

Transcript of the Testimony of
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BEFORE THE ARKANSAS STATE BOARD OF COSMETOLOGY

BOARD MEETING

BE IT REMEMBERED, that on the 14th day of November, 2005, before the members of the Arkansas State Board of Cosmetology, the following business and actions came on for hearing, to-wit:

A P P E A R A N C E S:

BOARD MEMBERS:

JANE POWELL - President

CLIFF KEENE - 1st Vice President

NICK DOWNEY - 2nd Vice President

VEDA TRAYLOR - Secretary

BRENDA GRAY

LAJOY GORDON

PATRICIA TURMAN

SARA LOU CHRISTY

ALSO PRESENT:

KATHY WITTUM - Director

ARNOLD M. JOCHUMS - Assistant Attorney General, Legal Counsel

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P R O C E E D I N G S :

MS. POWELL: The meeting will come to order.
Madam Secretary, will you do the roll?

MS. TRAYLOR: Everybody is present besides
Sharon West and Mitzie McKinney.

MS. POWELL: We'd like to welcome our new board
member, Sara Lou Christy.

MS. CHRISTY: Thank you.

MS. POWELL: Would you like to tell us anything
about yourself?

MS. CHRISTY: Okay. Well, I was born and raised
in Arkansas, grew up in Rogers. Have been a
hairdresser for 38 years, love my profession. Never
ever thought about being on the board and here I am.

MS. POWELL: Welcome.

MS. CHRISTY: And I hope to do a good job. I
think it's going to be interesting.

MS. POWELL: Thank you. We'll postpone the
financial report. We're still working on that. The
Treasurer's report, as Mitzie McKinney is absent
today I will give that.

At the last board meeting we had a balance of
\$146.37, coffee purchase of \$13.56, leaving a balance
of \$132.81. Board meeting collected on today \$80,

1 leaving us a balance of \$212.81.

2 MR. KEENE: I move to --

3 MS. TURMAN: I second.

4 MR. KEENE: You have a motion and a second.

5 MS. POWELL: Oh, I'm sorry. I have a motion and
6 a second. Those in favor, raise your right hand.

7 (Show of hands.)

8 MS. POWELL: It's unanimous.

9 The approval of the minutes would be next on
10 business. We have the July 18 minutes and exams.
11 Those need to be approved. And we have the September
12 26 minutes that need to be approved, and the 19th
13 minutes of September are still -- they'll be up for
14 review and approval in January.

15 MR. KEENE: I'll move to approve the minutes of
16 July, August and September.

17 MR. DOWNEY: I second it.

18 MS. POWELL: Okay. We have a motion and a
19 second to approve the July, August and September
20 minutes. All those in favor raise your right hand.

21 (Show of hands.)

22 MS. POWELL: All those opposed.

23 MS. CHRISTY: I'm not opposed. I don't know
24 anything.

25 (Chorus of laughter.)

1 MS. POWELL: The public hearing this morning is
2 on the proposed rule for discretionary student hours.
3 Those wishing to speak on behalf of the proposed rule
4 for discretionary student hours, if you would stand
5 and give your name, so we can have an idea how many
6 need to speak.

7 MR. FINK: I'm Jack Fink and I'm here for Linda
8 Lee and Lee's School of Cosmetology.

9 MR. KEENE: Can we hear what the committee came
10 up with at their meeting?

11 MS. POWELL: Was that proposal mailed out to
12 every officer?

13 MS. WITTUM: Uh-huh.

14 MS. POWELL: That proposal was mailed to the
15 board, as well as to the schools.

16 MS. WITTUM: Just to update everyone on that
17 meeting, we had representatives with the school
18 owners association. Tracy Aker, Don Creekmore, and
19 Chris Strawn, Linda Lee also participated. Brenda
20 Gray, Jane Powell, Nick Downey and myself and Pat
21 Turman, I believe, was there.

22 There were varying viewpoints on whether or not
23 we should have any kind of student hours offered to
24 students. It was enlightening to me after that
25 meeting that there are a lot of people who consider

1 the events that students go to to be motivational in
2 nature, maybe more so than what -- than the
3 educational side. It uplifts them to the point that
4 they want to be in the cosmetology industry and that
5 they want to pursue that particular field for their
6 career.

7 It was also interesting to me that there were
8 people who supported the 30 hours or maybe just a few
9 less than the 30 hours that was offered under the
10 extra curricular activities policies, especially for
11 field trips and the hair shows that students actually
12 attended.

13 But there were also people who felt like that
14 policy was being abused. That the students did not
15 participate in those events fully and that they
16 probably didn't get as much out of it as they would
17 if they were attending a class. That at least was my
18 impression and y'all can step in, anyone who
19 participated in that committee is welcome to speak up
20 if you would like to present something else to the
21 board.

22 What I felt was necessary is a compromise
23 between the two sides. I think it probably is
24 motivational for students to attend events like that,
25 and there probably has been abuse of the hours to

1 some extent over the years. So I think a healthy
2 compromise is about the best that at least the board
3 should be able to offer to the students. That's the
4 reason why I drafted the discretionary student hours
5 and sent out to everybody for review.

6 I did not receive any feedback from the people
7 who participated in the committee, so I'm assuming
8 that everyone was okay, at least, with the
9 discretionary student hours.

10 Let me back up just a minute. I did have one
11 person, Linda Lee, who was in opposition of this
12 particular draft, but I didn't receive any other
13 feedback from anyone else.

14 From my point of view I think the board needs to
15 consider the fact that none of us in the office are
16 cosmetologists. We are not going to be able to
17 police events like this. And the only way to make
18 certain that there is no abuse would be for someone
19 who is familiar with that industry or this industry
20 to participate in the events that students do attend.
21 I don't think the board wants to take up their time
22 to go and monitor these events, and the staff doesn't
23 have the expertise to be able to do that. So what
24 I'm proposing is that in our compromise on this issue
25 we decrease the number of hours that the students

1 can receive through discretionary activities and we
2 also decrease the policing and the monitoring of it
3 as well.

4 Does everybody have a copy of their
5 discretionary? It's real short, it's real brief,
6 I'll read it to you. This would actually go in Rule
7 6 of the new revised rules, it would be 6-11, and it
8 says:

9 Students may receive credit for a maximum of
10 eight discretionary hours provided they are accrued
11 in Arkansas. These hours may be obtained by
12 attending seminars, workshops and competitions, or by
13 participating in field trips or special classes.

14 The content of any of these activities must
15 promote motivational and educational incentive
16 towards the cosmetology industry and its related
17 branches.

18 Students must at all times be accompanied by a
19 bona fide instructor, and the instructor/student
20 ratio must at all times meet the standards outlined
21 below in Section 6-12.

22 Instructors who accompany students during these
23 activities must keep written record of students'
24 attendance through a sign-in/sign-out sheet and the
25 written record must be submitted with the school's

1 monthly report that immediately follows the event or
2 activity.

3 In addition, schools are required to obtain
4 prior approval from the Director for students
5 desiring to attend any event or activity. The
6 approval must be obtained within 30 days of the event
7 or activity.

8 School owners must submit a written request to
9 the Director that contains the following information:

10 (a) Name and location of the event, field trip
11 or special class;

12 (b) Date of the event, field trip or special
13 class;

14 (c) List of each instructor to attend;

15 (d) List of each student to attend; and

16 (e) Summary of the motivational and educational
17 content to benefit the students.

18 That would be my proposal. If anyone who
19 participated in the committee would like to address
20 the board, I think the board would be open to hearing
21 from you at this time.

22 MR. KEENE: I was not a part of either one --
23 well, of that committee, but when someone jumped up,
24 there was something I'd like to say about this.

25 I didn't have a feedback on that because I

1 agree with it. I thought it was a pretty good
2 compromise. But since then, I guess when you say
3 seminars or educational whatever, I'm curious if hair
4 shows are included in that, what we typically think
5 of a hair show, where you would have a guest artist
6 brought in by a manufacturer to demonstrate hair
7 cutting or hair coloring, is that one of the programs
8 that you're saying is allowed in this?

9 MS. WITTUM: It would be.

10 MR. KEENE: Okay. As an example, because I
11 thought it would be. As an example of not abuse on
12 the side of the student or the school, but on the
13 side of the manufacturer that would be coming in or
14 distributor, whatever they would be, putting this
15 program on, I was just at a program that started 20
16 minutes late, went for one hour, took a half an hour
17 break, and this was a four hour program from 10:00
18 until 1:00.

19 If we're agreeing to give, in that situation, I
20 would think it was supposed to have been a four hour
21 show or a three hour show, whatever, that they would
22 be getting three hours for that. How you handle the
23 fact that they started 20 minutes late and took a
24 half an hour break after going for one hour?

25 MS. WITTUM: Well, you wouldn't be able to

1 unless you were able to document that that occurred.
2 In theory and reality it should be that they only get
3 credit for the actual substantive hours that were
4 allowed during that particular event. The breaks,
5 the fact that they started late should not count
6 towards those hours. But we are not going to know
7 that that happens unless we attend them, or unless a
8 school owner were to enlighten the board on the fact
9 that that did occur.

10 That's one of the reasons why I think decreasing
11 the number of hours is the best way to handle it. To
12 me if a student can be motivated through going to an
13 event like that, even if they don't get the full
14 hours that they think they're going to go to, that
15 they're signing up for, that's a benefit to that
16 student. They -- we all need to be motivated to some
17 point to be part of whatever we're going to be part
18 of.

19 But they're only going to get eight hours, I
20 mean that's the max that's going to go towards
21 discretionary students hours.

22 MR. KEENE: And once again, that's why I said I
23 didn't object to this because I think that the
24 potential of abuse is so great out there, of this
25 policy, that to reduce it to eight, I think is a

1 good idea.

2 There's still going to be abuse, no matter what
3 you do, but at least this lessens greatly the amount
4 of abuse that there can be.

5 MS. GORDON: Field trips, you know, field trips
6 what would that -- just going to the beauty supply
7 store or --

8 MS. WITTUM: That or going to -- I know Jane was
9 telling me about the possibility of taking an
10 esthetic student to a doctor's office that deals with
11 esthetics.

12 Any place that they could go to to learn more
13 about that particular field, whether it's esthetics,
14 cosmetology or nail technology. To see the people
15 who are actually making a living doing that
16 particular field would be what I would think the
17 field trips would pertain to.

18 MR. KEENE: So they could take them to Dillard's
19 Department store and let them walk around the
20 cosmetic counter?

21 MS. WITTUM: Possibly so. And again, you're not
22 going to be able to -- you're not going to be able to
23 define out exactly what is and is not acceptable
24 unless we're willing to take on policing the students
25 in every school. I know our office cannot handle

1 that kind of responsibility, and I wouldn't think
2 that the board would have the time to take on such a
3 responsibility either. So I think there has to be a
4 certain amount of trust that takes place between the
5 board and the schools, the school owners, the
6 instructors to make sure that the students get what
7 the board intends for them to have through these
8 hours, and that is to either educate or motivate
9 them, or preferably a combination of the two.

10 MR. KEENE: Thank you.

11 MS. STRAWN: My name is Chris Strawn, and I
12 would like for you to repeat the question. What did
13 you say is a field trip?

14 MS. GORDON: I was wondering, you know, how
15 would we define field trip.

16 MS. STRAWN: Right is it --

17 MS. GORDON: What is a field trip for the
18 school?

19 MS. STRAWN: Yeah. Could you say that again,
20 please, because I didn't -- I mean I understand the
21 Dillard's part, what I don't understand is what --
22 what do you consider a field trip? Is it during
23 school time? Is it after hours? A field trip to me
24 is during school time.

25 MS. WITTUM: I would think it would be --

1 right, and I agree.

2 MS. STRAWN: Okay.

3 MS. WITTUM: And it would need to be in going to
4 any place that is dealing with the substance of the
5 theory class that the students would be attending at
6 that particular point.

7 So if you had esthetics, and instead of during
8 your theory class for esthetics you took the student
9 to a doctor's office where you could actually watch
10 somebody do that work. Does that make sense?

11 MS. POWELL: Yes.

12 MS. STRAWN: Okay.

13 MS. POWELL: Program defined, I think, is what I
14 would categorize it as.

15 MS. STRAWN: The other thing that I want -- and
16 I don't know if this is the appropriate time, and if
17 not, please tell me, is we were taking our students
18 every Wednesday to a nursing home in Jacksonville
19 with a teacher, as part of free clinic. And is that
20 a field trip?

21 MS. WITTUM: What do you do --

22 MS. STRAWN: Well, we did hair and stuff.

23 MS. WITTUM: Would that be part of the clinic
24 work that typically would be done at the school?

25 MR. KEENE: That would be more clinical, I

1 would think.

2 MS. POWELL: It is clinical.

3 MS. WITTUM: Instead of field trip.

4 MS. STRAWN: Okay. So it's okay then for us to
5 take our students places to do volunteer work?

6 MS. WITTUM: That's probably a legal question.
7 Arnie?

8 MR. JOCHUMS: Well, I don't think that's the
9 question of the rule, you know, we're talking about.
10 That's a different question for a different day.
11 We're having a hearing about whether or not to apply
12 a rule.

13 MS. POWELL: Right.

14 MS. WITTUM: Okay.

15 MR. JOCHUMS: I don't think it's a field trip,
16 no, I don't.

17 MS. WITTUM: Okay.

18 MR. JOCHUMS: If it's instruction, is it okay or
19 not? I don't have any opinion at this point. That's
20 something I can look into.

21 MS. WITTUM: Okay.

22 MS. POWELL: I think previously we have defined
23 field trip and extra curricular activities. The
24 field trip being one of which is during the time
25 school is in progress and the student was given an

1 opportunity to do something outside of the normal day
2 with their program.

3 MR. FINK: Let me ask a question, if I might.
4 I'm here for Linda Lee and Lee's School, as you know.
5 We had initially intended to oppose this compromise
6 because we like the state of the last regulation
7 passed in which the students did not get any credit
8 for the discretionary hours, however, you have done a
9 very good job paring down the amount of credit that
10 would be given and building in, I think, about as
11 many reasonable safeguards as you can have in this
12 situation.

13 I mean as this gentleman pointed out there are
14 still going to be some problems but when you limit it
15 to eight hours as the maximum amount of credit that
16 can be given, we're willing to support that.

17 The one thing I do want to know and I'd like to
18 hear from you and anybody else on the board, at this
19 point this regulation, if it's adopted, will allow
20 eight hours of credit. And as I said, we're willing
21 to support that, but we are very concerned that this
22 is the first step down a slippery slope. We don't
23 want it to be eight hours this year, 16 hours next
24 year, 30 hours the year after that. And again, I
25 understand that you can't bind future boards or

1 future people, but would really like the board to
2 address its feelings on if this regulation, this
3 compromise regulation, which I do feel is well
4 written, is adopted do you think this is the first
5 step in going down that road to get more, and more,
6 and more discretionary hours?

7 MS. POWELL: I don't think so. I think the
8 board has compromised to allow the eight hours and I
9 don't think --

10 MR. FINK: And that's a very reasonable
11 compromise, I don't dispute that at all.

12 MS. POWELL: I don't think that the -- I think
13 the factor of the previous abuse to the larger number
14 of hours was the issue, is the way that this became,
15 I think, a concern in establishing the eight hours.

16 Do you have anything else to add?

17 MS. WITTUM: Well, I would just say the concern
18 probably should be the opposite, because we've gone
19 from 30 to eight, so the next step, knowing that the
20 board does recognize or see that there is abuse or
21 potential for abuse, that they would shut it down
22 completely as they attempted to do before. So I --

23 MR. FINK: I probably wouldn't fight you hard on
24 that, but it is the expansion that is kind of
25 troubling.

1 MS. POWELL: Ms. Turman.

2 MS. TURMAN: I would like to say -- Madam
3 President, I would like to say I'm against any rules
4 or any hours. I think it should be a clinical
5 environment. And I think we have to be very careful
6 on what she just suggested because I think we have to
7 look at the law on that.

8 But with this compromise I am willing to -- I've
9 been sitting here this morning thinking about what
10 I'm going to do with this compromise as you stated, I
11 think with our new Director as our leader, I just
12 feel like that we are on the right track and that we
13 would go the other direction to eliminate hours
14 rather than more hours be given.

15 MS. POWELL: Yes?

16 MS. FULTZ: Kathy Fultz, Arkansas Valley, ATU.
17 The last time I was here I thought it was decided
18 there would be no hours, and a student appreciation
19 day was discussed, and I took my students without any
20 hours, and then there's some people there that are
21 keeping up with it. And then I hear later that some
22 schools did receive hours. So I would like that
23 clarified, please.

24 MS. WITTUM: No hours were given for the student
25 appreciation event. The board did say no to that.

1 MS. FULTZ: Okay.

2 MS. WITTUM: Also, you're probably referring to
3 the September 19th meeting, the board did say no to
4 the extra curricular activities policy that included
5 the student appreciation event.

6 Subsequent to that the board was asked to
7 reconsider that decision, so there was a second
8 meeting on the 26th of September. The board, again,
9 said no to the extra curricular activities policy,
10 however a committee was formed to discuss drafting
11 language to include some type of discretionary
12 student hours in the rule revisions.

13 So this particular policy is not in the rule at
14 this time, it's being proposed to be included in the
15 rule revisions.

16 If the board adopts it and approves it, then
17 when these rules are finalized at the first part of
18 next year, then this would be available for the
19 students.

20 MS. FULTZ: Thank you.

21 MS. POWELL: Ms. Traylor.

22 MS. TRAYLOR: I'm with Ms. Turman. I'm against
23 getting any hours. You know I was teaching when some
24 of these were still in diapers. There was no hours
25 given to students, absolutely none. They had to be

1 spent in the school. And, you know, and I've been to
2 -- on the other side. I've been to the places where
3 they were allowing hours. And to keep up with that
4 group of students is -- it's just impossible, you
5 can't do it, because they'll slip out, and they'll do
6 this and they'll be right back, well, they may not
7 show up again. So, you know, I'm strictly against
8 any hours.

9 You know, and our students made it through okay.
10 We didn't give any hours, and they all did fine.
11 They are all more gainfully employed today than a lot
12 of these that are getting out there, not gainfully
13 employed.

14 MS. POWELL: Do I have a motion?

15 MR. KEENE: I'd like to move that we accept this
16 resolution or suggested proposed change to the rules
17 to allow the eight hours in the manner that Ms.
18 Wittum has drafted it.

19 MR. DOWNEY: I second it.

20 MS. POWELL: I have a motion and a second that
21 we accept the draft as proposed for the rule for
22 discretionary student hours. Is there any
23 discussion?

24 MS. TURMAN: I'm like to talk to her about her
25 proposal about going to the nursing homes. I am

1 already concerned that there's going to be things
2 that's going to be coming into this situation that
3 we're not aware of. I'm concerned about that.

4 MR. KEENE: They still have to follow what her
5 guideline was and they have to request for approval
6 of that. So I think that's where that can be
7 handled. Once she finds out if legally we can give
8 them hours for -- how it would be done, but I think
9 it's already in your proposal how to deal with that.

10 MS. POWELL: Right. It's still something that
11 would be under the office advisement.

12 MS. WITTUM: And Arnie and I will review the
13 issue that Chris brought up, and it will probably be
14 on the list of things that we just update the schools
15 on at the school overview. And that will give us
16 time to get together and review it and make sure that
17 we have everything outlined for you guys.

18 MS. POWELL: All those in favor raise your right
19 hand.

20 (Show of hands.)

21 MS. POWELL: All those opposed.

22 (None raised.)

23 MS. POWELL: Any abstention? Motion passes that
24 we will accept the draft for the proposed rule for
25 discretionary student hours.

1 MR. KEENE: Do we have a financial report or you
2 said that was --

3 MS. WITTUM: We're working on that. The NIC
4 contract, it has been finalized. NIC was the only
5 vendor to submit a bid requesting to prepare our
6 materials. And they will be doing the RADER training
7 on December 10th and half the day on the 11th, then
8 we'll do the school overview on the afternoon of the
9 11th.

10 We will be including some law questions as part
11 of the new exam next year, so we'll be in the process
12 of putting those law questions together and getting
13 to NIC or SMT so that they can get those included in
14 the material.

15 The RADER training -- Mitzie had a previous
16 engagement that she is not going to be able to get
17 out of that same weekend. I did talk to a
18 representative with NIC and their solution would be
19 to send her to another state to attend their RADER
20 training. They gave us dates in January, February,
21 March and said that if the board would commit to
22 sending her to one of those there would be no down
23 time in her ability to examine.

24 Mitzie did say, she wanted me to express to the
25 board that she may possibly have a flight ticket

1 already that she would be able to use to decrease or
2 the diminish the cost to the board for this.

3 MR. TRAYLOR: Huh-uh. She needs to pay for that
4 on her own.

5 MR. DOWNEY: Let's make a motion that the board
6 not pay for any expenses on that. No more than they
7 would had she been here.

8 MS. TRAYLOR: I mean it's here for free. And
9 then if she chooses to go somewhere else, that should
10 be at her expense.

11 MR. DOWNEY: I turned down three engagements
12 that I could have gone to, to be there. A life or
13 death situation for me, so --

14 MR. KEENE: Well, there's a motion and a second.

15 MS. POWELL: Oh, did I get a second?

16 MR. KEENE: He made a motion and then Veda
17 seconded it, I believe.

18 MS. POWELL: Did you second the motion, Veda?

19 MS. TRAYLOR: Uh-huh, yeah.

20 MS. POWELL: I have a motion and a second for
21 the board to not cover expenditures beyond
22 expenditures imposed on the board for Mitzie McKinney
23 if she were to travel out of state for RADER
24 training. All those in favor?

25 (Show of hands.)

1 MS. POWELL: It's unanimous. Okay.

2 MS. WITTUM: The school overview, because we are
3 having to have it on a Sunday we were not able to get
4 the Blue Flame Room, I think is what you typically
5 have held it at, or where you have held it at. It's
6 going to be at the Sherwood Forrest over past Sylvan
7 Hills High School, I believe. Woody's.

8 MS. POWELL: Woody's Sherwood Forrest. Did you
9 mail out directions?

10 MS. WITTUM: Yes, yes. There should have been a
11 map in the packet that you guys got. Did you get it?
12 I know the map was with the schools, right? Okay.
13 So all the -- we'll get you maps to it. That may
14 have just been included in the schools.

15 MR. KEENE: I've been there many times but I
16 struggle to find it every time.

17 MS. WITTUM: Yeah, it's kind of hidden back
18 there.

19 MS. CHRISTY: Excuse me, is that where the
20 meeting is going to be both days?

21 MS. WITTUM: No, the meeting, the RADER training
22 will actually be here.

23 SPEAKER: In this room.

24 MS. WITTUM: Upstairs in our exam facility, but
25 I'll show you today while you're here.

1 MR. KEENE: She doesn't need to attend the RADER
2 training because it's for the board members that give
3 exams. However, I did hear her say in her
4 introduction that she's --

5 MS. WITTUM: She's a cosmetologist, yes. So she
6 will be giving --

7 MR. KEENE: Well, she'll be -- what position is
8 she -- what chair have you taken here?

9 MS. WITTUM: Johnnie.

10 MR. KEENE: Johnnie's, I'm sorry. I think was
11 thinking of consumer representative.

12 (Multiple discussions taking place without
13 recognition to hold the floor.)

14 MR. DOWNEY: I know why Cliff is confused
15 because normally Sharon sat over there.

16 MR. KEENE: Well, or Nelda has always sat over
17 there.

18 MS. WITTUM: We're going to move you.

19 MS. TRAYLOR: If Pat wanted to come and observe
20 is there anything wrong with that?

21 MS. POWELL: No.

22 MS. WITTUM: I see no reason why all of the
23 board can't attend, but --

24 MR. KEENE: I asked that question when we were
25 in Washington because Pat had expressed interest to

1 me, so I asked that question of NIC in Washington and
2 they said as long as she signs a do not disclose
3 contract she can.

4 MR. DOWNEY: I think it would be very
5 educational for her.

6 MS. TRAYLOR: At least she can talk to other
7 people about what goes on.

8 MS. WITTUM: Plus there is another reason --

9 MS. TURMAN: Just trying to keep the expenses
10 down for the board, but I would like to --

11 MR. KEENE: You're still a board member, though.

12 (Multiple discussions taking place without
13 recognition to hold the floor.)

14 MS. POWELL: As well on the 10th we are planning
15 on having our Christmas party. We're going to have a
16 catered lunch. Our caterer failed us.

17 MS. CAUDLE: I told him I could train or I could
18 cater.

19 MS. POWELL: Well, train. We'll let somebody
20 else worry about the food this time. But we will
21 have a caterer for the RADER training for the lunch
22 that day. Now, what it is, I don't know. I've been
23 working on the -- what's the barbecue place up there?

24 SPEAKER: Lindsey's.

25 MS. POWELL: Lindsey's and they didn't call me

1 back, so I don't know what we're going to do right
2 now. If it gets down to the wire I'll do PBJ and
3 bring it, and that's what you're stuck with.

4 We are going to have -- we do want to have an
5 attempt to have our office and the board party and
6 our inspectors. We want to be together on this
7 event. We would like to not have any division on
8 this, and I guess if y'all want to do your own thing
9 you can, but we're not. We're going to have it
10 together on RADER training.

11 MR. KEENE: Where are you going to do this
12 party?

13 MS. POWELL: We're going to do that in the
14 office.

15 MS. WITTUM: The conference room.

16 MS. POWELL: Conference room. Did you have a
17 better idea, Mr. Keene?

18 MR. KEENE: Well, hopefully Thursday I'll have a
19 new house and it's pretty, it would be a nice place
20 to have that.

21 MS. TRAYLOR: But we do it on our lunch hour,
22 though.

23 MR. KEENE: Oh, you do it at lunch?

24 MS. POWELL: Yes. We're going to do it while we
25 have the people. But then if you're opening the

1 door we can always have another party.

2 (Multiple discussions taking place without
3 recognition to hold the floor.)

4 MS. POWELL: I'm game.

5 MR. KEENE: Well, I'll think about it.

6 MS. POWELL: Okay.

7 MS. WITTUM: Is Angela Hill here?

8 (No response.)

9 MS. WITTUM: She had petitioned the board at the
10 September meeting to come and discuss the issue of
11 laser hair removal. It's my understanding that she
12 is either in the process of purchasing the equipment
13 to do laser hair removal, or she had purchased it,
14 and she was wanting to talk to the board about her
15 limitations on doing that.

16 She did not confirm with me that she was going
17 to come today, because she was not able to be here at
18 the September meeting. So I don't know if the board
19 wants to still discuss this issue or not. I know
20 since the time I've been here it seems to be a hot
21 issue that I know our inspectors need guidance on,
22 and I would suspect that the estheticians need
23 guidance on whether or not they can legally practice
24 laser hair removal.

25 MS. POWELL: Was she given a time to be here?

1 MS. WITTUM: No, she was not, because she never
2 did respond to my efforts when I was trying to get in
3 touch with her.

4 MS. POWELL: Well, I'll make a suggestion on
5 that. At this time our statute nor our rule has a
6 provision in the scope of practice for an
7 esthetician, to be doing hair removal. So I don't
8 see that there's any confusion that the board or the
9 inspectors should have on this issue.

10 MS. WITTUM: So estheticians are not be doing
11 any type of laser hair removal at all?

12 MS. POWELL: No.

13 MS. WITTUM: Okay. So, inspectors, we'll talk
14 after the meeting today. Is there any discussion? I
15 mean I think that this is --

16 MS. TRAYLOR: I think the law states that if
17 they want to use laser, they have to be
18 electrologists. And all the people that I know that
19 do use laser are electrologists and they have to have
20 an M.D. on staff and -- but you know the people have
21 to talk to the -- the doctor has to approve before
22 you get laser.

