

**ARKANSAS
STATE BOARD
OF COSMETOLOGY**

**FEE STRUCTURE
COMMITTEE**

MEETING REPORT

JULY 17, 2007

FEE STRUCTURE COMMITTEE MEMBERS (PRESENT)

Jane Powell, President

Patricia Turman, 1st Vice President

Ann Pickering, Board Member

LaJoy Gordon, Board Member

Kathy Wittum, Director

Kendra Jones, Legal Counsel

COMMITTEE MEMBERS (NOT PRESENT)

Barbara Ward, Treasurer

Erika Gee, Legal Counsel

OTHER PARTICIPANTS IN ATTENDANCE

Bob Philyaw

Scottie Burchett, Board Member

Carla Jones, Arthur's Beauty Colleges

Nicole Thompson, Governor's Office

Meeting Report

The Fee Structure Committee held its first meeting today to begin reviewing the Board's Rules to make recommendations on revisions that are necessary for bringing the rules into compliance with recent law revisions. In addition, this Committee will recommend changes to the civil penalty guide that is currently used by the Board during its review of disciplinary cases. The meeting was called to order at 9:10 a.m.

Kendra Jones, Assistant Attorney General, participated in the Committee meeting in Erika Gee's absence.

Patricia Turman was nominated for the Chairperson position for this Committee.

The Committee focused on the sections of the Rules that have been directly impacted by the passing of Act 223 of 2007. Therefore, it began with A.C.A. §17-26-209, which was stricken from the law with the intent to incorporate it in the Rules.

- A.C.A. §17-26-209(a)(1) addresses an examination fee. It is currently \$30 per exam.
 - *The examination fee is rectified through the decision to outsource the examinations.*
- A.C.A. §17-26-209(a)(2) addresses reciprocity applicants. It is currently \$38, plus the annual license fee of \$12, for a total of \$50.
 - Mrs. Wittum provided information on what the following states charge based on the 2006 Legislative Book distributed to conference participants at the last national conference. She stated the fees may not be current but a new book would probably be provided at the upcoming conference next month.
 - Oklahoma - \$30
 - Missouri - \$50
 - Other border states' information was not available in the book.
 - *The Committee voted to increase the fee to a one-time \$90 fee.*
- A.C.A. §17-26-209(a)(3) addresses practitioner renewals. It is currently \$12 per year.
 - The Committee discussed feedback given to the Legislative Committee last year when regional meetings were held to solicit ideas on law revisions. The feedback indicated the industry believes the fees are too low and that it is a poor reflection on the industry's professionalism as a whole.
 - Other states information reviewed were:
 - Oklahoma – \$15 practitioner; \$20 instructor
 - Missouri - \$80 for practitioner; \$30 for instructor; \$10 additional practitioner fee

- Discussion included the fact that a newly licensed practitioner's license would be covered in the examination cost.
- *The Committee voted to increase this to a \$40 bi-annual fee. Renewals have changed to a 2-year cycle based on the practitioner's birthday.*
- A.C.A. §17-26-209(a)(4) addresses the new shop fee. It is currently \$30, plus the annual license fee of \$20, for a total of \$50.
 - *The Committee voted to increase this to a \$100 one-time fee that includes the license and administrative costs.*
- A.C.A. §17-26-209(a)(5) addresses the shop renewal fee. It is currently \$20 per year.
 - Other states' information reviewed was:
 - Oklahoma – \$35 (tried to raise it to \$400 but were unsuccessful)
 - Missouri - \$100
 - Discussion included whether to charge more for a shop license renewal than for a new shop. It was determined that there is more work for the office staff and inspectors for a new shop process; therefore, the new shop fee should remain higher than the license renewal.
 - President Powell suggested using the same methodology in increasing this fee as was used with the practitioner fee. The practitioner fee was doubled in determining what the new fee would be.
 - *The Committee voted to increase this to a \$40 annual fee.*
- A.C.A. §17-26-209(a)(6) addresses the fee for opening a new school. It is currently a \$500 one-time fee.
 - Other states' information reviewed were:
 - Oklahoma - \$400
 - Missouri - \$500
 - *The Committee voted to leave this fee at a \$500 one-time fee.*
- A.C.A. §17-26-209(a)(7) addresses the school renewal fee and bond requirement. It is currently a \$100 annual fee and a \$5,000 bond requirement.
 - Other states' information reviewed were:
 - Oklahoma - \$125
 - Missouri - \$500 (same as new school registration)

