found that the business was a salon that was properly licensed by the Board of Cosmetic Arts Examiners and whose employees all were licensed cosmetologists. However, the business used the name “barber” in its signage. The inspector requested that the business remove the reference to “barber,” and the owner

agreed to do so. The inspector verified at a later date that the reference to “barber” had been removed.

Basis for dismissal: the licensure of salons and cosmetologists is not under the board’s jurisdiction. Although the inspector found that the business was advertising in a way prohibited by 21 NCAC 06Q .0101(1)(b), the staff generally attempts to resolve the matter informally when the individual or business is licensed by another agency. This matter was resolved informally.

Complaint ID 68

On April 1, 2017, the board received a complaint that was almost identical to the one described in complaint ID 64 above. The staff was unable to determine whether the complainant was the same, so these two complaints are listed separately. The inspector investigated both complaints at the same time and resolved this one in the same way as described under complaint ID 64.

Basis for dismissal: see complaint ID 64.

Complaint ID 87

On July 7, 2017, the board received a complaint about a barber using his barber shop as living quarters. A staff member investigated the complaint and determined that a barber was living in a room that was separate from the barbershop, with its own entrance and bathroom. The inspector did not find the barbershop premises to be in violation of any of the board’s adequate-premises regulations.

Basis for dismissal: the alleged activity did not represent a violation of the board’s regulations.

Complaint ID 93

On August 14, 2017, the board received a complaint about a barber who provided services to her child. The complainant alleged that the barber snatched an object out of her child’s hand and handed it to the complainant, an act which both the child and the complainant found upsetting. The complainant wanted a refund for the barber services, and also wanted the barber to know that there are better ways to interact with a child. The complainant also felt that, in better lighting, the deficiencies in the haircut became apparent.

Basis for dismissal: the alleged activity did not represent a violation of the board’s regulations.

Complaint ID 94

On August 8, 2017, the board received a complaint from one barber about another barber, who also had just become the owner of the barbershop where the complainant worked. The complaint alleged that the other barber criticized the complainant for taking away what he regarded as his walk-in customers. The complainant alleged that this barber believed that the complainant should only get customers of a particular ethnicity. The complaint also alleged that this barber played music too loudly.

Basis for dismissal: the alleged activity did not represent a violation of the board's regulations.

Complaint ID 96

On August 29, 2017, the board received a complaint alleging that there were no licenses displayed for the individuals working at a particular shop. A staff member investigated and determined that the business was a cosmetology salon rather than a barbershop. The staff referred the complaint to the Board of Cosmetic Arts Examiners.

Basis for dismissal: the board does not have jurisdiction.

Complaint ID 97

On August 30, 2017, the board received a complaint about a cosmetology salon displaying a barber pole.

Basis for dismissal: the alleged activity did not represent a violation of the board's regulations.

Complaint ID 98

On September 12, 2017, the board received a complaint about a shop owner selling and consuming marijuana in the barbershop.

Basis for dismissal: the board does not have jurisdiction. The staff referred the matter to law enforcement.

Complaint ID 100

On September 3, 2017, the board received a complaint about an unlicensed barber. The staff determined that the subject of the complaint was in fact properly licensed.

Basis for dismissal: the allegation was not substantiated.

Complaint ID 101

On September 12, 2017, the board received a complaint about a barber who, during barber services, displayed a gun, removed the clip, and replaced the clip. The complainant also said that the barber had been “ranting about people.”

Basis for dismissal: the alleged activity did not represent a violation of the board’s regulations. The staff referred the complainant to law enforcement if he or she wished to report the matter to the police.



NORTH CAROLINA BOARD OF BARBER EXAMINERS

Memo

TO: Board members

FROM: Dennis Seavers

DATE: October 6, 2017

SUBJECT: Proposed rulemaking

At its October 24, 2017 meeting, the board will consider whether it should amend two of its rules to allow barbershops to have ceilings that are not smooth or that have exposed pipes.