23 MS. POWELL: I think Kathy and I had discussed
24 under the new legislation the Regulation 22, the
25 medical board, the classification of laser hair

1 removal and the scope of practice under the medical
2 board would allow them to hire laser hair removal
3 people under the medical practice, which does not
4 include what we're -- you know, our scope of practice
5 is in the cosmetology field.

6 So I think our understanding of it is what they
7 do under the medical field we have no authority over.
8 What we do in our scope of practice, they are not to
9 do -- certainly not laser hair removal.

10 MS. TRAYLOR: Or electrolysis.

11 MS. POWELL: Or electrolysis, yes.

12 MR. KEENE: Since you mentioned all of that, I
13 believe our decision at one time was that they could
14 do it, as long as they were in a doctor's office and
15 did not advertise that they were an esthetician.
16 Otherwise they had to have a shop license for that
17 medical clinic as well.

18 MS. POWELL: I don't remember.

19 MR. KEENE: Therefore, if -- not being an
20 esthetician or being an esthetician really had
21 nothing to do with it if they did not advertise the
22 fact that they were an esthetician, otherwise they
23 had to have a shop license for that medical clinic as
24 well. I think that's where we left it because there
25 was the legislative issue with the medical board

1 last session. I don't believe that we made a
2 decision to allow estheticians to do laser hair
3 removal because it's not in the scope of practice to
4 do laser hair removal, they are allowed to do waxing,
5 but not with the use of equipment. So I would say to
6 this person, no.

7 MS. WITTUM: Well, I'll pass that along to her.

8 MS. POWELL: What about Amanda Crawford and
9 Emily Heller, did you ever hear about those?

10 MS. WITTUM: Is Amanda and Emily here? You want
11 to come up here? Tammy?

12 TAMMY: I am.

13 MS. WITTUM: And you are Amanda?

14 AMANDA: Yes.

15 MS. WITTUM: Emily?

16 EMILY: Yes.

17 MS. WITTUM: Okay. Amanda and Emily requested
18 to speak to the board about hours that have been
19 lost. They just completed their course, right?

20 AMANDA: I did.

21 MS. WITTUM: Amanda just completed her course.
22 You're due to complete yours next year?

23 EMILY: In March, the beginning of March.

24 MS. WITTUM: Okay. And from the ruling that was
25 made -- Arnie, you're welcome to join us up here if

1 you would like to. Arnie?

2 MR. JOCHUMS: Yeah, I'm here.

3 MS. WITTUM: Okay.

4 MS. POWELL: I guess that's enough.

5 MS. WITTUM: Teresa said if you're going to
6 speak you need to be up here by the microphone.

7 MS. POWELL: But you may not have to speak.

8 MS. WITTUM: The ruling that was made at the
9 last meeting when the question about hours being
10 frozen came up.

11 MS. POWELL: The 19th.

12 MS. WITTUM: Yes, at the 19th meeting. That
13 decision was that students had to apply and pass the
14 examination within three years from the school
15 release date, which is the drop date in our office or
16 they lose that section of hours.

17 So Emily and Amanda both are in the same
18 situation. Amanda just completing her course is
19 technically losing 158 hours because of that
20 application of that language. So she was wanting to
21 come and request to the board that she be allowed to
22 maintain those hours, so that she can examine. Emily
23 is standing to lose hours as well before she
24 completes her course.

25 And before you make any rulings on this

1 particular issue I would like to bring to light some
2 things that are in the office that I already had
3 planned to handle a particular way, but however I do
4 those and how you decide here, they need to be
5 consistent.

6 There are students who have come and taken the
7 exam and failed either the written, or the practical,
8 or both over the last number of years. How far back
9 the drawer up there goes, I don't know. But Arnie
10 and I had already discussed the fact that those
11 people will need to be given notice that this strict
12 application is being applied to their particular
13 hours, so I would believe that a significant number
14 of people who have failed one or both parts of the
15 exam over the last few years have hours that have
16 been lost if we applied that language to their
17 situation. Are you following me?

18 MR. DOWNEY: I'm following you, but I don't --

19 MS. WITTUM: So my plan in handling those had
20 already been to wait until after renewal season, but
21 then send a letter to them and let them know that
22 this is the situation and they must come and pass the
23 examination within a certain time period or they will
24 lose those hours.

25 If we do it that way, then the only fair thing

1 to Amanda, Emily and the other students who are in
2 the schools at this moment, would be to also allow
3 them a grace period, too. So I just put that to you,
4 so that we can make sure that we're doing things on
5 the same page here.

6 MR. KEENE: This is just to clear all those out
7 so that we can start fresh.

8 MS. WITTUM: My impression from the conversation
9 that took place on the freezing of hours is that most
10 of the people in the cosmetology schools feel that
11 that's the way it has been.

12 In fact I even had someone just last week e-mail
13 me confirming that her hours were still good because
14 she had paid her fee and her hours, in her mind, had
15 been frozen.

16 So I think with it being such a widespread
17 misinterpretation here, our choices are either to
18 just drop everybody now and tell them that under the
19 interpretation of the statute at this point they lose
20 those hours, or we allow them a grace period. And I
21 think if we're going to allow the grace period we
22 need to keep in mind that we need to leave enough
23 time in that grace period to allow for us to be able
24 to handle the influx of people coming in to examine.
25 If they're actually wanting to do that.

1 MR. KEENE: Well, I'm thinking financially, too.
2 I mean, we're only budgeted to do so many exams and
3 if you have a huge number of people suddenly apply
4 that have been sitting in a drawer up there for
5 awhile that's going to eat your budget alive. And if
6 you've got students that are enrolled and have been
7 enrolled that are expecting to take that examination
8 --

9 MS. WITTUM: But I think towards the end of next
10 year when we start moving into the end of this fiscal
11 year coming up to the next fiscal year we'll be able
12 to get an idea of how much more money we're going to
13 need to be able to handle people. And we could even
14 tell people that you have a certain amount of time to
15 just tell us if you're interested in coming to
16 examine so that you can have use of all of your
17 hours. And if that's the case I would think there has
18 got to be some way for us to request for additional
19 money out of the appropriation.

20 MR. KEENE: There is.

21 MS. WITTUM: I mean that's going to be an effort
22 that we would have to make in order to have the money
23 to be able to handle the influx. But we either are
24 going to be dropping students like Amanda and Emily
25 cold when they think they're ready to examine, or

1 we're going to have to allow some type of grace
2 period.

3 MS. POWELL: I'd like to make a recommendation
4 that the board consider that these students are
5 currently operating under, and the school as well,
6 under the old assumption, as Kathy has said, and they
7 are under a contract and that contract originated
8 when they enrolled as to how many hours they needed ,
9 and whereas that was the originating practice and the
10 plan. Therefore, I think the board should have a
11 grace period and refer these to Kathy as they come
12 in, and when she sees the contracts, the start and
13 end dates that she can work through this process to
14 eventually get us to the goal of the statute and, you
15 know, it should be an easy resolution once we
16 establish that. But the people that are operating
17 under the old way of thinking need to have an
18 opportunity to work through the process to do that.

19 MR. JOCHUMS: Let me ask, what is the old
20 assumption? I don't understand exactly. Is it
21 assumed that you have finished all of your hours if
22 you send a piece of paper into the board that's
23 frozen forever and you can take the test at any date?
24 Was that what was understood to be --

25 MS. WITTUM: That was my understanding.

1 MR. JOCHUMS: But you had to have finished? You
2 had to have finished the school to freeze them?

3 MS. POWELL: Well, I think what their situation
4 is a little bit different because --

5 MR. JOCHUMS: It wouldn't even apply to them
6 because that's the wrong section, I know.

7 MS. POWELL: Their situation is that as long as
8 they enrolled before three -- as long as they
9 enrolled three years from their last drop date then
10 they could maintain those hours. And the statute --

11 MR. JOCHUMS: That's sort of -- is that a
12 different freeze, because that's not the same thing
13 as --

14 MR. KEENE: It sounds different to me.

15 MR. JOCHUMS: It sound to me. In fact they're
16 different section. The A section of the statute 17-
17 26-416 seems to say students must finish school in 36
18 months. That's what it says.

19 MS. POWELL: Exactly, but we're talking about
20 the old --

21 MR. JOCHUMS: I mean it's the same statute.
22 It's been the same statute for 100 years.

23 MS. POWELL: Right.

24 MR. JOCHUMS: Or 50 years. So that hasn't
25 changed. And the board somehow in the past has had

1 a thing, a waiver that you don't have -- some people
2 can do it in 48 months. Is that -- am I
3 understanding right?

4 MR. KEENE: Well, I think what's happened is
5 people will go for 24 months, and then drop out for
6 24 months, and then go back and be in it for 12, or
7 18, or 30, or whatever. And it gets really confusing
8 because they don't get in there and get it done and
9 take their exam.

10 MR. JOCHUMS: Okay.

11 MR. KEENE: Or they get in there, they get it
12 done, and they decide for whatever reasons, life's
13 experiences they just don't take the exam.

14 MR. JOCHUMS: Okay. But we really have is two
15 different problems --

16 MS. POWELL: Yes.

17 MR. JOCHUMS: -- that you need to address
18 separately. And one is in the case that Cliff just
19 postulated, should those people be allowed the
20 relation back beyond the -- back taking more than
21 four years, that's one issue.

22 The other issue has to do with whether you can
23 test or not. Because the B section seems to say that
24 you've got to take the test within 36 months of when
25 you finish school, period. Although I can sort of

1 understand maybe where this all came from. There's
2 some language in this section that says that you've
3 finished your school, "but have failed to qualify and
4 make application." Now, I don't know what that
5 means, to qualify. I guess qualify would be
6 graduate.

7 MR. KEENE: Pay their contract, I would think.

8 MR. JOCHUMS: Pay their contract, maybe they
9 didn't pay. But it's got an "and make application",
10 then the training becomes non-accredited after three
11 years. So it's possible that the predecessors read
12 that to mean, well, if you get your application
13 filed, you paid for your school, you got your
14 application filed, then this three years doesn't
15 apply. That's a different way to read the statute.
16 I don't -- and if that's the way the board has read
17 it all these years we can just go back to that and
18 this issue will go away. Anybody can lock it in
19 forever.

20 (Multiple discussions taking place without
21 recognition to hold the floor.)

22 MS. WITTUM: Look at the paragraph underneath
23 that.

24 MR. JOCHUMS: Where?

25 (Multiple discussions taking place without

1 recognition to hold the floor.)

2 MS. POWELL: I think we have got some
3 clarification on this. I think what we need to do is
4 have Ms. Wittum give us an idea of this grace period
5 time, how long it's going to take her to work through
6 the process of these currently enrolled students or
7 those that are in the back file cabinet to be
8 notified and then would have ample opportunity to
9 come up and examine, if so desired.

10 MS. WITTUM: I would say the grace period needs
11 to be through December 31st of 2007, or excuse me,
12 2006. Excuse me.

13 MS. POWELL: Next year.

14 MS. WITTUM: 2006. I am already into 2006.

15 MS. POWELL: December 2006?

16 MS. WITTUM: Yes.

17 MR. KEENE: Do you need a motion?

18 MS. POWELL: Did you say we do not need a
19 motion?

20 MR. JOCHUMS: Oh, yeah, you need a motion once
21 you decided what you want it to be. That's what I'm
22 saying.

23 MS. POWELL: Is there any further discussion?

24 MR. KEENE: I'll move that we give the office
25 until December of '06 as a grace period on taking

1 care of these applications of currently enrolled
2 students wanting to take the exam and loss of their
3 hours.

4 MS. TRAYLOR: I'll second that motion.

5 MS. POWELL: I have a motion and a second to
6 allow --

7 MR. JOCHUMS: Let me ask. Are you dealing with
8 both questions in this?

9 MR. KEENE: I thought I was.

10 MR. JOCHUMS: Okay, as long as everybody
11 understands.

12 MS. POWELL: I have a motion and a second to
13 have a grace period of December, 2006, for Kathy to
14 be able to give the current students and the already
15 completed students that are on file in the office an
16 opportunity to reexamine. Is there any discussion?

17 MS. TRAYLOR: I would also like to say that if
18 they don't do it by then they don't need to come to
19 the board and ask for a conference, because they --
20 that's the way it's going to be.

21 MS. POWELL: I think that that will be handled
22 within this December '06. All those in favor raise
23 their right hand.

24 (Show of hands.)

25 MS. WITTUM: We failed to ask Amanda, Emily or

1 Tammy if they had anything they wanted to say, but
2 you do you have anything that you wanted to say?

3 TAMMY: You have talked about the whole
4 situation and clarified it. I just wanted to make
5 sure that these girls didn't get penalized because
6 everybody understood things differently. So we're
7 good.

8 MS. WITTUM: And we'll see Amanda tomorrow.

9 TAMMY: Tomorrow.

10 MS. POWELL: Good luck.

11 AMANDA: Thank you.

12 MS. POWELL: All those opposed -- was there any
13 opposition? Was that unanimous?

14 MR. DOWNEY: I think it was unanimous.

15 MS. POWELL: I would like to suggest at this
16 time, also, that the new Director is under a lot of
17 opportunities to face issues that she could make an
18 administrative decision on, these type of issues that
19 she's going to be confronted with daily. And I
20 detect a resistance from her in her thinking that the
21 board is not confident in her making all these
22 decisions and that she may have to bring them all to
23 the board at a board meeting, and I would like for
24 the board to give Kathy the opportunity to handle
25 these dates and issues of the administrative powers

1 in the office and utilize that, without -- under
2 issues that she's already privy to the board's
3 explanation on. For instance, these issues on these
4 young ladies today. She knew what we said last time
5 and she knew that we just inadvertently had failed to
6 give an opportunity to work through the process. And
7 not always is she going to need a board meeting to
8 make these -- to expedite these type of decisions, I
9 think. So I don't really know what I'm trying to ask
10 y'all to do. I don't guess there's a motion to do
11 this, but I think y'all need to voice your opinion.

12 MR. JOCHUMS: Well, you could formally delegate
13 some issues to her. Maybe you have already done
14 that.

15 MR. DOWNEY: I think we already have.

16 MS. TRAYLOR: We did that a long time ago.

17 MR. DOWNEY: Whenever she was hired we gave her
18 full authority to make administrative decisions.

19 MR. KEENE: That's exactly right.

20 MS. WITTUM: Well, I guess, in my thinking --

21 MR. KEENE: Unlike her predecessor where we made
22 a motion and specifically took authority away from
23 because of issues back then. When you were hired you
24 were given the authority at that point. If you feel
25 uncomfortable with making some of these decisions

1 and feel you need to ask, I certainly understand.
2 But, no, you have our confidence to make those
3 decisions.

4 MS. WITTUM: Well, I appreciate that.

5 MR. DOWNEY: I'd like to say, you know, the
6 telephone is pretty easy to use if you're ever in
7 doubt just and you just want to kind of get a feel of
8 what the board feels like from the telephone. You've
9 got the authority of a telephone to call say, sure,
10 Kathy, go right ahead, well, that's what you need to
11 do. I mean if it's something that you just feel
12 uneasy about just pick up the phone and call us.

13 MR. KEENE: Yeah, you're not asking us to make a
14 motion at a board meeting, but make those phone calls
15 if it makes you more comfortable, but I'm very
16 comfortable with your decision making.

17 MS. POWELL: Those type of things are going to
18 have to be referred back to the office anyway to
19 follow the statute and the rules, so there's no sense
20 in beating it to death.

21 MS. WITTUM: Okay. Well, I appreciate your vote
22 of confidence.

23 MS. POWELL: Thank you. I told you. I told
24 you.

25 MR. KEENE: So what's our process now on the

1 rules and regs, since we've done that and we're done
2 with our public hearing. What's the process now?

3 MS. WITTUM: You'll get -- it's on the agenda in
4 December to come and meet with the legislative
5 committee, and I understand that's just a formality.

6 From there I believe they will be finalized in
7 probably February, where we were wanting to be
8 anyway. It's a certain number of days after the
9 meeting with the legislative committee that they
10 actually become final.

11 MR. KEENE: So then we're looking at when? When
12 did we say we'd like to see these go into effect?

13 MS. WITTUM: February 1st.

14 MR. KEENE: But our inspectors, not so much this
15 decision that we made today but the other decisions,
16 the changes in the rules and regs, when will our
17 inspectors start enforcing those?

18 MS. WITTUM: Anything that's new would have to
19 be after the rules are finalized in February,
20 probably.

21 MR. JOCHUMS: After the effective date.

22 MS. WITTUM: Yeah. Now, some things, if you're
23 referring to like the laser hair removal. Are you
24 referring to that? Okay. Because I know they have
25 been hesitant to enforce anything on that particular

1 issue.

2 MS. CAUDLE: Not really the laser hair removal
3 but the micro dermal abrasions. We know that you
4 have to be a licensed electrologist to do laser hair
5 removal or in a medical facility, but micro dermal
6 abrasion, the guidelines on it is really what we need
7 help with.

8 MS. WITTUM: Well, and my ignorance is going to
9 be evident, because are there two issues not the same
10 thing?

11 MS. POWELL: No.

12 MS. CAUDLE: No.

13 MS. WITTUM: Okay. So would -- Angela, I think
14 you know Angela's issue --

15 MS. CAUDLE: Angela is a licensed esthetician
16 but she has also purchased a laser hair removal
17 machine, which supposedly a physician is working in
18 her facility certain days a week and she is doing
19 laser hair removal.

20 MR. KEENE: If that's the case, then I would say
21 in her particular situation she can't advertise that
22 she's an esthetician unless she has -- is licensed.

23 MS. CAUDLE: She does have a salon license.

24 MR. KEENE: If she does, then it sounds to me
25 like she could do it if the doctor is on there.

1 MS. CAUDLE: If he's on premises, but there's
2 certain days on premises.

3 MS. POWELL: I think there's a difference in a
4 medical facility and a cosmetologist having a doctor
5 --

6 MS. CAUDLE: Come to their facility.

7 MS. POWELL: -- visit.

8 MR. KEENE: Okay.

9 MS. POWELL: There is a licensed medical
10 facility and then there is a licensed cosmetological
11 establishment.

12 MS. CAUDLE: And that's what guidelines I needed
13 on that.

14 MR. KEENE: Okay. So we're saying --

15 MS. POWELL: Just because a doctor is there
16 doesn't make it a --

17 MR. KEENE: -- at the medically licensed
18 facility -- okay.

19 MS. POWELL: And this is something that the
20 board is going to be aggressively working on is the
21 scope of practice for the esthetician. We need to
22 all be working and thinking about how we can clarify
23 this.

24 MS. WITTUM: Well, you may even want to see who
25 on the board would want to participate in a

1 committee, because the attorney for the medical board
2 Bill Trice has offered to have some of their board
3 members participate with some of our board members on
4 a committee to evaluate what legislative changes need
5 to be made over the next year to get ready for the
6 next session dealing with this particular issue.

7 MS. POWELL: Would we like to have a committee
8 working on that. I know that we're not looking at,
9 you know, I guess we'll be working with Mr. Trice
10 during '06, start actually working on our plan after
11 the first of the year. Do I have any volunteers for
12 this committee?

13 MR. KEENE: I will.

14 MS. POWELL: We will call this the Esthetic
15 Scope of Practice Committee.

16 MR. JOCHUMS: If you want to make it bigger than
17 esthetics electrology, because there's still an
18 issue.

19 MR. DOWNEY: I want to be on that committee.

20 MR. JOCHUMS: Because the electrology statute
21 doesn't have the word laser in it, as we all know.
22 It just says some old fashioned technology, so we're
23 really stretching things.

24 MR. KEENE: Are we looking for a committee here
25 to work on our scope of practice and with the

1 medical board or just working with the medical board
2 on applied electrology and esthetics.

3 MR. JOCHUMS: I think it's more with them with
4 the division of authority and who can do what, is my
5 understanding of what that probably would be.

6 MR. KEENE: I think the committee needs
7 direction, definite direction in order to keep it
8 from going off into other areas because there's so
9 many things in that scope.

10 MS. POWELL: I think our intent with this
11 committee is to get clarification more so among
12 ourselves than the medical board. I think after this
13 last legislation the medical board has clearly
14 defined what they think is what they're going to do
15 with their estheticians and their electrolysis and
16 laser. It's the cosmetology board that has not got a
17 clear direction as to who is going to have a facility
18 license and what the scope of practice is going to be
19 under the cosmetology law.

20 MR. KEENE: So this committee to needs to meet
21 to define its scope of practice.

22 MR. JOCHUMS: It needs to meet with itself
23 before it meets with the docs.

24 MS. POWELL: Absolutely.

25 MR. KEENE: And define its own scope of

1 practice, what all it's intentions are and see how we
2 are willing to work with the medical board and
3 hopefully work with them.

4 MS. POWELL: Exactly. Based on what our
5 statutes have provided and based on what the medical
6 board is doing right now we need to fit ourselves
7 into what do we want to do on our end of it. And
8 then we need to take it to the medical board to see
9 if there is anything that is not good.

10 MR. KEENE: Okay.

11 MS. POWELL: So at this time I have Nick, and
12 Cliff and LaJoy.

13 MS. TRAYLOR: Veda.

14 MS. POWELL: Veda. Let's see. That gives us
15 five --

16
17 MR. KEENE: That gives you three electrologists
18 and three instructors on a committee. That's very
19 good.

20 MS. POWELL: Is that enough?

21 MS. WITTUM: Now, since you have some extra time
22 this morning do you want to discuss anything to do
23 with microderm abrasion to get the inspectors some
24 guidance, and they're saying please, with their eyes.

25 SPEAKER: We need some guidelines, you know.

1 MR. KEENE: I know Sheila has been trying to get
2 them for about three years.

3 MS. CAUDLE: I have.

4 MS. WITTUM: Well, could somebody educate me on
5 exactly what --

6 MS. POWELL: Well, I hesitate to, at this time I
7 would really -- I would like to see the committee
8 convene and have an opportunity to discuss the scope
9 of practice that we have and clarification of what it
10 is saying before we go telling someone what we think
11 today. We've been telling people what we think and
12 you pull it out of -- sporadically like this, I don't
13 -- I think that's just opening a door of opportunity
14 to make a change again. Because you're going to have
15 a difference of opinion and I think the committee
16 needs to get founded on what they believe is safe
17 right now.

18 MR. KEENE: Are you going to --

19 MS. POWELL: Under micro dermal abrasion.

20 MR. KEENE: Are you going to chair that
21 committee?

22 MS. POWELL: Yes.

23 MR. KEENE: Okay. I -- they don't always.

24 MS. POWELL: I know you're wanting answers, but
25 this is not anything current, or it is not anything

1 new. It is current, but it's not new.

2 MS. CAUDLE: No.

3 MS. POWELL: So I think if you just give us an
4 opportunity to get together and talk it over a little
5 bit before we turn in a report to the office for the
6 inspectors.

7 MR. KEENE: I would like at some point today
8 that we come up with a date for that committee to
9 meet.

10 MS. POWELL: Okay. Do you have any suggestions,
11 anybody have any?

12 MR. KEENE: Not right now because I would want
13 to look at calendars and I'm sure everybody else has
14 engagements for the holiday season.

15 MS. POWELL: And, too, Kathy is going to be
16 doing our schedules for exams, our new schedule, exam
17 schedules, so that might help us get a date once she
18 gets -- you know, arrives at that.

19 MR. KEENE: And speaking of schedules, I don't
20 know what you have scheduled for the January meeting,
21 we didn't use to have a January board meeting. We
22 started, I think, last year, and there were reasons
23 they're not pushed for that because there was a lot
24 of problems we had in the past. Felt like we didn't
25 need to have that four month span without a board

1 meeting.

2 I would like to leave that up to you to go back
3 to a discretionary -- you discretion if we need to
4 have a January board meeting. I feel confident in
5 what you do. I also know that you're two hands short
6 or four hands actually short in the office and we are
7 during in renewal. So I don't know what kind of time
8 you've got.

9 MS. WITTUM: I would love to not have a board
10 meeting in January. It would be very helpful.

11 MR. KEENE: Well, I don't know what you have
12 scheduled already, but I'll make that as a motion
13 that we leave that up to her discretion.

14 MS. GORDON: I'll second.

15 MS. POWELL: We have a motion and a second. All
16 those in favor raise your right hand.

17 (Show of hands.)

18 MS. WITTUM: And we'll just go ahead and say no
19 January board meeting.

20 MR. DOWNEY: I like that agenda.

21 MR. KEENE: Well, have we listened to anybody.

22 MS. POWELL: Well, and what we'll do -- we will
23 schedule those approval of minutes for the 19th on
24 the March, so you need to make that change.

25 MS. WITTUM: Great. That will be very helpful.

1 MS. POWELL: And I think today's meeting may
2 have helped y'all out as far as the electrolysis
3 issues.

4 MS. CAUDLE: I already knew those.

5 MS. POWELL: It's just the esthetician and
6 microderm abrasion that you're concerned about?

7 MS. CAUDLE: Uh-huh (affirmative).

8 MS. TRAYLOR: Is all estheticians doing
9 microderm abrasions?

10 MS. CAUDLE: Not all, but not all people do
11 microderm abrasions for licensed estheticians either.
12 You know, at one time it was something as long as
13 they are working under the direct supervision then we
14 have to let it go. Well, specified to us -- to me
15 direct supervision is the physician should be on
16 premises. Well, they say no, that's not it, as long
17 as they can contact a physician. And I don't agree
18 with that but, you know, so I just -- I just need
19 some guidelines and so do the other inspectors to go
20 by who is in violation, who is doing it legally and
21 just exactly what the stipulations are, you know.

22 MS. POWELL: We do. I know.

23 MR. KEENE: Jane, when y'all met with -- at the
24 legislature with the -- I think it was Trice --

25 MS. POWELL: Well, we did meet with Bill Trice.

1 MR. KEENE: Okay.

2 MS. POWELL: Okay.

3 MR. KEENE: Well, was there anything there said
4 about what they consider to be direct supervision?

5 MS. POWELL: Direct supervision?

6 MR. DICKERSON: Did they have a definition of
7 it?

8 MS. POWELL: Direct supervision is in the
9 facility.

10 MR. JOCHUMS: That's not how the medical board
11 looks at it.

12 MR. KEENE: That's my question is how are they
13 looking at it.

14 MR. JOCHUMS: No, they don't look at it that way
15 at all.

16 MS. POWELL: They have what they call, correct
17 me if I'm wrong, Mr. Jochums, but there is an
18 immediate supervision and then there is a direct
19 supervision. Is there a definition change?

20 MR. JOCHUMS: I think that -- I'm not sure that
21 there's two definitions but my understanding and I
22 haven't looked at it in months is that their notion
23 of direct supervision was the telephone or I can get
24 to you.

25 MR. KEENE: On call?

1 MR. JOCHUMS: Or on call.

2 MR. KEENE: That's not going to do them a lot of
3 good if they burn a face up.

4 MS. WITTUM: Didn't necessarily have to be in
5 the room?

6 MR. JOCHUMS: Does not have to be in the room,
7 no. We're talking about doctors, we're talking
8 about making money. And they don't want all the
9 people on there, they want to have branches and they
10 do, you know.

11 (Multiple discussions taking place without
12 recognition to hold the floor.)

13 MR. JOCHUMS: She can get the copies of the
14 rules that they have. Their rules spell out what the
15 level of supervision. Because you've got nurse
16 practitioners that are working for doctors and he's
17 nowhere near, that person may be 100 miles away.

18 MR. KEENE: That's right.

19 MS. WITTUM: Well, I know that Medicaid requires
20 the doctor to be in the room, in the building in
21 order for the investigator to perform the sexual
22 assault exams.

23 MR. JOCHUMS: Okay. But there are some other
24 kind of things that are not as tight.

25 MR. KEENE: Well, it just sounds like, as Jane

1 suggested, that we need to figure out what our scope
2 of practice is, what we mean by all of that and the
3 licensing issue of it. And then when we make those
4 decisions that's when we need to pull in somebody
5 from maybe their board or something to talk with us.