- Ms. Jones stated the purpose of a bond is basically insurance for the school to provide liability and student coverage. President Powell stated \$5,000 is not adequate to cover liability and student coverage for schools that close. She referred to the closing of Enoch's School of Beauty at the board meeting yesterday and stated the bond would not cover the costs of the students remaining at the school when it closed.
- President Powell suggested consideration that the Board require a 25:1 student-instructor ratio and the bond should probably provide coverage on the same ratio.
- Ms. Jones stated the statutory purpose for the bond was for the protection of a duly enrolled student when the school fails to remain in operation.
- *The Committee voted to increase this to a \$200 per year fee. In addition, after a lengthy discussion concerning the reason for a school to have a bond, the Committee voted to increase the bond to a \$15,000 requirement.*
- A.C.A. §17-26-209(a)(8) addresses the fee for a duplicate license. It is currently \$2 per copy.
 - Other states' information reviewed was:
 - Oklahoma - \$5
 - Missouri - \$50
 - Discussion included the fact that it would be more costly with the design of the license changing.
 - *The Committee voted to increase the fee for a duplicate license to \$20 per copy.*
- A.C.A. §17-26-209(a)(9) addresses the fee for a demonstrator's permit. It is currently \$15 per year.
 - Discussion included the fact that Dillard's cosmetic counters and such are not being issued a demonstrator's permit. President Powell stated the intent was that they do not touch the patron; however, that is what is happening. Ms. Gordon stated they should be informed the Board is going to begin enforcing the law and requiring them to have a demonstrator's permit.
 - Ms. Jones stated if it is going to be enforced, then it must be enforced fairly and equally, which would include addressing the cosmetic counters, photography studios, etc.
 - President Powell stated to ignore this problem is not the best choice for the Board and believes it is unprofessional and damaging to the cosmetology industry. She stated the person who applies cosmetics is not educated as a cosmetologist or aesthetician.
 - Ms. Wittum stated Rule 2.3 provides the most guidance for a demonstrator and that former legal counsel, Arnie Jochums, suggested adding language to state that demonstrators must

follow the health and safety guidelines and would be subject to disciplinary action when violations are discovered.

- The Committee posed the idea to change this requirement to one that would apply to the establishment and not an individual person.
- *The Committee voted to eliminate the person's requirement to obtain a demonstrator's permit. The Committee voted instead to require an establishment to obtain a demonstrator's permit and the cost for such will be \$30 per year.*
- A.C.A. §17-26-209(a)(10) addresses the student enrollment fee. It is currently \$10 per enrollment.
 - *The Committee voted to leave the student enrollment fee at \$10 per enrollment.*
- A.C.A. §17-26-209(a)(11) addresses the certification fee for providing licensure information on an Arkansas licensee to another state board. It is currently \$5 per certification.
 - Other states' information reviewed was:
 - Oklahoma - \$10
 - Missouri - \$10
 - *The Committee voted to increase this fee to \$25 per certification.*
- A.C.A. §17-26-209(a)(12) addresses the reinstatement fee for untimely renewal of a practitioner license. It is currently 50% of the annual renewal fee.
 - *The Committee voted to leave the reinstatement fee at 50% of the renewal. A change will be necessary to the language reflected for reinstatements to address the cycle change to a practitioner's birthday.*
- A.C.A. §17-26-209(a)(13) addresses the reinstatement fee for untimely renewal of a shop and school. It is currently 50% of the annual renewal fee.
 - *The Committee voted to leave the reinstatement fee at 50% of the renewal. A change will be necessary to the language reflected for reinstatements to address the owner's option to renew annually on December 31 or bi-annually on the owner's birthday.*

The Committee briefly noted that the civil penalties will need to be addressed in its review of proposed rule recommendations.

The Committee discussed a subsequent meeting and decided to hold its next meeting in September around the board meeting date.

At this time, the floor was opened for public comments. Ms. Burchett stated the fee recommendations sound good but may have some questions about the increased bond. Ms. Jones stated she would inform Erika Gee that more information may be necessary on this issue.

Ms. Burchett and Carla Jones commented about the demonstrators and the fact that it has been an issue of concern. President Powell commented that Ms. Burchett brought this up at the last board meeting for discussion. There was a consensus on the fact that the Board needs to address this issue in some manner.

President Powell stated the Board should consider using some of the increased revenues for Public Service Announcements (PSA) to better educate the public and industry. This suggestion was well-received and supported by all in attendance.

After no additional comments were forthcoming from participants, the meeting was concluded at 11:05 a.m.

*** End of Report ***

Report prepared by:

Kathy Wittum, Director