Background

Under the board's rules, a barbershop must have walls, ceilings, and floors that are smooth, with no exposed pipes. Although the requirement for smooth floors and walls are understandable—those surfaces need to be kept sanitary, and it's difficult to clean them if they aren't smooth—the reason to require smooth ceilings with no exposed pipes is less clear. The requirement was adopted in the 1970s or 1980s, before businesses began having open-ceiling designs as a modern aesthetic. (The image on the next page is an example of the open-ceiling design.)

Reason for proposed amendments

Based on feedback from business owners and the board's inspectors, I recommend that the board repeal the requirement for smooth ceilings with no exposed pipes, as reflected in the proposed rule changes at the end of this memo. The staff believes that this change would not have a negative effect on sanitation, and it would allow barbershops to operate in retail spaces where they're currently prohibited from opening.¹

¹ The amendments to 21 NCAC 06L .0103(i) also fix a minor typographical error (a comma at the end of the sentence instead of a period).



Example of open-ceiling design

1 21 NCAC 06L .0103 is proposed for amendment as follows:

2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

21 NCAC 06L .0103 EQUIPMENT

- (a) Each barber shall have a cabinet for barbering equipment. The cabinets shall be constructed of material that may be cleaned.
- (b) Each shop shall have smooth finished ~~walls, ceilings,~~ walls and floors, with no exposed pipes.
- (c) Each barber chair shall be covered with a smooth, non-porous surface, such as vinyl or leather, which is easily cleaned as required by G.S. 86A-15(a)(2)(c).
- (d) Each shop shall have within the shop or building functioning toilet facilities for employees and patrons.
- (e) Each barber shop shall have a cabinet, or other method of storage, such that clean towels are stored separate from used towels.
- (f) In addition to the requirements of Paragraph (d) of this Rule, barber shops that are permitted on or after January 1, 1995 or undergo structural renovations after that date, shall have within the shop or building a hand-washing sink or lavatory for patrons with hot and cold water, soap, and disposable towels.
- (g) Where a barber shop is located within a shop licensed by the North Carolina Board of Cosmetic Art Examiners, the toilet facility and sink may be shared with the cosmetology shop.
- (h) Paragraphs (a), (d), and (f) of this Rule do not apply to barber shops operated by the North Carolina Department of Public Safety, Division of Adult Correction and Juvenile Justice.
- (i) All equipment and tools used in the practice of barbering as set forth in G.S. 86A-2 shall be suitable for the safe cutting of hair and shall be maintained in a sanitary and good operating condition as required by ~~G.S. 86A-15(a)(2),~~ G.S. 86A-15(a)(2).

Authority G.S. 86A-2; 86A-15

1 21 NCAC 06L .0119 is proposed for amendment as follows:

2

3 **21 NCAC 06L .0119 SYSTEMS OF GRADING BARBER SHOPS AND BARBER SCHOOLS**

4 The system of grading the sanitary rating of all barber shops and schools shall be as follows, setting forth areas to be
5 inspected, and the maximum points given for compliance. In cases where barber shops or schools are exempt from
6 specific rules cross-referenced below, the barber shop or school shall receive the maximum points for that listing:

7 (1) whether the entrance and waiting area are sanitary 2;

8 (2) whether there is a water system with hot and cold running water and plumbing or a septic system
9 for removal of sewage 2;

10 (3) whether the ~~walls, ceiling, walls~~ and floors:

11 (a) comply with 21 NCAC 06F .0101(b)(8) for barber schools or 21 NCAC 06L .0103(b) for
12 barber shops 9;

13 (b) are sanitary 7;

14 (4) whether the barber shop or school is well-lighted and well-ventilated, with sanitary windows,
15 fixtures, and ventilation surfaces 3;

16 (5) whether the public toilet or lavatories:

17 (a) are sanitary and well-ventilated 5;

18 (b) have soap and individual towels 5;

19 (c) have hot and cold running water 2;

20 (6) whether each person working as a barber is sanitary in person and dress 1;

21 (7) for towels and linens:

22 (a) whether there is a supply of sanitary towels 2;

23 (b) whether clean towels are stored separately as set forth in 21 NCAC 06F .0101(b)(12) for
24 barber schools or 21 NCAC 06L .0103(e) for barber shops 3;

25 (c) whether barbers have a sanitary hair cloth or cape for clients 1;