6 MS. POWELL: I think that this Bill Trice, their
7 attorney, has been so kind to the cosmetology board
8 for years and years to work with -- on behalf of the
9 medical board, but he has also been very pro-
10 electrologists and the perspective of the cosmetology
11 world. And I think if we also would adopt our
12 language to be conducive to what their immediate
13 means, be it our immediate. We need -- and I think
14 clarification from that is going to come from
15 speaking to Mr. Trice and for the committee to do
16 this and try to get it together for once.

17 MR. JOCHUMS: And some of this may take
18 legislation to fix.

19 MS. POWELL: Right.

20 MR. JOCHUMS: And they know that as well. But I
21 think that it would be hard to guess which group
22 would have more legislator friends. Both groups are
23 very powerful, so but it would be better to have a
24 cohesive bill that everybody agreed on in terms of
25 some of these definitional changes. Because for

1 some things like microderm abrasions, that doesn't
2 fit any of the definitions. It's not an
3 electrologist, it's not -- you know, what is it. It
4 was invented long after your statute got written,
5 they were never thinking about that when they wrote
6 that law. So there's some holes that need to be
7 filled.

8 MS. TRAYLOR: Do we have time for a break?

9 MS. POWELL: We sure do.

10 MS. WITTUM: Have lots of time for a break.

11 MR. KEENE: We've got two hours.

12 MS. POWELL: Do I need to gavel a break
13 immediately for -- don't we have time until lunch?

14 MR. JOCHUMS: Is there anybody here --

15 MS. WITTUM: I think -- I think this lady had
16 her hand up. Did you want to ask a question or say
17 something.

18 MS. JONES: I just wanted to say something. My
19 name is Carla Jones and I just wanted to say that if
20 we have to -- if we're trying to decide what the
21 scope of practice is, just like when the teachers,
22 you know, cosmetologist and we want to teach, we had
23 to go back and get a teacher's license. An
24 esthetician that wants to do laser, it could cause
25 them -- an electrologist should have to go back and

1 get those extra hours to get that extra license then
2 practice it.

3 MS. POWELL: Exactly.

4 MS. JONES: Just like we did the teachers. And
5 I think that, you know, that should be something that
6 we look at too, if they want to do it then make them
7 get those extra hours to do it, like they do us
8 instructors.

9 MR. KEENE: Are you suggesting an advanced
10 license then or just going --

11 MR. JOCHUMS: No, she's just saying --

12 MS. JONES: Just an esthetician --

13 MS. TRAYLOR: That they have to handle that
14 policy.

15 MS. JONES: Just to go back and get three -- you
16 know three or 400 hundred hours to get an
17 electrolysis license. And maybe the doctor wouldn't
18 have to be there every minute to look at them, you
19 know, they could go ahead and do the work that they
20 are licensed to do.

21 MS. POWELL: Well, I don't think electrolysis is
22 actually a concern. I think it's real clear that
23 they are to be electrologists to do electrolysis or
24 laser hair removal. It's the esthetician that has --
25 we have difficulty. We know they're not to do

1 laser, we know they're not to do electrolysis unless
2 they have another program, like you say.

3 MS. JONES: So maybe they need to get the hours.

4 MS. POWELL: Right, unless they go back and get
5 electrolysis. But if the scope of projects for the
6 esthetician and I think that the state, as a whole,
7 is having difficulty defining, and I think part of it
8 is because it involves the medical -- the medical
9 arena. So we have got to find our place conducive to
10 that. And our placed never included microderm
11 abrasion. Our place only included cleansing. Okay.

12 SPEAKER: But some schools are even teaching it.

13 MS. POWELL: I realize that. But like, again,
14 that's what they're defining -- how they define
15 microderm abrasion.

16 SPEAKER: Right.

17 MS. POWELL: We have some people thinking it's
18 laser, we have some people think it's just cleansing
19 the skin. So we have -- I think that's why this
20 committee is going to be very instrumental in
21 cleaning that up for our next legislation like Mr.
22 Jochums says, it will ultimately get us there.

23 Are we going to take a break or do you just want
24 to break for lunch?

25 MS. WITTUM: Just break for lunch.

1 MS. POWELL: We're done.

2 MS. WITTUM: Since we don't have -- the
3 disciplinary hearings will start at 1:00.

4 MS. POWELL: Okay. Break till 1:00.

5 (A break was taken until 1:00 p.m.)

6 OFF THE RECORD

7 (Proceedings resumed with same board members
8 present to take up administrative hearings before the
9 board.)

10 MS. POWELL: I call the meeting to order. At
11 this time it is time for the hearings. I'll turn the
12 meeting over to the attorney, Mr. Jochums.

13 MR. JOCHUMS: Okay. Thank you very much. I
14 appreciate y'all being here. The procedure we're
15 going to follow this morning will be the same in all
16 cases. Each of you who is a respondent has received
17 a notice of hearing. As your case is called an
18 inspector will come up and tell what she saw that she
19 believes is a violation of the rules. You will have
20 an opportunity to ask her questions about what she
21 saw. You will have an opportunity just to tell your
22 version of what's going on and anything else that you
23 want the board to know.

24 When we finish with all of that these board
25 members may have questions of you or the inspector,

1 and then they will deliberate in public and decide
2 whether the rule violation -- whether there's been a
3 violation of board rules or statutes and decide what
4 sanction is appropriate. And that's the process
5 we'll go through in all of these.

6 What I'd like to right now is to go ahead and
7 have everybody here, no matter what case you're here
8 on, to be sworn in at the same time, and if people
9 come in later we'll get them. But if the court
10 reporter would be so good as to swear all of the
11 people that think they may testify this morning.

12 It may be that you're not sure if you're going
13 to be a witness, go ahead and stand up and take the
14 oath in case you do end up being a witness.

15 COURT REPORTER: If you would stand and raise
16 your right hand, please.

17 (Witnesses sworn.)

18 MR. JOCHUMS: We're taking up the matter of
19 Scottie Burchett, d/b/a Saline County Career Center,
20 HO-06-041. I see that Ms. Burchett and her lawyer
21 are here. If y'all would identify yourselves for the
22 record.

23 MR. BURNETT: Sherry Burnett, on behalf of
24 Saline County Career Center, and Scottie Burchett.

25 MR. JOCHUMS: And the witness will be?

1 MS. CAUDLE: Sheila Caudle.

2 MR. JOCHUMS: Thank you. As little
3 preliminaries I think we can all agree Ms. Burchett,
4 your client has received the Notice of Hearing today
5 and you're here with her today because of that?

6 MS. BURCHETT: Correct.

7 MR. JOCHUMS: Okay. What I want to do is go
8 ahead and make an exhibit, which would be Board's
9 One, which is the Order and Notice of Hearing and a
10 historical of documents as historical review for
11 hearing orders on November 14. That's three pages
12 total. And I believe the board members have those
13 three pages in their packet as well.

14 Also, I want to incorporate by reference the
15 board's regulations regarding schools.

16 Now, the case in this particular case concerns
17 allegations regarding students when they got reported
18 to the board office, in essence. I don't believe
19 there's any allegation of improper instruction, or
20 health or safety, or any of those kind of violations.
21 And with that little few words of introduction --
22 well, let me ask if counsel has anything she wants to
23 say as an opening statement, this would be
24 appropriate.

25 MS. BURNETT: No, sir, except that on -- under

1 paragraph one they did cite health and safety
2 violations, although we didn't find any specific
3 reference to the code section.

4 MR. JOCHUMS: Okay.

5 MS. BURNETT: We sort of tried to guess at what
6 those were and I am prepared to present evidence
7 concerning that. It's very brief, though.

8 MR. JOCHUMS: Okay. You were right, I misread
9 the notice.

10 MS. BURNETT: Madam Court Reporter, can you hear
11 me okay? I am so sorry, I'm about to lose my voice,
12 I think. Okay.

13 MR. JOCHUMS: We call as our witness, Sheila
14 Caudle. You are a board inspector?

15 MS. CAUDLE: I am.

16 MR. JOCHUMS: You have been for many years?

17 MS. CAUDLE: Yes, sir.

18 MR. JOCHUMS: Is one of your duties review and
19 inspection of files pertaining to the schools
20 regulated by the board?

21 MS. CAUDLE: It is.

22 MR. JOCHUMS: Okay. Does a school have a
23 responsibility to notify the board office before a
24 student starts taking classes?

25 MS. CAUDLE: They do.

1 MR. JOCHUMS: So I just can't go to a school and
2 start, somehow my name has to get to this office?

3 MS. CAUDLE: You have to be permitted, what we
4 call permitted in our office before you actually
5 start accruing hours in that school.

6 MR. JOCHUMS: And in terms of reaching the
7 required hours for graduation you can't --

8 MS. CAUDLE: As I said, there's a certification
9 of training that tell us that that student has
10 completed their training and are eligible to apply
11 for exam.

12 MR. JOCHUMS: Okay. But you don't count hours
13 before they're registered with you; is that correct?

14 MS. CAUDLE: No.

15 MR. JOCHUMS: Now, tell us about the matters in
16 the notice of hearing. Did you go to the school in
17 January of this year, 2005?

18 MS. CAUDLE: In January there was just a regular
19 inspection done there. At that time I noted that
20 there were some health and safety violations, such as
21 unclean floors, mats and mirrors, and unclean and
22 unsanitary shampoo bowls, and unclean solution. I
23 don't think any kind of order was ever sent to the
24 school in that matter.

25 MR. JOCHUMS: Okay. Did you go there again in

1 April?

2 MS. CAUDLE: In April I went there to do a
3 records audit.

4 MR. JOCHUMS: At that point did it seem that
5 whatever the health issues had been resolved?

6 MS. CAUDLE: We did not go there to do an
7 inspection --

8 MR. JOCHUMS: You didn't look at that?

9 MS. CAUDLE: -- that day, it was strictly for a
10 records audit.

11 MR. JOCHUMS: Okay. And you said we, who went
12 there.

13 MS. CAUDLE: Cheryl Esaw went with me, as
14 administrative assistant.

15 MR. JOCHUMS: Here with the board?

16 MS. CAUDLE: From the State Board office.

17 MR. JOCHUMS: Okay. Now, tell us what you
18 learned that's involved in this hearing today.

19 MS. CAUDLE: On April the 14th of 2005, Ms. Esaw
20 and myself went to do the school audit. At that time
21 we found that there was a student Kim Brown, she was
22 not on the attendance book and was not enrolled until
23 March of '05, but she had time cards clocked for
24 January and February. She was --

25 MR. JOCHUMS: Let me stop you a second. What

1 you just said, on the attendance books, is that the
2 books of the school?

3 MS. CAUDLE: That is the books of the school.
4 That's the roll books.

5 MR. JOCHUMS: And then on, then you said that
6 she wasn't enrolled until March, what does that mean?

7 MS. CAUDLE: That means that she was not
8 enrolled with our office until March of '05.

9 MR. JOCHUMS: Okay.

10 MS. CAUDLE: Yet she had time cards for January
11 and February.

12 MR. JOCHUMS: Okay. I understand, you can
13 continue.

14 MS. CAUDLE: But she was a full-time student,
15 she was not a high school student, this particular
16 student was not.

17 MR. JOCHUMS: I see.

18 MS. CAUDLE: Number two student was Sheila
19 Mowden, she was not also in the attendance books and
20 had not been enrolled until February but she had time
21 cards for January. She was also an adult full-time
22 student.

23 MR. JOCHUMS: Okay. Let me stop you and ask
24 another thing. You mentioned time cards. For there
25 are some people in the room and we've got a new

1 board member, what's a time card?

2 MS. CAUDLE: Every student has to clock in and
3 out to verify what times they're on the premises of
4 each school.

5 MR. JOCHUMS: Okay. And that's pursuant to
6 established board regulations.

7 MS. CAUDLE: That's a time card just like --
8 yes, sir.

9 MR. JOCHUMS: Okay.

10 MS. CAUDLE: Then there was a student Kristin
11 Arnold, she was enrolled in the school October, but
12 first appeared in the roll book in August of '05, and
13 she attended August, September and October before
14 being enrolled, and she is a high school student.

15 MR. JOCHUMS: And the August, September and
16 October were in the previous year? Am I reading that
17 right or wrong?

18 MS. CAUDLE: No, I think it's a typo in this. I
19 think it was October of '05 when she was there.

20 SPEAKER: It was '04.

21 MR. JOCHUMS: Was it '04? Okay. October of
22 '04, but she wasn't enrolled on the roll book until
23 August the 19th then of '05, so she was there August,
24 September and October, '04. All of it was '04?

25 SPEAKER: Yes, for Kristin.

1 MS. CAUDLE: It is a typo but it's a different
2 typo but it is on the '05.

3 MR. JOCHUMS: It's a different typo. Okay.

4 MS. CAUDLE: In other words she was there for
5 the months of August and September before -- and
6 October before being enrolled on October the 18th.

7 MR. JOCHUMS: So she had gone to school for
8 several months --

9 MS. CAUDLE: Almost three months.

10 MR. JOCHUMS: -- almost three months before she
11 was reported to the board office?

12 MS. CAUDLE: Right, and she was an 11th grade
13 student, high school student.

14 MR. JOCHUMS: Okay. Is there anything else that
15 you need to tell me about that?

16 MS. CAUDLE: I did talk to Ms. Burchett about it
17 and she said that she had no control over the high
18 school students, that they just send them until they
19 get the paperwork, so that may explain the Kristin
20 Arnold, which was a high school student but there
21 were also two adult students.

22 MR. JOCHUMS: Okay. And do you know when she
23 said they sent the paper, who was she referring to?

24 MS. CAUDLE: That would be the high school that
25 the students are coming from.

1 MR. JOCHUMS: Which might be different than --

2 MS. CAUDLE: Right, it may be different high
3 schools in that area that send students to that vo-
4 tech program.

5 MR. JOCHUMS: Okay. I have no other questions
6 for the witness. Counsel, you may ask her.

7 MS. BURNETT: Ms. Caudle.

8 MS. CAUDLE: Yes.

9 MS. BURNETT: Did you ever take an opportunity,
10 ma'am, to look at the hour sheets while you were
11 there to verify whether the time cards actually --
12 whether the time cards actually reflect what the
13 students were given?

14 MS. CAUDLE: There were no hours reported for
15 those students.

16 MS. BURNETT: Okay. So although they punched in
17 through the time card, no one gave them credit --

18 MS. CAUDLE: Right.

19 MS. BURNETT: -- for cosmetology?

20 MS. CAUDLE: That's right.

21 MS. BURNETT: So that was not in violation?

22 MS. CAUDLE: No, ma'am.

23 MS. BURNETT: Okay. So couldn't it be true that
24 they were just getting their college class credits
25 through that particular program?

1 MS. CAUDLE: College class credits? How do you
2 mean?

3 MS. BURNETT: Well, either high school credits
4 or their regular college class credits. I mean hours
5 to count toward their college.

6 MS. CAUDLE: For cosmetology?

7 MS. BURNETT: Yes, ma'am.

8 MS. CAUDLE: It could be, but still to be
9 enrolled in the cosmetology school you have to be
10 permitted through our office --

11 MS. BURNETT: Yes, ma'am.

12 MS. CAUDLE: -- to be in that program.

13 MS. BURNETT: And you didn't find any hours that
14 were submitted prior to a permit being obtained, did
15 you?

16 MS. CAUDLE: No, I didn't, I just found the time
17 cards clocked.

18 MS. BURNETT: Okay. That's all I have.

19 MR. JOCHUMS: Do any of the board members have
20 any questions of the inspector?

21 (No response.)

22 MR. JOCHUMS: If not, I have no further
23 witnesses to present.

24 MS. BURNETT: And, Director, if I may hand out
25 some handouts for everyone to look at.

1 MR. JOCHUMS: You sure can.

2 MS. BURNETT: My first witness, I call Scottie
3 Burchett. Ms. Burchett, you have already been sworn;
4 is that correct?

5 MS. BURCHETT: Yes.

6 MS. BURNETT: All right. Let's just go through
7 this Order and Notice of Hearing. With regard to the
8 health and safety violations I think the prior
9 testimony indicated that there were some unclean
10 floors and shampoo bowls and were not clean and just
11 some various things that were not clean. Can you
12 tell the board the situation surrounding the time
13 period that they came in for inspection?

14 MS. BURCHETT: Okay. We're a state-owned school
15 and so we operate a little bit differently than a
16 private-owned school in that we are out of school
17 from -- for at least two weeks in December in then to
18 the first part of January. We're very fortunate
19 because we have a custodial staff that takes care of
20 our cleaning needs, our deep cleaning needs. The
21 students are responsible for their daily duties, but,
22 you know, the deep cleaning needs are done usually on
23 these breaks.

24 When we start back a new semester it's like we
25 are almost starting a brand new class, because we do

1 have new students and at this time we had a new
2 teacher coming on for the semester.

3 Whenever, I don't know how it works for
4 everybody else, but I know we always have to remind
5 our students what all the rules and regulations are,
6 so and we are talking about high school students
7 here, they're are only here two and a half to three
8 hours at a time, so we're talking about a four day
9 period, but bear in mind they're only -- they're only
10 here at the most three hours -- three hours a day for
11 each one of those days.

12 So we started back on Monday.

13 MS. BURNETT: Ms. Burchett, what day of the week
14 would that have been?

15 MS. BURCHETT: January the 3rd, I believe.

16 MS. BURNETT: And was the lab empty from what
17 date to what date?

18 MS. BURCHETT: From about December the 19th, or
19 somewhere around there until -- until actually we
20 didn't go into the lab until Friday of that week.
21 And Ms. Caudle came in on Thursday, and what was
22 taking place in the classroom at that time, you have
23 a copy of that week's lesson plans.

24 MS. BURNETT: And is that about the --

25 MS. BURCHETT: I'm trying to see it, so that it

1 will show you --

2 MS. BURNETT: Is it this?

3 MS. BURCHETT: Yes.

4 MS. BURNETT: Okay. It's about the fifth page
5 down, the lesson plan, or actually the sixth page.

6 MS. BURCHETT: What we do is when you get a new
7 group of students, when we get a new group of
8 students we basically go back and start from the
9 beginning as far as our syllabus, which spells out
10 our basic classroom rules and regulations. We go
11 through the Pulaski Technical College handbook, which
12 has their rules and regulations. We go through the
13 cosmetology handbooks and rules and regulations with
14 the students that they especially need to know right
15 up front. And then we have our -- each high school
16 has their own set of rules and regulations, so we
17 make sure that the students understand all of those.

18 And then we get into the cosmetology part of it
19 and what we have our students do is we have them to -
20 - we give them a description of the duties, which is
21 in your packet, it's probably -- it starts on about
22 probably the second page.

23 Each student gets this, we go over them in the
24 classroom, explain them, do a walk through with the
25 students, and then we have them take these home that

1 night. I don't care if they are a high school or
2 college student, but we are talking about high school
3 right now. They have to write these -- re-write
4 these on their own paper, so that maybe if reading
5 them they didn't understand them, maybe writing them
6 down will help them understand them more.

7 And then we take that up the next day when they
8 come in, and then we go into the lab and they
9 actually learn how to do all of the -- all of the
10 duties.

11 Now, I was definitely aware that the floors
12 weren't clean, mirrors, everything was dusty. And,
13 in fact, being in a state-owned school for almost 20
14 years now, I don't know if Ms. Caudle realized I did
15 this, but I walked her around the room and pointed
16 out some things to her, which I probably won't ever
17 do again. But because I'm not in charge of the
18 custodial staff and sometimes they don't understand
19 how serious it really is that even things like return
20 air vents and exhaust vents and things that we may
21 not even be able to reach, you know, how important it
22 is that that and our light fixtures and everything
23 stay perfect. You know, I have a hard time helping
24 them understand this sometime, the person that's in
25 charge of the custodial staff.

1 And so my inspectors have always helped be able
2 to -- I mean, I didn't think it was bad just to say
3 it's not good this time, you know, and correct it,
4 but -- and in the past I have always shown them
5 things that we needed help with. And our inspection,
6 our regular inspection would -- would really help us
7 if we had any area that was deficient, help us to be
8 able to get -- help me be able to get help from
9 higher up.

10 MS. BURNETT: Was there something that occurred
11 over the Christmas break with regard to your
12 custodial work?

13 MS. BURCHETT: Right. He either had some, I
14 believe he had some family illness out of town and it
15 was just one gentleman taking care of our facility,
16 and so he was not -- he never came in over the
17 Christmas break. And until we walked in that week,
18 you know, when we came back, we didn't know that he
19 hadn't been there.

20 And then, you know, I didn't -- you know, I
21 don't feel like it's my job to -- and I tell the
22 students, it's not my job to keep this place clean,
23 you know, it's your job. I don't lay it off on the
24 custodial staff either, but I tell them. And so --
25 because they normally don't have very much to have

1 to do since it is cleaned at night.

2 But he had apparently not made connection with
3 Mr. Ballentine, his boss, to get somebody to take
4 care of the deep cleaning that they had planned on
5 doing during that break.

6 MS. BURNETT: So the deep cleaning was
7 scheduled?

8 MS. BURCHETT: Yes.

9 MS. BURNETT: But it just did not occur because
10 of miscommunication or illness in the custodian's
11 family?

12 MS. BURCHETT: Right. And I was not in the loop
13 of communication to know if anything was done or not
14 done. I'm just asked, or that time I was just asked
15 when will you be out of the lab, and then when would
16 -- you know. But then I was never even asked that,
17 nor was I asked when were we going to be back in the
18 lab.

19 MS. BURNETT: Right. What steps have you taken
20 to correct this problem? What steps have you and the
21 school taken to correct this?

22 MS. BURCHETT: Mr. Ballentine and Mr. Brown and
23 myself, and Mr. Henderson, who is the vice president
24 of instruction, came together and we came up with a
25 check list, which is the first thing on your -- on

1 your stack there for just the cosmetology related
2 areas. And also Mr. Ballentine brought in a cleaning
3 service. They work for the college, too, but it's
4 more than just one person now, so that if they have,
5 you know, something to do that takes more than one
6 person, then they are able to get that job done, but
7 we do have the check list in place. Plus, you know,
8 as far as the students are concerned their duties and
9 the duty chart, there's an example of their duty
10 chart then behind the duty -- the description of
11 duties.

12 MS. BURNETT: All right. And is that Akin's
13 Janitorial Service?

14 MS. BURCHETT: Yes.

15 MS. BURNETT: All right. There were some
16 questions about stained flooring. Can you tell the
17 board what actions you've taken with regard to that?

18 MS. BURCHETT: Well, we have finally found
19 something that will take the stains off the floor,
20 color stains if they get on the floor.

21 MS. BURNETT: What kind of flooring is it?

22 MS. BURCHETT: It's tile floor.

23 MS. BURNETT: Not ceramic tile, it's some other
24 laminate type tile.

25 SPEAKER: Commercial.

1 MS. BURNETT: Commercial tile. Okay. And what
2 have you used to try to keep the stains to a minimum?

3 MS. BURCHETT: Well, we found that acetone will
4 get it off, but it takes the wax, too, but we felt it
5 would be better to have a spot with no wax than a
6 spot with a stain.

7 MS. BURNETT: All right. And Mr. Ballentine is
8 here, too, and he could verify with regard to the
9 janitorial service; is that correct?

10 MS. BURCHETT: Yes.

11 MS. BURNETT: Now, let's move on to the problems
12 set out in paragraph two. Let's talk about Kim Brown
13 first. Will you explain to the board the situation
14 surrounding Ms. Brown?

15 MS. BURCHETT: Okay. I hate after almost 30
16 years in the profession you guys have to realize that
17 I'm only human but here it is. On record, I am only
18 human, and Kim's situation was simply a paperwork
19 mistake. What happened was in -- from August '03 to
20 now, the school has grown from myself and 38 students
21 to six full-time instructors and about 110 students,
22 and getting ready to register even more.

23 So whenever the vice president of the college
24 realized what a responsibility was on me and trying
25 to teach at the same time, he and Mr. Brown met and

1 decided to allow me to be more the
2 supervisor/instructor, which I am, but to do those
3 duties and the coordination of the students coming
4 into register and everything and bring in another
5 instructor to be able to help -- help me be able to
6 focus on the paperwork. Because students are just
7 coming in, sometimes eight or ten a week, wanting
8 information about the program.

9 And as they come in, you know, if they're
10 interested I'll let them go ahead and start their
11 paperwork and then I just start a file on them and
12 then they come back then we go further. I pull their
13 file and we go on. But -- so Kim started her
14 enrollment on January the 10th, and the college class
15 did not actually start back up until January the
16 18th. So during this time I'm trying to get all of
17 the new students registered with the college and with
18 the State Board of Cosmetology, and people bring in
19 different paperwork, different parts of their
20 paperwork at different times and, so then it just
21 gets added to their file until, you know, until they
22 get everything there.

23 So I noticed on -- in January I realized that
24 she wasn't on the hour sheet, but I really didn't I
25 think much about it because I know of renewal time

1 and all the new -- all the new students that I had
2 taken their paperwork and I thought, you know, maybe
3 they've just -- they just don't have her permit to
4 me, you know, something, but I'll check on it in
5 February if it's not okay, I mean if she's not there
6 then.

7 And so -- but then before time for February
8 hours to come up the -- one of my instructors called
9 me and said that they realized that she didn't have a
10 permit on the wall. And so, you know, I said, well,
11 you know, first go check her file. I said -- I said
12 there have been times when the board accidentally
13 didn't send me a permit, you know, but I said go back
14 and check with -- and check the file and make sure
15 all of her paperwork was submitted. So when I got to
16 the file and the paperwork was still there, it had
17 not been submitted to the board at all.

18 Kim had been attending class everyday, she had
19 been clocking in, but a time card is no good unless
20 the hours are submitted at the end of the month.

21 MS. BURNETT: Was any time submitted on Kim
22 Brown prior to her being -- getting her certificate?

23 MS. BURCHETT: No, ma'am.

24 MS. BURNETT: Okay. Go ahead.

25 MS. BURCHETT: Okay. So I called Kim in and we

1 talked and, you know, I told her, I said I can submit
2 your time cards and everything to the board, but not
3 anyone that's on staff right now, but in the past if
4 I ever even called the board and asked a question it
5 -- I was belittled and made to feel stupid, and it
6 was just not -- not fun to call the board. So I'd
7 rather wait and take my chances, almost ask
8 forgiveness than to call and ask a question.

9 But I don't feel that way now and I am proud of
10 that. And it wasn't anyone that I'm involved with in
11 this.

12 So I told Kim that I would do what I could and
13 so she said, well, she understood, you know, she
14 agreed, you know, you're only human and, you know,
15 these things happen.

16 And so then before I took any action to do that
17 is whenever we were -- we had the audit.

18 MS. BURNETT: All right. So how many hours did
19 Kim actually receive that she didn't get time toward
20 her cosmetology certification, roughly?

21 MS. BURCHETT: I don't have an exact amount, but
22 it be close to 100.

23 MS. BURNETT: All right. And let's move on to
24 Sheila Nowden. Is that how you pronounce that name?

25 MS. BURCHETT: Nowden, uh-huh.

1 MS. BURNETT: Can you tell the board about the
2 situation with Sheila, is she a high school student?

3 MS. BURCHETT: No, she's a college student also.

4 MS. BURNETT: A college student. Okay. All
5 right, go ahead.

6 MS. BURCHETT: Her -- she started her paperwork
7 in November of '04, so you know, this file was in
8 place for quite some time, but it does take students
9 sometime a lot of time to get their financial aid in
10 place. So --

11 MS. BURNETT: Do you explain that to them at the
12 beginning about financial aid and that if they have
13 not already applied for that, that may take them a
14 little while to get that in place?

15 MS. BURCHETT: I explain everything that I know,
16 but we do have an office at the main campus in North
17 Little Rock that assists them with their financial
18 aid if they need it. But I give the students the
19 forms to fill out, and tell them what their deadlines
20 are, and I say but even though there's a deadline, go
21 ahead and do it because it's very possible you will
22 have this grace period of enrollment. It's like
23 within the first few -- couple of weeks after school
24 starts before they will drop you if your financial
25 aid happens to work out during that time, then it

1 will work. But you have to be attending to class to
2 be able to -- you know, to have it.

3 Sheila struggles, as we all do, and works full
4 time and was trying to come to school part time, and
5 has two children. So, you know, I told her, I said
6 we have some choices here. I said I can send your
7 paperwork in, you know, right now with everybody
8 else's and take a chance of you being dropped because
9 your financial aid doesn't go through before the drop
10 date. I said if we do you'll lose your \$10 and then
11 you will have to pay that \$10 again to the board, but
12 you won't be able to start until June, that would be
13 the next -- the next class that would be starting.
14 Well, let me see, she was starting in January, that's
15 right, June would be the next class that she could
16 start. So I said or I can hold your paperwork, it
17 won't be more than a week or so, I said this is your
18 option, it's your call because I said it's your \$10
19 or it's some hours and I said -- I said, you may or
20 may not be able to get the hours for the time that
21 you're here, but the college, your college credit
22 will be in place, you won't hurt -- it won't hurt you
23 at all with the college if we drop you, you know,
24 after we find out that your financial aid is not
25 through. But if you're not here from day one, then

1 you won't be able to get that college -- the college
2 credit for that time. So she said she would rather
3 take a chance because she brought some hours with
4 her. She was a transfer student. She said I would
5 rather take a chance to lose a few hours. She said I
6 know \$10 isn't much, but it's a lot to me, you know,
7 with my two children. So that's what I did. And as
8 soon as her financial aid came through, then it was
9 about the time that it was time to submit January
10 hours, so I sent her paperwork in with the January
11 hour report at the beginning of February.

12 MS. BURNETT: And has Ms. Nowden written a
13 letter addressed to the board members which we have
14 attached in our package?

15 MS. BURCHETT: Right.

16 MS. BURNETT: Does it basically just explain
17 what we -- you have just talked about?

18 MS. BURCHETT: It does, I just -- when I
19 received the Notice of Hearing I just asked her to
20 write down how she remembered our situation to take
21 place and so she did, that's what she did, and that's
22 what's -- that's what's there.

23 MS. BURNETT: And again, did she receive any
24 cosmetology hours without her permit in place?

25 MS. BURCHETT: No, ma'am, she did not.

1 MS. BURNETT: Let's talk about Kristin Arnold,
2 she was your high school student; is that correct?

3 MS. BURCHETT: That's correct.

4 MS. BURNETT: Okay. Go ahead. And I have, just
5 for the board's information, a copy of Kristin
6 Arnold's IEP. She did have special needs but I
7 didn't copy that simply because of the privacy act, I
8 didn't feel that I could do that without her
9 permission, but I do have that if anyone would like
10 to review that I've got one copy. Go ahead.

11 MS. BURCHETT: Okay. Kristin is a high school
12 student, and when the high school students come at
13 the school I'm at right now, so far the students -- I
14 don't know who they are until they show up the first
15 day, so I don't have an opportunity to contact them
16 to let them know what I need them to bring to have in
17 place for, you know, for the board, for their permit.

18 So as the students come in I start to gather
19 their information and -- which is another thing that
20 we do during that first week when we are pretty much
21 in the classroom, start taking every thing. I do --
22 I don't rely on the high schools for anything other
23 than their grade level and their transcript, but the
24 students are responsible for everything else, because
25 typically the high schools, in my case, the ones I

1 work with don't have a copy of their social security
2 cards, actual card itself. So Kristin did not have -
3 - she came to me and said I'm going to have to --
4 this was like the first or second day of school, she
5 said I'm going to have to drop out, probably second
6 because she took some information home to her mom.
7 And she said I have to drop out because I don't have
8 the money to be in this class. And so I said, of
9 course, with a high school student the money is very
10 limited, but they do have to pay for some things. So
11 I told her, I said let me work on it. I said what
12 about your social security card and birth certificate
13 and all of this, she said, well, I have everything
14 except a social security card, but she said I don't
15 have one of those. I said well, your mom will have
16 to go the social security office or wherever you go
17 to get one, and I said she's going to have to go
18 apply for you a new social security card, because you
19 or her, you guys are the only ones that I can do
20 that. You know, I can't do that for you and we can't
21 just take your number, it has to be a card.

22 Her mom just continued to put her off and
23 continued to put her off and, I mean this was a case
24 where her mom would not even give her the \$10 for the
25 board, you know, it was a real sad situation at

1 home, so I worked with the principal at the school
2 that she came from and their school paid half of her
3 fees and our school paid half, so that she could be
4 in the program, but not being her mother I couldn't
5 go get her social security card for her. So she was
6 there, receiving her high school credit, receiving,
7 you know, her credit in the class. She knew that she
8 could not receive any hours until she had a permit on
9 the wall, and, you know, with the high school
10 students I didn't give her a card to clock in on.
11 And the only reason I gave the adults, or Sheila, she
12 was the only one I was aware that wasn't okay. The
13 reason that Sheila had the card was because I knew
14 that I would be able to, or had been able to in the
15 past, go back and make a copy of the records and her
16 possibly get those hours. So that she was -- she was
17 clocking in.

18 MS. BURNETT: All right. And you have taken
19 some action, too, to resolve this, and I think that
20 you had already testified that you have been allowed
21 now to sort of not be an instructor and focus on all
22 of these registration activities. Can you explain to
23 the board what your plans are with regard to the high
24 school students?

25 MS. BURCHETT: Well, we have plans for me to go

1 into the high schools to register students, even
2 between now and February and start visiting with the
3 students to see if they're interested in the program,
4 and if they are, then they can -- and I'll go ahead
5 and -- this way I can see them face-to-face and I can
6 let them know exactly what they need to submit to me
7 before the first day of class. Or I'll give them a
8 deadline and it will be -- actually I will attempt to
9 take all of this, get all of this information before
10 school is ever out this year.

11 But being able to go into the schools and seeing
12 the students face-to-face, I can get their name,
13 address and telephone number and be able to
14 communicate with them and let them know, send a note,
15 a letter, so that it can go to the parent and the
16 student and they know exactly what has to be
17 submitted and the date that it has to be submitted
18 by, otherwise they won't be allowed to be in the
19 program.

20 And we're going to have some come in late,
21 that's understandable, but at least it won't be --
22 hopefully it will help the board, too, because --the
23 office because it won't be 75 or 100 students at one
24 time.

25 MS. BURNETT: All right. And did she receive

1 any cosmetology hours without a permit in place?

2 MS. BURCHETT: No, she did not.

3 MS. BURNETT: Okay. With regard to all three of
4 these students, they receive, you've said, they've
5 received other, either college credit hours, or high
6 school hours based on their time in your -- in this
7 classroom?

8 MS. BURCHETT: Either college or high school
9 credits.

10 MS. BURNETT: Okay. I didn't mean to say hours.

11 MS. BURCHETT: That's okay.

12 MS. BURNETT: And since all of this has occurred
13 have you had another inspection on October 20, 2005?

14 MS. BURCHETT: We had our initial inspection
15 then.

16 MS. BURNETT: All right. And what were the
17 results of that inspection?

18 MS. BURCHETT: They found no -- nothing wrong
19 that needed to be corrected.

20 MS. BURNETT: And we've attached that as the
21 last page of the handout that we've provided to the
22 board, correct?

23 MS. BURCHETT: Yes.

24 MS. BURNETT: Okay. I don't have any further
25 questions of this witness.

1 MR. JOCHUMS: Then let me ask a couple of
2 questions. Your school is part of Pulaski Tech; is
3 that right?

4 MS. BURCHETT: That's right.

5 MR. JOCHUMS: And what high schools do you
6 serve?

7 MS. BURCHETT: Benton, Bryant, Bauxite, Harmony
8 Grove and Perrin.

9 MR. JOCHUMS: And those are all located in
10 Saline County?

11 MS. BURCHETT: Yes, sir. I think --

12 MR. JOCHUMS: It sounds like about six, six high
13 schools?

14 MS. BURCHETT: Five or six.

15 MR. JOCHUMS: Five or six. Okay.

16 MS. BURCHETT: Yeah, five.

17 MR. JOCHUMS: Now, you referred in some of your
18 testimony to the lab. What do you mean by that? Is
19 that different than the classroom or is it --

20 MS. BURCHETT: The classroom is where -- is
21 where they typically do the theory, and it's just a
22 teacher desk, student desks and a blackboard on the
23 wall and bulletin boards.

24 MR. JOCHUMS: Okay. And the lab has --

25 MS. BURCHETT: The lab has the equipment. The

1 lab looks like a big salon.

2 MR. JOCHUMS: Okay. Do you have several labs or
3 just one?

4 MS. BURCHETT: We have two labs.

5 MR. JOCHUMS: You have two labs. Okay. And how
6 many classrooms?

7 MS. BURCHETT: We have one.

8 MR. JOCHUMS: And you are familiar with the
9 process of letting the board know about new students.
10 And, in fact, what, they issue a piece of paper that
11 you hang on a wall?

12 MS. BURCHETT: Yes, a permit. And, of course,
13 I'm aware of that. But I'm also aware that until the
14 board receives the paperwork and I receive a permit,
15 the student can receive no hours and that's the law,
16 I believe.

17 MR. JOCHUMS: Okay. In some of these cases what
18 you're saying is that the student have a social
19 security card or --

20 MS. BURCHETT: Correct.

21 MR. JOCHUMS: -- some other element that you
22 have to send to get the permit?

23 MS. BURCHETT: That's correct. They have to
24 have a copy of the student's social security card,
25 and that's what Kristin did not have.

1 MR. JOCHUMS: If you -- if that's not in what
2 you mail to the board, they'll just send it all back?

3 MS. BURCHETT: They will send it back.

4 MR. JOCHUMS: I see. And how long did you say
5 you've been running this program or been a major
6 person in it?

7 MS. BURCHETT: Well, this one since August of
8 2003, is when we started.

9 MR. JOCHUMS: Okay. Were you at some other
10 school?

11 MS. BURCHETT: I was in Little Rock at
12 Metropolitan Career Center for 16 years.

13 MR. JOCHUMS: Oh, I see. Okay. I don't believe
14 I have any other questions for the witness. Do any
15 of the board members? Oh, go ahead, counsel.

16 MS. BURNETT: Just one follow up. In the
17 future, Ms. Burchett, if you have questions or
18 concerns do you plan to ask for guidance and
19 direction from the board members if necessary, if you
20 come to a situation that you don't know how to
21 handle?

22 MS. BURCHETT: Absolutely. I don't mind asking
23 permission now.

24 MR. JOCHUMS: Any questions from board members
25 of anybody that's been a witness so far?

1 (No response.)

2 MR. JOCHUMS: Your next witness?

3 MS. BURNETT: All right. I'll call briefly
4 Brett Brown.

5 MR. JOCHUMS: Just pull a chair up, sir.

6 MS. BURNETT: Mr. Brown, you have already been
7 sworn, and could you tell the board again what your
8 position is?

9 MR. BROWN: I'm Director of the Saline County
10 Career Center.

11 MS. BURNETT: And you deal mostly with the high
12 school students?

13 MR. BROWN: That's correct.

14 MS. BURNETT: All right. And you heard Ms.
15 Burchett testify earlier. Is that a pretty accurate
16 statement of the way things run with regard to the
17 high school students?

18 MR. BROWN: Yes. Yes, the high schools, there's
19 a -- in the summer we try to work with them, you
20 know, get lists, but we usually don't get a list of
21 the students that they're sending till -- well,
22 finally on that day of or so when they send the
23 students there to us, so we don't have any knowledge
24 because of schedule changes and them coming in and
25 out, so, you know, we could have 15, 20 students

1 that we don't expect.

2 MS. BURNETT: All right. So is this class
3 offered how through the high schools? How is it
4 offered?

5 MR. BROWN: Sure. We have what's called
6 concurrent credit. We offer high school credit and
7 college credit at the same time, the schools.

8 MS. BURNETT: All right. And so any student
9 participating, they could get a jump ahead with
10 regard to their college credit hours if they'd like
11 to participate?

12 MR. BROWN: Yes, that is correct.

13 MS. BURNETT: Okay. Is there anything else that
14 you'd like to add to what Ms. Burchett has already
15 testified to?

16 MR. BROWN: No. I think she's done a good job.

17 MS. BURNETT: All right. Thank you.

18 MR. JOCHUMS: I have a question about the
19 classes start in the fall?

20 MR. BROWN: Yes.

21 MR. JOCHUMS: And also in, I guess, January or
22 February? I don't know how your semester works.

23 MR. BROWN: Yes, in January they'll begin again.

24 MR. JOCHUMS: Do you offer them in the summer or
25 are they not available?

1 MR. BROWN: Not for the high school students,
2 that's just college students.

3 MR. JOCHUMS: No other questions.

4 MR. BROWN: Or they can pay tuition, that's
5 correct. They can pay tuition and receive college
6 credit, but as far as receiving concurrent credit in
7 the summertime, they do not get concurrent credit.
8 But they can pay tuition and attend, if they wish.

9 MR. JOCHUMS: High school students can as well
10 as --

11 MR. BROWN: Yes.

12 MS. TRAYLOR: I would like for someone to
13 differentiate between -- I hear you say high school
14 students and college students, and high school
15 students and college students. Are these college
16 students or are they all cosmetology students?

17 MR. BROWN: Would you like to address that?

18 MS. POWELL: Yes.

19 MR. BROWN: Yes. They are cosmetology students,
20 but we have -- because of particular laws in place
21 and in particular to the young lady that we have here
22 that has and IEP -- there are federal laws that we
23 have to follow that make us delineate between the
24 college and the high school students when dealing
25 with particular issues with these students. And so,

1 yes, we do have all cosmetology students, but they
2 are dealt with in two different ways.

3 MS. TRAYLOR: Okay. These cosmetologist
4 students I hear them saying this and that they're not
5 high school students, they're college students. I
6 mean what college are you talking about?

7 MR. BROWN: It's Pulaski Technical College that
8 we're a part of. We're affiliated and owned and
9 operated.

10 MS. TRAYLOR: Okay. Now, what credits go from
11 this, cosmetology towards college credits?

12 MR. BROWN: Yes, ma'am. The college program has
13 been set up and we don't have our manual for the
14 schooling. In the PTC handbook it's listed, the
15 college credit that they'll receive, and I may have
16 to defer this to Ms. Burchett to tell you the exactly
17 college hours.

18 MS. BURCHETT: It's on there.

19 MR. BROWN: Is it given in the handout?

20 MS. BURCHETT: The -- no, we don't have a
21 handout on that, but the college offers a technical
22 certificate in cosmetology and in nail technology and
23 in cosmetology instructor -- for cosmetology
24 instructor, and that's because are the programs that
25 we offer there through the college. And they get --

1 there is a Milady has a cosmetology math book and the
2 college has approved that for them to get technical
3 math credit for the -- Milady cosmetology math book.
4 And then, also, we teach employability skills, which
5 is everything involved in keeping a job, getting a
6 job and keeping them. It has nothing to do with your
7 technical skills, but in cosmetology only 15 percent
8 of your success relies on your technical skills, the
9 other 85 percent is how you work with people, your
10 employability skills, if you know how to get the job,
11 keep the job and working as a team, and so there are
12 some areas there that they are able to get --

13 MS. TRAYLOR: I disagree with you there.

14 MS. BURCHETT: Well, that's fine.

15 MS. TRAYLOR: You better know what you're doing
16 when you get out there in a salon or they're going to
17 hang you. But anyhow, that's beside the point.

18 What type college does these hours pertain? I
19 mean what -- if I were to come to there and you say I
20 was a college student and I go to UALR, what would be
21 the hours I would get from -- college hours?

22 MR. BROWN: Sure. Right, if they were working
23 on an associate's degree, which they can work on in
24 cosmetology -- it will be an associate's degree, or
25 just a technical certificate. If they take their

1 English, math, science, they can carry all of their
2 basic requirements with them, any two -- any four
3 year college in the state of Arkansas has to accept
4 the two years colleges English, math, science and
5 prerequisites.

6 MS. TRAYLOR: I understand that. Not in
7 cosmetology.

8 MR. BROWN: No, not in cosmetology.

9 MS. TRAYLOR: Okay. That's all.

10 MR. KEENE: I think -- may I have the floor?

11 MS. POWELL: Yes.

12 MR. KEENE: I think what I've heard said here is
13 that you had no control over these students coming
14 and attending, clocking in, and their permits not
15 being issued because of the way you received your
16 documentation from the high school. Am I right?

17 MS. BURCHETT: Correct.

18 MR. KEENE: Okay. The student had the option,
19 or at least the full time students had the option to
20 not come until they had a permit, right? But they
21 chose to come and forfeit those hours on their own,
22 realizing they wouldn't have a permit.

23 MS. BURCHETT: One of them did.

24 MR. KEENE: One did and which one didn't?

25 MS. BURCHETT: Kim.

1 MR. KEENE: And what was the difference there?

2 MS. BURCHETT: Kim is the one that I just
3 accidentally left her papers in her --

4 MR. KEENE: Forgot hers --

5 MS. BURNETT: It was an oversight.

6 MR. KEENE: Okay. But basically the same kind
7 of deal, that she wouldn't have received them anyway
8 because she didn't have a permit yet. Or she would
9 have if you had -- in January when she started right?
10 January the 10th is when you said she started. It
11 was the 18th was the actual start date of the class.
12 She would have actually gotten hours if you had of
13 sent the paperwork in?

14 MS. BURCHETT: Right.

15 MR. KEENE: Okay. And it was Sheila Nowden that
16 understood that she wouldn't?

17 MS. BURCHETT: Right.

18 MR. KEENE: Yet she was okay with that. I --
19 and the statements that I heard made about the
20 sanitation, I don't know why the office, I mean if
21 you wrote them up and then you sent them in I don't
22 know why that was such a big deal, because they
23 weren't written up and you weren't issued a violation
24 for that, I don't know why that became such a big
25 deal. I do understand, I believe, when you were

1 taking Ms. Caudle around that that was your way of
2 asking for help, help in getting your school cleaned
3 up better, you didn't agree with it either.

4 I understand that because we have the same
5 problem in our site upstairs where the cleaning crew
6 here, the state crew, they didn't do a very good job
7 up there either. Because I go through and sweep
8 everyday that I'm giving an exam up there before the
9 students come in, because I don't want them blamed
10 for the hair that was left on the floor from the
11 previous examination. So I understand that.

12 But not being your job, I have a problem with
13 that because you work there. Every job in that
14 facility is your job if you work there, which is why
15 I sweep that floor up there. It's not my job, right?
16 But I don't want somebody else blamed for something
17 and I work up there, I work for this office and this
18 state, it's my job to do anything that's necessary to
19 make things right.

20 I don't know that this board had the authority,
21 it's my understanding we don't have any authority
22 here to really do anything to vo-tech schools. I
23 think I said this the last time that y'all were here
24 over some other violations or things that you were
25 written up for just six months ago.

1 MS. CAUDLE: Wrong school.

2 MS. BURNETT: That's a different school, yes,
3 sir. A different school, yes, sir.

4 MR. KEENE: The school, that was your school but
5 still e State. I recognized you.

6 MS. BURNETT: Yes, sir.

7 MR. KEENE: I wasn't recognizing ---

8 (Chorus of laughter)

9 MR. KEENE: But I don't know that there is
10 anything that we can really do here other than put
11 them on notice. Probation means nothing. It means
12 absolutely nothing, other than it's paperwork.
13 There's a note in the file once again. And if that's
14 all we can do, then I would make that a motion, when
15 you call for it -- I don't -- with these violations I
16 don't agree with that, I don't believe that the
17 instructor should be charged with violations here.

18 MS. TRAYLOR: Well, I didn't ask you.

19 MS. POWELL: Order.

20 MR. JOCHUMS: Technically the situation that
21 they didn't get a license from us, so in that sense
22 we cannot revoke their license. I'm not sure who
23 licenses vo-tech, I guess Higher Education.

24 MR. KEENE: No, we license the vo-tech, but we
25 don't --

1 MR. JOCHUMS: But the way the statute reads
2 they're licensed by the State. Actually the statute
3 says that public schools are licensed by the Board of
4 Education. These people are different than public
5 schools, I don't know what they are exactly, they're
6 a college I guess, so they would be regulated by
7 Higher Ed. I suppose you could say to Higher Ed we
8 don't like the way this particular school, or you
9 know, just in the abstract, I'm won't talk about this
10 school. But in general the approach would be to take
11 it to whoever their approving authority is and Veda
12 is correct that you do have license power over the
13 various instructors that are there because they do
14 have a license from you.

15 Whether it's appropriate in this circumstance
16 I'm not saying, but that is certainly an option.

17 MS. BURNETT: And I think that we want the board
18 to know how serious that Ms. Burchett and the Saline
19 County Career Center take this. They have put some
20 things in place to make sure that this doesn't happen
21 again. They've taken steps to correct the errors in
22 the past and, you know, we're just asking the board
23 to, I guess, have another shot. You're not going to
24 find us not in compliance again.

25 Certainly, you know, the biggest issue I think

1 today was that paperwork got stuck in the file and it
2 didn't get sent off as it should have. That's one of
3 the major problems we had.

4 Kim Brown is here today. I'm not going to call
5 her as a witness because our time is really going and
6 you've got several other hearings, but she's here in
7 the even y'all have a question for her. And I just
8 open that up if you'd like to ask her?

9 MS. TRAYLOR: Whose job is it to keep up with
10 the paperwork?

11 MS. BURCHETT: Mine.

12 MR. BROWN: Well, currently what we've done is
13 we've made Ms. Burchett the full time, instead of
14 instructor and dealing with all of the paperwork, we
15 have made her the cosmetology coordinator and she now
16 has the ability on a full-time basis to do that, and
17 I say many more hours that full-time basis.

18 MS. TRAYLOR: When did she start that position?

19 MR. BROWN: She was able to start at semester of
20 last year; is that --

21 MS. BURCHETT: In January.

22 MS. TRAYLOR: So this was going on then?

23 MR. BROWN: Yes. Well, actually these
24 occurrences were prior to and in order for us to deal
25 with these, what we felt was more effectively at

1 January we gave her that full-time position and so
2 this was kind of a ex post facto kind of response for
3 us to deal with these issues where they wouldn't
4 happen again.

5 MR. JOCHUMS: Okay. Let me just see, are you
6 through with the witnesses?

7 MS. BURNETT: Yes.

8 MR. JOCHUMS: At this point unless -- I mean the
9 board, I don't want to stop the board from asking
10 questions if you want to. I think we're ready for
11 deliberation unless you have a few more questions.

12 MS. POWELL: Ms. Turman.

13 MS. TURMAN: I would like to -- you know we hold
14 our schools to the feet and we're trying to change
15 some things, and if this had been a school owner that
16 had left that paperwork in that folder they would
17 have been having some serious problems.

18 I think we have some issues here, one standard
19 for a vo-tech school and one standard for our
20 schools. This is not fair. If we're coming down on
21 one of them, we should be coming down -- I mean
22 ruling on one of them, then we have to rule on the
23 other. This is not fair that we hold -- what we do
24 to schools. So like I said, if this had happened to
25 a school they would have been in trouble, and I

1 think we should have the -- we should have to find
2 someway. We ran into this issue last board meeting,
3 and I think this is something that we should take
4 care of.

5 MS. POWELL: Is there any further discussion?

6 (No response.)

7 MR. JOCHUMS: At this time you can ask somebody
8 for a motion and you can discuss that, if you get
9 one.

10 MS. POWELL: Okay. Ms. Burchett, do you feel
11 that you've implemented a procedure to be able to
12 implement getting the information to the office in a
13 more timely manner, or is there still going to be an
14 issue with vo-tech students, because you never know
15 when -- are you ever going to be able to know when
16 you, or who is going to be in your cosmetology class
17 prior to them receiving hours or, in this case, being
18 in the program not receiving hours, but being in your
19 program and being responsible to the inspector?

20 I mean that seems to be the issue. You've got
21 them in your school, you're holding them in a holding
22 tank and yet you're not giving them hours. And I
23 think as far as our board is concerned they're not
24 receiving hours and they're not -- I'm not sure if
25 they're receiving any training.

1 And yet we've got such a time lapse of when they
2 come to school and start school in the fall, in
3 August, and then when you actually are going to start
4 giving them hours based on maybe if their financial
5 aid comes in or whatever is the issue with y'all, I'm
6 not sure if it's one or more things, but as I
7 understand it, what needs to be implemented here is a
8 procedure for your school to be able to enroll the
9 student, maybe if you were to enroll them in the
10 previous year, or the prior year, or I mean, maybe
11 have enrollment at a different time for cosmo
12 students. Have you made any plans to implement
13 something that would get this in conjunction with the
14 law?

15 MS. BURCHETT: That's what I was speaking of
16 when I said that I'm going to be going into the high
17 schools between now and February to -- and they set
18 their schedules for next year in February or March.
19 So I'm going to be there prior to when they set their
20 schedules to be able to see the students face-to-
21 face. We have developed an application to give them
22 to fill out so that we have their name, address,
23 telephone number, what program they're interested in,
24 and if it's our program then I'll do as I did in
25 Little Rock, because in Little Rock we were able to

1 do that. We had it, we had a system and it worked
2 very well. We will not see every single student.
3 There will still be some students walk in on the
4 first day that we don't have their -- we don't have
5 anything on, we never saw before, never talked to,
6 but as the students come in they fall right into the
7 classroom, into the theory and they, you know, they
8 may play with a mannequin but they know that they're
9 receiving any hours until they get that
10 documentation.

11 It's never been a problem as far as a time thing
12 and I don't have a holding tank of students that
13 aren't receiving hours. This happened with the one
14 student that was not able to get the social security
15 card, and as far as the high school. I mean as far
16 as the college students they, as soon as they come
17 and talk to me I start gathering their information,
18 but I don't want to send in their information for
19 their permit before, you know, too far ahead because
20 the date on that permit, the mat date on that permit
21 makes a difference as to when they, you know, if they
22 finish their training.

23 Our high school students, you know, sometimes
24 they might be there for two years and then have to
25 finish in college. So, you know, I have to be

1 careful not to hurt the student and send in the
2 paperwork too soon.

3 So and then too, you know, whenever I do -- I
4 think this was clarified recently, through Ms. Wittum
5 that the mat date would be the date that the board
6 receives their paperwork.

7 So I mean I've always tried to turn the
8 paperwork in like a week ahead, if I could, before
9 time for class to start, but -- or sooner if I could.
10 But then again, I try to not hurt the student and get
11 it too early, but then I try to not make it too hard
12 on the board and, you know, bring it all in at once.
13 So I don't wait until I have everybody's to bring it
14 in. I may make three or four trips a week, you know,
15 down here bringing paperwork to try to get it here as
16 quick as possible, yet, you know, not have to wait
17 until everyone's comes in.

18 But there's definitely -- everything that we can
19 possibly do is in place, you know. But for the
20 students to -- all of their paperwork to be in place
21 and, you know, and there's not going to be a problem
22 with -- I mean I may make another mistake, but you
23 know, if anyone hasn't then just throwing rocks, you
24 know. I mean, I'm sorry, I did make a mistake.

25 MS. POWELL: Yes, Cliff?

1 MR. KEENE: Have you ever, in the years you've
2 been an instructor and worked when you were at
3 Metropolitan and this school, have you ever been
4 brought before the board for any violations of any
5 kind?