26 (8) whether there is a soiled towel receptacle that meets the requirements set forth in G.S. 86A-
27 15(a)(2)(d) 4;

28 (9) for tools and instruments:

29 (a) whether disinfectants used by the barber shop or school are selected from those approved
30 by the federal Environmental Protection Agency 4;

31 (b) whether disinfectants are used according to manufacturer instructions 4;

32 (c) whether all implements are cleaned and disinfected and, when not in use, stored in a tool
33 cabinet as set forth in 21 NCAC 06F .0101(b)(11) for barber schools or 21 NCAC 06L
34 .0103(a) for barber shops 8;

35 (10) for working areas:

36 (a) whether the work stand is sanitary 3;

37 (b) whether sinks are sanitary 2;

- 1 (c) whether jars and containers are sanitary and disinfected 1;
- 2 (d) whether the work area is free from equipment that is unnecessary to provide barbering
- 3 services, and whether articles in the work area are sanitary 1;
- 4 (11) whether the license, permit, or certificate of registration is current and posted as set forth in G.S.
- 5 86A-16 10;
- 6 (12) whether the sanitary rules and regulations are posted in a conspicuous place as set forth in G.S. 86A-
- 7 15(b) 1;
- 8 (13) whether there are sterilizing containers and solutions that are used according to manufacturer
- 9 instructions 20.

10

11 *Authority G.S. 86A-5(a)(1); 86A-15; 86A-16*



NORTH CAROLINA BOARD OF BARBER EXAMINERS

Memo

TO: Board members

FROM: Dennis Seavers

DATE: October 11, 2017

SUBJECT: Online classes for barber schools

At its June 20, 2017 meeting, the board accepted the proposals of an ad hoc committee that had been appointed to give recommendations about online classes for barber schools. (For more information about the ad hoc committee and its recommendations, see Attachment 5 to the June 20, 2017 minutes.) The board also requested that the staff submit a report outlining the steps necessary to implement the recommendations, and this memo serves as that report.

As a reminder, the board only planned to allow schools to offer online classes for theory subjects, not for practical training.

Overview and timeline

The board will need to make the statutory change listed in the next section by requesting action by the General Assembly in the 2019 legislative session. If passed in that session, the bill would go into effect no earlier than the summer or fall of 2019, assuming that the bill doesn't have a delayed effective date.

After the bill passes, the board would need to change its rules as listed later in this memo.¹ The rulemaking process normally takes at least five or six months. On this schedule, rulemaking activity would be completed around the spring or summer of 2020.

Statutory changes

G.S. 86A-22(2) prohibits any school from providing “practical training and theoretical training simultaneously unless at least two instructors are present.” The board

¹ It's possible that the board could make some rule changes before the legislation passes, but this memo assumes that online barber classes would have limited value without the statutory changes.

concluded that this law should be amended to allow online barber classes to occur at any time, including times when the school was offering practical training. The board would need to request that a bill be introduced to allow simultaneous instruction when the school offers online barber classes.

In addition, the board may need to request a statutory change so that the board can require a licensed instructor to review or develop the online program. Please see the next section under “Instructors” for more information.

Rule changes

There are several rules that the board would need to change so that barber schools could offer online classes. The discussion below includes all rules that I believe need to be modified or assessed for modification; however, there will still need to be a complete review to make sure that no other rules need to change.

Physical structure

21 NCAC 06F .0101(b)(15) requires barber schools to “have a classroom area, separate from the practical area, with desk chairs sufficient to serve the number of students enrolled, and a desk and chair for the instructors.” The board would need to determine whether there needs to be the same type of classroom area when the school offers online classes.

Instructors

21 NCAC 06F .0104 requires all course work outlined in the board’s curriculum to “be taught by a certified barber instructor.” The board determined that state regulations should require schools to have a licensed barber instructor develop or review the online program to make sure it meets the state’s regulatory criteria and curriculum requirements. However, the board did not believe that individuals appearing in videos, including narrators or actors, necessarily needed to be licensed instructors. As a result, Rule 06F .0104 would need to be modified so that online classes don’t need to feature certified barber instructors.