6 MS. BURCHETT: I've never had a problem. I need
7 to clarify something. I have both grade books here
8 and those students were entered in these, they were
9 in these grade books. You have copies of the pages
10 that the students -- because that was one thing that
11 was cited that they were not in the grade book, in
12 the attendance book, that the only thing they had
13 were time cards. But they are in the grade books.

14 And, you know, when you have four classes during
15 the day and two classes at night, you know, I can
16 understand why, you know, Ms. Caudle, should -- she
17 should have said find me --

18 MS. CAUDLE: And those grades weren't available
19 that day, they were with the night instructor.

20 MS. BURCHETT: Oh, okay.

21 MS. CAUDLE: Is what you told us.

22 MS. BURNETT: Yeah, that is the case.

23 MS. POWELL: Do I have a motion?

24 MR. KEENE: I'd like to make a motion that we
25 just throw this case out.

1 MS. POWELL: Do I have a second?

2 (No response.)

3 MR. JOCHUMS: The motion dies for lack of
4 second. We'll see if someone else has a motion.

5 MS. POWELL: Do I have another motion?

6 MR. KEENE: No motion means it's going to go out
7 anyway.

8 MS. TRAYLOR: No, (inaudible.)

9 (Multiple discussions taking place without
10 recognition to hold the floor.)

11 MS. TRAYLOR: Okay. I'd like to move that Ms.
12 Burchett's instructor's license be put on probation
13 for a year and to check the records to be sure that
14 they're kept up to par.

15 MS. TURMAN: I second.

16 MS. POWELL: I have a motion and a second to put
17 Ms. Burchett's license on probation for a year. All
18 in favor -- is there any discussion?

19 (No response.)

20 MS. POWELL: All those in favor raise their
21 right hand.

22 (Show of hands.)

23 MS. POWELL: All those opposed?

24 (Show of hands.)

25 MS. POWELL: Any abstentions.

1 MS. CHRISTY: I don't feel like I know what I'm
2 doing for me to vote.

3 MS. POWELL: That's fine. The yeses have it.
4 Ms. Burchett's license will be put on probation for a
5 year.

6 MR. JOCHUMS: The board will send you in the
7 next two or three weeks the written order.

8 MS. BURNETT: All right. May I ask that the
9 board reconsider their decision based on part because
10 of all of the -- all of the actions she has taken,
11 the implementation she has put in place to avoid any
12 future errors. She has testified today that she has
13 never had any problems, this is her first time that
14 she's ever been reported, it was simply an oversight.

15 There's been a recent, as recent as October,
16 that the inspection has occurred and there's not been
17 any further citations. And I'm just asking the board
18 to please reconsider. I just think one year is a
19 very harsh remedy.

20 MS. TRAYLOR: It's on probation.

21 MS. BURNETT: Yes, ma'am, I understand that.

22 MS. TRAYLOR: Uh-huh. And we would do the same
23 thing for one of our private schools.

24 MS. BURNETT: I'm asking that the board
25 reconsider that. Thank you.

1 MR. KEENE: I would ask that the let the
2 probation be retroactive to last January when this
3 violation occurred.

4 MS. TRAYLOR: April.

5 MR. KEENE: April when it occurred.

6 MS. POWELL: Is that a motion?

7 MR. KEENE: That can be a motion, yes.

8 MS. POWELL: Is there any discussion?

9 MR. JOCHUMS: It seems to have died for lack of
10 a second. I guess -- I think it's only -- I think
11 the sense of the board is that your request has been
12 denied and a formal order will be provided. Is it
13 okay to send it directly to you?

14 MS. BURNETT: It is.

15 MR. JOCHUMS: And of course you right to appeal
16 under the Administrative Procedures Act --

17 MS. BURNETT: Yes.

18 MR. JOCHUMS: -- beginning on the day you
19 receive the order in the mail.

20 MS. BURNETT: Yes.

21 MR. JOCHUMS: Not today.

22 MS. BURNETT: Please note my objection for
23 purposes of appeal.

24 MR. JOCHUMS: Certainly, we will.

25 MS. BURNETT: Thank you. May we be excused?

1 MR. JOCHUMS: Thank you, you all may be
2 excused.

3 MS. BURNETT: Thank you.

4 MR. JOCHUMS: Is Julie McCarver here? Is Julie
5 McCarver here, please? Anybody named Julie McCarver?

6 MS. WITTUM: Susan Cissell won't be here, so
7 Laretta Smith.

8 Okay. Is Laretta Smith here today?

9 MS. SMITH: Yes.

10 MR. JOCHUMS: Yes. Come on up to the table,
11 ma'am. This is in the matter of -- what's your name?

12 MS. SMITH: Laretta Smith.

13 MR. JOCHUMS: All right. You've got to forgive
14 me, I've got my papers -- Oh, here they are.

15 This is Laretta -- I hope I'm saying your name
16 right -- Ann Smith.

17 MS. SMITH: Laretta.

18 MR. JOCHUMS: Laretta?

19 MS. SMITH: Laretta Ann.

20 MR. JOCHUMS: Okay. Laretta Ann Smith. HO#06-
21 013. Were you here when we swore all of the
22 witnesses?

23 MS. SMITH: Yes.

24 MR. JOCHUMS: Okay. Thank you very much. I
25 assume that you received a Notice of Hearing and

1 that's why you're here today?

2 MS. SMITH: Yes.

3 MR. JOCHUMS: Okay. This is a hearing involving
4 an allegation concerning of essentially an opening of
5 new shop and without prior approval and, also,
6 practice without a current license, if I have it
7 straight. What I would like to do is make the Order
8 and Notice of Hearing, along with the inspector's
9 inspection page. I'm not sure what we call those --
10 inspection report, which is actually two pages, I
11 believe, and the administrative hearing Exhibit One
12 in this matter and ask that the board's regulations
13 be incorporated by reference.

14 And let me give Laretta a copy so she can be
15 seeing what it is that the board has. The board has
16 those documents in front of them.

17 Inspector, would you please state your name.

18 MS. BLAND: I'm Pat Bland.

19 MR. JOCHUMS: And are you familiar with Laretta?

20 MS. BLAND: Yes, I am.

21 MR. JOCHUMS: Okay. And in what way are you
22 familiar with her?

23 MS. BLAND: Well, Ms. Laretta had had a shop in
24 Hope for a number of years before she moved to Texas,
25 so I knew her previous to this incident.

1 MR. JOCHUMS: And you had visited in her shop --

2 MS. BLAND: Yes.

3 MR. JOCHUMS: -- and done inspections over the
4 years?

5 MS. BLAND: Yes.

6 MR. JOCHUMS: Okay. What happened in July of
7 2005?

8 MS. BLAND: Well, on July 9th I was going down
9 Hickory Street and noticed a beauty and barber shop
10 and so my tendency is to pull in because it wasn't on
11 my list, and it just happened to be Ms. Smith and, I
12 believe, her cousin.

13 MS. SMITH: Uh-huh (affirmative).

14 MS. BLAND: That had just opened a beauty and
15 barber shop. And at that time Ms. Smith did have a
16 client in the chair. I asked to see her license.
17 She did not have them, and I don't think she had her
18 practitioner license. She had moved to Texas and had
19 just recently returned and her and her cousin, I
20 think, decided to go into business and so --

21 MS. SMITH: He was already there.

22 MS. BLAND: He was already there?

23 MS. SMITH: He's been operating for years.

24 MS. BLAND: Okay. But anyway she went in with
25 him and had not done her reciprocity yet from Texas,

1 to my understanding.

2 MR. JOCHUMS: Okay. And do you know from
3 reviewing some matters about this file that she did
4 get a license two days later?

5 MS. SMITH: Yes. In fact she told me that the
6 had planned to go to -- to come to Little Rock on
7 Monday to take care of all of the licensing. As we
8 talked I understood that they had -- that she had
9 just opened this side of her shop open, so my job was
10 just to write down my findings, so that's what I did.

11 MR. JOCHUMS: Okay. Ms. Smith, at this point if
12 you have any questions about what she had you can
13 ask, if not, you can tell us about yourself and what
14 happened and what your situation was with regard to
15 this whole matter.

16 MS. SMITH: Okay. Well, I had moved from my
17 Dallas back to Hope, and --

18 MR. JOCHUMS: Well, first let me ask you, you
19 were in Hope for some years?

20 MS. SMITH: Yeah.

21 MR. JOCHUMS: When did you move to Texas?

22 MS. SMITH: I moved to Texas May, 2004. And I
23 moved back the end of May, 2005.

24 MR. JOCHUMS: So about a year?

25 MS. SMITH: Yeah, about a year.

1 MR. JOCHUMS: And in the meantime you didn't
2 keep your Arkansas license up?

3 MS. SMITH: Well, I called trying to see what to
4 do when I got ready to move to Texas and they had me
5 send them in here. And when I moved back, like the
6 first two weeks I was moving my things from Dallas to
7 Hope, and the next two weeks I was like getting, you
8 know, everything, buying new equipment to move in
9 this side. And it wasn't a beauty salon. My cousin
10 has a barber shop next door and used the side that
11 I'm in now for an ice cream shop or storage or
12 whatever she wanted to use it for.

13 And I don't know when you came by I think you
14 said someone told you that I was there operating,
15 because there's nothing on the door that says beauty
16 shop. It's -- I have pictures that show that it said
17 ice cream cones, but it doesn't say beauty shop.

18 MR. JOCHUMS: Okay.

19 MS. SMITH: And that was actually the client
20 that I had in there, that was just the third person
21 that I had done, but I know I am, you know, I was
22 operating illegal.

23 MR. JOCHUMS: And about how long would you say
24 that you had --

25 MS. SMITH: I had been there, I think what

1 people were thinking when they thought that I was in
2 there working I was in there painting and, you know,
3 and getting things organized, so I had just made it
4 to town like a month before. But I hadn't been in
5 there two weeks. And my cousin was saying that he
6 had to come to Little Rock in July to get his
7 license, so I just said I will wait until July and
8 come and get mine, too.

9 MR. JOCHUMS: Okay. Is there anything else you
10 want to tell the board about this matter?

11 MS. SMITH: Well, no, I was, you know, operating
12 but I was, you know, going to wait at least another
13 two weeks before I came to get my license with my
14 cousin.

15 MR. JOCHUMS: Right. Did you receive a letter
16 from the office that had a recommended civil penalty
17 of \$189?

18 MS. SMITH: Is this what I got at home? This is
19 -- I think this is what I have, this, the only one
20 that I have.

21 MR. JOCHUMS: Okay.

22 MS. SMITH: No, I didn't get this fax sheet.

23 MR. JOCHUMS: Okay. I have no other questions
24 of any of the witnesses. Do any of the board members
25 have questions for either witness?

1 MS. POWELL: Does anyone have any?

2 MS. DOWNEY: Who is Rose Smith, that would have
3 signed the certified letter.

4 MS. SMITH: My mother.

5 MR. DOWNEY: Okay.

6 MR. JOCHUMS: Well, did you at some point either
7 call the board office or send something back saying I
8 want to have a hearing?

9 MS. SMITH: No. Did I ask for a hearing when I
10 moved back to Hope?

11 MR. JOCHUMS: Right, right. No, after you got
12 this -- after the inspector had been there. Did you
13 ask -- do you remember that?

14 MS. SMITH: No, she came by on Saturday and we
15 came to Little Rock that Monday.

16 MR. JOCHUMS: Okay. The only thing I want to
17 clarify, I'm not sure whether she was there --

18 MS. SMITH: No. Did I ask for a hearing? No, I
19 didn't ask for a hearing?

20 MR. JOCHUMS: Because many of the people here
21 today have asked for a hearing, that's why I just
22 wondered. Okay. Not that that matters, you're
23 entitled to have a hearing and I don't want to
24 penalize you for asking one, but I just wanted to
25 clarify that.

1 MR. KEENE: Did she have to have a hearing?
2 Because if the letter goes not normally they're given
3 an option unless it's certain violations then they
4 have to, but --

5 MS. WITTUM: The letter just generally says, the
6 old letter generally just said three things. You
7 could pay it, you could waive your right to a hearing
8 and pay it, you could come to a hearing, or you could
9 ignore it.

10 MR. JOCHUMS: So it didn't actually ask them to
11 send in a I want a hearing?

12 MS. WITTUM: There's a place on the bottom of it
13 where they can note if they want to. I believe that
14 only one person actually sent that back.

15 MS. SMITH: The first letter that I received I
16 called and talked to someone and they said that I
17 would get something else in the mail, and the next
18 thing that I got in the mail was saying I needed to
19 come here today.

20 MR. JOCHUMS: That really doesn't have anything
21 to do with what penalty you should impose, I don't
22 think.

23 (Multiple discussions taking place without
24 recognition to hold the floor.)

25 MR. JOCHUMS: The young lady has admitted she's

1 in violation. The only issue right now is what
2 penalty you think appropriate. It sounds like about
3 two weeks of illegal practice.

4 MS. POWELL: Do I have a motion?

5 (Multiple discussions taking place without
6 recognition to hold the floor.)

7 MS. GORDON: Finding the allegation being true I
8 move to order the Respondents to pay a fine in the
9 amount of \$189, payable within 30 days of receipt of
10 the board's order. Failure to pay the fine, as
11 ordered, will result in a suspension of Respondent's
12 cosmetology license, being 30 days from recipient of
13 the order and continuing for a period of 90 days from
14 the day of Respondent's relinquishing her license to
15 the board.

16 MR. DOWNEY: I second.

17 MS. POWELL: I have a motion and a second, is
18 there any discussion?

19 (No response.)

20 MS. POWELL: All those in favor raise your right
21 hand.

22 (Show of hands.)

23 MS. POWELL: All those opposed. It's unanimous.

24 MR. JOCHUMS: What you will get a letter in the
25 mail telling you, confirming what this board has

1 done. You have a right to seek relief in circuit
2 court within certain time frames. If you desire, if
3 you want to pay the fine today I think that somebody
4 would take it, but you don't have to. You don't have
5 to. Just follow the instructions in the letter.

6 MS. SMITH: Okay.

7 MR. JOCHUMS: And you are excused.

8 MS. SMITH: Thank you.

9 MR. JOCHUMS: Thank you, ma'am. Okay. We have
10 Anthony's Nails. Are you here? Come up, and I won't
11 try to say your name, I'll ask you how to say it and
12 then we'll go from there.

13 MS. POWELL: 023?

14 MR. JOCHUMS: 048. Oh, wait, it says 023 on the
15 list but --

16 MS. WITTUM: Well, 04 --

17 MR. JOCHUMS: Oh, did I get the wrong one?

18 MS. WITTUM: But that's okay.

19 MR. JOCHUMS: Oh, well, we'll do this one. 048
20 in the matter of -- how do you say your name, sir.

21 MR. TRAN: The first name is Ngoc.

22 MR. JOCHUMS: Nong?

23 MR. TRAN: No, sounds like knock.

24 MR. JOCHUMS: Ngoc Le Tran.

25 MR. TRAN: Yes, sir.

1 MR. JOCHUMS: What would you like me to call you
2 today?

3 MR. TRAN: Well, Tran.

4 MR. JOCHUMS: Tran?

5 MR. TRAN: Yeah.

6 MR. JOCHUMS: With that understanding I'm going
7 to refer to you as Mr. Tran. Did you receive the
8 Notice of Hearing?

9 MR. TRAN: Yes, sir.

10 MR. JOCHUMS: And I think what you said on the
11 letter back to the board, the fine is too high. Is
12 that right? Is that what you said?

13 MS. WITTUM: Did you tell them that? Did you
14 tell them they were too high.

15 MR. JOCHUMS: Is that the wrong one? Sorry
16 about that.

17 MR. TRAN: No.

18 MR. JOCHUMS: Okay. I'm doing too many things.
19 Okay.

20 MR. TRAN: I hope it's not too high.

21 MS. WITTUM: He's in hopes.

22 MR. JOCHUMS: Okay. The case today and I
23 apologize, my own stupidity. This case involves
24 allowing an unlicensed person to practice
25 cosmetology. That's the issue we have before us

1 today. I'm going to make the Notice of Hearing along
2 with the inspection report and the administrative
3 summary Exhibit One. And I'm providing a copy for
4 Mr. Tran at this point so he can know -- this is all
5 the board had read before today. In fact they didn't
6 read it until this afternoon when they picked it up,
7 and they may not have read it yet, so we're just
8 passing it out.

9 And that explains what you're charged with, what
10 the inspector saw when she was at your place, and
11 then a little bit about what the history with your
12 license and your shops have been.

13 Okay. With that Sheila Caudle is our inspector.
14 Tell us about this case.

15 MS. CAUDLE: On August the 18th of '05, I was
16 doing a routine inspection at Anthony Nails in Fort
17 Smith, when I found Mr. Tran's new wife --

18 MR. TRAN: Yes.

19 MS. CAUDLE: -- practicing manicuring. She was
20 polishing a client's nails Hyan Fam, and she does not
21 have a license.

22 MR. JOCHUMS: And she was working on a client on
23 that particular day?

24 MS. CAUDLE: Yes. He said she just polished and
25 removed polish. I told him that was the act of

1 manicuring without a license.

2 MR. TRAN: I thought I --

3 MR. JOCHUMS: Mr. Tran, at this point, I think
4 she's done with yours so it's your turn.

5 MR. TRAN: Okay.

6 MR. JOCHUMS: You can ask her questions if you
7 want to, or you can just talk to us.

8 MR. TRAN: Yes, sir.

9 MR. JOCHUMS: I bet that's what you really want
10 to do. So now is your time, the floor is open.

11 MR. TRAN: Okay. Well, my new wife, she have go
12 to school for enough hours and then she have take
13 test at the school which she passed and she come up
14 here and passed the board the practical part. So the
15 practical part be, you know, doing part of it. But
16 she doesn't speak good English, so that's why she
17 keep on fail on the written test.

18 So for me, as long she practice practical part,
19 she know what to do, she know how to do, just like
20 somebody know how to drive car, you know, and don't
21 have license, but know how to drive car.

22 Okay. And then for the past, two or three times
23 she come up here to have time for writing test,
24 written test, she failed because she not study hard
25 enough.

1 Okay. And then she have a man, you know, a
2 translator, you know, for her, and then she have to
3 pay her \$150 every single time for him to, you know,
4 explain what she's doing, but she couldn't do it good
5 enough. And then she do it again for another \$150,
6 you know, and she failed again. And then she want to
7 take test again and by the end of the year if she
8 doesn't pass, I think that she says she has to go
9 back to school for so many hours again, and I don't
10 know, I'm not sure about that.

11 MR. JOCHUMS: Okay.

12 MR. TRAN: So that's all -- she don't keep on
13 fail not passing it, then she'll have to stay home
14 and I'll have to get somebody else.

15 And besides this I got this up over years ago
16 and the old owner have a problem with the flooring.
17 The flooring they are dirty, it need to be re-waxed,
18 I know that and I have talked to somebody that do the
19 re-waxing, or take the clear up and move everything
20 out and --

21 MS. CAUDLE: What he's speaking of is the floors
22 were also very dirty.

23 MR. TRAN: Yes, and so it's costing me they said
24 \$300 and I just bought shop about a year ago and
25 tried to remodel, because if you remodel my myself,

1 you know, that -- and then all by myself that's why I
2 -- an I'm kind of tied up and then slow down, and
3 then I've been opening the shop for four days a week.

4 And that's -- that's it, and I'm jus hoping I
5 can pay a little fine and then go and I promise next
6 time she visit my shop my floor will be clean and
7 have somebody there with a license.

8 MS. WITTUM: Somebody licensed?

9 MR. TRAN: Yeah.

10 MR. JOCHUMS: Let me ask you a couple of
11 questions. Where did you say your shop is?

12 MR. TRAN: In Fort Smith, sir.

13 MR. JOCHUMS: In Fort Smith?

14 MR. TRAN: Yes, sir.

15 MR. JOCHUMS: And how long have you been there?

16 MR. TRAN: I worked for the old owner for four
17 years and she getting slow down, so she don't want to
18 do it again, so she sell it to me, so I'm still
19 paying her for the business.

20 MR. JOCHUMS: Okay. Okay. And where did your
21 wife go to school?

22 MR. TRAN: She go to school in Fort Smith.

23 MR. JOCHUMS: In a school in Fort Smith?

24 MR. TRAN: Yes.

25 MR. JOCHUMS: Okay.

1 MR. TRAN: I can prove that she has passed the -
2 - the practical --

3 MR. JOCHUMS: Well, I'll just believe you on
4 that.

5 MR. TRAN: Okay.

6 MR. JOCHUMS: At this point, unless you want to
7 say something else I think that the board can
8 deliberate. It's clear that, and he's admitted that
9 she didn't have a license. Whether what she was
10 doing was cosmetology, the inspector thought it was
11 and that's a matter that you can make a finding on,
12 so what we're dealing with here in what, in the
13 circumstance of this case, is an appropriate sanction
14 for this gentleman.

15 And do we know what happened to -- was his wife
16 prosecuted at all or --

17 MS. CAUDLE: She's here. She's upstairs.

18 MR. TRAN: She have to pay to put my money in my
19 car, I already have a ticket. So I told her to put
20 money in --

21 (Chorus of laughter.)

22 (Multiple discussions taking place without
23 recognition to hold the floor.)

24 MS. POWELL: Yes, Mr. Downey.

25 MR. DOWNEY: Finding the allegations to be

1 true, I move to suspend the Respondent's cosmetology
2 shop and individual license commencing upon the
3 board's receipt or continuing until such time the
4 Respondent pays a fine in the amount of \$250. It is
5 further ordered that during the period of suspension
6 the Respondent shall cease and desist from practicing
7 cosmetology or manicuring, or operating his or her
8 establishment.

9 MS. POWELL: I have a motion.

10 MS. TRAYLOR: I second the motion.

11 MS. POWELL: I have a motion and a second. All
12 of those in favor raise your right hand.

13 (Raise hands.)

14 MR. JOCHUMS: I think we had four over here.

15 MS. POWELL: It's unanimous.

16 MR. JOCHUMS: Okay. I didn't see the other
17 ones.

18 MS. POWELL: Motion passes.

19 MR. JOCHUMS: Okay. Mr. Tran.

20 MR. TRAN: Yes, sir.

21 MR. JOCHUMS: The board has entered an order
22 that you paid \$250, was that the number that I heard?

23 MR. DOWNEY: Correct.

24 MR. JOCHUMS: Now, you will get a letter in the
25 mail explaining this to you. It might make more

1 sense to go ahead and pay as soon as you can because
2 when that order takes effect you cannot do anything
3 in that shop or in anybody else's shop until you pay
4 that fine. So I would take care of that real quick.

5 MS. POWELL: Do you understand what he said?

6 MR. JOCHUMS: That would be my advice to you.

7 MS. POWELL: You have to pay your fine before
8 you can work in the shop.

9 MR. JOCHUMS: Now, you also have a right to seek
10 judicial review, but you would have to talk to a
11 lawyer about that if you want to --

12 MR. TRAN: Do I have to pay today? I mean I can
13 pay today?

14 MS. POWELL: You can pay today upstairs. You
15 just go right upstairs and tell that girl you owe
16 \$250 and she'll take your money.

17 MR. TRAN: Yeah.

18 MR. JOCHUMS: And the lady in pink with you can
19 go with you and tell the folks to take your money.

20 MS. POWELL: Yeah, Cheryl.

21 MR. JOCHUMS: Cheryl. If you want to do that
22 today. I'm not saying that you have to, but since
23 you're here, it might make it simpler than driving
24 back next week.

25 MS. POWELL: Do you want to pay today?

1 MR. TRAN: Yes, I want to pay today.

2 MS. POWELL: Okay. Go back there and Cheryl
3 will show you how to pay.

4 MR. TRAN: All right. Thank you. I am sorry to
5 have bothered you.

6 MR. JOCHUMS: No problem. No problem.

7 Let us go back to the order I thought I was in,
8 which was is Mr. Long Nguyen here? Please come up.

9 MS. WITTUM: He's he one that wrote.

10 MR. JOCHUMS: Okay.

11 (Multiple discussions taking place without
12 recognition to hold the floor.)

13 MR. JOCHUMS: This is in the matter of Long
14 Nguyen, manicurist, HO #06-023. Mr. Nguyen is here.
15 I have handed him a copy of the Notice of Hearing
16 along with the inspector's report, which in this case
17 is a two-page document, and then a one-page document
18 is the historical review of Mr. Long Nguyen's
19 license. I want to make that Exhibit One. I want to
20 incorporate the board's rules by reference in the
21 record.

22 Mr. Nguyen, you are here because you received
23 this in the mail; is that right?

24 MR. NGUYEN: Yes, sir.

25 MR. JOCHUMS: You're the man that said the fine

1 is too high?

2 MR. NGUYEN: Not me either.

3 MR. JOCHUMS: Not you?

4 MR. NGUYEN: My boss.

5 MR. JOCHUMS: Your boss. Oh, okay.

6 MR. NGUYEN: Yes.

7 MR. JOCHUMS: Okay. Anyway, as the board will
8 note from the agenda this had a proposed penalty of
9 \$802. The matter involves a failure to renew timely
10 his practitioner license. Actually all of 2004 and
11 part of 2005. And our inspector is Ms. Morgan, if
12 you would tell us about Mr. Long Nguyen case, please.

13 MS. MORGAN: Yes, sir, I can. July the 27th of
14 '05 I made an inspection to Best Nail at 8824 Geyer
15 Springs in Little Rock. At that particular date
16 there were three young men there working. Mr. Long
17 Nguyen was working on a client that day and he had no
18 license posted. I did ask him for a -- our report
19 says that he refused or did not have ID, but that was
20 another person listed here, it was not this Mr.
21 Nguyen. He did provide me with an ID with his date
22 of birth. I believe it was a driver's license is
23 what he provided me with. But he was working on a
24 client and he had no license posted that day.

25 MR. JOCHUMS: Okay. Mr. Nguyen, you have

1 watched, you know how all of this works. You can ask
2 her any questions you want --

3 MR. NGUYEN: Yes.

4 MR. JOCHUMS: -- pertaining to what she said, or
5 you can just talk to the board. This is your
6 opportunity.

7 MR. NGUYEN: Because in 2004, I move back to
8 Oklahoma because my mom and my dad sick. I not live
9 in Arkansas. But the day I come back, I come back on
10 Saturday, Saturday night and Sunday, I am not work on
11 Sunday. I start work on Monday. When I get to --
12 when it come to the shop I wanted to like go renew my
13 license, but she come by there. I be honest with
14 her, I say I don't have license and I give her like
15 driver's license, everything. That's all.

16 MS. MORGAN: I don't believe it was on a Monday
17 but it was --

18 MR. NGUYEN: On Tuesday.

19 MS. MORGAN: I don't know what day of the week
20 it really was on.

21 MR. NGUYEN: Yeah, I think like -- yeah.

22 MR. JOCHUMS: Now, when did you first get a
23 license?

24 MR. NGUYEN: You mean here, sir?

25 MR. JOCHUMS: Did you first get a license in --

1 MR. NGUYEN: In Oklahoma, sir.

2 MR. JOCHUMS: In what -- about what year?

3 MR. NGUYEN: About 1995.

4 MR. JOCHUMS: Okay. And then later you got an
5 Arkansas license?

6 MR. NGUYEN: Yes, sir.

7 MR. JOCHUMS: And when was that? Was that
8 around 2000 or --

9 MR. NGUYEN: I think about, yeah, 2000.

10 MR. JOCHUMS: Okay.

11 MS. WITTUM: It was 2002.

12 MR. JOCHUMS: Okay. You got a license in 2002.
13 And then you told us that you were all of 2004 in
14 Oklahoma?

15 MR. NGUYEN: Yeah, I moved back to Oklahoma,
16 yes, sir.

17 MR. JOCHUMS: You moved back where you
18 originally came from?

19 MR. NGUYEN: Yes, sir.

20 MR. JOCHUMS: Okay.

21 MR. NGUYEN: So that's why I don't renew the
22 license in Arkansas.

23 MR. JOCHUMS: Now, did you also say that -- I
24 guess the inspector was there on -- in late July,
25 July 27th, her notes say. And are you telling us

1 that you just came back to work there a day or two
2 before she came to the shop?

3 MR. NGUYEN: Yes. Yes, sir.

4 MR. JOCHUMS: Okay. Who is the owner of the
5 shop?

6 MR. NGUYEN: Justin Nguyen.

7 MR. JOCHUMS: Justin Nguyen. Okay. And he's on
8 the blessing list, in case the board is interested.

9 (Multiple discussions taking place without
10 recognition to hold the floor.)

11 MR. JOCHUMS: I don't believe I have any other
12 questions for Mr. Nguyen. Board members, any other
13 questions?

14 MS. POWELL: Mr. Nguyen, are you currently
15 licensed in Oklahoma? Do you have an '05 license in
16 Oklahoma? Do you have a nail tech license in
17 Oklahoma?

18 MR. NGUYEN: Yes, ma'am.

19 MS. POWELL: It's current?

20 MR. NGUYEN: No, it's still -- I mean, yeah.

21 MS. POWELL: When did you renew those license in
22 Oklahoma?

23 MR. NGUYEN: I renew on 2004, like that. When I
24 move back to Oklahoma I renew.

25 MS. POWELL: But you didn't renew in 2005 in

1 Oklahoma?

2 MR. NGUYEN: I do, ma'am.

3 MS. POWELL: You did?

4 MR. NGUYEN: Yeah, I did.

5 MS. POWELL: Have you visited his salon? Have
6 you seen him there before?

7 MS. MORGAN: I don't remember him there before.
8 I could look at some of the previous reports and see,
9 but I --

10 MR. NGUYEN: I work in L. A. Nails before --

11 MS. POWELL: L. A. Nails?

12 MR. NGUYEN: Yes, ma'am. And then I moved to
13 Oklahoma. I know it's my fault, sir. I know it's my
14 fault. Because when I come in, I don't renew. I
15 know it's my fault. But that's too high for me,
16 really. Because I have a big family. I have a
17 daughter.

18 MS. WITTUM: And I would like to say something,
19 too, on the amount. When Cheryl and I were
20 calculating the amount we neglected to pay attention
21 to this one clause that's on your sheet here that
22 says that when you calculate the dollar per day you
23 can go up to \$500. So when he was calculated for all
24 of 2004 and part of 2005, that was what brought his
25 up to \$802.

1 In addition to that the refusing the ID was \$200
2 and Brenda has just said that that was not --

3 MS. MORGAN: He did not refuse me ID, that's not
4 right here.

5 MS. WITTUM: -- he's not the one that did that.
6 So this \$802 calculation is a wrong calculation to
7 begin with.

8 (Multiple discussions taking place without
9 recognition to hold the floor.)

10 MS. WITTUM: Arnie had even pointed out that
11 nobody works --

12 MR. JOCHUMS: Right.

13 MS. WITTUM: -- 365 days, and that was what was
14 calculated for 2004.

15 MR. JOCHUMS: I kind of thought that basically
16 you should probably figure a maximum of 250 days a
17 year, making it \$250, and that's based on a 20 day
18 work week -- 50 weeks.

19 (Multiple discussions taking place without
20 recognition to hold the floor.)

21 MR. DOWNEY: The owner was fined \$402.

22 MR. JOCHUMS: Yes. Now, he didn't call any of
23 this to our attention.

24 MS. POWELL: Do I have a motion?

25 MR. KEENE: Finding the allegations being true

1 I move to order the Respondent to pay a fine in the
2 amount of \$275, payable within 30 days, pursuant to
3 the board's order. Failure to pay the fine this
4 order will result in suspension of Respondent's
5 manicuring license, beginning 30 days from receipt
6 from the order and continuing for 90 days from the
7 date Respondent relinquishes his license to the
8 board.

9 MS. GORDON: Second.

10 MS. POWELL: I have a motion and a second. All
11 those in favor raise their right hand.

12 (Show of hands.)

13 MS. POWELL: All those opposed. Motion carries.

14 MR. DOWNEY: Let's take a break, about a ten
15 minute break.

16 MR. JOCHUMS: Sure, that makes sense. Before we
17 leave let me just ask to see who is here. Is Kendra
18 Brewer here? Anybody named Kendra Brewer?

19 (No response.)

20 MR. JOCHUMS: Okay. Now, you have to forgive
21 me, is Ha Thi Dem Tran here? He's here. Okay.

22 MS. WITTUM: Wait just a minute, there's a
23 question. Do you not need to explain to him?

24 MR. JOCHUMS: Oh, right, certainly do. Sir, the
25 board has found you guilty of practicing manicure

1 without a license. They have fined you \$275, and I
2 believe that discipline also had in it that your
3 license is suspended until it's paid, did it not, or
4 did it not?

5 MR. KEENE: Pay the fine that's ordered when
6 he's --

7 MR. JOCHUMS: Okay. If you don't pay it, your
8 license is automatically suspended, so I recommend
9 that you pay that at your earliest convenience. You
10 don't actually owe it until you receive the written
11 notice that you --

12 MR. KEENE: Thirty days after receipt.

13 MR. JOCHUMS: Yeah, up to 30 days after you get
14 that letter, so come in early in those 30 days to
15 make sure you stay out of further trouble.

16 And with that you can be excused. You have a
17 right to appeal to the court.

18 MS. POWELL: We're going to take a ten minute
19 break.

20 (A short break was taken.)

21 MS. POWELL: Come to order.

22 MR. JOCHUMS: Madam Chairman, In the Matter of
23 Ha Thi Diem Tran; HO #06-040. I want to make the
24 notice of hearing and historical review as Exhibit 1
25 and ask that you take judicial notice of the

1 administrative rules. I think we can dispose of this
2 quite quickly. In this particular case, the young
3 lady is married, I believe to this young man sitting
4 here at the table beside her in the front. And he
5 was here last month and the board decided to dismiss
6 the charges against him. I understand that the
7 Director thinks the uniform treatment of these cases
8 should be cause for dismissal of this matter as well.
9 And we are proposing that you do that unless you want
10 to proceed with the hearing.

11 MR. KEENE: I'll make that motion that we
12 dismiss this case.

13 MS. GORDON: Second.

14 MS. POWELL: We have a motion and a second. All
15 those in favor raise your hands.

16 (Show of hands.)

17 MS. POWELL: All opposed, same sign. Any
18 abstentions?

19 MS. CHRISTY: I abstain.

20 MS. POWELL: Motion carries.

21 MR. JOCHUMS: The matter against you has been
22 dismissed. I think now she's been licensed. I'm not
23 sure.

24 MR. TRAN: Yes, she has.

25 MR. JOCHUMS: Welcome to the practice and we

1 hope not to see y'all again. Okay. Is there a
2 Marina Alfaro. I think I called that name before.
3 That brings us to Eunice Anderson. Okay. You can
4 come up to the table with those you have with you
5 today. This is the Matter of Eunice Anderson,
6 Instructor at the Conway Career Center, Ho #06-096.
7 This is another case involving a school and the issue
8 of registration of students. Eunice, you received
9 your Notice of Hearing to appear before us today?

10 MS. ANDERSON: Yes, sir.

11 MR. JOCHUMS: And with you is Mr. --

12 MR. STROMAN: Nick Stroman. I'm the director
13 for the Conway Area Career Center.

14 MR. JOCHUMS: Okay. Thank you. And our
15 inspector is Sheila Caudle. And if you'll make the
16 Notice of Hearing, historical review, a letter and
17 copy of report as Exhibit 1, and if we make the
18 board's regulations incorporated by reference. And I
19 have earlier handed Eunice a copy of -- let me start
20 over. Some people say Eunice and some say Eunice,
21 what do you say?

22 MS. ANDERSON: Eunice.

23 MR. JOCHUMS: Okay. With that, you were sworn
24 earlier, Inspector Caudle, tell us about number one,
25 what is the nature of the hearing today.

1 MS. CAUDLE: It was a routine inspection on
2 September 23, of '05. I just went to do the regular
3 inspection of Conway Career Center. At that time,
4 there wasn't any permits posted because they were re-
5 doing. And I asked her about the permits and she
6 said that she was re-doing the board. But she also
7 said that she had not gotten all of the permits on
8 all of the students. I asked her at that time how
9 many students were there -- she said that did not
10 have permits there was a hundred and ten students
11 enrolled that had not been permitted.

12 MR. JOCHUMS: On September 23rd?

13 MS. CAUDLE: On September 23rd.

14 MR. JOCHUMS: And were there any other
15 allegations regarding this or was it simply a matter
16 of --

17 MS. CAUDLE: It was just a matter of having
18 students permitted.

19 MR. JOCHUMS: And as you testified earlier
20 today, the regulations require that the schools to
21 submit the names and other information --

22 MS. CAUDLE: They must be permitted before
23 engaging they are engaged in class.

24 MR. JOCHUMS: Before they can be clocked for
25 hours, okay. Now you said something to the effect

1 of the explanation that was given to you, but I
2 didn't quite hear all of that.

3 MS. CAUDLE: There was no permits posted at all
4 and I asked her where they were. They were re-doing
5 the board because --

6 MS. CAUDLE: They have a bulletin board and they
7 were re-doing the background.

8 MR. JOCHUMS: Oh, I see.

9 MS. CAUDLE: And she showed me the folder that
10 had the permits in them. And I said, but that's not
11 all of them. And she said well, there was that many
12 that were not permitted.

13 MR. JOCHUMS: So under the normal circumstances
14 the students' permits are to be on the wall?

15 MS. CAUDLE: Right. Yes.

16 MR. JOCHUMS: And in this case, they weren't?

17 MS. CAUDLE: Right.

18 MR. JOCHUMS: You told me there were two
19 classes?

20 MS. CAUDLE: There are two instructors there and
21 they hold two classes and they have two theory rooms
22 and they have two practical labs. It's a very large
23 facility. And they instruct lots of students.

24 MR. JOCHUMS: Okay. At this time I will tell
25 you -- Mr. Stroman, if you want to ask questions or

1 make a statement to the board.

2 MR. STROMAN: I'd like to read a statement
3 first. After I wrote a letter to the board, I did
4 some work as far as getting some things rolling on
5 what we need to do future-wise. Anyway, I discussed
6 it with the principal and he was in
7 full agreement with this. We're starting a new
8 policy for the students taking cosmetology in the
9 upcoming year, this upcoming year needs -- must have
10 a permit. Also birth certificate, transcripts, etc.
11 which must be turned in prior to August 1st and then
12 I will add an extra contract day to allow the
13 teachers time to get the paperwork taken care of and
14 get each student a permit to start their classes the
15 first day of school.

16 Lastly, an opinion, I don't feel that we were
17 actively caught trying to bend the rules. We only
18 did what past cosmetology directors said we can do
19 and before -- even before I was a director. I am
20 responsible for this situation and it will be
21 corrected as stated above before the next school
22 year.

23 MR. JOCHUMS: Let me ask you a couple of
24 questions, so that I will understand and the board
25 will understand a little bit better about your

1 school. Conway -- the name of it is Conway Area
2 Career Center?

3 MR. STROMAN: Yes.

4 MR. JOCHUMS: Are you part of a school district?

5 MR. STROMAN: No, we're not part of a school
6 district. We are an area school. Area schools come
7 to us. And we are located next to the high school on
8 the west campus, where we get the majority of our
9 students.

10 MR. JOCHUMS: You are physically next to one of
11 Conway's high schools?

12 MR. STROMAN: Right.

13 MR. JOCHUMS: What other schools do you service?

14 MR. STROMAN: Mayflower, Vilonia, Greenbriar,
15 Southside. We have students that come all the way
16 down from Quitman, Guy-Perkins, and Bigelow.

17 MR. JOCHUMS: Okay. And in your particular
18 situation, are the students there for all of the day
19 or part of the day?

20 MR. STROMAN: Two hours. Some schools come in
21 the morning and some come in the afternoons.

22 MR. JOCHUMS: And do they come on school buses?

23 MR. STROMAN: Yes, sir. Well, up until this
24 year we had some schools that were letting their
25 students drive, but no students drive as of now.

1 They all ride buses.

2 MR. JOCHUMS: And you didn't say -- are you the
3 director of that school?

4 MR. STROMAN: Yes.

5 MR. JOCHUMS: What other programs do you have?

6 MR. STROMAN: Well, we have welding, medical
7 professions, auto/body collision. We have an agri
8 program. We have home economics, drafting,
9 microcomputer program and construction.

10 MR. JOCHUMS: How long has cosmetology been a
11 program?

12 MR. JOCHUM: Nine years. Before my tenure.
13 I've been there five years, well, this is my sixth
14 year. I don't have any more questions. Ms.
15 Anderson, do you have anything to say?

16 MS. ANDERSON: Yes, I do. When Ms. Caudle came
17 in we were -- because I teach mostly second year
18 students so most of those students already have their
19 permits there. And what I was in the process of
20 doing was taking the permits from one teacher's room
21 and bringing them to my room and getting them on the
22 board the way they are supposed to be lined up. And
23 that's when she came in and the permits were not
24 posted. And not all of them were. And for first
25 year students, those are the permits that would be

1 in question for not being there and posted.

2 MR. JOCHUMS: Am I understanding that you, on
3 many occasions have the required information when the
4 students arrive?

5 MS. ANDERSON: When we first started the
6 program, that's true. When we first started the
7 program I called and got direction on what to do
8 since the students are not there and weren't given
9 the information before the first day of school. We
10 were given a three week grace period, we were told,
11 so we could get the information, get it from them,
12 and mail it to the board as soon as we could within
13 that three week's time. And that's the way we had
14 been operating up to this point.

15 MR. JOCHUMS: How far back was that?

16 MS. ANDERSON: From the very first year I was
17 there, in '97.

18 MR. JOCHUMS: Was that given on the phone or did
19 you get a letter?

20 MS. ANDERSON: It wasn't written. It was given
21 on the phone.

22 MR. JOCHUMS: Mr. Stroman, would you like to go
23 ahead with what you wanted to follow up with about
24 the transcripts?

25 MR. STROMAN: Yes. We had a hurricane at the

1 beginning of school. I think we all remember that.
2 And we had an influx of somewhere close to seventy
3 students come into our school system. And a lot of
4 our counselors, which do our transcripts and so forth
5 diverted their attentions to those hurricane needs
6 than to our cosmetology needs. I'm not offering it
7 as an excuse but just wanted to reflect on that.

8 MR. JOCHUMS: At this time I'm going to open it
9 to the board for any questions that you may have of
10 these people here at the table.

11 MR. KEENE: I have two questions. Ms. Anderson,
12 have you had any violations previously with this
13 board?

14 MS. ANDERSON: No.

15 MR. KEENE: That three week grace period that
16 you're giving there. Are your students receiving
17 hours and are they being submitted?

18 MS. ANDERSON: No. They are not receiving any
19 hours. During that time period we are collecting the
20 birth certificates and having copies made, social
21 security cards, and ten dollars. We're also going
22 through the rules and regulations from Conway High
23 School and the other rules and regulations on what
24 they can and cannot do once they get out to the
25 clinic. But as far as anything pertaining to

1 cosmetology we're covering more safety at Conway High
2 School more than anything else.

3 MR. KEENE: Were you here for the previous
4 hearing we had for the other school -- Saline County?

5 MS. ANDERSON: Yes.

6 MS. POWELL: I have a question. Did you say
7 that you had something implemented to be effective
8 the first of August?

9 MR. STROMAN: The first of next August. I do a
10 recruiting tour of all those area schools and take
11 the message of the career center out and explain to
12 the students what possibilities are there for them.
13 They make a choice with their counselors whether they
14 want to come or not and what they want to take. And
15 what I plan to do is get with each one of those
16 counselors and say, okay, cosmetology -- this what
17 they'll have to have in the form of a letter that
18 they'll have to sign as far as rules and regs. And I
19 want to have that in place in my office by August
20 first and then set up an extra contract day to get
21 those permits done. And my letter kind of reflects
22 not a whole lot of thought there. But I've since
23 talked to the principal and several others and
24 they're going to help us out.

25 MS. POWELL: So what you're saying is that you

1 do have a resolution so that they can be permitted
2 prior to enrolling in school.

3 MR. STROMAN: Yes.

4 MS. POWELL: Ms. Turman?

5 MS. TURMAN: What does -- so you do not allow
6 your students to go back and -- where say the other
7 students are already registered to go back and all
8 that stuff, you do not --

9 MS. ANDERSON: No, no. Our classes are
10 separated. All of my first year students come in and
11 they are all in the classroom together. My second
12 year students are already permitted, so they have
13 leeway from the very first to resume.

14 MS. POWELL: Is there any further discussion?

15 MR. KEENE: I'll move for a dismissal.

16 MR. POWELL: Motion dies for lack of a second.
17 Do I have another motion?

18 MR. JOCHUMS: If there's no motion, you can
19 close the matter.

20 MS. POWELL: If I don't hear a motion, this
21 matter will be closed.

22 (No response.)

23 MS. POWELL: This matter is closed. Okay. Mr.
24 Stroman, I'm glad that you have implemented this
25 policy. Thank you for complying.

1 MR. STROMAN: Thank you all.

2 MR. JOCHUMS: Okay. I don't think -- did I already
3 ask, Kendra Brewer is not here, right? Okay. So the
4 next one, I think we're through all of the
5 individuals the next one I want to take up is Pro Way
6 School. This is HO #06-097, in the matter of Frank
7 Sullivan, owner, d/b/a Pro Way Hair School. And in
8 this case we have a Notice of Hearing, two pages
9 long, an administrative summary typed that one and a
10 half pages long, an inspector's report that's one
11 page long, and this may not be on the copy I gave
12 you, Mr. Sullivan, but there's also a copy of the
13 order from last May, when you were here previously.
14 I'm not sure that's in your package.

15 MR. SULLIVAN: I'm aware of it.

16 MR. JOCHUMS: But the board does have that. At
17 this point why don't we ask, Mr. Sullivan, if you
18 would introduce yourself and the lady with you.

19 MR. SULLIVAN: Okay. I'm Frank Sullivan and
20 this is Ms. Clara Williams, an instructor.

21 MR. JOCHUMS: Okay. And also at the table is a
22 board inspector. Y'all were here earlier and were
23 sworn. This is a case that the board may want to
24 just take a second to read through the notice.

25 This has several allegations that are different

1 than the other schools we have heard today. In fact
2 none of them have any issue about having students
3 permitted. That's not an issue in this case.

4 MR. SULLIVAN: Never know until we get here.

5 MR. JOCHUMS: Or is it? I'm not sure. I didn't
6 see it in the notice.

7 MR. SULLIVAN: Oh, what a surprise.

8 MR. JOCHUMS: Inspector Caudle, tell us about
9 your investigation in this matter.

10 MS. CAUDLE: On September the 20th, since the
11 school was placed on probation previously I just went
12 to do a re-check of the records to see if things were
13 flowing right. At that time I was out on the parking
14 lot sitting out there and they had opened the school
15 and went in. They went in and clocked in. Two
16 students left the premises, walked, I'm going to say
17 it's three or four blocks maybe to Burger King,
18 picked up breakfast, went back into the school.

19 I went in the school after the students went in.
20 They were getting ready for theory class. There were
21 students clocking in all the way through theory
22 class, while theory class was being taught. There
23 was also students on the clinic floor not attending
24 theory class. There was also an instructor there,
25 the only instructor there that morning, Ms. Williams

1 came in later, was a Tawanda Hillson who was not
2 licensed in the state of Arkansas. She had a
3 Tennessee license. She had been instructing there,
4 she told me, for about three weeks.

5 The next day she did come to our office here in
6 Little Rock and through reciprocity got an Arkansas
7 license. And there was also numerous violations.
8 There was five broken mirrors, seven broken styling
9 chairs, a broken dryer chair and a folding table.
10 All these things were sitting along a wall by the
11 shampoo bowls getting ready to be took away, is what
12 I was told. That's it.

13 MR. JOCHUMS: Okay. Mr. Sullivan, at this point
14 you've been here and you've seen the other hearings,
15 you know how we proceed. If you have specific
16 questions of the inspector you may ask them. If you
17 don't need to ask her any questions, you can go ahead
18 and address the board, or if you prefer you can have
19 the young lady to come with you to address the board
20 at your discretion.

21 MR. SULLIVAN: Okay. First of all, I would like
22 to ask the inspector since she was in the parking lot
23 and we're talking in generalities, if she actually
24 saw the student clock in, number one. Number two,
25 it's impossible for me to answer a charge if she

1 doesn't identify the student, how she could know
2 whether the particular student clocked in or clocked
3 out is a mystery to me. She did not go to the time
4 clock. She did not go to the time card board.

5 Theory, she came in at 8:30 or she said she was
6 in the parking lot, theory does not start till 9:00.
7 There was no theory class that had begun. There was
8 no instructor that didn't have a license teaching
9 theory. Ms. Hillson had come in and had sought
10 reciprocity and had gotten reciprocity the next day.
11 She came in to help Ms. Williams get our curriculum,
12 update where we were and had been in the past. So
13 there was no theory. There was no instructor
14 improperly teaching.

15 The broken down equipment, I had gone through a
16 couple of weeks prior to her coming in. I took every
17 piece of equipment that was not working, in working
18 order, set them by the door. We had called the
19 repairman to come and pick them up. We had them
20 there. They were not in use. This is the same
21 equipment that has been in the school for seven
22 years, and to my knowledge it had never been a
23 question of being in repair or disrepair. I think we
24 have reached a point where the inspector's personal
25 dislike of me is interfering with her ability to do

1 a proper inspection.

2 I will let Ms. Williams talk about the
3 relationship to what Ms. Hillson was doing. Ms.
4 Wilson signed the report, Ms. Wilson came in, I let
5 her tell what time she came in and I'll ask her to
6 make a comment.

7 MS. WILSON: Okay. My name is --

8 MR. JOCHUMS: Before we do that let me just ask
9 him, Mr. Sullivan a few questions. You were the
10 owner. Are you also an instructor or --

11 MR. SULLIVAN: No.

12 MR. JOCHUMS: You do not --

13 MR. SULLIVAN: I do not instruct.

14 MR. JOCHUMS: Do you --

15 MR. SULLIVAN: I don't do anything but financial
16 aid and paperwork.

17 MR. JOCHUMS: Financial -- paperwork.

18 MR. SULLIVAN: That's correct.

19 MR. JOCHUMS: Do you have to do with cleanliness
20 and buying things, or do you that --

21 MR. SULLIVAN: I do the purchasing. I do the
22 janitor. I personally mop the floor every week. I
23 clean the commodes. I do whatever is necessary. And
24 I take exception to saying that the floor was dirty,
25 because I personally mop it myself. I clean the

1 school. My wife cleans the windows. So we're
2 reached an impasse on this inspector not liking me
3 personally, and I just -- every time she comes in
4 it's something different.

5 MR. JOCHUMS: Let me ask you another question,
6 sir. Sir, and I wasn't here earlier this year when
7 there was another hearing, I understand. So you may
8 have told all of this at another time, but how many
9 teachers do you normally have?

10 MR. SULLIVAN: We have two right now, and we
11 have one that's -- two junior instructor/instructor
12 trainees, and one additional instructor that is
13 seeking reciprocity right now.

14 MR. JOCHUMS: Okay. And what -- assuming
15 there's been no major change, what is your normal
16 number of students, is there a normal number?

17 MR. SULLIVAN: Between 25 and 35, 40.

18 MR. JOCHUMS: Okay. I understand that that
19 varies.

20 MR. SULLIVAN: We work very hard to improve our
21 curriculum. We're working very hard to make sure
22 that our students pass the board, but it seems like
23 we just can't over this hump.

24 MR. JOCHUMS: One of the allegations in the
25 Notice of Hearing is that, at least as I read it,

1 maybe I'm reading it wrong, improperly controlled
2 students. How do you respond to that?

3 MR. SULLIVAN: How do you explain? I have no
4 earthly idea what she's talking about. Ms. Williams
5 is there, she has 15 years experience. We've revised
6 our total curriculum and there is no such thing as an
7 improperly controlled student. The students are
8 average students. They give us no trouble. They
9 get, like every other school, have good days and bad
10 days, but as a general rule we have no discipline
11 problems. We've not sent any student home.

12 MR. JOCHUMS: Let me ask you another question
13 then. I believe the inspector said she was there on
14 September 20. Were you there the day that she --

15 MR. SULLIVAN: I came in --

16 MR. JOCHUMS: After she was there?

17 MR. SULLIVAN: -- after she was there.

18 MR. JOCHUMS: Okay. Thank you. Ma'am, go
19 ahead.

20 MS. WILLIAMS: As I said, my name is Ms. Clara
21 Williams. I am the senior supervisor there at the
22 school, the Director of Education. Most of these
23 orders we have put in place the new commitment. Some
24 of the things that the students was doing prior to me
25 getting there, we have re-written them, and Ms.

1 Hillson come aboard just three weeks prior to her
2 getting her reciprocity. She helped me write the new
3 curriculum, we set up roll books and everything.
4 Now, we will have a paper trail for each and every
5 student come through there. We know what time you
6 clock in, we know what time you clock out.

7 Yes, there were some students coming in and
8 going -- I don't know anything about the students
9 going to Burger King because if I had known of
10 students go to Burger King because that is against
11 the rules.

12 MS. CAUDLE: You weren't there yet.

13 MS. WILLIAMS: Right. Well, that's against the
14 rules and regulations. But like I have put in force
15 you do not come in this building and leave back out.
16 You have a 15 minute break at 10:00. You are not
17 supposed to leave the premises on that 15 minute
18 break. At noon time you gets a 30 minute lunch
19 break. You may go across the street to Burger King,
20 but you must be back within that 30 minute time
21 frame. If you're going to be longer than that, you
22 must get off the clock.

23 At 2:00 you get another 15 minute break. No
24 students are supposed to leave the premises at that
25 time.

1 Yes, we have students come in after 9:00 now,
2 they cannot go to theory. They may clock in but they
3 have to sit in the rest area, because when they come
4 into theory you disturbs the class and everybody lose
5 their train of thought. These are some of the things
6 that I have put in place since prior to this visit.

7 I wouldn't say my students are out of control,
8 we just need a little bit of discipline and a little
9 rule enforcement. Because like you said, now we do
10 have some students that are victims of the hurricane,
11 victims and they, you know, have certain things for
12 them, but I called the board and they said go ahead
13 and enroll them. So you may not have a permit for
14 them at the time on the book or whatever, but I got
15 my permission from the board.

16 MR. SULLIVAN: We don't have anybody, zero,
17 nobody getting hours that doesn't have a permit.

18 MS. WILLIAMS: Right.

19 MR. SULLIVAN: No nobody.

20 MS. WILLIAMS: But we may have some students
21 that may appear not to have 150 hours because they
22 lost all the hours. I have one young lady, she had
23 700 and some hours. She went all the way back down
24 to 69 hours. And if her name is on the roll, how am
25 I going to tell her, no, you can't do hair anymore

1 because you're back to 69 hours.

2 MR. SULLIVAN: First of all, we were not doing
3 hair. We don't start doing hair till 10:30 or 11:00.
4 So she was in -- she was in and out before 10:30, so
5 there was nobody doing hair with less than 150 hours,
6 so that is -- that's an absolute --

7 MS. CAUDLE: That's not in this hearing order.

8 MR. SULLIVAN: Well, it was in -- it's in the
9 back, which told that on the November visit it made
10 reference to the fact that students needed 150 hours.