The board may not have statutory authority to require schools to have the instructor develop or review the online program. If not, the board would also need to request a statutory change as part of the 2019 legislation.

Uniforms and identification

21 NCAC 06F .0122 says, “All students shall wear a clean, washable uniform, smock, or similar professional attire along with a nametag at all times during instructional hours.” The board would need to modify this rule to clarify that students working on online units don’t need to wear this attire or identification while sitting at a computer.

Student hours

There are two provisions in 21 NCAC 06F .0124 that may need to change.

- Paragraph (b) states that students must record their start time by an electronic time recording system “upon entering the school for practical or theory hours.” The presumption of the rule appears to be that the individual is physically present at a school facility. The board may need to clarify that the time recording must occur regardless of whether the student is taking in-person or online classes.
- Paragraph (c) limits the amount of instruction that can occur “off school premises or from a field trip.” The board may need to clarify that this restriction doesn’t apply to online classes.

State authorization as a postsecondary institution

21 NCAC 06F .0127 deals with the requirements for schools to be authorized as postsecondary institutions for the purpose of receiving certain federal funds. The board will want to communicate with the U.S. Department of Education to determine whether this rule needs to be modified to account for schools that offer online classes. Although no change may be necessary, the board won’t want to make any changes that would jeopardize the state authorization program.

General definitions

The board may need to alter its definition of “barber instructor” in 21 NCAC 06P .0103(2) so that it doesn’t include individuals appearing in online materials who won’t be required to be licensed instructors.

Policy changes

The board determined that there should be occasional audits of schools to verify that their online barber classes meet state regulations. Although the board may be able to enact a requirement in rule, it would make most sense to handle audits through policies and resource allocations rather than regulations.



NORTH CAROLINA BOARD OF BARBER EXAMINERS

Memo

TO: Board members

FROM: Dennis Seavers

DATE: October 10, 2017

SUBJECT: Supervision requirement for apprentices

At its August 21, 2017 meeting, the board discussed a provision in G.S. 86A-24 that prohibits an apprentice from providing services if no registered barber is present. After discussion, the board asked me to report back at the next meeting on the various options to address difficulties with this provision.

Option 1. Repeal of the supervision requirement

If the board believes that apprentices should be able to provide services at any time without a registered barber present, it could recommend that the General Assembly do the following:

- Repeal the requirement for a “registered barber [to] be present on the premises of the barbershop at all times while the apprentice is working”; and
- Clarify that the apprentice certificate is valid even if the apprentice isn’t working under the direct supervision of a barber.

This approach would resolve the concerns that led to the board discussing the supervision requirement. The board should be aware that, with this change, an apprentice could spend the length of his or her apprenticeship with minimal or no supervision, and the staff wouldn’t be able to take any action against the apprentice barber or the supervising registered barber.

Option 2. Modification of the supervision requirement

If the board believes that there should be some supervision, but that the requirement for supervision “at all times” is onerous, the board could recommend that the General Assembly modify the statute. The statute could be amended to allow apprentices to

practice without supervision, but only for a limited time (such as a certain number of hours each day).

One difficulty with this option is the ability to enforce the modified supervision requirement. For instance, if a modified statute allows apprentices to practice for two hours a day without supervision, it's unlikely that the board could easily verify that an apprentice who practices without supervision has only been doing so for two hours or less.

Option 3. No change

If the board determines that the supervision requirement serves an important purpose, it could take no action, thus leaving the prohibition in place. As discussed below, the board may also believe that the supervision requirement should be eliminated or modified but that the risk of introducing legislation outweighs the policy considerations. However, this option doesn't address the concerns that led the board to discuss the supervision requirement.

Additional considerations

The board should be aware that anytime it requests a bill to be introduced, there's a risk that the General Assembly will go in a different direction than what the board wants. Given that the board had concerns about an apprenticeship-related bill that was introduced earlier this year, the board should weigh the risk of having another apprenticeship-related bill introduced against the benefits of a policy change. That's not to say that the board shouldn't recommend a policy change, especially if a statutory provision is creating difficulty. But the board should be aware of the risk of negative outcomes.