11 MS. CAUDLE: Is November's visit in on this?

12 MS. WITTUM: Yes, there is a note in here --

13 MR. SULLIVAN: Well, I come in here and we're
14 doing November and my letter says some other point in
15 time. I mean some of this stuff would be just like
16 me going to a court and take 25 people and we say,
17 judge, some of these people ran a red light. That's
18 exactly how this is written up. They're not
19 identified. There is nothing for me to defend except
20 in a general sense.

21 MS. CAUDLE: They're all identified in my notes.

22 MR. SULLIVAN: But your notes --

23 MR. JOCHUMS: You're not on trial for what was
24 in these last five pages, that's just for the board's
25 record that -- not what they did last time.

1 MR. SULLIVAN: But I am in trial -- I'm on trial
2 for generality. When you cite a -- when you cite a
3 specific law that I violated, then certainly I should
4 have the right to defend that particular case and
5 that particular student. If she says it's on her
6 report, it's not on my report that y'all sent me.
7 There was only the report that you sent me basically
8 right there. Nowhere does it identify any of that.
9 It doesn't even mention people coming into Burger
10 King.

11 MR. JOCHUMS: No, but it is on the Notice of
12 Hearing that you received that said what we're going
13 to have a hearing about. So you've been provided
14 that.

15 MR. SULLIVAN: Well, am I to go by the
16 inspection report or is this -- is this something
17 afterwards that when she left the school she gave us
18 an inspection report that doesn't mention that, yet I
19 get a letter saying that you've got kids going to
20 Burger King. Should that not -- everything else is
21 on the inspection report.

22 MS. CAUDLE: It's in my notes.

23 MS. WITTUM: Do you have those there?

24 MS. CAUDLE: Uh-huh. I wrote up this letter
25 after I gave you my notes, you wrote up this letter

1 from those notes.

2 MR. SULLIVAN: See, that's exactly what I --

3 MS. CAUDLE: But I talked to the students that
4 morning when I was at the school before Ms. Williams
5 came in. In fact I think I was talking to them when
6 Ms. Williams came in that morning. And I did tell
7 the two girls that had went to Burger King that it
8 was not allowed to go to Burger King on the clock. I
9 talked specifically to the students. And Ms. Hillson
10 said that is correct. She was the only instructor
11 there.

12 MR. SULLIVAN: She was not an instructor, she
13 opened the door. There were no classes --

14 MS. CAUDLE: She was -- she had children under
15 her or students under her. She opened the door to
16 the cosmetology school to begin their training.

17 MR. SULLIVAN: Now, had she begun their
18 training?

19 MS. CAUDLE: She had before I left.

20 MR. SULLIVAN: I beg your pardon. Ms. Williams,
21 what did you come in, in ten minutes.

22 MS. WILLIAMS: Ms. Hillson -- right, about five
23 or ten minutes later. At this time I was getting
24 there at 9:00. I was there about exactly 9:00. Ms.
25 Hillson opened the door for me, because I knew she

1 was coming the next day to get her license. And, you
2 know, they always tell me ignorance is not an excuse
3 for the law, but I felt that she could open the door,
4 because she was a licensed instructor, and I know she
5 had been a licensed instructor, even though it was in
6 Tennessee, for some time, six years, and I know she
7 was coming to get her reciprocity.

8 MS. POWELL: Do I understand, Ms. Williams, that
9 the theory starts at 9:00?

10 MS. WILLIAMS: Uh-huh.

11 MS. POWELL: And, Ms. Caudle, what time did you
12 arrive.

13 MS. CAUDLE: Students clock in at 8:30.

14 MS. POWELL: They clock in at 8:30?

15 MS. CAUDLE: Students clock in at 8:30, but
16 theory does not start till 9:00.

17 MS. POWELL: And what time do they actually
18 start receiving school hours?

19 MS. CAUDLE: At --

20 MS. WILLIAMS: Nine o'clock. Eight-thirty.

21 MS. CAUDLE: Eight-thirty.

22 MS. POWELL: Eight-thirty.

23 MS. CAUDLE: Eight-thirty.

24 MS. POWELL: Okay. And those that are receiving
25 hours and are clocked in, I know according to our

1 statute should be the supervision of a --

2 MS. CAUDLE: Supervision of a licensed
3 supervisor/instructor.

4 MS. POWELL: -- licensed supervisor. Let me ask
5 you, you said that you have students that clock in
6 during the theory instruction.

7 MS. CAUDLE: Okay. That was at this, this visit
8 when I was there in -- we're talking about two
9 separate visits.

10 MS. POWELL: Oh, so that was not at this last
11 visit?

12 MS. CAUDLE: On November the 20th when I was
13 there, that was happening, they were coming and going
14 as they pleased. That was the Burger King visit. I
15 was back there on November the 8th. I did write on
16 the inspection sheet that there was a young lady that
17 came in, theory was already in progress, I sat and
18 watched theory class, they done facials. There was a
19 young lady that come in, she sat up in the reception
20 area and she was not --

21 MR. SULLIVAN: That was on -- that was the
22 November visit.

23 MS. CAUDLE: Yes, that's what I just said.

24 MS. POWELL: Okay. I think what I'm trying to
25 get at here if you'll just give me a minute, you

1 said that a policy, school policy procedure, that
2 when you have students come in after 8:30 and during
3 theory time you don't allow them to come into the
4 theory because it's distracting to your theory. You
5 do allow them, however, to obtain hours for the time
6 they clock in, correct?

7 MS. WILLIAMS: Right. Okay. Let me explain
8 that hour that you're speaking of. Okay. It's
9 mandatory, if you come in after theory start, it's
10 mandatory you stay over from 4:30 to 6:30, because in
11 other words you'll have from 10:00 until.

12 MS. POWELL: So you've defined to the board or
13 the office your theory instruction time being from
14 9:00 to 10:00

15 MS. WILLIAMS: Uh-huh.

16 MS. POWELL: And where is this -- what kind of
17 hours is this student receiving at 8:30 or from 9:00
18 -- say the student clocks in at 9:15. What kind of
19 hours are they getting if they're not being taught
20 theory and they're not being taught practical, what
21 kind of hours are they obtaining?

22 MS. WILLIAMS: Actually we have a practical work
23 for them to do. Actually supposed to come in, if
24 you're late for theory you proceed with your
25 practical work. It's like a study hall, basically,

1 that's the way we have it set up. You continue with
2 this. When you go into class at 6:00 this evening,
3 you should have your paperwork or whatever class work
4 you've been assigned.

5 MS. POWELL: So they're working on the public at
6 that time?

7 MS. WILLIAMS: No.

8 MS. POWELL: They're working on a workbook at
9 that time?

10 MS. WILLIAMS: Right. And since now Ms. Hillson
11 is --

12 MS. POWELL: So it's basically a study hall kind
13 of thing?

14 MS. WILLIAMS: Right. Because we have two
15 junior instructor trainees, the students normally
16 have a junior instructor trainee with them, we allow
17 them sit on the clinic floor because they cannot go
18 into the classrooms.

19 MS. POWELL: Well, I think without -- class time
20 is defined with instruction with a teacher
21 instructing, and I don't -- I don't -- I'm not sure
22 that that would qualify as theory and I know it
23 wouldn't qualify as practical.

24 MR. SULLIVAN: Well, we don't qualify it as
25 theory.

1 MS. WILLIAMS: No.

2 MR. SULLIVAN: It's not theory.

3 MS. POWELL: Well, that's the only two hours
4 that this board monitors is theory and practical
5 hours. So I don't really know where that would fit
6 in.

7 MR. SULLIVAN: Well, why wouldn't -- why
8 wouldn't working out of workbook, if a kid has 1400
9 hours and they're through with theory are you saying
10 they shouldn't come in until after theory? I mean
11 we've got kids from zero to 1500 hours. So you're
12 saying we have a practical workbook and assignments
13 that they are given when they come in, if they don't
14 go to theory. Now, you say that is in violation?

15 MS. POWELL: I'm not saying it's in violation,
16 I'm saying that if a student is to obtain hours they
17 would be supervised by a teacher, whether it's a
18 workbook, a theory lecture, or a practical
19 application.

20 MR. SULLIVAN: Well, they are supervised.

21 MS. POWELL: And you said they didn't have a
22 teacher.

23 MR. SULLIVAN: No. Wait, no, no, no, no. We
24 have two teachers that are there in the morning and
25 one of them has X number of students that has X

1 number of hours, one of them has X number of students
2 that has X number of hours, so there's never a time
3 that they're not under them.

4 MS. WILLIAMS: And the junior instructor trainee
5 takes care of the late comers, but she's still under
6 my instruction because I'm right there.

7 MS. POWELL: How does a student lose hours?

8 MR. SULLIVAN: That's what we would like to
9 know.

10 MS. POWELL: You were talking about --

11 MS. WILLIAMS: I would like to know that myself
12 because this is new to me I never knew of a student
13 having 1200 hours and losing them all the way down to
14 69.

15 MS. CAUDLE: Over three years old.

16 MS. POWELL: Oh, you're talking about the state
17 mandated hours. I thought you were talking about
18 within your facility, those hours?

19 MS. WILLIAMS: No, no, no. Huh-uh. But over
20 three years old, though? The books say three years
21 after school, be out of school. Does that mean from
22 the anniversary date or what. Help me clear my
23 thinking.

24 MS. POWELL: I think we covered that this
25 morning on another case.

1 MS. WILLIAMS: I didn't quite understand. So I
2 just wanted clarification on it. Because it hurts me
3 to sit there and tell me a young lady that's been in
4 school for some time, you had 1300 hours, but now you
5 have zero.

6 MS. POWELL: I think we had that this morning.
7 We will clarify that for you later.

8 MR. JOCHUMS: But I think we should get back to
9 evaluating whether these things happened or not.

10 MS. WILLIAMS: Okay.

11 MS. POWELL: We will clarify that for you later.

12 Are there any questions? Anyone have any
13 questions?

14 (No response.)

15 MR. JOCHUMS: Before we move on, Mr. Sullivan, I
16 don't want to cut you off if you want to sort of --
17 do you have something else you need to say, or do you
18 want to sum up or you, ma'am, because then we're
19 about to move to deliberations. You have an
20 opportunity to say whatever you need to say.

21 MR. SULLIVAN: I personally would like to know
22 if there -- if this is the rule book, is there some
23 rules and regulations that I'm not aware of, or is
24 there some rules that are at the whims of the
25 inspector or what? I'm at a total loss as to we get

1 written up because we don't have a sign-in sheet for
2 the clients.

3 MS. WITTUM: The yellow is the law book.

4 MR. JOCHUMS: Oh, it's the law book.

5 MS. POWELL: That is your law book.

6 MR. SULLIVAN: All right. Is there some
7 regulations that --

8 MS. POWELL: There is a rule book.

9 MR. SULLIVAN: That -- it's got a blue cover.

10 MS. POWELL: It's also on the web site, it's
11 under revisions.

12 MS. WITTUM: If you go upstairs after you leave
13 here just tell Shantay in the office that you need a
14 copy of the rule book and she'll give you the rules
15 and regs.

16 MS. WILLIAMS: Okay. Well, I just want to say
17 anything that we have violated I have tried to fix.
18 All the broken equipment is gone, the tables are
19 gone, everything, broken mirrors, everything have
20 been repaired.

21 MS. CAUDLE: The broken mirrors have been
22 repaired.

23 MS. WILLIAMS: And the tables were removed the
24 same day.

25 MS. CAUDLE: And the chairs were being worked

1 on, so they are doing that.

2 MS. WILLIAMS: And Ms. Hillson does have her
3 license.

4 MS. CAUDLE: But he asked for names on the
5 November 2nd visit. Mr. Sullivan, this is all of the
6 names of the students that I had that there were
7 nothing on the appointment book for or they were --
8 had appointments on the appointment book and they
9 weren't permitted with our office.

10 MR. SULLIVAN: No, I don't have any student
11 that's not permitted.

12 MS. CAUDLE: And there are several.

13 MR. SULLIVAN: No, that's --

14 MS. CAUDLE: I got the sheets, the appointment
15 sheets from your sign-in sheets.

16 MR. SULLIVAN: Well, so what you're saying is
17 that I'll get another letter from that visit because
18 I'm here on the September 20th.

19 MS. WILLIAMS: These people should have permits.
20 This person will graduate --

21 MR. SULLIVAN: If I get a letter on that and you
22 --

23 MS. CAUDLE: It will tell you when they were
24 permitted down here. Some of them do have permits,
25 but some of them do not.

1 MR. SULLIVAN: That's what I thought, some of
2 them did. All of them did.

3 MS. POWELL: Ms. Turman.

4 MS. TURMAN: Mr. Sullivan, I have a problem.
5 You're saying that our inspector is simply out to --

6 (Multiple discussions taking place without
7 recognition to hold the floor.)

8 MR. JOCHUMS: Well, can't everybody talk at
9 once.

10 MS. TURMAN: You did have the broken mirrors?

11 MR. SULLIVAN: I said I had broken mirrors. The
12 broken chairs were there, but what I'm also saying is
13 that this equipment has been in that school I
14 personally know since 1997, same equipment has never
15 been written up.

16 Now, I come in I've spent -- I put new air
17 conditioning in. I noticed on this inspection report
18 that it said something about drinking water. There
19 was never a water fountain in the school, I put a
20 water fountain in, I put a refrigerator in. I'm
21 saying that for some reason the prior ownership and
22 my ownership has been treated different. That's all
23 I'm saying. That equipment has been in there since
24 1997, I know personally because I've been to the
25 school.

1 MS. TURMAN: But, Mr. Sullivan, did you know
2 that those mirrors were broken, those chairs were not
3 operable? Didn't you know, even though the former
4 owner, and they hadn't been written up, don't you
5 know that that should have been replaced because of
6 the rules and regulations.

7 MR. KEENE: It looks like he was doing it.

8 MR. SULLIVAN: I did.

9 MS. TURMAN: You were doing it?

10 MR. SULLIVAN: Yeah. I moved them, she says
11 near the shampoo bowl, they're near the door.

12 MS. CAUDLE: Which is near the shampoo bowl.

13 MR. SULLIVAN: Which we had ready and had ready
14 and had already called the person to come repair
15 them. I brought, two weeks ago, seven different
16 styling chairs and manicuring table from my other
17 school in Georgia. I drove a truck over myself and
18 brought them in.

19 Now, the mirrors, when they use those curling
20 irons, they pop a mirror in 20 minutes, but we've
21 taken care of that by putting some tile up where the
22 heat comes out.

23 MS. CAUDLE: There's a tile on the part of the
24 mirror where the iron comes out.

25 MR. KEENE: Sheila, how long have you been the

1 inspector for this school?

2 MS. CAUDLE: I am not the inspector for that
3 school.

4 MR. KEENE: Who was the inspector for your
5 school?

6 MS. CAUDLE: Ms. Kay Smart.

7 MR. KEENE: Ms. Smart. Ms. Smart is dead,
8 right?

9 MS. CAUDLE: Yes, she is.

10 MR. KEENE: She was the inspector over there for
11 how many years?

12 MS. CAUDLE: Twelve.

13 MR. KEENE: About twelve years.

14 MS. CAUDLE: About twelve years.

15 MR. KEENE: So would you say that if this school
16 has been -- we've had licensed since 1968, at least
17 over the 12 years that Kay was there that maybe she
18 just didn't write up everything that --

19 MS. CAUDLE: I can't answer that.

20 MR. KEENE: Certainly you can't answer it, the
21 one that can is dead.

22 MS. CAUDLE: Right.

23 MR. KEENE: She can't answer it. This sounds to
24 me like a lot of these things, I'm not talking about
25 the students going to Burger King, but I'm talking

1 about the equipment at least, that if it was broken
2 and been broken for some time, then maybe it was
3 broken sometime during that 12 years that Kay had it
4 and he has sent the equipment off to be repaired or
5 replaced or what --

6 MS. WILLIAMS: Replaced.

7 MR. KEENE: Now, why it didn't get written up or
8 talked about --

9 MR. SULLIVAN: Exactly.

10 MR. KEENE: -- back in May when you were here
11 and got fined \$1,000, I don't know. Because we
12 didn't do that inspection either, right? But it was
13 --

14 MS. CAUDLE: It was on that inspection.

15 MR. KEENE: It was?

16 MS. CAUDLE: Uh-huh.

17 MR. KEENE: Well, then if you took that long to
18 do from May until, what is this, November --

19 MR. SULLIVAN: It wasn't --

20 MR. KEENE: -- to do something about it then,
21 okay, maybe there is an issue there.

22 MR. SULLIVAN: They didn't -- it wasn't on
23 there.

24 MR. KEENE: But that can explain why you, the
25 two of you have a problem.

1 MR. SULLIVAN: You got that.

2 MR. KEENE: Because you don't like that somebody
3 has come in here now and started writing you up for
4 things that the former inspector should have written
5 you up for.

6 MS. CAUDLE: I've never been anything but kind
7 to Mr. Sullivan. He's never been anything but
8 cordial to me.

9 MR. KEENE: So I don't really think that it's a
10 personal issue that she has with you. I think you
11 just got by with a whole lot of stuff for a long time
12 because you had an inspector that was being easy.

13 MR. SULLIVAN: No, I didn't --

14 MR. KEENE: This one is coming in and doing the
15 job.

16 MR. SULLIVAN: I mean I don't have any problems
17 with being inspected, and I don't have any problems -
18 -

19 MR. KEENE: You just said you did.

20 MR. SULLIVAN: -- I just say that I went and
21 took five years worth of lint out of the dryer back
22 where the dryer was and cleaned up. I moved four
23 years worth of books and stuff, and threw in the
24 garbage. We've taken probably 25 garbage bags worth
25 of stuff out of that school, and it's --

1 MR. KEENE: I'm not denying that you are doing
2 things and trying to improve, you have been. But I
3 don't believe that there's a personal issue here.

4 MS. CAUDLE: There's not.

5 MR. SULLIVAN: Okay.

6 MR. KEENE: I think that there's another issue
7 that has occurred that has showed itself here at this
8 one, but it's not between the two of you.

9 MS. CAUDLE: Okay.

10 MS. WILLIAMS: Okay. I just want to address
11 some of the students that she was seeing that did not
12 have permits. Now, several of these students, for
13 instance, Cal Wallace. He's a return student. And
14 so when he returned he had --

15 MR. SULLIVAN: Fifteen hundred hours.

16 MS. WILLIAMS: -- 1500 hours. Some of his hours
17 got taken somewhere along the way, I don't know
18 anything about that, can't address that. But he come
19 back, so he had to buy a new permit. So of course I
20 allowed him to work on a client. You've got 1500
21 hours, why can't -- if you're in school what am I
22 supposed to do with you?

23 MS. CAUDLE: But we have a Danita Lewis that's
24 on --

25 MS. WILLIAMS: Danita Lewis has 900 --

1 MR. SULLIVAN: Danita Lewis has 900 hours.

2 MS. CAUDLE: Just a minute. She was on the
3 appointment book on August the 9th as doing a client,
4 and she didn't have a matriculation date until
5 September the 5th. So that means on August the 9th
6 she was enrolled in your school or at least on the
7 floor doing appointments, but you did not send in her
8 paperwork to our office and we didn't get a
9 matriculation date till September the 5th for her.

10 MR. SULLIVAN: That's not correct. I personally
11 -- when a student enrolls, if we have a start on
12 Monday I Fed Ex the paperwork to the state board that
13 day to get their permits, Fed Ex it, not mail or
14 anything, and they get the permit.

15 MR. JOCHUMS: Let me -- let me cut that issue
16 short. We don't have him charged with not permitting
17 students. That's not on this list anywhere.

18 MR. SULLIVAN: Right, exactly.

19 MR. JOCHUMS: So that's not -- it may be true
20 but he didn't get charged with it, so that's not --
21 that's not an issue today.

22 MS. GORDON: My question is on the broken
23 equipment and the broken mirrors and all of this, was
24 the mirrors up at the station at that time when she
25 came in or were they stacked by the door? Was the

1 broken chair still in the station where you could use

2 --

3 MR. SULLIVAN: No, no.

4 MS. WILLIAMS: No.

5 MS. GORDON: Was all of this equipment sitting
6 by the door and everything --

7 MR. SULLIVAN: The equipment was sat by the
8 door.

9 MS. GORDON: It had been removed from the
10 station and it was --

11 MR. SULLIVAN: There was a couple of broken
12 mirrors but I took them out immediately and we put
13 the tile up to prevent further breakage.

14 MS. GORDON: So all of this broken equipment and
15 mirrors and everything was sitting like maybe say in
16 a pile or something ready to be removed?

17 MR. SULLIVAN: Ready to go out.

18 MS. WILLIAMS: We even had the pick up where we
19 were going to move it.

20 MS. POWELL: I think it's clear, like Mr.
21 Jochums says, that we're dealing with two issues or
22 three issues here. Not only are we dealing with the
23 health and safety issues of the mirrors and the
24 shampoo bowl, him making corrections into the repairs
25 of the facility, but we're talking about an

1 unlicensed instructor and we're talking about
2 students leaving the premises while on the clock to
3 go to Burger King. I think that's --

4 MS. TURMAN: Let me ask -- may I question?

5 MS. POWELL: Yes.

6 MS. TURMAN: Mr. Sullivan, you're saying that
7 this instructor that you had, she said that she would
8 -- your instructor there said that she was coming
9 down the next day to renew her license.

10 MS. WILLIAMS: She did. Yes.

11 MR. SULLIVAN: She got her license the next day.

12 MS. TURMAN: But did she -- did she come down
13 and renew her license here?

14 MS. WILLIAMS: Uh-huh. Yes.

15 MS. POWELL: She got an Arkansas license.

16 SPEAKER: Well, then legally the day that she
17 was there she did not have her license.

18 MR. SULLIVAN: She wasn't instructing. She was
19 not an instructor, she had helped Ms. Williams get
20 the curriculum ready and doing some --

21 MS. WILLIAMS: Some roll books.

22 MR. SULLIVAN: -- some roll books and everything
23 getting ready to -- she was not instructing the day
24 that the inspector came in that school. She was not.

25 MS. TURMAN: Mr. Sullivan, you're telling me

1 that when she let those students in the building she
2 just let them do whatever they wanted to do?

3 MS. POWELL: From 8:30 to 9:00.

4 MR. SULLIVAN: Well, no, no.

5 MS. WILLIAMS: No, not from 8:30 to 9:00, but
6 she opened the door.

7 MR. SULLIVAN: She opened the door.

8 MS. WILLIAMS: This one morning only that I was
9 late. Most of the time I'm there at 8:30.

10 MS TURMAN: But you're still telling me that she
11 just let those students do whatever they wanted to
12 do?

13 MS. GORDON: And that they were on the clock for
14 that 30 minutes or whatever.

15 MR. SULLIVAN: Well, that doesn't matter.

16 MS. WILLIAMS: Yes.

17 MS. POWELL: Without a licensed instructor.

18 MS. TURMAN: Without an instructor.

19 MS. POWELL: Right.

20 MR. SULLIVAN: That's fine, do whatever.

21 MS. CAUDLE: Mr. Sullivan, that's all I have for
22 him.

23 MR. JOCHUMS: At this point unless some board
24 member has another question you need to ask these
25 people, I think we've sort of been through

1 everything and it's time to make a determination.
2 You get to look at credibility, your experience in
3 the industry and you have to make some calls on the
4 facts. You may want to look through this because
5 there are several separate different violations and
6 you may feel one way about one violation and not
7 another one.

8 MS. CHRISTY: Do we address each violation
9 separately?

10 MR. JOCHUMS: Well, I think we probably should
11 in this case. And to make that simple I think one
12 question would be were students out of control, that
13 would be one issue. The second one was Ms. Hillson,
14 was she teaching or potentially teaching without a
15 license. And the third one is the broken items,
16 safety.

17 MS. CHRISTY: Well, on that number two, the
18 second one, she was the only person there in charge,
19 right?

20 MR. JOCHUMS: I think she was the only person
21 all it sounds like.

22 MS. WILLIAMS: No, I was there.

23 MS. CHRISTY: She was the person that was in
24 charge for 30 minutes.

25 MR. SULLIVAN: She opened the door for 20

1 minutes.

2 MS. WITTUM: And just for clarification on the
3 initial information that Pro Way submitted, their
4 theory hours are from 8:30 to 4:30 a.m. 8:30 a.m.

5 MS. WILLIAMS: That's the school open at 8:30.

6 MR. SULLIVAN: School hours.

7 MS. POWELL: This says theory classes ___ night
8 5:30 and 9:30.

9 (Multiple discussions taking place without
10 recognition to hold the floor.)

11 MS. CAUDLE: It says 8:30.

12 MS. WILLIAMS: She just informed that I did
13 that, actual theory, I was off from 9:00. That was
14 my mistake, so we do not have theory at 8:30 in the
15 morning. She just informed me that's what I had
16 written.

17 MS. CAUDLE: I told her that's what she filled
18 out on her theory hours.

19 MS. TRAYLOR: Excuse me, I didn't understand
20 that.

21 MS. CAUDLE: She filled it out on her theory
22 hours said 8:30, but in actuality they don't have
23 theory till 9:00 is what she's saying.

24 MS. CHRISTY: On a day-to-day basis what do you
25 do from 8:30 to 9:00?

1 MS. WILLIAMS: Actually it's supposed to be like
2 a study hall procedure, giving the students time to
3 get there. Because they can clock in from 8:30 to
4 9:00 with not being late.

5 MR. JOCHUMS: Let me just ask for clarification,
6 are all of your students adults or post-high school?

7 MS. WILLIAMS: We have some high school.

8 MR. JOCHUMS: You have some high school. Okay.

9 MS. TURMAN: So you're saying we have to do each
10 one of these?

11 MR. JOCHUMS: Well, I think you can make a
12 motion, I find paragraph one true; two, not true;
13 three, true or any kind of combination of yes/nos.
14 And the fourth -- the fourth and fifth are just sort
15 of elaborations. The fourth says when the lady got
16 her license and the fifth says you've got a duty to
17 control your students. So it actually is the first
18 three paragraphs that --

19 MR. KEENE: I'll make a motion.

20 MS. POWELL: Okay. Mr. Keene.

21 MR. KEENE: I move the allegations being true
22 and we would order the Respondent to pay a fine in
23 the amount of \$500. I find that paragraph one he's
24 guilty, and paragraph two he's guilty, paragraph
25 three he is not guilty. Payment within 30 days of

1 receipt of the board's order, failure to pay the fine
2 as ordered will result in a suspension of
3 Respondent's cosmetology school license, depending --
4 beginning 30 days from receipt of the order and
5 continuing for a period of 90 days from the day the
6 Respondent relinquishes his license to the board.

7 MS. GORDON: Second.

8 MS. POWELL: All right. And I guess his
9 probation on his previous thing is still enacted.

10 MR. JOCHUMS: It just continues.

11 MS. POWELL: It just continues.

12 MR. JOCHUMS: No change.

13 MS. POWELL: Is there any discussion?

14 (No response.)

15 MS. POWELL: All those in favor raise your right
16 hand.

17 (Show of hands.)

18 MS. POWELL: It's unanimous.

19 MR. JOCHUMS: Okay. You were here and heard the
20 ruling of the board. You will get a formal order in
21 the mail in a few days, and that, of course, is self-
22 explanatory that there's been a fine imposed of \$500,
23 which covers both -- a total of \$500, which will
24 cover the two violations that were found. And you,
25 of course, have a right to seek judicial review in

1 the Circuit Court of Pulaski County or the county
2 where you do business. Should you desire you should
3 probably talk to a lawyer immediately because there
4 are some time frames that you would have to comply
5 with, if you would want to do that.

6 If you want to pay the fine, as we have told
7 other people, we'll accept money today, but that's
8 certainly not required until -- you have 30 days
9 after you receive that letter to pay the fine, as I
10 remember the motion. And with that you may be
11 excused. Thank you for coming.

12 And that leads us up to the people from Mena, I
13 believe, or the lady from Mena.

14 MS. WITTUM: This was Fed Exed, we just got it
15 this morning?

16 MR. JOCHUMS: Oh, this is from Shirley herself?

17 MS. WITTUM: Yes, this is on the Mena.

18 MR. JOCHUMS: Okay.

19 (Multiple discussions taking place without
20 recognition to hold the floor.)

21 MR. JOCHUMS: We will do this as quickly as I
22 can find out where I put my -- before we begin or get
23 very far we can -- go ahead, Ms. Court Reporter. You
24 are Shirley Smith?

25 MS. SMITH: Yes, I am.

1 MR. JOCHUMS: Okay. You are the -- I want to
2 tell you that the board has received a copy of the
3 Notice of Hearing, a two-page, I think it's two,
4 historical review and also a letter from you to
5 Kathy. Now, that probably we need to take a minute
6 to read because it has just been passed out. All
7 those three documents will be made Exhibit One in the
8 record today, and we'll incorporate by reference our
9 board rules.

10 This is a case that has to do with your hours,
11 and I'll let the inspector develop it as we go along.
12 But let me take out a minute to read whatever has
13 just been passed out.

14 MR. JOCHUMS: Ms. Caudle, do you have a copy of
15 the notice?

16 MS. CAUDLE: Uh-huh.

17 MR. JOCHUMS: Okay. Good. What I would like
18 you to do since there's several things, if you could
19 just summarize the --

20 MS. CAUDLE: Summarize what I found?

21 MR. JOCHUMS: The four or five areas.

22 MS. CAUDLE: Okay.

23 MR. JOCHUMS: So we know what the problems are
24 and then we'll go back and talk about the facts.

25 MS. CAUDLE: Okay. Very good. Student

1 registrations, and students shall be registered with
2 the board and the duties of the school, they should
3 keep good records. The registration requirements.
4 Students shall be registered with the board before
5 accruing hours and hours may be obtained.

6 On October the 19th, 2005, I made a visit to
7 Mena School of Cosmetology just to check their
8 records. they were a new school, had just been
9 approved to open in May. And upon arriving there the
10 instructor that was there told me that there were no
11 files on the premises. And so I asked her where the
12 files was and she said, well, just a minute, I will
13 call Ms. Smith for you. And she called Ms. Smith,
14 and Ms. Smith got on the phone and she told me that
15 the records had been confiscated because of a
16 financial administrator problem in Idabelle,
17 Oklahoma. That took care of that, so I got into their
18 Smart computer system, found what records I could
19 find in their on each individual student. Got copies
20 of their activity sheets or daily sign in and out
21 sheets. Made copies of all of those and took with
22 me. Also, I found that on the May monthly report it
23 was a brand new school. They had turned in
24 applications for 25 bona fide students. There was
25 only 20 students. The missing students, there were

1 five missing students, two of the students appeared
2 on the July report. I don't know if it was two or
3 three of the students never appeared on any of the
4 reports up to date.

5 There was nine days available of school time for
6 the month of May, yet they were given hours for ten
7 days, according to their reports. Also there were
8 two students, namely a Michelle Brewer was not on our
9 monthly report for July, but she showed up in the
10 school's time card system as being present July 21st,
11 22nd, 26th, 28th and 29th. She was also on the sign-
12 in sheets as being there those days, but she was not
13 given any hours to the state board office.

14 No hours were also reported for Candace Thompson
15 during July on the monthly report, but the sign-in
16 sheets revealed that she was there July the 8th,
17 12th, 13th, 14th, 15th, 19, 20, 21, 22, 26, 27, 28
18 and 29, and the school computer system also reveals
19 that she was in attendance and class on those days.

20 She was one of the original 25 bona fide
21 students. She was administratively dropped from our
22 system, which means of a student is attending school
23 and for two consecutive months they get zero hours
24 our system automatically drops them. So they re-
25 enrolled her in August using the exact same copy of

1 the contract that was submitted in May.

2 I found a sign-in sheet for the dates of July
3 13th, 14th and 15th, and the same person obviously
4 wrote the students' names and in and out times, it
5 was all in the same handwriting. Also in that folder
6 I found one for October 11th and 12th, the same
7 person wrote in the names with in and out times.

8 And in August, according to the school schedule,
9 there was 18 days available in the month, however
10 there were three students noted to have accrued more
11 than these number of days.

12 In September, according to the school schedule,
13 there were 18 days available in this month, however
14 there were 24 students to have accrued more than this
15 number of days.

16 Sign-in sheets revealed that hours were given
17 for work on the float for the parade I'm assuming, on
18 September the 3rd, and it appears that students may
19 have been given hours for -- to discuss the parade
20 float, parade and float, for spray tanning and arm
21 waxing was on some of the activity sheets that were
22 sent to our office. That's it.

23 MR. JOCHUMS: Was the very first class beginning
24 in May?

25 MS. CAUDLE: Yes, sir, that was a brand new

1 school in May.

2 MR. JOCHUMS: And have they started a new
3 semester since then or, no, we're still in that same
4 first semester?

5 MS. CAUDLE: Well, they can take students at
6 anytime.

7 MR. JOCHUMS: Continue to add. Okay. Did you -
8 - okay, let me ask this. According to what you
9 learned when you went to the school how many teachers
10 are there?

11 MS. CAUDLE: At that school that day there was
12 one instructor.

13 MR. JOCHUMS: One instructor. Do they have more
14 than one listed with the board?

15 MS. CAUDLE: Oh, yes.

16 MR. JOCHUMS: And given this class size I assume
17 there's one classroom and one clinic area.

18 MS. CAUDLE: Clinic area, yes, sir.

19 MR. JOCHUMS: Is there anything else that you
20 can think of that you need to tell the board about
21 this case at this juncture?

22 MS. CAUDLE: Not that I know of.

23 MR. JOCHUMS: Okay. Thank you. Ms. Smith, at
24 this point you unfortunately have seen all of the
25 other hearings, I think, or most of them. You may

1 ask the inspector any questions about what she said,
2 if you desire. You may address the board. I see a
3 young lady behind you, if you need somebody else to
4 be a witness, you can present them. The floor is
5 yours.

6 MS. SMITH: Actually this is one of my students
7 and she has a concern, so you guys will get to speak
8 with her.

9 MR. JOCHUMS: Separately from your hearing?

10 MS. SMITH: Yes.

11 MR. JOCHUMS: Okay. I didn't know if she was a
12 witness with you in this matter or not?

13 MS. SMITH: No. She's actually one of the
14 students that was enrolled in May that didn't re-
15 enter until later, two months later.

16 MR. JOCHUMS: Okay. I just didn't want to
17 prevent -- keep her out if you needed her to say
18 something.

19 MS. SMITH: I have one question that I don't
20 understand before I start. It's number five,
21 unlawful to improperly control students.

22 MS. WITTUM: That's a typo.

23 MS. SMITH: Okay.

24 MR. JOCHUMS: Which word?

25 MS. WITTUM: Improperly control students.

1 MR. JOCHUMS: What was is supposed to be?

2 MS. WITTUM: It shouldn't have been. It was the
3 format copied from the previous one.

4 MR. JOCHUMS: Oh, so this paragraph shouldn't
5 have been here at all?

6 SPEAKER: Number five paragraph should be in
7 neither form.

8 MR. JOCHUMS: Okay. I move that, as a matter of
9 record, strike paragraph five from this --

10 MS. POWELL: The whole paragraph, ____

11 MS. WITTUM: Uh-huh.

12 MR. JOCHUMS: Strike the whole paragraph. Okay.
13 Well, let me go back to Inspector Caudle first. Just
14 so we all get this straight and we have some new
15 people and we probably have some people that learned
16 more about schools today than they ever wanted to
17 know.

18 (Chorus of laughter)

19 MR. JOCHUMS: Do you have to have a permit from
20 the board office before they can get hours that this
21 board will count towards --

22 MS. CAUDLE: Yes, sir.

23 MR. JOCHUMS: -- being able to take the exam
24 down the road?

25 MS. CAUDLE: You have to have the permit before

1 you're in the school learning the art of cosmetology.

2 MR. JOCHUMS: And as far as the board has
3 interpreted that over the years, you're not supposed
4 to be there at all if you're not permitted; is that
5 how you understood it?

6 MS. CAUDLE: That's correct.

7 MR. JOCHUMS: Because sometimes there's a
8 distinction about we didn't submit the hours to the
9 board, but your understanding that the way the board
10 has interpreted this statute and policy, you're
11 supposed to have a permit before you begin attending
12 the school?

13 MS. CAUDLE: That's correct.

14 MR. JOCHUMS: Okay. Now, the schools are
15 required by the regulations to have a clock-in
16 system.

17 MS. CAUDLE: That's correct.

18 MR. JOCHUMS: Now, this particular school has a
19 --

20 MS. CAUDLE: A Smart System.

21 MR. JOCHUMS: Maybe that's not very unique but
22 it sounds pretty fancy to me. They've got a computer
23 that does the --

24 MS. CAUDLE: Yes, it's Smart System, a lot of
25 schools are going with that, and you just scan your

1 little ID card --

2 MR. JOCHUMS: It scans that.

3 MS. CAUDLE: -- it's got a little bar code in it
4 and it goes right into the computer.

5 MR. JOCHUMS: And so the computer knows when you
6 came in and when you left. And then it prints out a
7 report for them, or at least a list from which they
8 can fill out the board's monthly report?

9 MS. CAUDLE: Yes, yes.

10 MR. JOCHUMS: Okay.

11 MS. CAUDLE: It keeps up with everything.

12 MR. JOCHUMS: So what you've told the board
13 about is that according to matching up some of these
14 things there were people that got more hours than
15 there are hours to get?

16 MS. CAUDLE: Yes, and there's was one particular
17 student who was given hours on September the 29th, he
18 didn't appear on the September monthly report, so --

19 MR. JOCHUMS: There was some that didn't get
20 reported?

21 MS. CAUDLE: Right.

22 MR. JOCHUMS: So part of the problem is
23 reporting to the board and the other part is the
24 accuracy of the whole system.

25 MS. CAUDLE: Or students being there without

1 being permitted, yes.

2 MR. JOCHUMS: Okay. Now, with that out of the
3 way I'll go back to you, Shirley.

4 MS. SMITH: Okay.

5 MR. JOCHUMS: Tell us what you want to know, now
6 that we have taken five away.

7 MS. SMITH: Well, first of all I want to share
8 with you that is my first time before a board and,
9 yes, I'm nervous, and I didn't bring an attorney to
10 represent me, so here I am.

11 MR. JOCHUMS: That's fine. We won't take
12 advantage of you.

13 MS. SMITH: Arkansas is a new entity to me.
14 Actually I've been in the business for 16 years and
15 I've operated mostly in Oklahoma. This is not an
16 excuse. Okay? In Oklahoma you are given two weeks,
17 14 days to actually register a student. Okay? That
18 is my downside to this.

19 A lady that I have actually working in the
20 office and you met Ms. Janie, she's an elderly lady
21 and this is also new for her. And what we're doing
22 is we have actually gone back and retrained everyone
23 with the Smart System, and it is a complicated
24 system, but it's not complicated if the student is
25 there, the student is there. If the student is not

1 there, then obviously the student is not there.

2 But we are -- we moved the computer. We had the
3 computer out on a front desk and we moved it into an
4 office, so that the actual students actually have to
5 clock in there by the wall. Okay? So there's a
6 little more control with that, I think, in place.

7 I'm not -- I'm not familiar with this parade,
8 and the float, and these issues, but I will certainly
9 address this.

10 On the day you were there was Mr. Brandon
11 Clellan, was he the instructor?

12 MS. CAUDLE: No.

13 MS. SMITH: Sharon Wesley? Beverly --

14 MS. CAUDLE: Beverly.

15 MS. SMITH: Beverly. Okay. I have a weak area
16 that I'm working on. Currently now there's, I think
17 there's like 40 -- 43 students at that school. So
18 back to the issue with the 25 bona fide students on
19 number two, and there was actually 20 there that day,
20 this is one of the students. There was one
21 additional student that showed up, so I actually had
22 three that did not show up. And I have documentation
23 from them as to why they didn't show. One, her
24 husband would not allow her to come to school. She
25 walked in that morning and said he will not allow me

1 to come to school.

2 One girl was pregnant and actually had a
3 miscarriage, so she couldn't attend. The other one,
4 I have no idea. So there was no contact with her at
5 all afterwards. So those are the three that we did
6 not have show up.

7 We had, and I think this -- aren't you one that,
8 Candace -- Candace Thompson, and are you one that
9 your hours are not -- okay. We had Jerri Hale, which
10 was a student that had attended four colleges, mine
11 was the fourth one that she attended and she is a
12 student that did not get registered with board.
13 Okay? All of the others were registered. This one
14 was not registered until August? September?

15 MS. THOMPSON: I was registered in May for the
16 beginning class with the knowledge of I was not going
17 to be attending classes until July 8th. It was on a
18 post-it note in my file. The post-it note was still
19 there as of July 8th, because I was given my file
20 during orientation. I was registered when I actually
21 attended school on July 8th.

22 I've been to cosmetology before. I know I have
23 to have a permit. So I personally looked on the
24 board, my name was on there. I did have a permit
25 starting with the May students, that's how come I

1 never said anything. I had a permit, it didn't
2 matter. All of a sudden I get a letter dated August
3 1st saying you've been dropped, you have no hours,
4 which should not have been true, I was there the
5 whole month of July. So that's my issue, I just want
6 my hours.

7 MS. CAUDLE: Do you want me to explain?

8 MS. SMITH: Yes.

9 MS. CAUDLE: At the end of June it
10 administratively dropped her, which took her permit
11 away, it no longer existed. If she started in July,
12 but that old permit was still posted up there, and so
13 she thought she was permitted.

14 MS. POWELL: So she was one of the 25 --

15 MS. CAUDLE: She was one of the 25 students that
16 didn't start. She waited till July to start.

17 MS. POWELL: But they knew she wasn't going to
18 start until July. And there was a sticky note?

19 MS. THOMPSON: There was a post-it note in my
20 file --

21 MS. POWELL: So you --

22 MS. THOMPSON: -- felt assured. We had
23 discussed it. I had a wedding, and I had a vacation
24 and I told her I'll miss those days before I can just
25 start at another time.

1 MS. POWELL: So counting her you had three
2 others that did not start --

3 MS. CAUDLE: Had five total.

4 MS. POWELL: Five total.

5 MS. CAUDLE: Uh-huh.

6 MS. POWELL: And she's one of those five. So
7 you started a new school with 20 students?

8 MS. CAUDLE: Uh-huh.

9 MS. POWELL: With one on the way in July, right?

10 MS. CAUDLE: Two.

11 MS. CAUDLE: Two on the way, Michelle Brewer and
12 Candace Thompson.

13 MS. POWELL: Okay. Gotcha.

14 MS. CAUDLE: And Michelle Brewer.

15 MS. SMITH: I had 25. But --

16 MS. POWELL: With those three that you were
17 telling me about?

18 MS. SMITH: Right.

19 MS. CHRISTY: Are you supposed to start school
20 with 25?

21 MS. POWELL: A new school.

22 MR. DOWNEY: 25 students.

23 MS. POWELL: Did you contact the board and
24 notify them of the change of enrollment --

25 MS. SMITH: No, ma'am.

1 MS. POWELL: She was -- and then at the last
2 minute it fell off is what she's saying.

3 MR. KEENE: Well, I understand our reasoning
4 behind having 25 students and it's so that you don't
5 get 85 schools out there with three students in each
6 one of them, I understand that. Somewhere they've
7 created this 25 people. I do know that we have
8 opened up or allowed schools to open up with fewer
9 than 25 students when they came before the board and
10 petitioned.

11 Then I think you really would have to show me
12 that there was some malice involved here, that she
13 was deliberately trying to put something over on the
14 board by not having 25 full students. And if we take
15 what she's saying to be true, that, you know, one had
16 a miscarriage and another one's husband, and that
17 doesn't surprise me, not letting her go. These are
18 things that are out of your control. And it be no
19 different than if one of them had died that day, I
20 mean, in control of the fact that a student would
21 die, and it would have took her to 24, would you not
22 want to let her open then?

23 You know, the one with the sticky note, that's
24 where my problem is coming in, because that one you
25 knew wasn't going to start on time. And in that

1 case I think there's definitely a violation involved.
2 It's just a matter of how -- I mean, to me, to
3 determine on what I think is an appropriate action.

4 MS. SMITH: I would like to share with you guys
5 the reason that she came to enroll and was a lower
6 tuition rate, is the reason that you came to enroll
7 and lock in the tuition rate?

8 MS. THOMPSON: Oh, yes. Yes.

9 MS. SMITH: That's the reason she chose to
10 enroll in May.

11 MR. KEENE: Oh, because you were giving a
12 special rate in May?

13 MS. SMITH: Yes.

14 MR. KEENE: And you allowed her to have that
15 rate, even though she couldn't start until August or
16 July?

17 MS. SMITH: Yes.

18 MR. KEENE: Right.

19 MS. THOMPSON: My biggest problem is I missed
20 the 90 hours for the month of July. It was not my
21 fault that I was dropped. It was not my decision I
22 was dropped. I had no idea until August 1st that I
23 had been dropped. I just want my 90 hours that I
24 earned there. It was not on my head that -- I did
25 what I was supposed to do.

1 MS. POWELL: Were those hours certified and
2 turned into the board? But they were dropped because
3 of the 60 days for the board, right?

4 MS. CAUDLE: Yes. But she did have sign-in
5 sheets to show she was there, and it was in the
6 computer system, and I have all the days listed
7 because she was present which was the 8th, 12th, 13,
8 14, 15, 19, 20, 21, 22, 26, 27, 28 and 29th.

9 MS. POWELL: So those hours were actually
10 submitted to the office and they do have those on
11 record, correct?

12 MS. CAUDLE: No, not to my knowledge.

13 MS. SMITH: No.

14 MS. THOMPSON: Not to state board but to the
15 college office, to my school.

16 MS. POWELL: You're saying you can't have those
17 90 hours because the board says you weren't in
18 school?

19 MS. THOMPSON: Yes, ma'am.

20 MS. POWELL: And you're saying you were in
21 school and there's on paper documentation?

22 MR. KEENE: She didn't have a permit that was
23 valid. She was in school getting those 90 hours with
24 an invalid permit.

25 MS. CAUDLE: She was not permitted until

1 August, when she was given those hours in July.

2 (Multiple discussions taking place without
3 recognition to hold the floor.)

4 MS. POWELL: Right, right. There's a re-permit
5 issue here.

6 MR. JOCHUMS: Does anybody know what the
7 regulation number is that -- dropping those hours?

8 MS. CAUDLE: On what?

9 MR. JOCHUMS: Dropping the hours, the
10 administrative termination.

11 MS. POWELL: After 60 --

12 MR. KEENE: 71-862 is what you've got listed
13 here, that's what you're citing, or 865. Shall be
14 registered before prior -- before accredited hours
15 may be obtained.

16 That's the same issue we've been having with all
17 of those other schools and it comes back to --

18 MR. JOCHUMS: Although, I think somewhere
19 there's specific language about dropping.

20 MR. KEENE: They were coming but they weren't
21 receiving hours for it because they didn't have a
22 permit yet. But they were aware of it, this one was
23 not.

24 MS. CHRISTY: But somehow she thought she had a
25 permit.

1 MS. POWELL: She had a permit.

2 SPEAKER: And then didn't get that, that that --
3 this is different. She didn't just not get a permit,
4 she just had a permit that had --

5 MR. KEENE: Lapsed.

6 MS. CHRISTY: -- gone off.

7 MR. KEENE: Right, it had lapsed.

8 MS. POWELL: Well, then that automatic computer
9 kick off after 60 days, but if -- I -- you know, if
10 you were to have notified the office and put leave on
11 there or something, it wouldn't have kicked it out.
12 And, like you say, it was a --

13 MS. CHRISTY: Sounds to me a little bit like a
14 new school, new start off, new stuff, everything is
15 new, something goes wrong.

16 MR. KEENE: We can give her those 90 hours if
17 you want to.

18 MS. THOMPSON: It's not exactly 90. It's 86.5
19 I have --

20 (Multiple discussions taking place without
21 recognition to hold the floor.)

22 MR. KEENE: I don't -- I just don't feel there
23 was any malice in here.

24 MS. POWELL: Well, I think the rule stating that
25 25 applications and she did have the applications.

1 And I know what you meant, but at the same time I
2 have some disagreement with that that it's not that
3 the board has made considerations for people to start
4 a school without 25 bona fide students -- I guess
5 they have.

6 MR. KEENE: They have.

7 MS. POWELL: I'm not privy to that during my
8 tenure.

9 MR. KEENE: Well, y'all sat here and voted on
10 it. You didn't, you weren't here.

11 MS. POWELL: But I think that it's more -- it's
12 not -- it would be more up to the school owner, I
13 think, to prove to us why they wouldn't need to have
14 25 bona fide students than us say we should do that.

15 SPEAKER: Now there's a difference in applicants
16 and students, though.

17 MS. POWELL: Applicants. Well, applicants of
18 students. Applicants is the key word.

19 SPEAKER: But the first day of school you can't
20 pull students --

21 MS. POWELL: What if they don't show up? I see
22 what you're saying. She can't help it. It wasn't an
23 intentional issue. She had the students, she had the
24 contracts.

25 MS. SMITH: In my defense there is a need there

1 in Mena, because there is actually 46 students there.
2 Wouldn't you agree? Wouldn't you agree? So it's
3 like the guy said, I have signed paperwork for these
4 --

5 (Multiple discussions taking place without
6 recognition to hold the floor.)

7 MS. TURMAN: The finding is that there is
8 insufficient evidence to support the charges filed
9 against Respondent in this matter. I move that this
10 matter be dismissed.

11 MR. KEENE: I second it.

12 MS. POWELL: I have a motion and a second. All
13 those -- is there any discussion? All those in favor
14 raise your right hand.

15 (Show of hands.)

16 MS. POWELL: All those opposed? Abstentions?

17 MS. POWELL: Motion carries.

18 MR. JOCHUMS: Okay. If the other issue that
19 wasn't part of that hearing, although we talked about
20 it extensively was the young lady's hours. I think
21 that needs to be reflected in an official motion.

22 MR. DOWNEY: I'll make a motion. I make a
23 motion to allow the student to receive those hours
24 that she's got during the month of July.

25 MS. TRAYLOR: I'll second that.

1 MS. POWELL: I have a motion and a second. All
2 of those in favor raise your right hand?

3 (Raises hand)

4 MS. POWELL: Motion carries.

5 MS. WITTUM: If there's documentation of any
6 other students from Sheila's audit, do you want to
7 also give those students their hours?

8 MR. KEENE: Yes.

9 MR. DOWNEY: If they're in the same
10 circumstances, yes.

11 MR. JOCHUMS: Yeah.

12 MS. POWELL: Okay.

13 MR. JOCHUMS: Okay. We have -- we need to tell
14 you that the young -- I assume she's a young woman,
15 Susan Cissell has said that she'd come in and pay, so
16 she was removed from the agenda. We have Kendra
17 Brewer and Marina Alfaro. Are those the only two no-
18 shows?

19 MS. WITTUM: Julie McCarver.

20 MR. JOCHUMS: Julie McCarver. Okay. Well, let
21 me talk about Brewer and McCarver. 05-177, Julia
22 McCarver and 06-037 Kendra Brewer, each had a
23 recommended penalty. The first one, McCarver was
24 \$139, and the second one, Brewer, was \$167. And
25 their Notices of Hearing contained a paragraph that

1 said the board will consider Respondent's failure to
2 appear at the hearing or to obtain a continuance as a
3 desire not to contest the factual allegations
4 contained in this notice. In that case the board may
5 impose appropriate sanctions in the Respondent's
6 absence.

7 So with that in mind, I think that if it is the
8 board's desire we can impose the penalties listed on
9 the agenda sheet.

10 MS. POWELL: Nick.

11 MR. DOWNEY: I make a motion that the penalties
12 that have been posted on these hearings be sufficient
13 with an added \$25 administration fee for each case.

14 MS. TRAYLOR: I second that.

15 MR. DOWNEY: And that will be justification for
16 lack of responsibility.

17 MS. POWELL: All those in favor -- I have a
18 motion and a second. All those in favor?

19 (Show of hands.)

20 MR. JOCHUMS: Now, Marina Alfaro we have to
21 handle a little differently because there's no
22 penalty listed. Inspector Caudle, could you just
23 tell us what this was about.

24 MS. CAUDLE: She has a salon which she operates
25 in Conway, Arkansas. She is not licensed in this

1 state, or is personnel licensed. I went by and I
2 think I don't have anything here but the first time I
3 called her in April. Is that right? Then I went
4 back, because I could tell that she had been working
5 in there because I live in Conway and I went by and
6 there was hair around the salon chair, so I had to go
7 back in the evening, then I went back in September
8 and actually talked to her and she is a lapsed
9 license from New York, but she is still operating.

10 MR. DOWNEY: Can we send her a cease and desist?

11 MR. JOCHUMS: Do you want to deal with this one
12 now or put it over to have a full hearing on her.

13 MS. TRAYLOR: No, I think we ought to send her a
14 cease and desist.

15 MS. WITTUM: She's already received it. She was
16 sent one in June and it came back to the office
17 unclaimed. And then the notification letter that was
18 sent to her was returned marked undeliverable.

19 MR. JOCHUMS: Okay. I think what we need to do
20 on this one is to pass it and have the inspector
21 deliver the notice next time.

22 MS. CAUDLE: Okay.

23 MR. JOCHUMS: And we'll bring her in here and --

24 (Multiple discussions taking place without
25 recognition to hold the floor.)

1 MR. JOCHUMS: So let's just pass that one, if
2 that's agreeable with the board.

3 MR. KEENE: It's agreeable.

4 MR. JOCHUMS: That covers all of the matters for
5 hearing. And members of the board, you have a
6 blessing, we call it the blessing. New member, what
7 we call this is the blessing sheet.

8 The second page of today's agenda has a whole
9 list of names of people who have waived the right to
10 hearing and have paid civil penalties and the amount
11 they have paid is in the column to the far right.
12 And to them we need to add, I guess, the name of
13 Susan Cissell, you approve her, it's at \$148 as well.
14 All we need a motion approving those civil penalties.

15 MS. TRAYLOR: I so move.

16 MS. POWELL: I have a motion.

17 MR. DOWNEY: I'll second it.

18 MS. POWELL: A second. Those in favor raise
19 your right hand.

20 (Show of hands.)

21 MS. POWELL: It's unanimous, motion carries.

22 MR. JOCHUMS: I think that concludes all of the
23 hearing type business we have to bring before the
24 board, Madam Chairman.

25 MS. POWELL: That's all the business we have.

1 MR. DOWNEY: I move we adjourn.

2 MS. POWELL: Do I have a second. Yes, Ms. Lee.

3 MS. LEE: I know everybody is ready to go, but I
4 want to thank Kathy Wittum, she's done four hours of
5 extensive editing on this RADER training. We're off
6 to a great start.

7 SPEAKER: Second.

8 MS. POWELL: We're adjourned.

9 (Thereupon the proceedings were concluded.)

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EXHIBIT ONE

SCOTTIE BURCHETT D/B/A SALINE COUNTY CAREER CENTER

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EXHIBIT ONE

LARETTA ANN SMITH, OWNER AND OPERATOR

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EXHIBIT ONE

EUNICE ANDERSON, INSTRUCTOR

D/B/A CONWAY CAREER CENTER

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EXHIBIT ONE

FRANK SULLIVAN, OWNER

D/B/A PRO WAY HAIR SCHOOL

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EXHIBIT ONE

SHIRLEY SMITH, OWNER

D/B/A MENA COSMETOLOGY COLLEGE

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